



SQUAXIN ISLAND TRIBE

WEST 81 HIGHWAY 108
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RESOLUTION NO. 85-60
of the
SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe of Indians by the authority of the Constitution and By-Laws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and


WHEREAS, the Tribal Council has adopted the Squaxin Island Fishing Ordinance, Resolution No. 81-55; and

WHEREAS, the Tribal Council finds it necessary and appropriate to amend the Fishing Ordinance for the purpose of managing and protecting Tribal Resource.

NOW THEREFORE BE IT RESOLVED, the Squaxin Island Tribal Council hereby adopts and promulgates the Squaxin Island Fishing Ordinance, Revised October 1, 1985, to be effective October 7, 1985.

C E R T I F I C A T I O N

The Squaxin Island Tribal Council does hereby certify that the foregoing resolution was adopted at a regular meeting of the Squaxin Island Tribal Council held on this 3rd day of October, 1985 at which time a quorum was present and passed by a vote of 4 for, and 0 against.




David W. Whitener, Chairman

ATTESTED BY:



David Lopez, Secretary



Evelyn Allen, Vice-Chairman

- B. Buyer: A person who purchases fish from the fisher who caught the fish or who, for commercial purposes, smokes or otherwise processes and sells fish she or he has caught.
- C. Ceremonial Fishery: A fishery conducted by one or more Tribal members for the purpose of obtaining fish to be used solely for Tribal or personal ceremonial and/or religious purposes.
- D. Closed Season: For any species of fish, all of the time during the entire calendar year excepting the "open season" for that species as specified by Tribal regulations.
- E. Commercial Fishing: The taking of fish, shellfish or other fishery resources with the intent to sell them or profit economically from them.
- F. Depth of Net: The total distance between cork and lead lines measured in meshes perpendicular to either cork or lead line.
- G. Drift Net: A gill net which is not staked, weighted, or anchored but drifts freely.
- H. Emergency Regulations: A regulation promulgated to accomplish a limited purpose for a limited period of time.
- I. Enrolled Person: Any person who is an enrolled member of the Squaxin Island Tribe.
- J. Fishing: To attempt to catch, trap, net or otherwise take any fish from its natural habitat by any means whatsoever and/or having caught or to possess any fish on a fish site by any means previously described in this definition.
- K. To Participate in Fishing: "To participate in fishing" and its derivatives means an effort to operate a vessel or fishing gear, or provide immediate supervision in the operation of a vessel or fishing gear, or otherwise assist in the fishing operation, or to claim possession of a share of the catch. All persons on board a vessel, whether floating or beached, engaged in fishing or all persons at the end of a net that is controlled from a beach, shore or land or in an immediate area of the net, to assist in the control of such net or device are deemed "to participate in fishing".
- L. Fishing Gear: All types and sizes of hooks, nets, spears, gaffs, lines, traps, appliances and other apparatus used to take fish.
- M. Gill Net: A net of single-web construction bound at the top by a float line and at the bottom by a weight line.

- C. Within twenty-four (24) hours after engaging in a ceremonial fishery, a Tribal fisherman must submit a report to the Tribal Center detailing the number and species of fish taken from each fishing area during the ceremonial fishery. Such information shall be made available to the proper agencies upon their request.
- D. It shall be unlawful to utilize fish taken during a ceremonial fishery for any purpose other than ceremonial purposes.

XVII. Test Fishery

- A. The Tribal Council, or the Fish and Wildlife Manager when so authorized by the Tribal Council, may contract with one or more authorized Tribal fishermen for the performance of a test fishery. Choice of fishermen contracted to conduct test fisheries shall be made by the Tribal Council or the Fish and Wildlife Manager when so authorized. The selection shall be based upon type of gear utilized by the fisherman and the consistency of participation in commercial fishery openings by the fisherman. The contracting of Tribal fishermen to conduct test fisheries in each specific fishing area may be accomplished before the fishing season commences to insure adequate performance of test fisheries through long standing notification of participation. Alternate test fishermen may also be chosen before the fishing season to participate in test fisheries in the event that primary test fishermen chosen are unable to perform a specific test fishery. Test fisheries may be conducted only on a limited basis, and only upon the existence of technical or biological evidence which reasonably indicates that such a fishery will be necessary to effectuate the purpose of this Ordinance.
- B. A test fishery may be conducted during the closed season, or during closed periods of the Tribal commercial fishing season, only upon the passage of an emergency regulation authorizing such fishery. Upon compilation of the results of the test fishery, information regarding said results shall be made available to the proper agencies upon their request.
- C. No fish taken during a test fishery may be sold by any individual fisherman, or any group of fishermen, for personal profit. Fishermen who contract with the Tribe to conduct a test fishery shall be compensated for their commitment of time, labor and equipment according to an established scale to be set by the Tribal Council.

XVIII. Site Reservations

- A. Upon the opening of the fishing season for any species of anadromous fish, any authorized and licensed Tribal fisherman may establish a right to fish for that species in a particular site by:
- (1) Locating a fishing site within a Tribal fishing area which is either
 - (a) not a usual and accustomed fishing ground and station of another Tribe; or
 - (b) by agreement, not fished by any other Tribe, and at which no authorized and licensed Tribal fisherman has fished during the preceding two fishing days; and
 - (2) Being the first authorized and licensed Tribal fisherman to fish the site after the expiration of said two fishing days.
- B. As among Tribal fishermen and others fishing pursuant to this Ordinance, a Tribal fisherman who so establishes a site reservation shall have the exclusive right to fish said site while he or she is fishing said site.
- C. Once a fisherman has established a site reservation, the reservation shall be deemed to have expired if the fisherman leaves the site for more than two fishing days. All site reservations for a particular species shall expire upon the expiration of the annual open fishing season for that species.
- D. For the purposes of this section, a fishing site may be no larger than as may be necessary to accommodate the authorized gear used by the fisherman in establishing the site reservation on that site.
- E. In the instance when two authorized fishermen both try to establish a site reservation at the same time and same location and are unable to resolve the dispute, the dispute shall be presented to Law Enforcement personnel for settlement. The settlement shall be by lottery.
- F. All sites must be one maximum net length from other established sites unless otherwise agreed to by the affected fishermen.

Further, the conditions of the contract must include a statement awarding the Squaxin Island Tribal Council the right of first refusal in the event of a default on the part of the fisherman.

XXII. Violations and Punishments

A. Tribal Fishing Violation Penalty Schedule

(1) It shall be unlawful for any Tribal member, or any other person authorized to participate in the Tribal fishery pursuant to this Ordinance, to commit any of the acts designated herein as Class (A) gross misdemeanors, gross misdemeanors, or misdemeanors. Any such person convicted of committing any of said acts shall be subject to the sanctions set forth in the following penalty schedules.

(2) Class (A) Gross Misdemeanors

(a) Class (A) gross misdemeanors shall be punishable: *mandatory (with no*

(i) For the first conviction, by a *mandatory* fine of **FIVE HUNDRED and no/100 (\$500.00) DOLLARS** and loss of fishing privileges for one (1) calendar year from the date of conviction;

(ii) For the second conviction, by a fine of **FIVE HUNDRED and no/100 (\$500.00) DOLLARS** and loss of fishing privileges for two (2) calendar years from the date of conviction and by up to three (3) months imprisonment;

(iii) For the third or subsequent conviction by a fine of **FIVE HUNDRED and no/100 (\$500.00) DOLLARS** and loss of fishing privileges for three (3) calendar years from the date of conviction and by up to six (6) months imprisonment.

(b) The following acts shall be deemed as Class (A) gross misdemeanors:

(i) For any species of fish, fishing for that species without prior Council authorization in a Tribal fishing area during a time designated by Tribal regulation as a closed season for that species;

(ii) For any species of fish, fishing for that species without prior Council authorization

in a Tribal fishing area which has been closed for that species by Tribal regulation;

- (iii) Fishing in a Tribal fishing area without having first been issued a current Tribal fishing identification card;
- (iv) Participation in the sale of any fish designated as a subsistence fish;
- (v) Participation in the sale of any fish designated as ceremonial fish;
- (vi) Participation in the sale for personal profit of any fish caught during a test fishery;
- (vii) Resisting arrest or citation by a Tribal officer for any violation of this Ordinance, by flight or direct or indirect use of force against the officer or others or property; and
- (viii) Participation in any Tribal limited entry (moratorium) fishery without Tribal Council authorization.

(3) Gross Misdemeanors

- (a) Except as is otherwise specifically provided herein, gross misdemeanors shall be punishable:
 - (i) For the first conviction, by a fine of **ONE HUNDRED FIFTY and no/100 (\$150.00) DOLLARS;**
 - (ii) For the second conviction, by a fine of not less than **TWO HUNDRED FIFTY and no/100 (\$250.00) DOLLARS,** and by loss of Tribal fishing privileges for seven (7) full days of the Tribal open fishing season;
 - (iii) For the third or subsequent conviction, by a fine of not less than **FIVE HUNDRED and no/100 (\$500.00) DOLLARS,** and by loss of Tribal fishing privileges for fifteen (15) full days of the Tribal open fishing season.
- (b) The following acts shall be deemed gross misdemeanors:
 - (i) Assisting in the Tribal fishery without

- having first been issued a current Tribal fishing assistant identification card;
- (ii) Failure to report the loss of one's Tribal fishing identification card in the manner prescribed in this Ordinance within forty-eight (48) hours from the time of said loss;
 - (iii) Failure to adhere to daily call in requirements, as specified in Tribal regulation, regarding one's fish catch number;
 - (iv) Participating in the Tribal fishery while allowing a person to be on the fishing boat whose presence thereon is not authorized by this Ordinance;
 - (v) Selling fish to any person or organization which the Tribal Council has forbidden;
 - (vi) Transferring a boat plaque to a vessel not registered in the records of the Natural Resources office.
 - (vii) Participation in the Tribal fishery while using fishing gear which has not been authorized by Tribal regulation;
 - (viii) Knowingly falsifying a fish ticket in connection with the sale of any fish caught in the Tribal fishery:
- (c) It shall be a gross misdemeanor for any person who sells any fish caught in the Tribal fishery to fail to pay any duly accrued Tribal fish tax by the date specified by Tribal regulation. Any person found to have committed said act shall be required to pay the Tribe any and all Tribal fish tax which said person owes to the Tribe, and shall further be punished:
- (i) For the first conviction, by a fine of **ONE HUNDRED and no/100 (\$100.00) DOLLARS;**
 - (ii) For the second conviction, by a fine of **TWO HUNDRED FIFTY and no/100 (\$250.00) DOLLARS;**
 - (iii) For the third or subsequent conviction, by a fine of **FIVE HUNDRED and no/100 (\$500.00) DOLLARS,** and by loss of Tribal fishing

privileges for a period not to exceed the period until the outstanding tax is paid.

- (d) It shall be a gross misdemeanor for any person participating in the Tribal fishery pursuant to this Ordinance to knowingly fail to yield to a legitimate site reservation established by a Tribal fisherman. Any such person found to have committed said act shall be subject to the penalty schedule for gross misdemeanors set forth in paragraph (a) herein.

Further, if such person has caught any fish while unlawfully fishing in said site, he shall be required to pay the holder of said site reservation all or a portion of the proceeds from the sale of said fish, in such an amount as the court may deem just and equitable under the circumstances.

(4) Misdemeanors

(a) Misdemeanors shall be punishable:

- (i) For the first conviction, by a fine of **FIFTY and no/100 (\$50.00) DOLLARS;**
- (ii) For the second conviction, by a fine of **ONE HUNDRED and no/100 (\$100.00) DOLLARS;**
- (iii) For the third and subsequent conviction, by a fine of **TWO HUNDRED FIFTY and no/100 (\$250.00) DOLLARS,** and by the loss of fishing privileges for seven (7) full-days of the Tribal open fishing season.

(b) The following acts shall be deemed as misdemeanors:

- (i) Fishing in a Tribal fishing area without having one's current Tribal fishing identification within one's immediate control;
- (ii) Failure to adhere to Tribal gear marking requirements, as set forth in this Ordinance or the regulations adopted hereunder, while participating in the Tribal fishery;
- (iii) The commission of any other act which is not otherwise specifically designated as a crime in this section of the Squaxin Island Fishing Ordinance, and which is in violation

for said crime. In making this determination, the sentencing authority shall adhere to the following guidelines:

- (1) If the crime in question is a Class (A) gross misdemeanor, the sentencing authority shall consider all of said individual's convictions for Class (A) gross misdemeanors occurring within the three-year period immediately preceding the date of the conviction for which sentencing is being considered;
- (2) If the crime in question is a gross misdemeanor, the sentencing authority shall consider all of said individual's convictions for gross misdemeanors or Class (A) gross misdemeanors occurring within the two-year period immediately preceding the date of the conviction for which the sentencing is being considered;
- (3) If the crime in question is a misdemeanor, the sentencing authority shall consider all of said individual's convictions for misdemeanors, gross misdemeanors, or Class (A) gross misdemeanors occurring within the one-year period immediately preceding the date of the conviction for which sentencing is being considered. Provided, however, that no conviction may be considered which occurred prior to the effective date of this Ordinance.

D. Sentencing

Once it has so determined whether the conviction constitutes a first, second, or third or subsequent conviction, the sentencing authority shall sentence the defendant according to the guidelines provided in the applicable paragraph of the Tribal Fishing Violation Penalty Schedule set forth in subsection A herein. In determining the severity of the sentence to be imposed, the sentencing authority may consider any and all information reasonably pertinent to an effective disposition of the matter, including, but not limited to, the defendant's character and reputation for trustworthiness, the circumstances surrounding the commission of the crime for which sentencing is being considered, any relevant prior convictions of the defendant and any mitigating circumstances.

E. Suspended Sentence and Probation

Whenever any person shall be convicted of any crime set forth in this section, the sentencing authority may, in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by the sentencing authority, and that said person be placed on probation upon such terms and conditions as the sentencing authority shall require. If said person completes his period of