

SOR 185-150

This by-law may be cited as the "Homalco Indian Band Fishing and Fish Protection By-law, 1984, No.1"

This by-law is made pursuant to section 81 (o) and (r) of the Indian Act.

Definitions

1. In this by-law unless the context otherwise requires:

- (a) "Band Council" means the duly instituted Council of the Homalco Band of Indians;
- (b) "Band member" means any member of the Homalco Band of Indians registered as such pursuant to the Indian Act;
- (c) "Homalco Band waters" means all waters situated within the boundaries of reserves established for the Use and Benefit of the Homalco Band;
- (d) "Deleterious Substance" means:
  - (i) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or
  - (ii) any water that contains a substance in such quantity of concentration or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water;
- (e) "Fish" includes shellfish, crustaceans and marine animals;
- (f) "Fish Habitat" means spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes;
- (g) "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 pound, seine, net, weir or other fishing appliance used in connection therewith;
- (h) "Fishing" means fishing for, catching or attempting to catch fish by any method;

- (i) "Fish Management Personnel" means a person appointed as such by Band Council pursuant to this by-law;
- (j) "Traditional Fishing Methods" means fishing by use of dip nets, weirs, gaffs, spears, or hooks and rods;

### Jurisdiction

2. This By-law applies to Homalco Band Waters.

### Fish Management Personnel

3. Band Council may appoint any person to act as Fish Management personnel.

### Fishing

4. No person, other than a band member, may engage in fishing in Homalco Band waters.
5. Unless otherwise ordered by a Special Order pursuant to section 14 of this by-law, Band members may fish in Homalco Band waters as follows:
  - (a) Band members over the age of 21 may fish three days a week or as specified by the Fish Management Personnel who shall be governed by the purposes of preservation, protection and management of fish.
  - (b) Band members may fish by traditional fishing methods only and may not fish by use of:
    - (i) set nets
    - (ii) spear guns
    - (iii) explosives or projectiles
    - (iv) jigging
  - (c) Fish Management Personnel may direct, either in writing or orally on site that nets or other fishing apparatus be reduced in size to occupy less than one third of the diameter of any stream or river.
6. No person shall fish for salmon fry, parr or smolt at any time, and no salmon or grilse of less weight than 3 pounds shall be caught or killed, otherwise than by angling with a hook and line.
7. The eggs or fry of fish on the spawning grounds shall neither be disturbed or destroyed.

Obstruction or deleterious Substances

8. Where slides, unused dams, obstruction or anything detrimental to preservation, protection and management of fish exist, and the owner or occupier thereof does not comply after notice has been given by the Band Council to remove same, the Band Council may cause the slide, dam, obstruction, or anything detrimental to preservation, protection and management of fish to be removed or destroyed, but nothing in this section is to be construed as a penalty for breach of this by-law.
9. No person shall cause to permit to pass or to put or 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 substance or thing, whether the same is of a like character to the substance named in this section or not, into any Homalco Band waters frequented by fish or on the ice over such waters.
10. No person engaging in logging, lumbering, land clearing or other operations, shall put, or permit to be put, any slash, stumps or other debris into any Homalco Band waters frequented by fish.

Prohibition

11. No person shall destroy fish by any means other than by fishing as authorized by this by-law.
12. No person shall carry on work or undertaking that results in the harmful alteration, destruction or disruption of fish habitat.

Possession of Fish

13. No person shall fish for, or have in his possession any fish, or portion of any fish, at a place where at that time fishing for such fish is contrary to this by-law.

Special Orders

14. Band Council may issue Special Orders that Band members:
  - (a) Shall not fish as allowed under this by-law, at any time or place as specified by such Special Order, by reason of low run of fish or other special circumstances having bearing on preservation and protection of fish;
  - (b) may fish in addition to fishing allowed under this by-law at any time or place as specified by such Special Order, by reason of high run of fish or other special circumstances having bearing on preservation and protection of fish;

15. Special Order made pursuant to section 14 of this by-law shall be posted at the Band Office and near the place where the Special Order is to take effect.

Violation

16. Every person who violates any provision of this by-law is guilty of an offense and is punishable on summary conviction of a fine of not more than \$100.00 or to imprisonment of not more than 30 days, or both, fine and imprisonment.

Considered and passed at duly convened meeting of the H0malco Indian Band Council the 17 day of December ,19 84.

A quorum for this Band  
Consists of 2

RICHARD HARRY  
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CHIEF

FAY WILSON  
\_\_\_\_\_  
COUNCILLOR

JAMES P. WILSON  
\_\_\_\_\_  
COUNCILLOR