

Band Council Resolution
Passed the 5th Day of July, 1985
By the Council of the Campbell River Indian Band
Of the District of Campbell River
In the Province of British Columbia

The Council of the Campbell River Indian Band DOES HEREBY RESOLVE AT A MEETING OF THE Band Council held on the 5th day of July, 1985 that the following By-Law be made pursuant to Section 81 of the Indian Act:

Campbell River Indian Band
Fishing By-Law, 1985, No. 1

Definitions

1. In this By-law:

- (a) "Band" means the Campbell River Indian Band;
- (b) "Band Fisheries Officer" means the person appointed pursuant to section 4(1) of this By-Law and also includes the Band Manager while he is performing the duties and functions of such office;
- (c) "Band Manager" means the band manager of the Band;
- (d) "Band Council" means the council of the Band;
- (e) "Band Waters" means all rivers, streams, lakes, tidal waters, and all other waters situate within the reserve which are or are capable of being frequented by Fish and also includes all ground water situate within the Reserves which flows into such waters;
- (f) "Containment" means any solid, liquid, gas, odor, heat, sound, vibration, radiation, or any other substance, condition, action or process resulting directly or indirectly from the activities of man, that does or is likely in the opinion of the Band Fisheries Officer to
 - i. Impair the quality of Band Waters as a habitat for Fish,
 - ii. Cause any damage or harm to Fish in Band waters, or
 - iii. Render any fish in Band Waters unfit for consumption or use by man;
- (g) "Fish" includes shellfish, crustaceans, marine animals and the eggs, spawn, spat and juvenile stages of fish, shellfish, crustaceans, and marine animals;

- (h) "Fishery" includes each area or place within the Reserves in or on which a pound, seine, net, weir or other fishing appliance is used, set, placed, or located and the area, tract, or stretch of water within the Reserves in or from which Fish may be taken by any such pound, seine, net, weir or other fishing appliance used in connection therewith;
- (i) "Fishing" means fishing for, catching, or attempting to catch Fish by any method;
- (j) "Orders" means orders made by the Band Council pursuant to section 3(2) of this By-Law;
- (k) "Reserves" means the tracts of land known as the Campbell River Reserve #11, Matlaten Indian Reserve #4, Hodayno Indian Reserve #2, and Loughborough Indian Reserve #3 that have been set aside by Her Majesty for the use and benefit of the Band.

Application

- 2. This By-Law applies to the Reserves and to all Band Waters.
- 3. (1) Subject only to the provisions of Indian Act and this By-Law, the authority for the preservation, protection, and management of the Fishery and of Fish in Band Waters is hereby vested in the Band Council and the Band Council may overrule any decision of the Band Manager or the Band Fisheries Officer made under this By-Law.

(2) Without restricting the generality of subsection (1), the Band Council may make orders which:
 - (a) Close any area for Fishing for such period of time as the Band Council considers appropriate for the proper preservation, protection, and management of Fish; or
 - (b) Prohibit fishing by specified types or sizes of fishing gear or devices or by specified methods for such period or time and at such locations as the Band Council considers appropriate for the proper preservation, protection, and management of Fish.

If the Band Council makes an order under this section 3(2), the Band Council will cause to be posted at or near the area or areas closed for Fishing or location or locations where Fishing by specified types or sizes of fishing gear or devices or by specified methods is prohibited, notices advising of the closure or prohibition.

Band Fisheries Officer

- 4. (1) The Band Council may appoint a Band Fisheries Officer whose remuneration shall be as fixed from time to time by the Band Council, which remuneration shall be payable from the monies of the Band.

(2) The Band Manager may exercise any of the powers or perform any of the duties or functions of the Band Fisheries Officer under this By-Law.

(3) The Band Fisheries Officer shall perform his duties and functions under this By-Law under the general supervision and direction of the Band Manager.

Duties of Band Fisheries Officer

5. The Band Fisheries Officer shall:

(a) Enforce the provisions of this By-Law and the Orders; and

(b) As requested from time to time by the Band Council, maintain records of and make recommendations and reports to the Band Council with respect to the following matters:

- i. The maximum size of the Fish catch which the Band Waters are capable of yielding on a long term sustainable basis;
- ii. The number of fish caught in Band Waters;
- iii. Close times for Fishing in Band Waters;
- iv. The condition of spawning grounds in Band Waters;
- v. The number of Band members engaged in Fishing in Band Waters;
- vi. The types and sizes of fishing devices and gear used in Fishing in Band Waters;
- vii. Stock levels of Fish in Band Waters;
- viii. Prosecutions of offences under this By-Law; and
- ix. Such other matters as are from time to time directed by the Band Manager or the Band Council.

Obstructions

6. No person shall resist or willfully obstruct the Band Fisheries Officer in the execution of his duty under this By-Law, or any person acting in aid of such officer.

7. (1) Subject to this By-Law and the Orders, every member of the Band shall be entitled to engage in Fishing in Band Waters at any time and by any method except by the use of rockets, explosive materials, projectiles, or shells.

(2) Every member of the Band Shall comply with the provisions of this By-Law and the Orders

(3) Where the Band Council considers that stocks of Fish in Band Waters exceed the reasonable requirements of the Band and the escapement requirements for conservation purposes, the Band Council may issue permits to persons who are not members of the Band entitling those person to engage in Fishing in Band Waters.

(4) The Band Council may

- (a) charge an annual fee of \$25 for the issuance of a permit under subsection (3); and

(b) for the preservation, protection, and management of Fish may attach terms and conditions to any permit issued under subsection (3) to

- (i) Restrict Fishing by any method other than angling, trolling, or other method which the Band Council considers appropriate; and
- (ii) Restrict the number of Fish and the number of Fish of a particular species which may be caught during a 24-hour period, during a seven-day period, and for the term of the permit.

(5) The holder of a permit issued under subsection (3) shall comply with the terms and conditions of the permit and the provisions of this By-Law and the orders.

Prohibition on Fishing

- 8. (1) No person shall Fish in Band Waters except those persons permitted by Section 7 of this By-Law.
- (2) No person shall destroy Fish by any means other than Fishing.

Alteration of Habitat

- 9. Except as authorized by the Band Council pursuant to section 11, no person shall carry on any work or undertaking that results in the harmful alteration, disruption, or destruction of Band Waters or any habitat for Fish.

Discharge of Contaminants

- 10. (1) no person shall deposit in, add to, emit, or discharge into Band Waters any Contaminant and no person responsible for a source of Contaminant shall permit the addition to, emission or discharge into Band Waters of the Contaminant.
- (2) No person engaged in logging, lumbering, land clearing, or other operations, shall put or knowingly permit to be put, any slash, stumps, or other debris into any Band Waters.
- (3) No person contravenes subsection (1) or (2) by depositing or permitting the deposit in any water or place of Contaminant of a type, in a quantity, and under conditions authorized by the Band Council.

Plans and Specifications

- 11. (1) Every person who carries on or proposed to carry on any work or undertaking on the Reserve that results or is likely to result in

- (a) The deposit of a Contaminant in Band Waters or in any place under any conditions where that Contaminant may enter any Band Waters, or
- (b) The alteration, disruption, or destructions of habitat for Fish,

Shall, at the request of the Band Council, provide the Band Council with such plans, specifications, studies, procedures, schedules, analyses, samples, or other information relating to the work or undertaking and with such analyses, samples, evaluations, studies, or other information relating to the water, place, or habitat for Fish that is or is likely to be affected by the work or undertaking as will enable the band Council to determine

- (c) Whether there is or is likely to be a deposit of a Contaminant by reason of such work or undertaking that constitutes or would constitute an offence under section 10 and what measures, if any, would prevent such a deposit or mitigate the effects thereof; or
- (d) Whether the work or undertaking results or is likely to result in any alteration, disruption, or destruction of habitat for Fish that constitutes or would constitute an offence under section 9 and what measures, if any, would prevent such a result or mitigate the effects thereof.

(2) if, after reviewing any material or information provided under subsection (1) and affording the persons who provided it a reasonable opportunity to make representations, the Band Council or a person designated by the Band Council is of the opinion that an offence under section 9 or 10 is being or is likely to be committed, the Band Council or a person designated by the Band Council may, by order for the purpose of preserving, protecting and managing Fish

(a) require such modifications or additions to the work specifications, procedures, or schedules relating thereto as the Band Council or a person designated by the Band Council considers necessary in the circumstances, or

(b) restrict the operation of the work or undertaking, and direct the closing of the work or undertaking for such period as the Band Council or a person designated by the Band Council considers necessary in the circumstances.

Sale of Fish

12. (1) No person may sell, agree to sell, or otherwise dispose of any Fish caught in contravention of this By-Law or the Orders. Nothing herein contained prohibits the sale or other disposition to any person, firm, or corporation or any Fish lawfully caught in Band Waters.

(2) Any person who barter, sells, or otherwise disposes of Fish caught by him in Band Waters shall promptly report to the Band Fisheries Officer the number of species of the Fish so bartered, sold, or otherwise disposed of.

Offence and Penalty

13. (1) Any person who contravenes any provision of this By-Law or of any Order is guilty of an offence punishable on summary conviction and, on conviction, is liable to a fine of not more than \$1000 or to imprisonment for not more than 30 days, or to both.

(2) Where any contravention of this By-law or of any Order is committed on more than one day or is continued for more than one day, then the contravention on each day shall be deemed to constitute a separate offence for each day of which the contravention is committed or continued.

(3) All penalties imposed in respect of an offence under this By-law shall be recoverable and enforceable by summary proceedings taken under the provisions of the Criminal Code of Canada relating to summary convictions.

Severability

14. If any part of this By-law is declared or adjudged to be invalid or unenforceable by any court, such invalidity or unenforceability will not affect the validity or enforceability of any other part of this By-law.

Citation

15. This By-law may be cited for all purposes as "Campbell River Indian Band Reserve Fishing By-Law, 1985, No. 1".

Considered, passed and adopted by the Council of the Campbell River Indian Band in the 5th day of July, 1985.

R.A. Roberts

Chief

J. P. Henderson

Councillor

C. A. Roberts

Councillor