History of Net Laws for Fishing1993-2012

1993

In 1993 the Supreme Court said that the sole purpose (voter intent) of article 10, section 16, the Net Limitation Amendment, was to stop unnecessary killing, over harvest, and waste (of our marine resources.) Yet the FWC (Florida Fish and Wildlife Conservation Commission) forces fishermen to use nets that have a 98 to one by- catch.

1994

The Net Limitation Amendment passed in November 1994 with light voter turnout. It is a proven fact that the voters were misinformed. Yet nothing is investigated.

1995

It wasn't until July 1995 that the amendment went into effect and was self implementing. It was not necessary to add anything. Art 10 sec16 said nothing about mess size or twine construction.

It is evident from several court proceedings that the net issue can be rather complex. This can also be seen in several places when one reads the amendment.

In section 16 (1) of this amendment they defined a gill net to mean one or more walls of netting which captures salt water finfish by ensnaring or entangling them in the meshes of the net by the gills.

They further defined an tangling net to mean a drift net, trammel net, stab net, or any other net which captures saltwater finfish, shellfish, or other marine animals by causing all or part of heads, fins, legs, or other body parts to become entangled or ensnared in the meshes of the net.

If one knows the history of netting, what the mesh size of any net will catch and how fish are caught in these nets, then the weakness of these definitions become obvious.

These definitions can be explained away with one statement and that is, all nets are gill and entangling nets. Size, shape nor any other factor can change that statement.

As to how the old Florida Marine Fisheries Commission, (the FWC came into being in 1998), came up with their interpretation of the Net Limitation Amendment is anyone's guess. These facts quite logically beg the question. Where is the 2-inch or any other mesh size in the erroneous definition of a gill net? A gill net is not described by mesh size, yet the FWC uses their unquestionable autonomy to continue this fraud.

Does the FWC's 2-inch net fit this definition? What makes this assertion more absurd is that by the FWC's own admission all nets fit this description.

1996
Still no 2inch requirement for nets.

On January 6, 1996 the Florida Department of Environmental Protection vs. Millender, the Supreme Court of Florida (shrimp net case). The court said that, "Voter intent is discerned from historical precedent, from the present facts, from common sense, and from an examination of the purpose the provision was intending to accomplish and the evils sought to be prevented." Clearly, voter intent was to stop unnecessary killing, over harvest, and waste. This is twice the court said this. To this day the F.W.C. continues to ignore that statement in their interpretation of the net amendment.

The court also reinforced their statement by saying, " The obvious policy and intent of the amendment is to limit nearshore and inshore net fishing while permitting trawl nets containing up to 500 square feet of netting." Therefore, the Net Limitation amendment is not political net ban but a constitutional net limitation.

The court also wrote that amendment's stated purpose is to limit not prohibit and that commercial viability is relevant. (There is nothing commercially viable about a 2-inch net for most fish.) The F.W.C. says this case pertains only to trawls even though the Amendment says any other net.

What is the courts answer to this? The court said the amendment must be read as a whole and that "An interpretation of a constitutional provision which would lead to an absurd result will not be adopted." The fish managers thus are defending the absurd. It is absurd to the point that their net (2-inch mesh) has a 98% by-catch or waste rate.

This amounts to the fact that the F.W.C. is more than willing to do anything to place their personal prejudice into law.

1997
First mention of 2inch mesh.
In November, 1997 Administrative Law Judge Ella Jane Davis said in findings of fact paragraph 2, "The un-refuted evidence is that the proposed rule amendment will reduce the catch ability rate of a single seine net for many types of fish and not be commercially feasible for mullet, except possibly in " roe" season, and that a seine net as currently permitted with larger mesh in the wings only is commercially feasible for mullet as well as other fish. Large mesh was legal after the amendment was placed into law.

The old Marine Fisheries Commission made the 2-inch rule whereas the Constitution was silent on mesh size. In this case the old Marine Fisheries Commission, the M.F.C., made a wild guess and said there was only a 5% by-catch with 2-inch mesh even though the net study had yet to be done. That is fraud. Because of the fraud Justice Davis ignored commercial viability and the unnecessary waste that Art 10 sec16 forbids.

2005

Then on June 30, 2005 an F.W.C. test showed the legal 2-inch mesh nets had a 98% bi-catch and the illegal 3-inch mesh nets with only a 2% bi-catch.

2006

On October 3, 2006 the executive director of the F.W.C., Ken Hadadd, said that the constitution does not prohibit the gilling of fish. Last month the new F.W.C. executive director Nick Wiley expressed to me the same opinion. At the June 2008 F.W.C. meeting F.W.C. chairman Rodney Barreto said they had the authority to allow any size mesh. (See <http://www.fishingforfreedom.net/>www.fishingforfreedom.net and you can listen to him say it.) If, according to two heads of the FWC and one Commissioner, it is not illegal to gill fish in Florida, why is it argued that the amendment is against the gilling of fish? The only thing in the amendment that is rock solid is the 500 square foot requirement. The rest of the requirements of the amendment are in contradiction to its intent.

Since all of these facts lead us to as the question as to when does a net become a gill net. The obvious answer is that if all nets gill and it is not illegal to gill fish then any net over 500 square feet is a gill net. Any other interpretation is absurd.

2010

June 17, 2010 in the Supreme Court, Howard Curd vs. Mosaic Fertilizer page 15. Curd asserts that State licensed fishermen have an economic expectancy from the license sold them. It seems the court agreed. The 2inch mess net makes a license useless.

2012

February 14, 2012 in Wakulla County Circuit Court Judge Jackie Lee Fulford said, FWC urges the Court to dismiss all counts with prejudice, arguing that the Court is without jurisdiction to address issues raised in the complaint (by fishermen) FWC further argues that Plaintiffs are without a means to address their complaints. This Court cannot agree that our system of government is so harsh as to bind the hands and gag the mouths of those who believe they have been wronged. Despite the urging the Court declines to do so. 1st DCA Chief Justice Browning called FWC imperious and warned of the mischief that will occur.

It is obvious that the F.W.C. is creating the genocide of a culture to promote THE FISHING CAPTAL OF THE WORLD. They have taken 98% of the gear. They can legally give fishermen their 2% and will not. For this reason Chief Justice Browning of the 1st DCA called them imperious. Little consideration is used when commercial fishing is to be opposed: clamor will easily supply the want of argument, and prejudice supersede the necessity of proof.

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