

Three-Mile Beach Saga Continues

photos courtesy of *Naturist Action Committee*

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Many naturists are just now hearing about Three-Mile Beach on Okanagan Lake in British Columbia, but the tradition of the beach as a favourite spot for clothing-optional usage was noted early in the twentieth century, with the bathing of Doukhobor women there.

Doukhobors left Russia to follow their religion, and some of their number became known for making political and social statements by stripping down to bare bodies, which wasn't well accepted by Canadian authorities. To control public nudity as a form of protest by the Doukhobors, the government enacted in 1931 an act that has evolved to become Section 174 of the Canadian Criminal Code, which bans public nudity.

As the Code was revamped over the years, the originally perceived "need" for Section 174 was no longer present, but the

"no public nudity" section has been retained. However, reflecting Canada's long-standing tradition of skinny-dipping, important appellate opinions from Saskatchewan (*R. v. Benolkin et al.*, 1977) and British Columbia (*R. v. Beaupré*, 1971) have established that "mere nude sunbathing is not of sufficient moral turpitude to support a charge for doing an indecent act," and an individual cannot be charged for mere nudity in a place he or she considers to be out of the view of the general public, "even where the accused misjudges the loneliness of the beach."

Furthermore, it is up to the Attorney General of each province to prosecute for public nudity, and historically, the AG of BC has not prosecuted for mere nudity.



To better understand the current situation at Three-Mile Naturist Beach in Penticton, BC, one must appreciate the physical layout and geography of the area. Three-Mile Beach on Okanagan Lake is buffered by what is known as the Naramata Bench, a geologic feature of bluffs and terraces created by ancient receding glaciers. The “bench” is set back from the lake, rising some 300 metres above the beach. One of many points that thrust themselves out into the lake from the east, the point that’s traced by 3-Mile Road creates a long and easily-accessible horseshoe beach that sweeps in a gentle curve to the south. That’s called Three-Mile’s South Beach, and it’s now reserved as a doggie beach. The road near the point is only 26 metres above the beach so the beach is visible in this location, which is not a problem for textiles. On the naturist (northern) section of Three-Mile Beach, however, one cannot see the naturists from above through the summertime vegetation. There, one must navigate a long section of wooden stairs before naturists are visible.

Throughout Canada, the foreshore of a body of water belongs to the public, not to private landowners. Over the years, however, successive slides at 3-Mile have brought down debris and refuse onto the foreshore from an old trash dump at the top of a 60-metre cliff on privately-owned land that now belongs to wealthy non-resident Cary Pinkowski. The small northerly naturist beach was obliterated by the fallen waste, which included large items like discarded furniture. Several years were required for the naturists to clear the area of the debris, a task they accomplished by building a 31-metre trail on private land across the slide area. In order to make it suitable for sunbathing, naturists then built up what has come to be known colloquially as the “Terraces,” a clothing-optional sunbathing bench built as a community effort from rocks gathered nearby. However, that too was on private land.

Since 2006, the Terraces have belonged to Pinkowski. Having purchased the land with clear knowledge that a naturist beach existed below his bluffs, Pinkowski, claimed in the summer of 2014 that the presence of naturists devalued his property and caused him to lose a sale of the holding. Pinkowski gained access to the beach

through a gate owned by the City of Penticton, and he instructed his contractor to construct a fence all the way to the waterline.

As was intended, the fencing illegally blocked public access to the foreshore, but it also interfered with a natural wildlife corridor; the fence has garroted at least two deer. To complete the dispossession, Pinkowski hired a private guard to patrol the area, eliminating easy public access to the naturist section of Three-Mile.

Beach users contacted conservation officers from the Ministry of Environment, and Pinkowski was ordered to remove the fence from the water, once again allowing public access to the foreshore. He was also forced to have his contractor remove his equipment from the area.

Effectively unable to reach the traditional clothing-optional beach, naturists were forced to move southward. Naturists had gone to the media after they were fenced out of their quiet and secluded section of Three-Mile Beach, and Penticton’s then-Mayor, Garry Litke, gave naturists permission to move onto the official Penticton City portion of Three-Mile, which is a 150-metre long sandy stretch of beach south of the great willow tree that marks the boundary of Pinkowski’s land. And therein lies the rub. When they exit the staircase at the beach level, naturists are now visible to others.

It was at that point, in the summer of 2014, that NAC Board member Judy Williams was contacted by Three-Mile Road resident Rick Giles, who told her of the situation, which was already being featured in the media by that time. Before Williams could engage directly on behalf of the naturists, the various factions of local beach activists had a falling out over how best to preserve access for naturists at Three-Mile Beach. Local organizational efforts slowed, and essential tasks that Williams had urged, like tracking City Council meeting announcements and agendas, went unattended.

Neither politics nor the influence of the wealthy takes a break while naturists decide what to do. In the fall of 2014, naturist-savvy Penticton Mayor Litke decided not to seek reelection and



Property owners have posted No Trespassing signs on the beach.



was succeeded by Councillor Andrew Jakubeit, who is not nearly so much of a friend to naturists.

On February 2, 2015, resident property owner Matt Fraser joined non-resident Pinkowski, appearing before the Penticton Council to complain about nudity. Newly-elected Mayor Jakubeit and some of the councillors congratulated the duo for bringing the matter of nudity at Three-Mile before them in the dead of winter, when naturists were less likely to show up in large groups to present their own points of view.

After the Mayor applauded Fraser and Pinkowski for being the first to complain formally, Council was presented with allegations of how harmful nudity is for children of residents, and how a clothing-optional beach attracts perverts and pedophiles. The Penticton Council heard accounts of exhibitionism, accompanied, of course, by allegations that property values had been negatively affected by social naturism at the beach. These presenters demanded that Council pass a by-law banning nudity at Three-Mile and levy \$100 fines for anyone found nude there. They were angry to learn that only the Attorney General of BC can give permission for the Royal Canadian Mounted Police (RCMP) to make an arrest for mere nudity.

At the end of each long Penticton Council meeting, members of the public may speak to any of the issues brought before Council by delegations. Even though naturists had had little warning of the impending Council meeting, they waited through three hours of Council business before addressing the accusations made by Pinkowski and Fraser. Naturists made an excellent case for continuation of the naturist tradition at Three-Mile.

Once Williams learned of the renewed threat to Three-Mile Beach, she contacted the informal beach users in Penticton and began organizing them again to combat the prejudice and open hostility shown by the property owners at the February Council meeting. She connected with users by teleconference to give them a crash course on putting together a strong, grassroots group to defend their rights as naturist citizens.

Thus, the 3-Mile Naturist Beach Committee (3MNBC) was formed to preserve the tradition of clothing-optional naturist use that has been the history of Three-Mile for nearly the past hundred years. Their executive includes Carnae Carnation, Richard Giles, Kevin Proteau, Slade Worsley, and Beach historian Bob Duncan. A separate group, generally promoting naturism in the Okanagan, was also formed at the same time. It's called the

Okanagan Naturist Association (ONA), but it is not affiliated with 3MNBC.

3MNBC has worked closely with Williams, accomplishing the difficult task of fact finding and historical research to supply information for NAC Executive Director, Bob Morton, so that an international NAC Action Alert could be issued, urging naturists across North America to write to Council, making a case for naturist use of 3-Mile Beach prior to a formal presentation to Council on March 2, 2014. Williams coordinated research, fact gathering and submission of a synopsis to Council, while Kevin Proteau applied as a delegation, to present with Williams. Williams also called upon naturist leaders across North America to write letters to Council on their letterheads, and everyone she contacted did so.

Tremendous thanks go to Stéphane Deschênes, former president of the Federation of Canadian Naturists (FCN), to Keith Scott of FCN, to Nicky Hoffman of The Naturist Society (TNS), to Bob Morton of Naturist Action Committee (NAC), to Shirley Mason and Seth Paronick of Beach Education Advocates for Culture, Health, Environment & Safety (B.E.A.C.H.E.S.), and to other naturists and naturist leaders, including Mark Huenison of AANR-WC, who responded to NAC's Action Alert with letters to Penticton's mayor and councillors.

Council voted on two of several recommendations on March 2. One directed staff to come up with further recommendations for accommodating continued traditional clothing-optional naturist usage at Three-Mile, and the other was to investigate the cost of converting the southern portion of Three-Mile Beach to a safe beach for textiles, rather than just for dogs. Narrowly averted was an option to investigate relocating naturists to a marina location with its attendant fumes and toxic fuel releases into the water. An outright banning of nudity with attendant fines was also not adopted. It was refreshing to have three councillors state they had personally enjoyed naturist beaches!

Williams continued working behind the scenes, addressing concerns of Penticton Council staff.

Five media outlets covered the 3MNBC presentation on March 2, 2015. Since that time, a flurry of letters to editors of various publications has ensued, along with interviews on the topic. Williams has been interviewed on CBC Okanagan Radio, and has written numerous letters to the editor on the topic. Of course, naturists are not the only ones writing. Using a purloined punch line from a Ray Stevens novelty song of 40 years ago, one man

entitled his letter to the editor of a local newspaper: “Don’t Look, Ethel,” and proceeded to berate Penticton Councillors for allowing perverts, pedophiles, and exhibitionists at Three-Mile. The letter writer seemed oblivious to the lyrics of the song (“He ain’t rude, he ain’t lewd. He just likes to run in the nude”), or that by the end of the song, “Ethel” had doffed her clothes and had joined a stalker in his harmless activity.

Regardless, the “Ethel” letter was counterbalanced by a Penticton grandfather who celebrated Canadian tolerance and supported the rights of naturists to engage in social public naturism at Three-Mile! Of course, Facebook and other social media have exploded with pro-nudist/naturist remarks.

Famed Okanagan syndicated Columnist Lori Welbourne released a column extolling the virtues of naturist beaches. The piece appeared in publications across BC and throughout Canada. Welbourne hadn’t even known Three-Mile was a traditional naturist beach until a handful of locals claimed nudity was ruining their property values.

Finally, Penticton Mayor Jakubeit wrote a letter entitled, “Stripping Away Emotions to Reveal the Naked Truth,” about how the Three-Mile Beach controversy has “polarized the community.” Instead of stoking the fires of such polarization, wise community leaders will recognize the value of diversity and will bring together the interested parties to form a management plan, much as was accomplished years ago with anti-nudity residents and naturists at Wreck Beach. That

management plan is still in place and is still effective.

Presently, however, Penticton is a divided community. A letter from a lawyer representing Pinkowski and a handful of other Three-Mile residents labeled social naturism as being “morally reprehensible.” And that has been one of the kinder remarks.

NAC’s Judy Williams flew to Penticton again for the April 7, 2015, meeting of the City Council. Scheduling the Three-Mile issue to be heard last on the agenda, behind two other contentious and lengthy matters, Council leadership assured that many of those with families or jobs would be unable to stay for the discussion, the presentations, or the vote on the future of the beach. The meeting lasted until 12:30 in the morning.

Although the Council had been urged to take simple steps to manage for clothing-optional recreation and to put up informational signage, only two councillors voted against the majority of the Council, who, after months of consideration and an interminable final meeting, chose to do ... nothing. The situation that has become the “status quo” is clearly not tenable. Nevertheless, neither short-term nor long-term requirements were addressed.

The summer of 2015 will be a hot one. Those who care about the clothing-optional future of the beach will remain involved. Naturists, including those who have never visited Three-Mile Beach, have already accomplished a tremendous amount at Okanagan Lake in a very short time. There’s much more to do. **N**



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