

SQUAMISH INDIAN BAND

BYLAW NO. 16

A BYLAW CONSOLIDATING BYLAW NO.10 AND
AMENDING BYLAW NO. 15,
FOR THE PRESERVATION, PROTECTION
AND MANAGEMENT OF FISH

W H E R E A S :

A. It is in the interest of conservation of chinook salmon that Fishing bylaw 1977 No. 10 be amended to introduce temporary restrictions on fishing within Squamish Indian Band Waters, and to provide the means for the regulation of such fishing in response to changing local conditions.

B. It is advantageous to consolidate Bylaw No. 10 and amending Bylaw No. 15 for ease of reference:

The Band Council of the Squamish Indian Band enacts as follows:

1. In this Bylaw unless the context otherwise requires:

(a) "Squamish Indian Band Waters" means all streams, rivers, channels, lakes, ponds and any other tidal or non-tidal bodies of water situated on, upon, or within any Reserve set aside for the use and benefit of the Squamish Indian Band, and, without limiting the generality of the foregoing, includes any place determined by law to be a Fishery forming part of any such Reserve.

(b) "Fish" means, when used as a noun, all marine and fresh water animals, and, without

limiting the generality of the foregoing, includes shellfish and crustaceans, and, when used as a verb, means to catch fish, or to attempt to catch fish, by any method."

- (c) "Fishery" includes the area, locality, place or station 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 in or from which fish may be taken by the said by the said pound, seine, net, weir, or other fishing appliance, and also the pound, seine, net, weir, or other fishing appliance used in connection therewith.
- (d) "Fishing" means fishing for or catching fish by any method
- (e) "Band Council" means the council of the Squamish Indian Band.
- (f) "Band Manager" means that person so appointed by Band Council.
- (g) "Jack Chinook" means a chinook salmon weighing five kilograms or less.
- (h) "Fishery Officer" means a Fishery Officer appointed pursuant to Section 3.
- (i) "Jigging" means fishing by the use of a hook or hooks attached to a line and drawn through the water for the purpose of catching fish.

(j) "Person" means any natural Persons, corporation, and, except where stated otherwise, any Persons who is a member of the Squamish Indian Band.

2. This Bylaw applies over all Squamish Indian Band Waters.

3. Band Council may appoint Fishery Officers whose acts and duties are as defined by this Bylaw and amendments hereto and whose titles are as specified in their appointments.

4. (a) Salmon fry, parr and smolt shall not at any time be fished, caught or killed.

(b) No salmon or grilse of less weight than .8 of one kilogram shall be caught or killed, except by angling with hook and line.

5. No Person shall fish within Squamish Indian Band Waters except as permitted by this Bylaw.

6. Subject to Sections 4, 7, 9, 10, 11, 24, 25, 26, 27, and 29, and to such variations or restrictions as may be made or established pursuant to Section 14, members of the Squamish Indian Band shall be permitted to engage in fishing within Squamish Indian Band Waters at any time and by any means except by the use of spear guns, explosive materials, rockets, combustibles, projectiles, shells or like substances.

7. Any Fishery Officer appointed hereunder may direct, either in writing or orally on sight, that nets or other fishing apparatus be reduced in size to occupy less than one-third (1/3) of the diameter of any stream or river.

8. (a) Subject to subsection (2), the Band Council may, without incurring liability to the owner or occupier thereof, cause any slide, dam obstruction or thing detrimental to fish life to be removed or destroyed.
- (b) Band Council shall, before causing any slide, dam, obstruction or any other thing detrimental to fish to be removed or destroyed, give reasonable notice to the owner or occupier thereof to remove at his expenses.
- (c) Subsection (2) does not apply if the owner or occupier is not resident in Canada, or his exact place of residence is unknown to Band Council.
- (d) Where Band Council causes any slide, dam, obstruction or any other thing detrimental to fish to be removed or destroyed, after giving notice to the owner or occupier thereof, Band Council may recover from the owner or occupier all reasonable expenses of removal or destruction.

9. Every person using stakes, posts, buoys or other materials placed for fishing purposes in any water shall remove the same within forty-eight (48) hours after ceasing to use them.

10. One-third ($1/3$) of the width of any river or stream, and not less than two-thirds, ($2/3$'s) of the width of the main channel at low tide, in every tidal stream shall be always left open, and no kind of net or other fishing apparatus, logs, or any material of any kind shall be used or placed therein.

11. The eggs of fry of fish on the spawning grounds, shall not at any time be destroyed.

12. No person shall cause or knowingly permit to pass into, or put or knowingly permit to be put, lime, chemical substances or drugs, poisonous matter, dead or decaying fish, or remnants thereof, mill rubbish or sawdust or any other deleterious substances or thing, whether the same is of a like character to the substances named in this section or not, in any water frequented by fish, or that flows into such water, nor in ice over either such waters.

13. No person engaging in logging, lumbering, land clearing or other operations, shall put or knowingly permit to be put, any slash, stumps or other debris into any water frequented by fish or that flows into such water, or on the ice over either such water, or at a place from which it is likely to be carried into either such water.

14. The Band Council may impose temporary variations or restrictions on fishing by Persons authorized by this Bylaw to fish within Squamish Indian Band Waters in accordance with the following procedures:

- (a) notice of a variation or restriction shall be posted not less than 24 hours prior to the variation or restriction becoming effective,
- (b) that notice shall specify the date and time the variation or restriction is to commence and to cease, and the particulars of the variation or restriction.
- (c) the notice shall be in a form approved by Band Council, and shall be posted:

- i) in a conspicuous place at or near the fishing site where the variation or restriction is applicable, and
 - ii) at the offices of the Band Council,
- (d) no variation or restriction imposed under this section shall remain in force for a period of more than seven days, unless a further variation or restriction is imposed and further notice is given in accordance with paragraphs (a), (b) and (c).
15. Any Fishery Officer appointed hereunder may enforce the provisions of this Bylaw or any restriction or variation made hereunder.
16. Any Person who violates any provision of this Bylaw is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$1,000.00
17. When not otherwise specified every proprietor, owner agent, tenant, occupier, partner or person actually in charge, either as occupant or servant, shall be deemed to be jointly and severally liable for any of the provisions of this Bylaw.
18. Penalties incurred under this Bylaw or amendments hereto shall be sued for within two years from the commission of the offence.
19. Except insofar as in this Bylaw is otherwise specially provided all penalties and forfeitures incurred under this Bylaw or amendments thereto are recoverable and enforceable by summary

proceedings taken under the provisions of the Criminal Code relating to summary convictions.

20. Should any violation of this Bylaw continue for more than one day each day during which such violation continues constitutes a separate offence and may be punished as such.

21. This Bylaw may be cited for all purposes as "Fishing Bylaw, 1992, No. 16".

22. No Person other than a Fishery Officer appointed hereunder may enforce this Bylaw without first obtaining the written authorization of Band Council.

23. Any Person who resists or wilfully obstructs a Fishery Officer is guilty of an offence.

24. Where, in the reasonable opinion of a Fishery Officer, the placing of nets or other fishing apparatus within Squamish Indian Band Waters unduly restricts the passage of fish, that Fishery Officer may order the removal or relocation of such nets or fishing apparatus by the Person or Persons in control thereof, and any Person so ordered shall comply with the direction of the Fishery Officer.

25. Any Fishery Officer may remove any net or fishing apparatus situated within Squamish Indian Band Waters when such Fishery Officer is of the opinion that the presence of such net or fishing apparatus unduly restricts the passage of fish.

26. Any Fishery Officer may inspect nets or other fishing apparatus situated within Squamish Indian Band Waters for the

purposes of determining the number of fish caught within Squamish Indian Band Waters.

27. Notwithstanding anything in this Bylaw to the contrary, the following restrictions shall apply to all Persons fishing in Squamish Indian Band Waters:

- (a) subject to Section 30, no Person shall, between January 1, 1992 and December 31, 1992, fish in the Capilano River by means of a seine or gill net,
- (b) subject to Section 28, no Person shall, between September 15, 1992 and November 15, 1992, fish in the Capilano River by means of Jigging,
- (c) no Person shall, between August 1, 1992 and August 31, 1992, fish in the Squamish or Cheakamus Rivers by means of Jigging.
- (d) no Person shall:
 - i) between August 1, 1992 and August 31, 1992, fish for chinook salmon, other than Jack Chinook, in the Squamish or Cheakamus Rivers,
 - ii) subject to Section 28, between September 2, 1992 and October 31, 1992, fish for chinook salmon, other than Jack Chinook, in the Capilano River.

28. The restrictions set out in sub-sections 27(b) and 27(d) (ii) will terminate and be of no further effect on the date that:

- (a) the Capilano Fish Hatchery has received an adequate stock of Chinook Salmon for spawning or;
- (b) the date that any Person other than a person who is a member of the Squamish Indian Band may fish for salmon in the waters of Burrard Inlet or the Capilano River, without contravening any regulation made under the authority of the Fisheries Act RS. c.F-14, s.1,

whichever occurs first.

29. Any Person who inadvertently catches a chinook salmon, other than a Jack Chinook, while the restrictions in sub-section 27(d) are in effect shall:

- (a) handle that salmon in a manner which minimizes harm to it, and
- (b) forthwith release the salmon to the waters from which it was taken.

30. A Fishery Officer may authorize the catch of salmon by the use of a seine or gill net for the purpose of the supply of brood stock to any facility operated by the Squamish Indian Band for the enhancement of salmon stocks and to the Capilano Fish Hatchery operated by the federal Department of Fisheries and Oceans.

31. A Fishery Officer appointed hereunder may undertake such salmon enhancement measures as may from time to time appear necessary, subject to the prior approval of the Band Council in the event that such measures require the expenditure of monies not already provided for in the annual budget of the Band.

32. In the event that any section or sections of the Bylaw are found by a court of competent jurisdiction to be invalid, such section or sections shall be severable, and the remaining sections shall remain in full force and effect.

This Bylaw is hereby enacted at a duly convened meeting of the Council of the Squamish Indian Band at which a quorum of the Councillors of the Band are present and voting in favour of this Bylaw, this ~~22nd~~ day of July, 1992.

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Chief	Chief	Chief
<u>Ann Whonnock</u>	<u>Dennis Joseph</u>	
Councillor	Councillor	Councillor
<u>Leslie Jay</u>	<u>Byron Joseph</u>	<u>Gwen Harvey</u>
Councillor	Councillor	Councillor
	<u>Frank A Rivers</u>	
Councillor	Councillor	Councillor
<u>R. Williams</u>		
Councillor	Councillor	Councillor
<u>Gwen Harvey</u>		
Councillor		