

SOR/79-741
Oct 17, 1979

THE BURNT CHURCH INDIAN BAND

Whereas paragraphs (c), (o) and (r) of Section 81 of the Indian Act empower the Council of a 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. 2

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

The Band Council of the Burnt Church Indian Band enacts as follows:

1. In this By-Law unless the context otherwise requires:

(a) "Burnt Church Indian Band waters" means all waters situate upon, within and adjacent to the boundaries of the Burnt Church, Tabusintac and Pokemouche Reserves set aside for the use and benefits of the Burnt Church Band of Indians.

(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 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 is used in connection therewith.

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

(e) "Band Council" means the council of the Burnt Church 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 Burnt Church Indian Band Waters.

3. Band Council may appoint fishery officer 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 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 Burnt Church Indian Band shall engage in fishing upon Burnt Church Indian Waters.

6. Members of the Burnt Church Indian Band shall be permitted to engage in fishing upon Burnt Church Indian Band Waters at any time ~~and~~ by any 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 (1/2) of the diameter of any stream, or river 1 miles offshore from the Burnt Church Indian Reserve on the Miramichi Bay.

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.

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-half (1/2) of the width of any river or stream, and not less than one-half (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 within.

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 substance or thing, whether the same is of a like character to the substances name 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 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 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;
15. Any Band Constable or fishery officer appointed may enforce the provisions of this 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 offense punishable on summary conviction and is liable to a fine of not more than \$100.00.
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 Burnt Church 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 will best promote the purposes 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 then each day during which such violation continues constitutes a separate offence and may be punished as such.
22. This by-law may be cited for all purposes as "Fishing By-Law, 1979."

Considered and passed by the Burnt Church Band Council, on the 31st day of July, 1979.

Wilbur Dedam
Chief

Larry Dedam
COUNCILLOR

Weldon Ward
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Harold Somerville
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