

SOR/79-527
July 12, 1979

EEL GROUND BAND

NEW BRUNSWICK DISTRICT - EEL GROUND RESERVE

DATE: April 5, 1979

EEL GROUND BAND

Whereas paragraphs (c), (o) and (r) of Section 81 of the Indian Act empower the Council of Band to make by-laws respecting the regulation of law and order and the preservation, protection and management of fur bearing animals, fish, and other game on the Reserve, and the imposition of a penalty for the violation thereof:

By-Law No. 8

A BY-LAW FOR THE PRESERVATION, PROTECTION AND MANAGEMENT OF FISH ON THE RESERVE.

The Band Council of the Eel Ground Band enacts as follows:

1. In this by-law unless the context otherwise requires:
 - (a) Eel Ground Indian Band waters means all waters situate upon, within and adjacent to the boundaries of Reserve set aside for the use and benefits of the Eel Ground Band of Indians - Namely, Big Hole Tract Indian Reserve #8, Renous Indian Reserve # 12, and the Eel Ground Indian Reserve # 2.

(b) "Fish" includes shellfish, crustaceans and marine animals.

(c) "Fishery" includes the area, locality, place or station in or on which a pound, seine, net, weir or other fishing appliances 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.

(d) "Fishing" means fishing for or catching fish by any method.

(e) "Band Council" means the council of the Eel Ground Indian Band.

(f) "Band Manager" means that person so appointed by the Band Council.

(g) "Fishery Officer" means persons so appointed by the Band Council and includes Band Constables.

2. This By-Law applies over all Eel Ground Indian Band waters.
3. Band Council may appoint fisheries officers whose acts and duties are as defined by this by-law and amendments hereto and whose titles are as specified in their appointments.
4. Salmon fry, parr and smolt shall not at any time be fished for, caught or killed, and no salmon or grilse of less weight than three pounds shall be caught or killed otherwise than by angling with hook and line.
5. No person other than a member of the Eel Ground Indian Band shall engage in fishing upon Eel Ground Indian waters.
6. Members of the Eel Ground Indian Band shall be permitted to engage in fishing upon Eel Ground Indian Band waters at any time and by means except by the use of rockets, explosive materials, projectiles, or shells.
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-half ($\frac{1}{2}$) of the diameter of any stream or river.
8. Where unused slides, dams, obstructions, or anything detrimental to fish exist, and the owner or occupier thereof does not after notice given by the Band Council to remove the same, or if the owner is not resident in Canada, or his exact place of residence is unknown to the Band Council, the Band Council may, without being liable to damages, or in any way to indemnify the said owner or occupier, cause such slide, dam obstruction, or thing detrimental to fish life to be removed or destroyed and in cases where notice has been given to the owner or occupier may recover from the said owner or occupier the expense of so removing or destroying the same.

- . 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-half ($\frac{1}{2}$) of the width of any river or streams, and not less than one-half ($\frac{1}{2}$) of the width of the main channel at low water level, 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 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 substance or thing, whether the same is of a like character to the substance named in this section or not, in any water frequented by fish, or that flows into 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 waters, or on the ice over either such waters.
- 14. The Band Council may make regulations for carrying out the purposes and provisions of this by-law and in particular, but without restricting the generality of the foregoing, may make regulations:
 - (a) for the proper management and control of fisheries;
 - (b) respecting the conservation and protection of fish;
 - (c) respecting the catching, loading, landing, handling, transporting, possession and disposal of fish;
 - (d) respecting the operation of fishing vessels;
 - (e) respecting the use of fishing gear and equipment;
 - (f) respecting the obstruction and pollution of any waters frequented by fish;
 - (g) prescribing the powers and duties of persons engaged or employed in the administration or enforcement of this by-law and providing for the carrying out of those duties and powers;
 - (h) authorizing a person engaged or employed in the administration or enforcement of this by-law to vary any closed time for fishing quota that has been fixed by the regulations.

Any Band Constable or fishery officer appointed hereunder may enforce the provisions of the by-law or any regulation made hereunder.

16. Everyone who violates or prepares to violate any provisions of this by-law, or any regulations, is guilty of an offence punishable on summary conviction and is liable to a fine of not more than \$100,000.
17. When not otherwise specified every proprietor, owner agent, tenant, occupier partner or person actually in charge, either as an occupant or servant, shall be deemed to be jointly and severally liable for any of the provisions of this by-law or of any regulation.
18. Penalties incurred under this by-law or amendments hereto shall be sued for within two years from the commission of the offence.
19. Every fine, penalty or forfeiture imposed under this by-law or regulations belongs to the Eel Ground Indian Band for the benefit of the Band with respect to the offence committed and the Band Council may from time to time direct that the fine, penalty or forfeiture shall be paid to bear in whole or in part the expense of administering the by-law under which the fine, penalty or forfeiture is imposed, or that the fine, penalty or forfeiture shall be applied in the manner that the Band Council considers well best promote the purpose of the by-law under which the fine, penalty or forfeiture is imposed, or the administration of that by-law.
20. Except insofar as in this by-law is otherwise specially provided all penalties and forfeitures incurred under this by-law or amendments hereto are recoverable and enforceable by summary proceedings taken under the provisions of the Criminal Code relating to summary convictions.
21. Should any violation of this by-law or any regulation continue for more than one day the each day during which such violation continues constitutes a separate offence and may be punished as much.
22. This by-law may be cited for all purposes as "Fishing" By-law, 1978, No. 8

Considered and passed by the Eel Ground Band Council, on the 2nd day of October, 1978.

Wilfred Ward
Chief

Chester Martin
Councillor

Albert Bernard
Councillor