

SOK/85-194
dated Feb. 27, 1985.

DEADMANS CREEK INDIAN BAND
BY-LAW NO. 1985 - 1
FISHING BY-LAW

WHEREAS:

the Council of the Deadmans Creek Band of Indians is empowered under Sections 81, (c), (o) and (r) of the Indian Act R.S., c. 149, s. 1 to make by-laws for the observance of law and order and the preservation, protection and management of furbearing animals, fish and other game on the reserve;

NOW THEREFORE:

the Council of the Deadmans Creek Band of Indians enacts the following:

1. SHORT TITLE: this bylaw shall be known as the Deadmans Creek Indian Band Fishing By-Law 1985-1.
2. DEFINITIONS:
 - "Act" means the Indian Act, R.S., c. 149, s.1.
 - "Band" means the Deadmans Creek Band of Indians as a whole.
 - "Band Council or Council" means the Chief and Council of the Deadmans Creek Band of Indians elected under the Act or by means of the Custom of the Band as approved by the Minister of Indian Affairs and Northern Development.
 - "Band Administrator" means the employee appointed as Administrator of the Band in terms set out and approved by Band Council Resolution.
 - "Band Council Resolution" means a motion of Council that has been approved by a majority of a quorum of the Council members at a duly convened meeting and is recorded in the minutes of that meeting and may include a written instrument containing any such motion signed by a quorum of Band Council at such meeting.
 - "Band Council Meeting" means a duly convened meeting of a quorum of Band Council.
 - "Band Member" means any person who is registered by the Department of Indian Affairs as a member of

of the Deadmans Creek Band of Indians collectively this may be called Band Membership.

"Chief" means the Chief of the Deadmans Creek Band of Indians as duly elected under the Act or by means of the Custom of the Band as approved by the Minister of Indian Affairs and Northern Development.

"Councillor" means a Councillor of the Deadmans Creek Band of Indians as duly elected under the Act or by means of the Custom of the Band as approved by the Minister of Indian and Northern Development.

"Deadmans Creek Indian Band Waters" means all waters situated within the boundaries of Deadmans Creek Indian Reserve No. 0, CLSR Ottawa. (May also be called "Band Waters".)

"Deleterious Substance" (i) means 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 or fish that frequent the water or;

(ii) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it 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 injurious to fish or fish habitat or to the use by man or fish that frequent that water.

"Fish" includes shellfish, crustaceans, fish, marine animals and fish.

"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 natural life processes.

"Fishing Point" includes the area, locality, place or station in or on which a spear, gaff, dip or 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 spear, gaff dip seine, net, weir, or other fishing appliance used in connection therewith.

"Fishing"

means catching or attempting to catch fish by any method.

"River Management Personnel"

means a person appointed by Band Council Resolution for the purposes of the Maintenance of fish stocks or the enforcement of this By-law.

3. AREA OF JURISDICTION

the area of jurisdiction applies to the Deadmans Creek Indian Band Waters and such areas of Reserve Lands as may be necessary for the proper protection and preservation of fish.

4. RIVER MANGEMENT PERSONNEL

4.1

Band Council may appoint, by Band Council Resolution, River Management Personnel. Included in the appointment are to be written terms of reference and prescribed duties for such personnel which are not inconsistant with this By-law.

5. FISHING

5.1

No person other than a Band Member may engage in fishing in Deadmans Creek Band Waters unless that person is permitted pursuant to Section 7 of this By-law.

5.2

All fishing is restricted to traditional methods of gaffing, spearing, seine or dip-netting, angling, or by hand. Fishing by means of spear-guns, explosives, or means that could alter the normal life cycle of fish in these waters is not allowed.

5.3

Band Council may, by means of a Band Council Resolution, restrict fishing in certain Band Waters for the purposes of improving the quality of spawning cycles and increasing the

number of fish or the enhancement of fish habitat. These restriction are to be in accordance with various fish life cycles and approved by a fish biologist or in accordance with fish enhancement projects which will be set out annually in accordance with Section 9 of this By-Law. The areas where restrictions are enforced are to be posted every 100 meters stating the details of the restrictions.

5.4 Fishing is restricted to adult fish. No Salmon of less than 3 lbs. shall be fished other than with an angling hook and line.

5.5 Any of the above may be waived by Band Council Resolution in the event of food shortages and special permit may be given to a Band Member stating the exemption.

5.6 Nets placed in the Deadmans Creek Indian Band Waters for fishing purposes may not extend beyond one third of the flow of water at a given point.

6. PROTECTION OF FISH

6.1 The eggs or fry of fish in the spawning and rearing areas shall not at any time be damaged or destroyed.

(i) There shall not be constructed any water intakes or devices which draw water from Deadmans Creek Indian Band Waters without permission of Band Council which will ensure that small fish will be protected.

(ii) There shall not be constructed any piers, abutments or structures on the banks of the Deadmans Creek Indian Band Waters which will in any way alter the flow of such waters so that spawning or rearing areas are disturbed or destroyed.

6.2 The Deadmans Creek Indian Band Waters shall not be effected by deleterious substances.

6.3 Any alterations in streams by means of construction or the infusion of substances or altering temperatures of the water to the stream must receive permission by means of a Band Council Resolutions. This must be

approved in the following manner.

- (i) A written submission to Band Council describing the nature of the change and any plans that may be available or required for any construction.
- (ii) Band Council must have these plans reviewed by two accredited fish biologists and have their approval and recommendations prior to permission being granted.
- (iii) Band Council must make all attempts possible to ensure the protection and safety of the fish, spawning and rearing areas and fishing points, are made prior to permission being granted.

6.4

Where slides, dams and obstructions or anything detrimental to fish exist in Deadmans Creek Indian Band Waters, Band Council has the authority to remove same. If slides, dams and obstructions or anything detrimental to fish has been placed by a person who has not received approval in accordance with Section 6 of this By-Law and has constructed a slide, dam or obstruction or anything detrimental to fish in Band Waters and has been served notice by Band Council prior to the removal, Band Council may recover the expense of removing same from such person.

7. FISHING POINTS MAINTENANCE

7.1

Fishing points are not to be destroyed, covered or damaged in any way.

7.2

Fishing points must be kept clean in the following manner:

- (i) all fish entrails and other garbage must be cleaned from rocks and area before departure by the user.
- (ii) all fires must be extinguished prior to departure by the user.

7.3

Priority of use of fishing points is given to Band Members. Others must vacate fishing points if requested by River Management

Personnel, Chief, Councillor or Band Administrator.

8. PERMITS

8.1 The Band shall issue permits for fishing in Deadmans Creek Waters. These permits shall be issued by the Band Administrator and signed by the Chief or one Councillor.

The permits shall include:

- (i) location of fishing.
- (ii) method of fishing to be conducted.
- (iii) hours of fishing.
- (iv) dates of fishing.
- (v) type of fish to be caught.
- (vi) number of fish to be caught.

8.2 Band members shall not be required to apply for fishing permits unless they so desire.

8.3 Non-Band Members must apply and receive permits prior to fishing in Deadmans Creek Indian Band Waters.

8.4 No permit may be issued for more than one year.

9. GENERAL

9.1 To facilitate understanding of fish conservation programs, the Band Council shall set out policies and program objectives each fiscal year in writing for Band Members. These shall be discussed at a General Band Meeting prior to being set out and shall be posted at the Band office.

9.2 Band Council may appoint and set guidelines for fish habitat enhancement programs, by means of Band Council Resolution providing these programs have been reviewed and approved by a qualified fish biologist.

9.3 Band Council may, by means of Band Council Resolution, set out emergency programs to protect fish habitat or to revoke permits and any fishing if fish are endangered in anyway by disaster or by over fishing.

10. GENDER AND PLURALITY

In this By-law any words in the singular include the plural and words in the plural include the singular and the masculine includes the feminine and neuter where the contents require.

11. SEVERABILITY

If any provision of this By-law is found invalid, such provision is severable.

12. VIOLATION

12.1

Every person who violates or prepares to violate any provision of this is guilty of an offense and is punishable on summary conviction to a fine of not more than \$100.00 or to imprisonment of not more than 30 days.

12.2

Should any violation of this By-law continue for more than one day, then each day which such violation continues constitutes a separate offence and may be punished as such.

(SIGNED) R.E. Ignace

SIGNATURE CHIEF
DEADMANS CREEK INDIAN BAND
Ron Ignace

G.J. Hutchison

WITNESS

(SIGNED) Wilbur O. Ignace

SIGNATURE COUNCILLOR
DEADMANS CREEK INDIAN BAND
Wilbur Ignace

G.J. Hutchison

WITNESS

(SIGNED) EDDY D. Jules

SIGNATURE COUNCILLOR
DEADMANS CREEK INDIAN BAND
Edward Jules

G.J. Hutchison

WITNESS

January 21/85

DATE