



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Indian and Inuit Affairs Affaires indiennes et inuit

Chronological No. - Numéro consécutif

File Reference - N° de réf. du dossier

BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "From our Band Funds" "Capital" or "Revenue", which ever is the case, must appear in all resolutions requesting expenditures from Band Funds

NOTA: Les mots "des fonds de notre bande "Capital" ou revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

THE COUNCIL OF THE <i>LE CONSEIL DE LA BANDE INDIENNE</i> Moravian of the Thames	Current Capital Balance <i>Solde de capital</i> \$ _____
AGENCY DISTRICT London District	Committed - <i>Engagé</i> \$ _____
PROVINCE Ontario	Current Revenue balance <i>Solde de revenu</i> \$ _____
PLACE <i>NOM DE L'ENDROIT</i> Moravian Indian Reserve	Committed - <i>Engagé</i> \$ _____
DATE <u>8th</u> AD 19 <u>82</u> DAY - JOUR MONTH - MOIS YEAR - ANNEE	

DO HEREBY RESOLVE:

DÉCIDE, PAR LES PRESENTES:

That the Moravian Indian Council accept By-Law #5, as

attached, to provide for the preservation, protection, and management of fish

on the Moravian Indian Reserve #47, in the Province of Ontario.

A quorum for this Bande
Pour cette bande le quorum est

consists of
fixé à

Council Members
Membres du Conseil

John Peters

(Chief - Chef)

Francis Noah

(Councillor - conseiller)

Dennis Timothy

(Councillor - conseiller)

Richard Snake

(Councillor - conseiller)

Ben Whiteye

(Councillor - conseiller)

Gordon Peters

(Councillor - conseiller)

(Councillor - conseiller)

FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

1. Band Fund Code <i>Code du compte de bande</i>	2. COMPUTER BALANCES - SOLDES D'ORDINATEUR		3. Expenditure <i>Dépenses</i>	4. Authority - Autorité Indian Act Sec <i>Art. de la Loi sur les Indiens</i>	5. Source of Funds <i>Source des fonds</i> <input type="checkbox"/> Capital <input type="checkbox"/> Revenu
	A. Capital \$	B. Revenue - Revenu \$			
6. Recommended - <i>Recommandable</i>			Approved - <i>Approuvable</i>		
Date	Recommending Officer - <i>Recommandé par</i>		Date	Approving Officer - <i>Approuvé par</i>	



MORAVIAN INDIAN COUNCIL

DELAWARE TRIBE

Phone (519) 692-4341

R.R. NO. 3, THAMESVILLE, ONT.
NOP 2KO

MORAVIAN OF THE THAMES #47 BY-LAW NO. 5

A by-law to provide for the preservation, protection, and management of fish on the Moravian Indian Reserve #47 in the Province of Ontario.

Pursuant to paragraphs (o), (p), (q), and (r) of Section 81 of the Indian Act R.S.C. 1970, Chapter 1 - 6, as amended, the following by-law may be cited as the Moravian of the Thames Fishing Regulations.

PART 1 - INTERPRETATION

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

'Band' means the Moravian of the Thames Band;

'Band Council' means the Council duly elected or appointed by the Moravian of the Thames Indian Band;

'Band Member' or 'member of the Band' means a person whose name appears on the Moravian of the Thames Band List, or who is entitled to have his name appear on the Moravian of the Thames Band List;

'Closed season' with reference to any species of fish, means that period specified in the Schedule to this by-law and during which that species of fish shall not be legally taken.

'Constable' means a member of the Ontario Indian Police Force or a Band Council appointed enforcement officer;

'firearm' includes an air or pellet gun and a long-bow or crossbow;

'fish' means any fish of a species named in the Schedule to this by-law;

'holder of a permit' means the person named in the permit;

'Justice' means a Justice of the Peace, appointed by the Band Council enforce this by-law;

'open season' with reference to any species of fish, means those periods of the calendar year which are not designated in the Schedule to this by-law as closed seasons;

'permit' means a subsisting permit issued under this by-law;

'person' means any Band member, any person on or entitled to be on the General List as maintained by the Department of Indian and Northern Affairs, any member of any other Band and any person not an Indian within the meaning of the Indian Act, R.S.C. 1970, c. 1-6 as amended.

'possession' shall include, fish on hand, in cold storage, in transit or elsewhere;

'reserve' includes all lands set apart for the use and benefit of the Moravian of the Thames Indian Band and all lakes, ponds, and watercourses therein and all water bordering upon a reserve to the extent that these are within the jurisdiction of the Band Council;

'resolution' means a properly adopted resolution of the Council of the Band;

'trap' includes a snare or net or any other device capable of being used for the taking of fish;

'vessel' means a boat or ship, and includes a skiff, canoe, punt, and raft;

PART II - WILDLIFE CONSERVATION

2. No person shall fish, trap, or attempt to take or trap fish in the Reserve without first obtaining a written permit to do so from the Band Council, or by an officer appointed by it to grant such permission.

3. (1) No person shall have in his possession any fish, whether alive or dead, or any part thereof, except;

(a) fish taken in compliance with section 2; or,

(b) fish used for experimental purposes authorized by the Band Council.

(2) The possession of fish by a person during a closed season is prima facie evidence that the person took the fish in the reserve during the closed season.

(3) The taking of a fish which is immediately followed by its release alive in the water shall not constitute possession for the purposes of this section.

PART III - PERMITS

4. (1) The Band Council may, by resolution, determine by any criteria the classes of permits that may be issued and the appropriate fees therefor and may issue and authorize the issuance of such permits in such form, on such conditions and valid for such term or terms as they may prescribe.

(2) A copy of any resolution passed pursuant to subsection (1) and certified by the Clerk of the Band to be a true copy thereof shall be appended to a true copy of this by-law, which by-law and all such resolutions shall be available for examination by any member of the public during normal business hours.

(3) No person shall contravene the terms of conditions of his permit.

(4) No permit shall be transferred and no person shall buy, sell, exchange or in any way be a party to the transfer of a permit, or in any way use or attempt to use a permit issued to any other person.

(5) No holder of a permit shall fish unless at the time, he has the permit on his person.

(6) A person who is the holder of a permit issued under this by-law shall produce it to any officer or constable upon request.

5. (1) Where a person holding a permit issued under this by-law has violated a provision of this by-law, the Band Council may without the necessity of holding a formal, public or any other hearing but after notice of two clear days to the permittee suspend the permit and all rights granted thereunder for such period as the Band Council may see fit, or may cancel the permit.

(2) Upon notice of suspension or cancellation of his permit; the permittee shall forthwith deliver up the permit to the Band Council or their representative.

PART IV - OFFENCES AND PENALTIES

6. (1) No person with any fishing equipment in his possession shall go upon any enclosed or unenclosed land or water in the reserve after he has had oral, or written notice from the Band Council or its authorized officer not to fish thereon.

(2) No person shall:

(a) without authority, give or cause to be given the notice mentioned in subsection (1) hereof, or,

(b) tear down, remove, deface, damage, or interfere with any notice put up, posted or placed pursuant to this by-law.

7. (1) An officer or constable may, without a search warrant:

(a) stop, enter and search any aircraft, vehicle or vessel;

(b) open and inspect any trunk, box, bag, parcel or receptacle;

7. (1) (c) enter and search any shop, public market, storehouse, garage, restaurant, hotel, eating house, logging camp, construction camp, or camp established in connection with developing oil resources on the reserve.
- if he has reasonable grounds to believe that any of them contain any fish taken, acquired, shipped, purchased or had in possession in contravention of this by-law.
- (2) An officer or constable shall investigate all contraventions of this by-law brought to his notice and may prosecute any person who he has reasonable cause to believe is guilty of any breach of this by-law.
- (3) No person shall obstruct, hinder, or delay or interfere with an officer or constable in the discharge of his duty by violence or threats or by giving false information or by any other means.
- (4) An officer or constable may stop a vehicle or vessel for the purpose of:
- (a) determining whether the occupants thereof
 - (i) have permits issued pursuant to this by-law;
 - or,
 - (ii) have been fishing in contravention of this by-law; or,
 - (b) obtaining information as to the number and species of fish taken.
8. (1) Any fish suspected of having been taken, acquired, purchased or possessed in contravention of this by-law shall be seized.
- (2) Any equipment used in the taking or possessing of fish seized pursuant to subsection (1) may be seized.
- (3) A vehicle, vessel, or aircraft suspected of having been used for fishing or used in transporting fish seized pursuant to subsection (1) may be seized.
- (4) Where any firearm, trap, fishing rod or other device, or any fish, or any part of a fish is seized under the provisions of this by-law, the same must be taken before a Justice, who shall cause such to be held in safe keeping and who upon proof to his satisfaction that such firearm, trap, fishing rod or other device, or fish or part of such fish, was at the time of seizure being used or had in possession, or had been shot, killed, caught, or taken in contravention of this by-law, shall declare the same to be forfeit to the Band and the same may be disposed of as the Band Council directs, or the Justice may order it returned to its lawful owner.
9. (1) No person shall destroy or permit to spoil any fish suitable for food.
- (2) No person shall fail to remove a fish hut by the date specified in his permit.
10. (1) Every person who contravenes any of the provisions of this by-law, or any term or condition of a permit issued under this by-law, or who refuses, omits, or neglects to fulfill, observe, carry out, or perform any duty or obligation thereby created, prescribed, or imposed is guilty of an offence and on summary conviction is liable to a fine not less than TWENTY-FIVE DOLLARS (\$25.00) and not more than ONE HUNDRED DOLLARS (\$100.00) or imprisonment for a term not exceeding thirty days, or both.

10. (2) If any person convicted pursuant to sub-section (1) is the holder of a permit, any or all rights thereunder may be suspended for any term or terms not exceeding, in the aggregate, one year or the permit may be cancelled.

(3) Subsection (2) applies without prejudice to the powers of the Band Council as set out in section 5 (1) of this by-law.
11. Notwithstanding any law to the contrary, all fines and other moneys paid or received under this by-law shall be paid into Band funds.

PART V - MISCELLANEOUS

12. Whenever the singular or masculine are used the same shall be construed as meaning the plural or the feminine or body politic or corporate where so required.
13. This by-law shall take effect pursuant to the provisions of the Indian Act, (R.S.C. 1970, Chapter 1 - 6) and before publication in the Canada Gazette.