

Nitinaht Band

SOR/82-472

Nanaimo District  
British Columbia

Malachan  
March 11, 1982

This By-law is passed pursuant to Section 81 of the Indian Act, at the regular band meeting on March 10th 1982

POSITION ESTABLISHED

1. The position of Band Fisheries Conservation Officer is hereby established. This shall be a paid position. The salary for this position shall be established by the Band Council, and shall be paid from Band Funds. The position is to be filled by resolution of the Band Council and the person so appointed shall serve until removed from Office by the Band Council. In the case of vacancy in this position, the Band Manager shall perform the duties and functions assigned to the Band Fisheries Conservation Officer.

POWERS AND DUTIES OF BAND FISHERIES CONSERVATION OFFICER

- 2. (a) The Band Fisheries Conservation Officer shall determine, according to the best information available to him, the capacity of the waters on each of the Band's reserve to sustain production of fish.
- (b) The Band Fisheries Conservation Officer may close any area for fishing for any period of time he considers appropriate in the interests of conservation.
- (c) The Band Fisheries Conservation Officer shall prohibit any gear type he considers inappropriate for any location.
- (d) The Band Fisheries Conservation Officer shall enforce this Bylaw.
- (e) The Band Fisheries Conservation Officer shall collect statistics on all fish caught or sold under this Bylaw.

PERMIT TO FISH

3. The Band Council may issue a permit to a person not a member of the Nitinaht Band entitling that person to fish on reserve.

OPENING AND CLOSURES

4. The Band Council shall designate openings and closures for the on Reserve Fishery.

ASSISTANT BAND FISHERIES CONSERVATION OFFICERS

5. The Band Council may appoint one or more Fisheries Conservation Assistants. These shall be paid positions. The salary for these positions shall be established by the Band Council, and shall be paid from Band Funds. These assistants shall:

- (a) under the direction of the Fisheries Conservation Officer carry out work to monitor, administer, and enhance the fisheries and
- (b) in the absence of the Band Fisheries Conservation Officer have all powers under Section 2.

NOTICE

6. No opening or closure under Section 4 and no closure under Section 2(b) or prohibition under Section 2 (e) shall take effect until notice of the closure or prohibition is posted near the place at which the closure or prohibition is to take effect.

GENERAL CLOSURE

7. No persons shall fish on reserve except as permitted by this Bylaw.

GENERAL PROHIBITION

8. No person shall use any gear to catch fish on reserve except a type approved by the Band Fisheries Conservation Officer or by permission of the Band Council.

NON MEMBERS

9. It is an offence against this Bylaw for any person who is not a member of the Nitinaht Band to fish on reserve without a permit issued pursuant to Section 3.

OFFENCE

10. It is an offence against this Bylaw to fish in contravention of a closure or a prohibition under this Bylaw.

MARKING OR GEAR

11. All gear for fishing shall be attended at all times while in use, except that gear may be left unattended when in use if clearly labeled with owners name. Failure to label gear according to this section is an offence under this Bylaw.

PENALTIES

12. Maximum penalty for commission of an offence under this Bylaw shall be:

- (a) A fine of \$10.00 or imprisonment for 3 days for the first offence in any calendar year; and

- (b) A fine of \$100.00 or imprisonment for 30 days or both for the second offence in any calendar year.

ADDITIONAL PENALTIES

13. In addition to, or in alternative to the penalties set out in paragraph 12 above, the Band Fisheries Conservation Officer may prohibit any person who has committed any offence under these Bylaws from fishing on reserve for any portion of the calendar year following the year in which the offence was committed. Such a prohibition become effective as soon as it is communicated to the individual who is subject to the prohibition. Any violation of the prohibition is also an offence under this Bylaw.

COOPERATION WITH FEDERAL FISHERIES

14. The Band Fisheries Conservation Officer shall provide any information requested by any fisheries officer appointed pursuant to the Fisheries Act on demand. A fisheries officer may commence a prosecution for any offence under this Bylaw, and may enter any Reserve at any time.

JOINT MANAGEMENT

15. The Band Fisheries Conservation Officer, the Fisheries Conservation Assistants, and such other persons as the Band Council may appoint, together with as many persons as the Minister of Fisheries & Oceans shall appoint (not to exceed the number appointed by the Band Council), constitute a joint management committee, with power to make recommendations to the Band Council concerning the fishery.

SALE OF FISH

16. Any fish caught under this Bylaw may be sold to any person provided that person selling the fish reports the number of fish sold to Band Fisheries Conservation Officer.

BAND COUNCIL MAY OVERRULE

17. The Band Council may overrule any decision of a Band Fisheries Conservation Officer made pursuant to this Bylaw.

Stanley Chester  
Chief

Frank Knighton  
Councillor