
FLORIDA'S NET BAN---A STUDY OF THE CAUSES AND EFFECTS

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Historical perspective of commercial fishing in Florida

New information from recent archaeological studies indicate the prehistoric people of what is now Florida established permanent villages along the coasts of Florida. These Paleo-Indians lived in Florida 15,000 years ago and had a number of skills, including making fishing nets and fabric weaving and were good at gathering food from their immediate surroundings. "The prehistoric coastal inhabitants of northeast Florida were probably the most accomplished fisherfolk the area has ever seen", says Dana Ste. Claire.^[1] This style of coastal living by the native population was prevalent in 1565 when Pedro Menendez brought people from Europe to colonize St. Augustine.

Some of these immigrants were net fishermen who came from Spain's Isle of Minorca. According to documents available at the St. Augustine Historical Society, several fishermen were listed among the original Minorcan settlers. Mullet fishing is still a popular pastime in St. Augustine. When the cry of "Mullet on the Beach" goes out, many small businesses close for the remainder of the evening so that the

proprietor and his employees can get their cast nets and rush to the beach to catch mullet.

In South Florida, the Caloosa Indians traded salted mullet to the Spaniards in the 18th century, and by 1877, "fish ranches" were established in that area in order to harvest mullet from September to March (roe season) for trade with Cuba.[\[2\]](#)

By 1895, Florida had a well established infrastructure available to the commercial net fishing industry. The shore industries were reported to consist of fish, oysters, sponges, green turtles and alligator processing. The mullet harvest in 1895 was 20,733,734 pounds worth \$310,000. The shrimp landings were 62,625 pounds valued at \$2,397.[\[3\]](#)

Around 1900, commercial shrimping began. In 1902, Sallecito Salvador, a Sicilian immigrant living in Fernandina Beach, Florida, developed a shrimping technique using a small horsepower engine on his boat. Utilizing this engine provided enough power to pull the shrimp seine across the ocean floor in deeper waters. In 1906, he started his own company, S. Salvador & Sons. [\[4\]](#) Anecdotal information obtained from descendants of Sallecito Salvador have stated that his true name was Salvador Sallecito but upon his arrival his name was transposed and not wanting to do anything that might prevent his entry into America, he accepted the changed name.[\[5\]](#)

In 1953, the Tortugas shrimp grounds located off Key West were discovered by Felix Salvador, son of Sallecito Salvador. The pink shrimp fishery of Florida blossomed.

As a comparison to the first landing statistics of 1895, the mullet landings in 1953 were 28,709,651 pounds worth \$2,494,693 and the shrimp landings were 58,471 pounds valued at \$21,389.[\[6\]](#)

In 1953, the nine major fishing areas of Florida were; Pensacola, Apalachicola & vicinity, Cedar Key, Tampa & tributaries, Key West, Biscayne Bay, Lake Worth, Indian River & Northeast Coast.[\[7\]](#)

In 1976, the National Marine Fisheries Service issued a Fishing History Fact Sheet that included the following: The Journals of the Continental Congress contained orders for the Army of the United States dated March 9, 1778 to obtain, "Ten thousand barrels of fish, well pickled and saved for use". George Washington had profitable seafood export business - alewives from the Chesapeake to the Caribbean. Thomas Jefferson cultivated his own fish on his farm in Monticello. The commercial fishing industry financed establishment of Yale, the country's third oldest university and according to some theologians mullet was probably the fish that Christ's disciples netted.

In 1976, the U.S. Congress enacted Public Law 94-265, which extended the control by the United States over the waters and all the fish therein from the outer limit of the state territorial sea to a distance 200 miles from shore. This act greatly impacted the management and regulation of the fisheries of the United States.

In **1993**, 18,787,639 pounds of mullet were caught in Florida waters. The annual harvest of mullet from Florida waters has been in the 20 million pound range since landing statistics began in 1895. The highest annual production of mullet occurred during World War II between 1941-1944. The 1942 harvest was over 55,000,000 pounds. Florida's total commercial fish landings have fluctuated between 175,000,000 and 225,000,000 pounds for decades.

In 1981, when federal and state coordinated regulations commenced, Florida landed 215,300,000 pounds of marine products. As a result of new state and federal regulations, the 1992 Florida landings were 152,200,000 pounds. This is a reduction of 63,000,000 pounds on an annual basis.[\[8\]](#)

Government Policy Toward Commercial Fishing

The Federal Position

In 1871, President Ulysses S. Grant signed legislation establishing the United States Fish Commission. During the first 99 years of federal involvement, fishery activities were housed in a number of different organizations including the Department of Interior's Fish & Wildlife Service. In 1970, the National Oceanic and Atmospheric Administration (NOAA) was established. Most programs of the Bureau of Commercial Fisheries and the marine game fish research program of the Bureau of Sports Fisheries and Wildlife were transferred to NOAA. The National Marine Fisheries Service, which is part of the U.S. Department of Commerce is now the entity responsible for Federal activities for marine fisheries.[\[9\]](#)

In 1969, approximately \$1,690,000 was allocated to the Gulf & South Atlantic States by the federal government for commercial fisheries research and development under Public Law 88-309.[\[10\]](#) These funds, plus state generated contributions through licensing of commercial dealers and fishermen, were used to enhance Florida's commercial fisheries. A fishery loan program, administered by the Bureau of Commercial Fisheries, made funds of more than \$5 million available to finance operations, maintenance, repair and replacement of fishing vessels in the late 1960's. Under the mortgage insurance program, 132 fishing vessels were built with federally insured loans of \$7 million. [\[11\]](#) The program grew to hundreds of millions of dollars when the factory trawler fisheries of Alaska reached its peak.

"With all the opportunities we foresee and with our new staff members, now seasoned veterans, we are greatly enthusiastic about the coming year and are looking forward to the continued growth of the fishing industry in the Southeast," noted a leading federal official.[\[12\]](#)

The attitude toward commercial fishing by the federal agency managing the fishery activities was positive as manifested by financial assistance, exporting assistance and quality control programs as well as a branch dedicated to the development of better gear and discovery and utilization of underdeveloped fishery resources in order to reduce the U. S. balance of payments.

In 1976, Robert W. Schoning, Director of the National Marine Fisheries Service stated in a report that by extending jurisdiction of the United States fishing boundary out to 200 miles, the United States will become the greatest fishing nation in the world. He challenged the southeastern fishing industry to get behind the extended jurisdiction program.[\[13\]](#) He was speaking about the food-producing fishing industry.

In the late 1960's and early 1970's, foreign nations began extending their territorial seas out to 200 miles. Chile, Ecuador & Peru were among the first to extend and this action adversely affected the tuna harvesting from what was considered international waters by U.S. flag vessels. At the same time, Russian, Polish, Spanish and a combination of many other foreign vessels were fishing up to 12 miles from the coasts of New England and Alaska. This situation became untenable so a bill was introduced in Congress to extend the U.S. boundaries out to 200 miles in order to move the foreign fishing from America's shoreline.

House Resolution 200, a bill to unilaterally extend the boundaries of United States waters out to 200 miles passed the Senate on a 77 to 19 vote in 1976. Then Florida Senators Lawton Chiles and Richard Stone, voted against the 200-mile bill because of the adverse effect it would have on Florida's distant water shrimp, lobster and snapper/grouper fishermen.[\[14\]](#) They knew when the U. S. extended their boundaries, all other countries would extend their boundaries.

This would then prohibit fishing by U. S. vessels in their newly created 200-mile zone that had, under existing international law, been classified as international waters.

In the 1980's, under Presidents Reagan and Bush, programs offering assistance to the commercial fishing industry began to vanish. One of the first acts of President Reagan was to abolish the Maritime Hospitals, fishery advisory committees and reduce budgets for programs assisting fishermen and fishery businesses.

In the mid 1980's and continuing in 1990's, the National Marine Fisheries Service (NMFS) policies

changed. The agency pulled away from the commercial fishing industries in the southeast. Animosity between NMFS and the shrimping industry developed because of turtle excluder devices mandated for shrimp trawling, pursuant to the Endangered Species Act. NMFS greatly reduced the programs within the agency that offered assistance of any kind to commercial fishing and began an era where much of the science performed by the agency is challenged by the fishing industry. Numerous lawsuits were filed against the agency and its director and some are still pending.[\[15\]](#)

The State of Florida Perspective

The first seafood related office in Florida was established around 1913 with the appointment of T. R. Hodges as Shellfish Commissioner.

According to anecdotal information, Commissioner T.R. Hodges was a fastidious dresser and wore a sparkling white uniform. He would change clothes several times each day to maintain his image. He preferred a Chinese laundry in Tallahassee and on many occasions had his clean uniforms delivered by train or horseback when he was in the field. According to the son of the boat captain that ran the state gunboat, a cannon was mounted on the bow. It was available for use to back up his law enforcement responsibilities such as going into the villages of Apalachicola, Carrabelle and many other places to measure nets which if found to be illegal were burned on the spot.[\[16\]](#) This office later became the Florida Board of Conservation with the Board being composed of the Governor & Cabinet. The Board of Conservation became the Department of Natural Resources on July 1, 1969 and in 1992, the Department of Natural Resources was combined with the Department of Environmental Regulation to form the Department of Environmental Protection. This agency is under direction of the Governor & Cabinet.

From 1903 until 1981, Florida was actively engaged in the development of the commercial fishing industry, particularly in the fields of shellfish and research. R.M. Ingle, Florida's first biologist and the person for whom the Florida Research Institute's Building complex is named said, "As the first marine biologist ever hired by the State of Florida, I was sent to Apalachicola in 1949 to do research and rehabilitation in the oyster- producing areas of the bay, and collaterally, the entire state's coastal area. Although the work had been prompted by commercial interests, it was immediately apparent that all this scientific effort accrued as well to the anglers and general environmental interests. The work quickly expanded into shrimp biology, including bait, shrimp trawl by-catches, effects of dredging upon fish and shellfish, and a host of other subjects of importance to sportsmen, who continued to show virtually no interest in the work. From 1949 until I retired as the head of Florida's Marine Research Division in 1972, commercial fishing interests were a major, and often the only, support I could count on." (Pers. Comm., R.M. Ingle, August 7, 1990)

In 1967, members of the fishing industry provided the State of Florida with a large shrimp boat for use as a state patrol boat in order to protect the shrimp and fish nursery areas off the Florida Keys known as the Tortugas nursery. The donation was possible because of the relationship of the fishing industry and state government. It came at a time when Florida didn't have the financial resources to purchase a patrol boat. The state policy at the time was highly supportive of the commercial fishing industry. For example, the Governor and Cabinet adopted a Resolution of Appreciation in January 1970 that said in part, "NOW THEREFORE BE IT RESOLVED, that the Head of the State of Florida Department of Natural Resources for and on behalf of the people of the State of Florida, the former State Board of Conservation and the Department of Natural Resources, extend its profound appreciation to Southeastern Fisheries Association, Inc., for its unselfishness, help and support in the conservation of the valuable natural resources of the state."[\[17\]](#)

Again, in 1973 during an oil crisis, the Governor & Cabinet were so concerned about the welfare of the commercial fishing industry and the farmers that they passed a Resolution to the federal government that said in part, " NOW THEREFORE BE IT RESOLVED, that the Governor and Cabinet urge the federal Oil Policy Committee's voluntary allocation program to give top priority to those industries engaged in the production of food."[\[18\]](#)

In 1981 the Florida Legislature established a Saltwater Fishing Study & Advisory Committee to develop options related to the management of marine resources. The Committee held a series of meetings throughout the state and addressed concerns of all of the interest groups. As a result of these meetings, the Advisory Committee recommended to the legislature that a Marine Fisheries Commission be created. The legislature did so in the 1983 session.

On September 15, 1983, the organizational meeting of the Florida Marine Fisheries Commission (MFC) was held at the Capitol Building in Tallahassee. The members who were appointed by Governor Bob Graham were: George M. Barley, Orlando (developer); Dr. David Anthony, Gainesville (environmentalist); Dr. John C. Briggs, St. Petersburg (state scientist) Clark Butler, Gainesville (developer/banker); Dr. William Fox, Miami (federal scientist); Gene Raffield, Port St. Joe (wholesale fish dealer) and William Sandefer, Fort Lauderdale (fisherman).[\[19\]](#)

The MFC is guided by standards of operating procedures. All proposed rules must be approved by the Governor & Cabinet. The MFC has an executive director and the employees are exempt from Florida's Career Service. The MFC operates under the provisions of Chapter 120, the Administrative Procedures Act.

The Florida Marine Fisheries Commission recently proposed a list of recommendations for the legislature to implement. They are:

1. Initiate immediate rulemaking to conform current rules to and implement new rules compatible with Article X Section 16 of the State of Florida: Limiting Marine Net Fishing.
2. The MFC should begin to streamline its rulemaking process.
3. The MFC should support efforts by the Division of Law Enforcement to enhance the enforcement of and compliance with fisheries regulations including a recommendation by the Director of the Florida Marine Patrol (FMP) that a presentation of marine fisheries regulations be made to the next annual meeting of Florida Prosecuting Attorneys Association.
4. The MFC should sponsor an independent review of the fisheries research and information gathering programs of the Florida Marine Research Institute (FMRI).
5. The components of the FMRI and the FMP which support the resource management responsibilities of the MFC should report directly to the Commission.
6. The MFC should support a simple and limited program to purchase net gear affected by the new constitutional provisions.[\[20\]](#)

FLORIDA POPULATION AND BOAT REGISTRATIONS

Florida's population in 1960 was 4,951,560. In 1993 it was 12,000,000+. There were 249,219 pleasure boats registered in Florida in 1970. There were 23,813 commercial fishing boats registered in 1970. There were 695,722 pleasure boats registered in Florida in 1993-94. There were 33,783 commercial boat registrations in 1993-94.[\[21\]](#) It is estimated that 2,225 are inshore net fishing boats.

The ten states providing the most new residents to Florida from a 1980 survey: [\[22\]](#)

1. New York	364,450
2. Ohio	135,219
3. New Jersey	134,150
4. Pennsylvania	104,710
5. Illinois	102,192

6. Michigan	95,246
7. Massachusetts	63,383
8. Indiana	53,546
9. Maryland	52,902
10. Connecticut	49,029

Comparison of Selected counties population growth:

COUNTY	1960	1990
Dade	935,047	1,990,445
Duval	455,411	710,592
Pinellas	374,665	870,722
Hillsborough	397,788	879,069
Broward	333,346	1,340,220
Orange	263,540	740,167
Palm Beach	228,106	937,190
Polk	195,139	437,204
Escambia	173,829	277,067
Volusia	125,319	396,631

HISTORY OF COMMERCIAL FISHING REGULATIONS

Local Laws

Local laws were primarily used to regulate fisheries during the early days of Florida's statehood. Following are some examples of laws passed by Special Acts of the Legislature and their desired effect. [\[23\]](#)

Chapter	Year Enacted	Effect
3293	1881	regulation of oyster bottom grants
5973	1909	prohibition of drag nets and haul seines in salt and fresh waters or Brevard, St. Lucie, Palm Beach & Dade counties
6574	1913	regulation of nets in Biscayne Bay
7584	1917	regulation of gear, Escambia & Santa Rosa County
7613	1917	regulation of seines in Walton County
15123	1931	prohibition of nets in portions of Homosassa and Crystal River
17664	1935	regulation on types of gear in St. Johns County
17493	1935	regulation of fishing in Bay County
19764	1939	regulation of traps and nets in Dade County
21365	1941	regulation of gear in Manatee County
21429	1941	regulation of mullet in Okaloosa County
24111	1947	regulation on fishing in, Bay, Walton, Washington and Okaloosa counties.
25706	1949	prohibits catching of shrimp except for personal use during closed season in Brevard County.

25714	1949	prohibits all nets except cast nets in Broward County
26115	1949	regulation of mullet in Palm Beach County
29432	1953	regulation of fishing in Pinellas County
29292	1953	regulation of live shrimp fishing in Monroe County
57-1794	1957	regulation of net fishing in St. Lucie County
61-1998	1961	regulation of mullet fishing in Citrus County

State Laws

Statewide laws were prevalent in the late 1950's and early 1960's, continuing to 1983 when the Marine Fisheries Commission was established. Examples are:

Chapter	Year Enacted	Effect
28145	1953	regulations for wholesale & retail dealers
28145	1953	regulation of purses seines and prohibition of using explosives, chemicals, drugs and poison
28145	1953	ownership of all marine life vested in state transportation of seafood products
28145	1953	regulation of crawfish
28145	1953	regulation of shrimp
65-110	1965	regulation of seafood processors
73-26	1973	regulation of blue crabs
370.102	1973	State preemption of power to regulate fisheries (This regulatory milestone)

From 1973 to 1983 very few statewide fishing regulations were passed that prohibited either commercial or recreational fishing efforts.

The MFC has examined every fishery related law in the Florida statutes and has either repealed, replaced or adopted them. Additionally, the MFC has created numerous rules that have significantly reduced fishing effort. For example:

Chapter	Year Enacted	Effect
46-4	1989-1994	Gear specification and prohibited gear
46-5	1988-1993	Miscellaneous
46-11	1984	Biscayne Bay Lobster Sanctuary
46-12	1984-1993	King Mackerel

The Marine Fisheries Commission (MFC) adopts its proposed rules under the Administrative Procedures Act, Chapter 120, of the Florida Statutes. All MFC rules must be approved by the Governor and Cabinet before becoming law.^[24] The MFC has adopted rules on reef fish, sturgeon, queen conch, hard clams, bay scallops, cobia, spear fishing, snook, red drum, Spanish mackerel, spiny lobster/slipper lobster, Tampa Bay, Lee County shells, oysters, sponges, sardines, shrimp, stone crab, mullet, amberjack, dolphin, marine life,

bluefish, sharks & rays and blue crab.[\[25\]](#) By December 31, 1994, all food fish fisheries in Florida were under strict regulation. There is no active Florida fishery that has not been reviewed by the MFC.

Federal Laws

Prior to 1976, there were few federal fishing regulations affecting the Florida fishermen except for international treaties and the Lacey Act, which makes it a federal crime to harvest illegally in a state and bring that product to another state. Florida fishermen operated offshore under the scrutiny of a case heard by the U.S. Supreme Court known popularly as Skiriotis v. Florida. In Skiriotis, the U.S. Supreme Court ruled that Florida could regulate the activities of its fishermen outside the boundaries of Florida where there was a legitimate state interest involved. With the passage of Public Law 94-265, however, the marine resources in the federal zone came under exclusive federal control. Lawsuits in federal courts since 1976 have established that, if there is a federal fishery management plan in place, federal regulations preempt state regulations.[\[26\]](#)

Federal fishery management plans impacting Florida fishermen are created through either the Gulf of Mexico Fishery Management Council or the South Atlantic Fishery Management Council. These two Councils are among eight nationwide which were established by Congress under Public Law 94-265. They are required by law to be composed of individuals who are knowledgeable in the field of fisheries.

Each year the Governors of the adjacent states in the Gulf and South Atlantic regions nominate 3 individuals for consideration by the U.S. Secretary of Commerce for each seat that comes open annually in their state. The Gulf Council has 17 members and the South Atlantic Council has 13 members. The states of North Carolina, South Carolina, Georgia and Florida make up the South Atlantic Council. The states of Florida, Alabama, Mississippi, Louisiana and Texas make up the membership of the Gulf Council. The councils develop fishery management plans under the guidelines of seven national standards and submit their proposals to the U.S. Department of Commerce where they are either approved, rejected, or partially approved by the Secretary or his designee.

The Councils have evolved into entities that make recommendations to allocate the federal marine resources between the commercial fishing industry and recreational fishermen.

The Councils have Fishery Management Plans in place for the following:

- Coastal Migratory Pelagics, (King Mackerel, Spanish Mackerel and Cero Mackerel)
- Reef Fish, (Snappers, groupers, yellowtail and a wide variety of reef fishes)
- Sharks and Rays, Spiny Lobster, Stone Crab, Swordfish, Billfish, Bluefish & Shrimp.

DEVELOPMENT OF THE NET BAN CONSTITUTIONAL AMENDMENT IN FLORIDA

State & Regional Leaders in Favor of the Net Ban Initiative

The March 1992 issue of the Florida Sportsman magazine said in the Openers column, "Support for the ban (net) comes from every cranny, as you showed by responding to the straw vote in our Openers column last April (1991).

We were impressed by letters such as the one from highly respected environmentalist **Nat Reed**, who usually has plenty of words to offer but settled for just a few: *"Let's go. I'm sick of the rape."* The column was signed by Karl Wickstrom. [\[27\]](#)

Karl Wickstrom became Chairman of the Save Our Sealife Political Action Committee when it was formed. Wickstrom is the publisher of the Florida Sportsman magazine. He is a former investigative

reporter for the Miami Herald.

Other outdoor writers listed on the masthead of the Florida Sportsman magazine in the 1992 issue announcing the net ban campaign included:

Herb Allen, outdoor writer formerly with the Tampa Tribune newspaper

Richard Bowles, outdoor writer, The Gainesville Sun newspaper

Bill Sargent, outdoor writer, Today newspaper

Byron Stout, outdoor writer, Fort Myers New Journal newspaper

John Brownlee, outdoor writer, former chairman Fishery Management Council

Richard Farren, outdoor writer, Tallahassee Democrat newspaper

Other leaders of the net ban campaign identified by the media were:

Walter Fondren, Exxon heir and founder and permanent Chairman of the Coastal Conservation Association, parent company of Florida Conservation Association[28]

Perry Richardson Bass, Texas billionaire, Chairman of the Texas Parks & Wildlife Commission during the time gillnets were banned in Texas for redfish & trout. Bass is reported to own 20% of Disney and is a major stockholder in numerous Florida developments.[29]

Alex Jernigan, retired from engineering firm of Post, Buckley, Schue & Jernigan, served on Gulf of Mexico Fishery Management Council with Walter Fondren. He was the first president of the Florida Conservation Association, a state chapter of Coastal Conservation Association. He is currently President of the Texas based Coastal Conservation Association.

Ted Forsgren, executive director of the Florida Conservation Association.

David Gluckman, director of the Florida League of Anglers and several environmental groups. He is a lawyer, lobbyist.

Manley Fuller, executive director of the Florida Wildlife Federation. Lobbyist.

Charles Lee, Vice President and lobbyist for the Florida Audubon Society.

David Guest, former Assistant Attorney General in Florida, currently with Sierra Club Legal Defense Fund.

There were thousands of volunteers and hundreds of other local leaders throughout the state.

State & Regional Leaders Opposed to the Net Ban

Bob Jones, executive director of the Southeastern Fisheries Association (SFA), a 501 (c) (6) commercial fishing organization.

Gene Raffield, fisherman and dealer, former MFC Commissioner

Dewey Destin, 5th generation fisherman

Tom Murray, economist and consultant to the Seafood Consumers & Producers Association (SCPA), a commercial fish dealers organization.

Eddie Toomer, shrimper, diver and owner of Captain Eddie's Restaurant and President of SFA.

Cecil Lane, manager of Hudgins Seafood in Fort Pierce.

Jerry Sansom, executive director of the Organized Fishermen of Florida (OFF) a 501 (c) (6) commercial fisherman's organization

Tim Adams, fisherman and Former President of OFF

Mike Davis, fisherman, dealer, President of OFF and Board member of SFA

Frank Mirabella, lobbyist and governmental consultant.

There were hundreds of local volunteers and other leaders primarily in the coastal counties of the state of Florida.

The main arguments of the net ban proponents were:

"The nets which the Save Our Sealife Amendment seeks to eliminate have been responsible for excessive and damaging harvesting of fish populations and are notorious for their unnecessary killing of other marine animals, such as turtles and dolphins. We have no choice but to take this issue directly to the people of Florida because both the Legislature and the Marine Fisheries Commission have failed to take adequate steps to control commercial netting. Save Our Sealife says that eliminating nets will help Florida's economy since both commercial and recreational fishing is threatened by fish-stock depletion. In coming weeks, the conservation coalition will recommend companion legislation to provide for compensation for those commercial net fishermen who may be impacted by the netting restrictions in the amendment.

This compensation could be funded through the state's saltwater recreational license fees."[\[30\]](#) Fish species subjected to gill netting, such as sea trout and mullet, have declined greatly and are continuing to fall. Other protected species are also killed in nets, as well as turtles, porpoises, manatees and birds. Eliminating the Florida nets will have no significant effect on fish supplies, and a restored abundance of marine life will support far more jobs than those involved in netting.[\[31\]](#)

"The food-market demand for mullet can easily be handled by professional cast netters" according to FCA Chairman Ed Sapp. The conservation groups behind the amendment favor state legislation to provide compensation for anyone adversely affected. The compensation funds would come from a temporary surcharge on recreational license fees."[\[32\]](#)

The main arguments of the net ban opponents were:

The mullet fishery has not collapsed nor been over fished according to Dr. Behzad Mahmoudi of the Florida Marine Research Institute.[\[33\]](#) Inshore gillnet fishermen were not killing hundreds of turtles. The number of turtle deaths attributable to monofilament gill and trammel nets from 1988 to May 1992 in Brevard through Martin counties was 21. [\[34\]](#) The Florida gill-netters were not killing manatees. From 1974 through 1991 there were seven manatee deaths related to net entanglement , 5 of which happened in

Puerto Rico and 2 were in fresh water.

There were four deaths attributable to ingesting sport fishing monofilament fishing line and hooks.[35] The gillnet fishermen were not killing birds. One of the major causes of injury and death to many seabirds is the fish hook and monofilament line. Over 85% of the injuries to pelicans treated at the Suncoast Seabird Sanctuary are from hooks and line.[36] Commercial gill-netters do not kill porpoises. Of the approximately 1,000 porpoise deaths in the southeast based on data collected from the stranding networks only 18 could be classified as fisheries related and that included both commercial and recreational fishing.[37]

One of the main arguments was that the campaign to ban fishing nets in Florida originated in Texas and was being funded with large contributions from developers and sport fishing equipment manufacturers in an attempt to reserve all the fish for anglers. The fishing industry tried desperately to involve the seafood consumers in the net ban issue but had little success.

Public Airing Of The Issue

The Florida Sportsman magazine clamored for a net ban a long time before the petition drive was launched. The Save Our Sealife Committee conducted a very effective petition drive on November 10, 1992 in which they collected 201,649 signatures outside the polling sites throughout Florida. According to their news release, the S.O.S. conservation coalition mounted the most successful one-day petition effort ever in America.[38]

With the success of that event bearing down on the fishing industry, it attempted to organize for the impending fight. There was no single, unified, statewide anti-net ban commercial fishing organization. There were only two statewide non-profits in Florida, Southeastern Fisheries Association and Organized Fishermen of Florida. There are numerous local commercial fishing groups without any professional representation or formalized structure. These two groups alone could not sustain a fight such as that which was about to occur.

Much of the information the Save Our Sealife PAC placed before the public appeared in outdoor writers columns as well as newsletters from the Florida Conservation Association, the Florida Wildlife Federation, The Florida League of Anglers, The Tropical Audubon Society of Miami, The Sierra Club Legal Defense Fund and the Florida Sportsman magazine.

The Save Our Sealife Political Action Committee set the agenda for the fight by accusing the net fishing industry, in the media, with a litany of evil fishing activities. The fishing industry was forced to answer all the accusations made against it by S.O.S. to the general public. As a result, the seafood industry had to fight on terms dictated by the net ban proponents agenda. The net fishermen were on the defensive throughout the entire net ban campaign.

As the issue became more intense, giant corporations, such as Time-Mirror magazines[39], Orvis Mail-order house catalogs and other sport oriented publications published information furnished by the Save Our Sealife Political Action Committee. Radio talk shows and local television stations covered the issue when something was particularly controversial. Pamphlets, flyers and petitions were distributed at some public schools for the children to take home to parents.

Very few public debates were held either at political gatherings or on television and radio. During the last few months of the net ban campaign, the Florida Conservation Association urged their members not to debate the commercial fishing leaders.[40]

Most outdoor writers in the state were supportive of the net ban with some more active than others. The Tampa Tribune outdoor writers, Herb Allen and Frank Sargeant, have been writing anti-commercial fishing

columns for over 30 years.

Following are samples of Outdoor Writers columns before and during the net ban fight.

GOOD NEWS! REDFISH IS NOW GAMEFISH---

"Governor Bob Martinez and the Cabinet voted on December 6th, 1988 to grant redfish the status of gamefish. Yes friends, let's continue to make "Commercial Fishermen the Endangered Species". And you can bet your last dollar that no one will rally round to save that species."[\[41\]](#)

REPORTER'S BRAINCHILD IS A SUCCESS STORY---

"It hardly seems like two decades since Karl Wickstrom stopped writing about crime and corruption for the Miami Herald and set up to make his mark in his own publishing business. But Karl Wickstrom's Florida Sportsman magazine has just passed its 20th birthday. He had a little help from other friends too. "Two lawyers who helped me form my first corporation were Janet Reno (now Dade County attorney) and Gerald Lewis, (now Comptroller of Florida)"...His news stories helped trigger grand jury investigations and he testified in criminal trials of two Florida sheriffs. Now his frequent editorial targets are commercial fishing interests. "We originated the concept that it's a conflict of interest for anyone with a financial interest to be managing common property that should be managed by disinterested people".[\[42\]](#)

STORMIN' AGAINST GILLNETS

" So who should show up at the Florida Conservation Association banquet in Tampa? Why, General Schwartzkopf himself, making his first appearance since returning from the Iraq war.

The General, who is an FCA member, exhales charisma with every breath. When my son Blair told the general about our proposed amendment drive, Schwartzkopf came back with a snappy answer that seemed too good to fully absorb at the time:.. "You need 400,000 signatures? I can get them in a week"...In comments to the FCA crowd he said, "We have to stop the commercial exploitation of our fisheries".[\[43\]](#)

BAN ON COMMERCIAL NETS GAINS MOMENTUM..

" A statewide movement by sport fishermen and conservationists in the past died due to leadership problems at the top. Leaders of the various elements are determined this won't happen again. Just for the sake of conversation, let me throw in a nomination a name that has the adulation of many Americans for his get-the-job done leadership in a recent situation: General H. Norman Schwartzkopf."[\[44\]](#)

STATE FISHERIES CAMPAIGN MAY END NETTING INDUSTRY..

"The war is about to begin. ...Commercial fishermen and recreational anglers are about to square off in a bitter battle, the object of which is the life of the state's marine fisheries--or the death of commercial fishing in Florida, depending on your point of view...Things are likely to get very intense, both in the committee rooms and on the water, in the next few years. But it's hard to see how the familiar well-boat with the independent minded net fisherman standing in the bow can come through this storm."[\[45\]](#)

BILLFISH FANS CREATE CONSERVATION GROUP

"Discontent with fishing more but catching less was one of the concerns of a group of distinguished anglers and marine scientists who met this week at the Marriott Airport to organize the Billfish Foundation.

"This is not a political action group" said Winthrop Rockefeller, a big-time angler and one of the organizers. Among the 75 people who attended the organizational meeting was John Mecom of Houston,

former owner of the New Orleans Saints, Chris Weld of Boston, Captain Dan Kipnis and Dr. William Fox of the Florida Marine Fisheries Commission. One area of concern is the impact of longline fishing and the introduction of nets. To help get the organization started, those attending gave \$90,000 to open a bank account. "Besides the \$90,000, we have \$450,000 pledged among the Board members to the Foundation over the next few years", said Win Rockefeller. [\[46\]](#)

NEWSPAPERS AND EDITORIAL BOARDS

Both the proponents and the opponents of the net ban knew the editorial boards would have great impact on public opinion. Most of the major newspapers printed an editorial one way or the other.

Some of the major papers supporting the net ban were: Miami Herald, St. Petersburg Times, Orlando Sentinel, Lakeland Ledger, Tallahassee Democrat and the Pensacola News Journal. Some of the major papers who opposed the net ban amendment were: The Tampa Tribune, the Florida Times Union, the Panama City News Herald, and the Gainesville Sun.

During the final 90 to 120 days of the net ban campaign, both sides of the issue spent the bulk of their advertising funds on television time.

PROPOSERS TELEVISION ADS

The net ban proponents had one basic ad showing a shrimp boat dumping a net full of fish and an upside down turtle on the deck of the shrimp boat with a booming voice urging the voters to stop this wasteful practice. The film used by the net ban proponents was actually a film of a turtle excluder device (TED) study conducted in Cape Canaveral in the 1970's by a research vessel from the University of Georgia. The TED test was not anything like the shrimping activities to be impacted by the net ban. The television stations who ran this ad after being notified in writing that it was fraudulent are now being sued by an industry group for using that particular video. [\[47\]](#)

OPPOSERS TELEVISION ADS

The net ban opponents had three basic TV ads showing the human affect of the net ban and pointing out that non-boating consumers would be adversely affected by the proposed ban. The opponents had approximately \$300,000 for the TV ads and the proponents had approximately \$1,200,000 that could be identified for media efforts. [\[48\]](#)

THE VOTE

The vote on November 8th, 1994 was an overwhelming victory for the net ban proponents as 72% of those voting , voted in favor of the net ban. Of the 67 counties in Florida, only the following voted against the net ban: Bay, Calhoun, Dixie, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Levy, Madison, Nassau, Suwanee, Taylor, Union, Wakulla, Walton & Washington. Approximately 3 million people voted for the ban and 1.3 million voted against the ban. [\[49\]](#) A majority of those voting favored the net ban but their total vote was a minority of the total electorate.

DISCUSSION

Jeb Bush & Jim Smith, two candidates for statewide offices, were greatly impacted by the net ban controversy. Jeb Bush, candidate for Governor, lost a significant number of votes in rural counties because of his support of the net ban. Lawton Chiles opposed the net ban. In the closing weeks of the campaign, several rural legislators made radio ads for Lawton Chiles saying that he supported the fishermen. Jim Smith, who had been popular with the fishing industry for twenty five years, said in newspaper interviews that he strongly supported the net ban. [\[50\]](#) Smith was defeated as the Republican candidate for Governor

by Jeb Bush. He then decided to run for Commissioner of Agriculture in order to remain on the Florida Cabinet and was subsequently defeated by Bob Crawford.

Throughout the history of Florida, commercial fishing has been a vital and important element in the cultural and economic wealth of the state.

In prehistoric times up until the industrial revolution, producers of food were held in high esteem. Their labors were considered as being noble. After the industrial revolution spread from Europe to the United States, it was only a matter of time until the coastal areas would experience monumental growth. The hunter-gatherer culture of the commercial fishermen was bound to run head-on into a new culture in Florida brought about through the influx of new families to the state at an alarming pace after the end of World War II. From 1905 to about 1975, the Florida commercial fishing industry was respected and appreciated as a major part of the economy. Florida commercial fishermen produced the most mullet and Spanish mackerel ever during 1942 through 1945, providing food for the military units fighting for world peace and to help feed a nation at war. It's ironic this class of people have now been destroyed by the governmental system so many of them fought for and died to preserve.

Monumental social changes were taking place throughout Florida, the nation and the world. New residents with different lifestyles, primarily from states that didn't have much of an inshore net fishery, kept moving to Florida to work or retire. Leisure time was now possible because of a growing economy.

With leisure time came boating and sport fishing and the big businesses necessary to sustain this burgeoning new industry. This social change and technological progress plus the constant publication of mean-spirited articles by the outdoor writers was when the war between those making a living and those living in leisure was ripe for the "big guns" to unleash all their power.

During this same period, it was the policy of Florida's Trustees of the Internal Improvement Fund to grant huge dredge and fill permits throughout the state, especially coastal areas, to assist in the development of Florida real estate. The public policy was to expand the tax base and the best resources Florida had to offer was sun, fun and coastal wetlands. Food production from the sea was de-emphasized as tourism and development became king. Hundreds of thousands of acres were dredged and filled. Entire ecosystems such as Boca Ciega Bay in Pinellas County were dredged and bulkheaded so expensive waterfront homes could be built. Many of the homeowners who bought homes on Boca Ciega Bay in St. Petersburg have become leading critics of commercial net fishing and blame them for the demise of the fish in front of their homes.

There has always been controversy in Florida between commercial and sports fishermen. The earliest newspapers contain articles about how the netters were killing all the fish and that they must be stopped. The comments were often written by a sports fisherman or outdoor writer and that ancient bias has never changed.

Several events converged in the 1970's that led to the Florida Net ban. First was the establishment of the Gulf Coast Conservation Association in Texas by Walter Fondren and Perry Richardson Bass. (It is now known as the Coastal Conservation Association and is the parent corporation of the Florida Conservation Association) Perry Bass was head of the Texas Parks & Wildlife Commission and through his great wealth orchestrated the redfish and trout ban in Texas.

Secondly, in 1976, the U.S. Congress extended the federal fishery boundary to 200 miles from shore and established a management regime that has deteriorated ever since in the area of appointments to the Councils. Unless a person can meet the criteria of a handful of wealthy anglers, he/she cannot be appointed to a management Council. The current political system is such that the people who contribute the most money to a candidate has the most influence. On one occasion, Governor Rueben Askew nominated Bob Ingle, Chief biologist for Florida to serve on the Gulf of Mexico Fishery Management Council. His nomination was vetoed by the Commerce Department based on pressure from interest groups that didn't want a knowledgeable scientist on the Council that could question the scientific findings and

conclusions.[\[51\]](#)

Thirdly, the final part of a system capable of banning nets occurred in 1983 when the Florida Marine Fisheries Commission was created. What started out as possibly a good idea and an understandable system has evolved into an agency that sometimes excludes the commercial fishing industry from the process except through legal challenges and 5 minute presentations at MFC meetings. The Marine Fisheries Commission should have informed the media by presenting them factual information.

The MFC could have given the media a report on all the rules and regulations they had passed since 1983, but chose not to. Had they provided the media with current, honest fishery facts and other information at their disposal, the results of the net ban vote might have been different.

If the Department of Environmental Protection had weighed in on the side of the fish, instead of the net ban proponents, they too could have made a difference. As it turned out, no state agency had the courage to help the commercial fishing industry, not even Florida Sea Grant, which has so many resources. The Department of Agriculture did try in a limited manner to assist but there was so much pressure brought on the Commissioner by the publisher of the Florida Sportsman magazine that his hands were basically tied. Commissioner Crawford felt sorry for the working man, but had he taken up the net fishermen's banner, everyone felt he would have been defeated for office.

The economic costs to the state are just now being tabulated. The Department of Labor and Employment Security (DLES) was given the job of buying back the fishing nets and providing training to those who were savaged by the net ban vote. The estimate by the DLES is that the cost to Florida will be at least 40 million dollars annually. This monetary cost doesn't include human misery, because for that there is no true cost nor rational justification. The Florida net ban was a classic example of the "haves versus the have nots". As is the case most often, the "have nots" lost.

Some people view the net ban in Florida as just another situation whereby technology has forced change. History is full of examples of cultures changing and people's lives being ruined. As in the past, no considerations were given to the lives affected. Many cultures have been forced to change because of war or through the ever expanding need for more turf.

The net ban could have been drafted in such a way to have had less of a dramatic impact on fishermen's lives. Fishermen in Florida were totally dislodged and forever impacted in a single year. Many "honest environmentalists" were duped into doing the dirty work of the leaders of the development and leisure industries under a false banner of conservation. Many who voted for the net ban felt they were saving porpoises, turtles, birds and even the fish stocks.

What the electorate didn't understand is that the porpoises, turtles and birds were not being hurt by the inshore small-time netters and that the "saved fish" they were voting for were being saved for the exclusive use of anglers, not for sharing with the consumer voters who don't own boats.

It is to everyone's advantage to have a healthy, sustainable stock of fish, more so to the commercial fishermen who make their living from the fish stocks than the hobbyist who can always get another hobby.

Conclusion

The Florida Net Ban issue can be defined as "WHO GETS THE FISH?" This is a situation where both sides are intransigent because of the economic and cultural considerations. Therefore, I conclude that the United States Supreme Court is the only authority that can mandate the fair and equitable allocation of America's fishery resources for the benefit of all the people and not just one user group.

Footnotes

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- ⁴ Edwin A. Joyce, The Commercial Shrimps of NE Florida, 1965, page 7
- ⁵ Conversation with historian R.M. Ingle, Sept. 6, 1995
- ⁶ Florida Fisheries Outlook, University of Florida, 1953, page 53
- ⁷ Ibid, page 52.
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- ⁹ Our Changing Fisheries, U.S. Gov't. Printing Office, 1971, page iv
- ¹⁰ R.T. Whiteleather, Regional Director BCF, SFA Annual Report, page 39
- ¹¹ Seton H. Thompson, BCF Regional Director, Our Changing Fisheries, page 214
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- ¹⁴ A Legislative History of the FCMA of 1976, page 270
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- ²⁷ Florida Sportsman/March 1992, page 6
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- ³³ Report to the Marine Fisheries Commission by FMRI, Dr. Mamoudi, 1992
- ³⁴ Report to the Marine Fisheries Commission, 1992, page III-3, MFC Briefing Book
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- ⁴⁸ Reports filed with the Secretary of State, Division of elections, 1995
- ⁴⁹ Election Night returns, Florida Elections Division computer report, 11/8/94
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