

~~7~~ 7-29-93 10AM

Gill Net Saws in
Area # 5

T-John

[1] What is the problem between
general public & enforcement?
Remediation

① James Boerg 10:20
Hibernia, La.

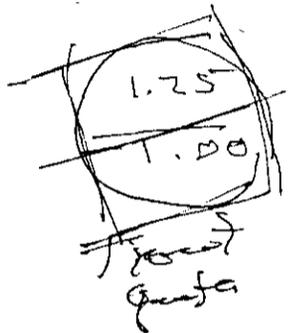
② Barry Calcasieu Parish 10:26
Fisherman

③ Pete Lanet - Lake Ponchartraine

④ Harry Brown -

⑤ Ronnie Brown - Sleep on board.

⑥ Mary Poe - Charter Boat July 14
35-40 Dead Red Fish 45-50 Red
Video included mtc 150-200
Red Fish



20%

QUESTIONS

RANDY ROACH

[SEE MAIN VOLUME FOR (102)]

(102) "Unattended net" means any net in the water to which the licensee thereof cannot be immediately located for identification therewith without leaving the location of the net.

Amended by Acts 1988, No. 711, § 1.

(7) Unattended nets. No seines, gill nets, trammel nets, butterfly nets, or beam trawls used for taking fish or shrimp from the saltwater areas of the state shall be left unattended except such seines, nets, or trawls which are attached to a wharf at a camp. Any seine, gill net, trammel net, butterfly net, or beam trawl which is seized for a violation of this Paragraph and which remains unclaimed for thirty days following the seizure shall be considered abandoned and shall be disposed of in accordance with rules adopted by the commission.

Amended by Acts 1988, No. 883, § 1; Acts 1992, No. 528, § 1, eff. June 29, 1992.



STATE OF LOUISIANA
HOUSE OF REPRESENTATIVES

RANDY ROACH
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NATURAL RESOURCES
WAYS & MEANS

July 28, 1993

Mr. Joe Herring
Department of Wildlife & Fisheries
P.O. Box 98000
Baton Rouge, Louisiana 70898-9000

Re: Dispute Resolution Meeting called by T-John Majelavich

Dear Mr. Herring:

It is my understanding that Mr. Majelavich has asked for a meeting to resolve the issue regarding the existing law as it defines unattended gill nets in saltwater areas of the state. I regret that I am not able to be at the meeting. However, I am acutely aware of the intense user conflict in Calcasieu Lake and the problems created by intense fishing pressure in this area.

The recent debate over House Bill 619 by Representative Ken Odinet (by-catch limit on redfish) has also renewed interest in an old debate over gamefish status for redfish between the recreational and commercial fishermen. Several people who have been involved in this controversy over the past few years believe that this issue will never be resolved without some changes in the way that we harvest saltwater finfish.

To put it simply - "We got a problem". One thing is certain -if we continue to fight over the question of who has the right to catch the last speckled trout or redfish, someone surely will. If we could ever call a truce in this controversy and find some way for recreational and commercial fishermen to at least tolerate each other, I have to believe that everyone, including the legislature, would be much better off. This issue continues to consume an inordinate amount of state and private resources and manpower.

I have requested that the House Natural Resources Subcommittee on Wildlife and Fisheries hold a series of

meetings on the subject of commercial and recreational fishing in Louisiana. Representative Sam Theriot has agreed to schedule these hearings. We have prepared a questionnaire which asks specific questions about the recreational and commercial harvest of redbfish and speckled trout. This is a focal point of this conflict. It should be available for distribution in the next two weeks. It will be sent to the Department, Commission members, recreational and commercial fishing groups and as many other persons and groups as can be identified as having an interest in this area. We will also work with the LSU Extension Service to involve as many interested parties in this process.

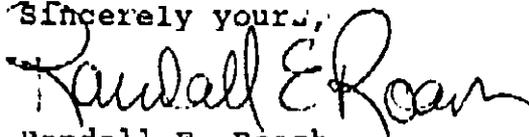
We expect to have answers to our questions by November 1. In the meantime our staff will be researching the laws regarding commercial fishing in other states. Before we actually schedule the hearings we will collect and analyze the comments and allow some time for public review. This information will also be made available to Commission members, Department personnel and all members of the House Natural Resources Committee.

The actual subcommittee hearings will be held sometime in December, 1993 and/or January, 1994. I think that this will be the first time that a legislative panel has dealt with this issue outside of a formal legislative session. This is one of the most volatile and controversial issues in the fishing industry. Hopefully this format will allow the legislature some time to better understand the positions of the various interest groups which are involved in this issue.

Representative Chris John will chair these hearings. Representative Sam Theriot will also serve on the committee. We would appreciate any comments or suggestions which you or any member of the Department have regarding how best to accomplish our purposes in this regard.

With best regards,

Sincerely yours,


Randall E. Roach

RER/lmd

cc: File



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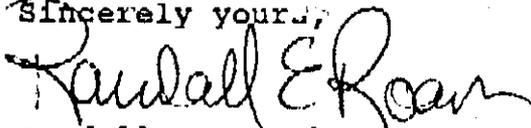
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With best regards,

Sincerely yours,



Randall E. Roach

RER/lmd

cc: File

UNATTENDED GILL NET MEETING

July 29, 1993

Deputy Secretary Clyde Kimball: Ladies and Gentlemen, if you want to come up close, the crowd is not quite as big as was anticipated, after the word of this informal meeting got out. That is why we decided to hold it in this room, thinking we might have a lot more public participation. I am Clyde Kimball, Deputy Secretary, Department of Wildlife and Fisheries, and, of course, everyone here knows Mr. Tee John Mialjevich, who is on the Commission and Mr. Jimmy Jenkins. Commission Member Tee John had requested this meeting and a copy of a fax I got on July 26 addressed to Mr. Herring from him requesting a conflict resolution meeting. The crux of the thing was that, he says, "on or about July the 17th, it was brought to my attention that a conflict existed between commercial fishermen trying to obey the complex and constantly changing regulations in enforcement in District 5 area." And, of course, from Region 5, since it was specifically stated, we have the Captain, Chad Manuel, and Lt. Jamie Collins present. The conflict pertains to unattended gill nets. And it goes further to say, "since the 17th a few commercial finfishermen from other areas also wanted to address similar enforcement conflicts". So the scope of this meeting will be strictly adhered to what is in this letter dealing with problems or conflicts between the commercial finfishermen and enforcement as far as gill netting pertains. And we are not going to venture off into other problems and we know there are problems and always will be. But we are not going to venture off into comments or questions concerning anything but what pertains in this request. Also, I might add that, I think and pray that we will be finished with this meeting by noon. We shouldn't have a lot of repetition, the problem is a general problem, it is an on-going problem and has been for many, many years and I am first handed aware of it. Also, we will not discuss any pending cases, if anyone wants to cite a citation he got as a problem, we can't discuss that. Our attorney is present, we discussed it with him and due to any pending litigation, we will not even discuss that or entertain a discussion on it. And, we hope to keep it very orderly and try to act like the men and women we are. And, at that I would like to read a letter that was faxed to me this morning from Representative Randy Roach, who was going to attend and then this morning he called and said he was unable to attend and wanted me to read this letter addressed to Mr. Herring. (Copy of Representative Roach's letter is attached.) And I might add that Mr. Wade Adams from the House Natural Resources Committee is present to take any notes that would be of interest to Mr. Roach and Mr. Theriot. So, with that, Tee John, I am going to turn it over to you.

Commissioner Mialjevich: Yes, well you took care of one side of my paper for me and I thank you sir. Everybody knows why this meeting came about. Secondly, I want to make a little opening statement about this isn't a true conflict resolution meeting. A true conflict resolution meeting would have all parties involved and we would have more like a Task Force to sit down and go through maybe two or three days of putting up on a black board what the conflicts is from each side and what each side can work with and live with sort of like that turtle negotiating deal that I was drawn into at National Marine Fisheries. So, this was what I was looking at as a prelude to a real full fledged conflict resolution meeting with a third party mediator other than the Department or the

Commission or the commercial or the recreational or the general public user groups which may still come about. But the main focus in my perception of this meeting is for clarification, to air complaints concerning the gill net issue, correct misunderstanding and here say and try to find a resolution if possible to those conflicts today. As it was stated, on or about July the 17th, it was brought to my attention that a conflict exist between commercial fishermen trying to obey the complex and constantly changing regulations and enforcement in the District 5 area in regards to unattended gill nets or gill nets in general. Since the 17th, it was reported to me, well we will just skip over that, that should come out in the meeting. A few commercial fishermen from other areas expressed a similar desire about enforcement conflicts that they would want to come and air their complaints. And I want to thank the Department for bringing in representatives from the Supervisors in both the Lake Charles District and New Orleans District. This meeting was not called to get special favors. Now I am going to try and dispel a little bit here say right now because in talking with several people and with Representative Roach there is a lot of rumors. And boy I tell you, with shrimp season opening there is a ton of rumors, so I can see how rumors can affect anything you do in life today. This meeting was not called to get special favors for commercial fishermen, more for clarification. This was not called to plot strategy to undermine anyone or any organizations. This meeting was called solely by Commissioner Tee John Mialjevich and I did notify the Chairman by fax of what I was doing. I did not want to bring this in front of the Commission, we have enough stuff in front of the Commission already. Everyone is welcome here today. We need to work together towards fair and equitable laws and fair and equitable enforcement of those laws. Also a better working relationship has to be, and I emphasis has to be, developed between enforcement and the general public. There will be no discussion of individual pending cases, but I feel unless corrected, that generic and general discussion can be discussed, that, you know, if you understand. If anyone present now has or had a fishery violation in the past, this will not exclude them from the discussion or making a statement. There will be no cussing or name calling and everybody will respect the recognized person at the podium and if you have any displeasures at what the people say, hold it until your turn at the podium or until we get into a discussion. And like I say, let's act like the men and ladies that we are suppose to be which is great. Everyone here will have a chance to have their say. I feel that we should start with people coming up, identifying themself, state their complaint in regards to the gill net issue only, be concise, be brief and be specific. Tell us what is wrong and what they feel should be done about it. So I will open up the floor for the portion of just a statement, there will be no discussion of the statement that you make at this time. Okay? Who is first? Unless, I am sorry, let me not forget my etiquette here. Mr. Jenkins, did you have anything to say, any comments.

Commissioner Jimmy Jenkins: Well, Tee John, you said that everybody knew what the meeting was about. What prompted it, I am not sure that I did, you might want to, there may be others, you might want to give us a little background on what has prompted this. I do not really know.

Commissioner Mialjevich: Okay, fine. I was contacted by some commercial fishermen that there was changes in the way that the gill net was being enforced in area 5. They had a meeting about a year ago with enforcement people over there, they came to an understanding how to interpretation of the law would be

administered through enforcement and due to some complaints that they enforcement technique had changed now and that there was some rare statements being made by some of the agents in the field that went along the lines of, if we even catch you with one dead fish in the net, that you are going to take out the net and put away or a fish that we think is going to die, if you do release it, that we are going to write you up just like you are in total violation and just statements like that that got the people, I guess the correct phrase would be over heated. And saying, well look, we are trying to obey the laws, but how can you obey something if it is going to change every day. And, so I said, well we are going to have, I talked with Secretary Mr. Joe Herring, we are going to have this open door policy tomorrow. But many of the people felt like I feel when I go to a Gulf Council Meeting, that is why I do not go any more, is when you go up there and you talk for five minutes, that is it, it is over with. There is very little done about it. And, I think that is the problem that is escalated, there is too many hearings where nothing is done about what is heard at the hearing. And, I requested this hearing so that it can be put on tape and we can have a typed copy of it if Representative Roach wants it, if you want it, if a fishing organization, recreational or commercial wants it, if I want it. We won't have to go back and say, did he say this or did he say that or did I misunderstand this or I misunderstood that. I think the only way we are going to find a resolution in any conflicts if we have everything in black and white and make sure what the people say is what they said. And what people say they are going to do, is what they do. Any other thing to explain it to you?

Commissioner Jenkins: Well, I understand that, thank you. There was one other little remark I would ask what prompted it. In your little opening statement there, you said we have to address the problem between the general public and enforcement. Now this is a specific problem, what is the general problem between the general public and...

Commissioner Mialjevich: This stems from a meeting that we had about a month ago. I went to a meeting with the U.S. Coast Guard. Since the TED issue and different enforcement from National Marine Fisheries agents, the Coast Guard has gotten into an, I guess less than a friendly relationship with the commercial fishermen. And, I see the same thing happening in our Department where there might have been, where we're working together, we are like working where everybody is a criminal, everybody is a law breaker, everybody is out there to break the law, and this, I don't see. Now maybe you see it somewhere, but I don't see it and from the people talking to me, I don't see that interaction that we should have between enforcement and the fisheries. And, I use the word general public because it is not only commercial fishermen that brought this to my attention, some recreational fishermen say, well Tee John, why is enforcement like that. And, rather than me give here say, I think a meeting like this is where we can get it from the horses mouth. I was treated this way, I was treated that way. Okay?

Commissioner Jenkins: Thank you.

Deputy Secretary Kimball: Okay, let's proceed then with the first person that wishes to complain?

Commissioner Mialjevich: Right, who is first. Somebody better want to talk or I am going home before twelve.

Deputy Secretary Kimball: State your name for the record and proceed with your complaint.

Mr. James Bourge: Okay, Mr. Chairman, my name is James Bourge, I am from Abbeville, I don't have a specific complaint, but I do have a problem with some interpretation of the unattended net law. This particular instance did happen to me several years ago and I think it is probably one of the bases behind what is going on, is that this law is being interpreted differently by different agents. Back in the mid-70's, I was a special agent with Wildlife and Fisheries and I worked with Enforcement and Refuge for many years donating my time and effort and I know the Enforcement side, but I also know my side now as a commercial fisherman. And, I know, I'm still very close friends with just about every agent in Vermilion, Iberia Parish. I worked even Calcasieu and Cameron Parish back then helping them out whenever they needed assistance. And, I asked one agent out of Vermilion Parish, pertaining to unattended nets, I say, how do you interpret this. Am I within the law. He says, he flat told me, in his opinion, I was within the law. But that was strictly him, he would not write me up as unattended net because I had some inland nets against the north bank and a quarter of a mile out I had some other nets. One was for trout and one was for gar fish. He said to him it was perfectly legal and he made a specific statement about another agent out of Iberia Parish who works the Bay also, that he warned me, he said now if this other agent comes over here, he is going to interpret it entirely different and will issue you a citation for unattended nets. What each agent is able to interpret, his own interpretation of this thing, will run, will cause conflicts. What we need to do is get down, find out a precise written down, whatever, way of interpreting the law. That way we have guidelines as commercial fishermen that we can follow. We know what is expected of us and that we can avoid getting citations or any other conflicts with Enforcement Agents.

Deputy Secretary Kimball: James, how long ago was this when these two agents or this agent told you this?

Mr. Bourge: This was in '91.

Deputy Secretary Kimball: '91. Have you had any conflicts since that time?

Mr. Bourge: No sir, but it always is in the back of my mind when I am setting my nets out. Okay, do I fish for garfish or do I fish for trout? Am I too far apart with my nets? What is going to happen? Okay, say it is time for me to come in and go sell my fish. I got to pick up 5,000 foot of gill net. Say I am out there on an offshore nets and I am pulling them in my boat and these are 700 foot nets or 600 foot nets, say I have the net halfway in my boat, here comes the Wildlife and Fisheries Agent, he goes to my nets on the bank, it is going to take me at least 45 minutes to finish picking up that net and cleaning it, you know, taking the fish out, putting them in the baskets and getting the net aboard the boat. How am I suppose to be able to get to the nets that are say a quarter of a mile against the north bank if he is sitting at those nets.

Deputy Secretary Kimball: But nothing has happened like that since 1991?

Mr. Bourge: Nothing has happened but it is things that have come across my mind based upon discussion...

Deputy Secretary Kimball: You are still concerned about it, in other words?

Mr. Bourge: Yes sir, I am very concerned about it. Like I say...

Deputy Secretary Kimball: I am sure you have read the law?

Mr. Bourge: Yes sir, I sure have.

Deputy Secretary Kimball: And of course, I can read it if need be for those people who have not read the unattended net law. The law states "immediate attendance" which means now, currently, presently there. That is the letter of the law as passed by the State Legislature. And, what you are saying is that some instances in the past, fellows say well I will give you a little reasonable time sort of speak?

Mr. Bourge: Right.

Deputy Secretary Kimball: But you are still concerned about if it is enforced by the letter of the law?

Mr. Bourge: No, I am not concerned if it is enforced by the letter of the law. What we need is an interpretation of how ya'll are going to enforce it to the letter of the law. We don't want to have one agent, like I am here, like I said, in Vermilion Parish, I have one agent say well you are perfectly legal under unattended net. And then say an hour later, another agent shows up and feels that I am in violation of the law. We need guidelines set up on how ya'll will enforce this law so we know what to do as commercial fishermen.

Deputy Secretary Kimball: As of right now, in your area, you still don't know if there is any guidelines or procedures or what that the enforcement agents are going by as far as unattended nets, you are not aware of any?

Mr. Bourge: No sir. As a matter of fact, before this would come up, I have no way of documenting it, but I could have probably taken four agents and asked them how would they enforce and interpret unattended net and get four different answers on how they would do it.

Deputy Secretary Kimball: Do you know the attitude of your District Attorney, for instance in that area as far as prosecuting unattended nets?

Mr. Bourge: I have no idea sir. I have only been to the Courthouse to watch a friend in an entirely different type of case. I have been lucky like I said, I have never been issued a citation for commercial fishing. But, it is enough with the different interpretations to warrant concern on my part especially with the severity of the penalty.

Deputy Secretary Kimball: I appreciate your concern, I appreciate your concern and we are going to try to address that.

Mr. Bourge: And I feel, like I said, we need some kind of guidelines that can be interpreted evenly across the board by everybody so we know what is expected of us.

Deputy Secretary Kimball: Thank you sir. Anybody else wishes to air concern? Yes sir, come on up.

Mr. Eddie LeJeune: Hello, my name is Eddie LeJeune, I am from Calcasieu Parish. Well no, I am from Cameron Parish. My concern is I would like to know the guidelines of unattended, that if, is there certain conditions to where maybe the law can be avoided by not being there under maritime laws or anything like that. I was cited a ticket that is why I am curious of, I am captain of the boat, if my deck hand may have been hurt or something, if the law can be by-passed of any way. For now, I guess that is it.

Deputy Secretary Kimball: The unattended net law, you are talking about?

Mr. LeJeune: Yes sir.

Commissioner Mialjevich: Let me ask a question?

Deputy Secretary Kimball: I don't think it can be by-passed. I don't think any law should be by-passed. The legislature saw fit to make it a law and of course the enforcement people within the Department, our duty is to enforce the law, whatever the legislature mandates. That is a sworn duty of our enforcement agents in the field. And grant you, our enforcement agency, just like anybody else, there is a lot of times where the individual enforcement officer or a state trooper, deputy sheriff, city policeman or wildlife agent may use his own judgement and hopefully in most instances they are good judgements in handling any particular case.

(There was a short break in the recording during this conversation.)

Deputy Secretary Kimball: ... choices to make. But as far as by-passing the law, I don't, just the word by-pass, I am not real sure I understand what you mean. I am thinking you mean not enforce it at all.

Mr. LeJeune: Under the conditions, then the agent has the authority, if he sees fit not to write the ticket, as if another one may, you said, can write the ticket for the same episode depending on the agent?

Deputy Secretary Kimball: It happens all the time, it happens all the time with speeders, how many times. I have been stopped for speeding several times in my life and I have gotten some tickets and other times the officers have let me go.

(An Unidentified Speaker): ... if an emergency would arise, like in his case, supposedly we didn't know it at the time, an emergency arises, stuck a knife through the hand or something, and have to leave the nets to go in, we are

called out, we come to the nets, no one is around, we summon him out, he comes out and he is given a ticket in this case. I think that is what he is basically referring to, what would be the leeway there. It is a judgement call at the time and like I say, if you are not there, technically, you are in violation. But on the second part, I can understand, where you couldn't actually pick up the nets. Now once a ticket is written like that, you talk to your district attorney and....

Deputy Secretary Kimball: That is why we have courts to decide to handle that part. All we do is, we are not the prosecutor or the judge, we just enforce the law according to the way it is written and passed by the legislature. The court system make the determination of circumstances such as you say. They can take in that consideration.

Mr. LeJeune: Once it is out of the agents hand, then it is up to the court system?

Deputy Secretary Kimball: Yes sir, once we write the citation, it is out of our hands.

Mr. Mike Landrum: Can I say one thing that might shed some light on that. Every time, a police officer is a human beings, and our enforcement officers are police officers. Human beings exercise judgement every time they act including writing a citation. Some times as Secretary Kimball pointed out, unfortunately people make mistakes. I make them, I don't know anybody that doesn't make them. Fortunately, our system has a means to correct mistakes and bad judgements made. The first place a mistake can be corrected if a ticket is written, if you are doing 90 miles an hour down the highway because your wife just got injured and you are trying to get her to the hospital, and a state trooper wrote you a ticket for that, I would say probably in that circumstance that trooper exercised bad judgement. Your district attorney then has the first chance to correct that. The district attorney doesn't have to prosecute that case. If the district attorney makes a bad call and it goes to the judge, a judge that is his function to make judgements and you get a chance to present that defense at trial. So you've got really three chances to avoid that citation. Hopefully, the tickets never written in the hypothec I just gave you because under those circumstances I don't think one should have been written. But, if it is, you got two other options to get it fixed, at the DA's level and at the judge's level.

Mr. LeJeune: Thank you.

Commissioner Mialjevich: I had a question, I was going to ask if you were the fellow that that happened to because that was some of the things that was told to me that prompted this meeting? Now, of course, you are the person that can correct the here say, if anything that was told to me that I say is here say. So, the here say that I have is that you cut your hand and you was on your way to the hospital, but the agent stopped you from going to the hospital and made you go pull the net up. That was what was told to me, is that a correct statement that was given to me or was it a misunderstanding.

Mr. LeJeune: Similar to it, yes.

Commissioner Mialjevich: Well, could you make it a correct statement, one way or the other. Just give us the chain of events, you are out there pulling your net or whatever you are doing up to when until you got the ticket and went to the hospital, that is all I want to hear.

Mr. LeJeune: Okay. I put my nets out, I was on the sixth net, I have ten nets, and I have a knife wound in my hand. I go home and the agent...

Commissioner Mialjevich: How many nets are still in the water at that point in time?

Mr. LeJeune: Six.

Commissioner Mialjevich: Okay.

Mr. LeJeune: I have four left to go, to get out of the water. I fish ten nets. And, my deck hand has been injured two days prior to that. He has seven stitches across his hand.

Commissioner Mialjevich: You are out there by yourself?

Mr. LeJeune: No, me and him. Okay, so with two of us injured, I go in. I am called at my house, I go back out and I am cited a ticket. I was suppose to stay there or pick the nets up. Okay. My Q beam didn't work.

Commissioner Mialjevich: Your what?

Mr. LeJeune: My Q beam, my light, I was going to try to pick the nets up, I tried to get some help to come with me, but the man at the sub station, one of my friends I thought was going to come help me, well, he told me no. He was scared.

Commissioner Mialjevich: Of what?

Mr. LeJeune: Because, he was my deck hand and I had a prior tag on his and they got a hold of him before they did me.

Commissioner Mialjevich: What do you mean a prior tag, a ticket?

Mr. LeJeune: No, a tag, you are suppose to have your name on the tag, I mean, of each net it is suppose to be tagged with your name and license number.

Deputy Secretary Kimball: We are going to have no comment on this.

Commissioner Mialjevich: We are going to have no comment, this is strictly a statement and I am not going to ask or comment or for a conclusion to be drawn.

Deputy Secretary Kimball: We are not going to respond to it as a Department, we can't.

Commissioner Mialjevich: No, that was in my statement, we can't respond to this. But, I just want to get it on the record, that is all, a statement.

Mr. LeJeune: That is basically what happened.

Commissioner Mialjevich: So, the guy was afraid to go with you because he had a ticket already?

Mr. LeJeune: No, he name was on one of my nets and he thought he would be issued the ticket.

Commissioner Mialjevich: If he went with you?

Mr. LeJeune: Yes...

Commissioner Mialjevich: Okay, I want to understand fully. I don't like here say and that is why I called the meeting. I am hoping the people in the audience that have something to say are going to come up and say it and we are making a record of it. Then it is actual, it's not here say. Because, you know, I get a lot of here say phone calls and if I would go and have meetings for everyone, we would have to have about ten more days in the year, you know what I mean.

Deputy Secretary Kimball: Thank you, sir.

Commissioner Mialjevich: That 's it then, right?

Mr. LeJeune: Basically.

Commissioner Mialjevich: And, you understand we can't comment on this because you have a ticket pending?

Mr. LeJeune: Yes sir. I couldn't pick my nets up, I went to the hospital, come back and pick my nets up, the next...

Commissioner Mialjevich: So you went back and got the ticket then went to the hospital, then came back and picked up the nets immediately or the next day or what?

Mr. LeJeune: No, whenever I went to the hospital and come back it was like two hours later, I went and picked up my nets. But, another question I have is on when we are sleeping, well I say sleeping, we are attending our nets, if we fall asleep as long as the nets are attended, I would like to have some talk about that. Are we allowed to sleep on the boat?

Commissioner Mialjevich: Okay, when we get into the discussion, we will bring that up. Okay? Allowed to sleep while attending nets?

Deputy Secretary Kimball: Well, under the law, attending could be interpreted as you can't be attending something if you are sleeping or if you are knocked out or something. You just assume not be there, that is the strict interpretation of the law.

Mr. LeJeune: You attend once an hour, once every thirty minutes, do you have to steadily run up and down the nets?

Deputy Secretary Kimball: You have to be conscious and alert to the point to where you are there now. In other words, you can't run to the store, you know, to get a cup of coffee to keep you awake, you should've brought the coffee with you. Because once you leave that net, you are subject to be cited under the current law as passed by the State Legislature.

Commissioner Mialjevich: You know I got a question, if the man is working more than one net and he is pulling a net, if you want to enforce the law strictly, then really the other nets he has out are unattended.

Deputy Secretary Kimball: No, they are being attended. When he is working one net, now if the nets are ten miles apart, you can't do that.

Commissioner Mialjevich: Well, that is maybe some of the here say stuff I need clarified in my mind too, you know Mr. Kimball. Because, to me, if I am picking the drag in the back deck, I am not watching the wheel in the wheel house. The wheel is unattended. So, as long as we will come up with some concise clarification on that. Okay, any other comments?

Mr. LeJeune: No.

Commissioner Mialjevich: Well, I appreciate you for taking the time to come up here and share these thoughts with us. Thank you sir.

Mr. LeJeune: Thank you.

Commissioner Jenkins: Mr. Kimball, can I make a comment? I think we are attempting to put an undue burden on an enforcement agent to be the prosecutor and the judge and the jury. It seems to me his job, if he comes upon a net and it is unattended, it is unattended. He has got to write the ticket. Now if you have extenuating circumstances or if somebody is at the doctor's office, the boat sunk or if you had an emergency, that is somebody else's job to deal with. You can't expect that man to deal with that, that is not his job. And, we all know people lie about circumstances to get out of tickets so he has to sit there and try to decide who is telling the truth and not, that is not his job. His job is, he got to the scene, the nets unattended, he has got to write the ticket. Now what happens to it from then on out is somebody else's job. It is not enforcement. That is what makes sense to me.

Deputy Secretary Kimball: Exactly.

Commissioner Mialjevich: Jim, let the other people talk first, it gives everybody a chance. I want to live up to my word and then if we need a second, we are going to have discussion Jim. Take notes, please. I don't want to be ugly or mean, but let's have some kind of order here.

Mr. Barry Schaferkott: What you are saying about the statement, Mr. Jenkins.

Commissioner Mialjevich: Whoa, identify yourself.

Mr. Schaferkott: Barry Schaferkott, commercial fisherman. What you are saying about the statement Mr. Jenkins just made then was an agent should use no discretion. In other words, it is going to cost me \$1,500 for an attorney because an agent doesn't use any discretion at all. But I have to spend \$1,500 to an attorney to go to court to have it thrown out. An agent doesn't, what Mr. Jenkins says then, is an agent has no right to use any discretion period. That is whether a man has one speckled trout that is 1/16 inch shorter than the law, he has to write that man a ticket. He uses no discretion period. If you are going to enforce an unattended...

Deputy Secretary Kimball: No, that is not, that is not the way we instruct our agents.

Mr. Schaferkott: Wait a minute, that is what Mr. Jenkins said, right then. He said no matter what happens, whether the man went to the hospital with a heart attack or what, he gets the ticket. That is what he said.

Deputy Secretary Kimball: Well maybe that is what he said.

Mr. Schaferkott: Wait a minute, that is what I am saying.

Deputy Secretary Kimball: But he is not over Enforcement and we don't instruct our agents to act in that manner.

Commissioner Mialjevich: Don't get upset over it.

Mr. Schaferkott: Wait a minute, I am not saying he is over Enforcement. What I am saying is, if Mr. Jenkins is going to say, that this law itself, this one law, okay, is going to be enforced to the letter, okay, with no interpretations, no nothing or no common sense...

Commissioner Jenkins: May I ask you a question?

Mr. Schaferkott: Yes.

Commissioner Jenkins: What extenuating circumstances should an agent consider?

Mr. Schaferkott: Alright, really consider? Three years ago a friend of mine died on the boat. The kids left the nets there, his daddy had a heart attack and he left and his daddy died. Alright? Now what you are telling me is, because his daddy had a heart attack on that boat and he left the nets, the agent had a right to walk up to him and hand him tickets for unattended nets and it was going to cost him \$1,500 again. He has a right under the law, I am not saying he doesn't, don't get me wrong, he has a right under the law. But he has a right to use some common sense.

Commissioner Jenkins: Well, let me ask you, if the agent comes up to that situation and nets are unattended, what is he suppose to do?

Mr. Schaferkott: He, my guess is, he would have to write the tickets because he doesn't know who the nets belong to.

Commissioner Jenkins: That is all I am saying.

Mr. Schaferkott: Wait a minute, my guess is that. But, in the same retrospect, is when it goes to them, you saying it is out of their hands totally. In other words, what the statement was just made a little while ago is, after the ticket was written, it is out of enforcement's hands completely. It goes to a judge and to the courts.

Commissioner Jenkins: That is right, that is correct.

Mr. Schaferkott: Okay, but for me to go to court, Mr. Jenkins, I have to retain an attorney which costs me \$1,500. Now in that case, to me, what should be, is a buffer zone somewhere. They have their own attorneys, their attorneys supposedly represent the people of Louisiana. I should be able to go to their attorney. Okay. I am not talking about my here say or lying or whatever else. The attorney says, well you produce a document and we will throw the ticket out. That is all I am saying. In other words, why make me put \$1,500 up for an attorney if the ticket is going to be thrown out anyway. It is still costing me money. Well, they should use some common sense somewhere, which they do. I have all the respect in the world for agents. Don't get me wrong, I really do. They have a tough job, they have to me one of the toughest jobs in the world, them and cops.

Commissioner Jenkins: All I am saying, is you know, they can't be the judge and the jury.

Mr. Schaferkott: I realize that, I am not saying they are the judge and the jury.

Commissioner Jenkins: And it is unattended, their job is to write the ticket.

Mr. Schaferkott: I agree.

Commissioner Jenkins: I know there are extenuating circumstances out there, but that does not fall in enforcement's ...

Mr. Schaferkott: But it is still wrong to me.

Commissioner Jenkins: I understand what you are saying about having to go through the expense to prove it...

Mr. Schaferkott: To say, you know good and well something like that would get thrown out of court immediately or they wouldn't even bother to prosecute. Okay, so to me there should be some kind of zone somewhere or to them, someone higher up here in Baton Rouge you can go to and all they have to do is say produce the document. Well, here are all the documents. Case dismissed. In other words, it doesn't cost you \$1,500 to go get an attorney.

Deputy Secretary Kimball: Well, I am afraid the law doesn't give us the authority to do that. If we did those things such as that, we would as individuals, we would be charged with malfeasance and all that kind of stuff.

Mr. Schaferkott: That is what I am saying. But any DA can throw it out.

Deputy Secretary Kimball: Yes, right.

Mr. Schaferkott: But what I am saying is, they are not going to throw it out if I go talk to them. The Wildlife, to me, the Wildlife would have to say look this is the circumstances in this case, we are requesting that this ticket not be prosecuted because there are extenuating circumstances.

Mr. Landrum: The DA's dismiss nol pros cases every day under those circumstances when a citizen...He is an elected official, he is responsible to you.

Deputy Secretary Kimball: Right

Commissioner Jenkins: They nol pros more than they prosecute.

Deputy Secretary Kimball: Yes, that takes place every day.

Mr. Schaferkott: Here is one right here that was dismissed. It cost me \$1,500 for an attorney. Right there, it never went to court. But I had to go get an attorney and give him \$1,500. It cost me \$1,500 and I never set foot in the court room and my attorney never set in the court room for five minutes and it cost me \$1,500. I had no one to go to. I had to put up \$1,500 and they nol pros the case and threw it out of court. It never did even get to court. See, don't get me wrong, I am not arguing about that. What I am saying is there should be something somewhere along the line. Now, I am not a lawyer, I don't understand the law. Okay. But I think there should be something somewhere. I mean if a guy breaks the law, fine, if I am doing something wrong and I deserve the ticket, I deserve it. I am not going to go fight you, okay. If I am wrong, I am wrong. You give me the ticket and I have to suffer the consequences. But if I think I am right, I am going to fight until the day's end, okay. But like this man said, he cut his hand, he went home, you can't expect a guy to cut his hand, I don't know how bad it was cut, but if he has a knife sticking through his hand, I don't care about the nets, I am going to the hospital.

Commissioner Mialjevich: Barry, let me ask you a question. Are you feeling in some way, shape or form, that just giving tickets for, you know, I guess, blindly giving tickets and I am sure a lot of the agents use good discretion and common sense like you said. Is a way of punishing people even though the case could be thrown out?

Mr. Schaferkott: Well, to me Tee John, an agent has a job. And as I said it's a very, very tough job, it is a borderline job to me. And, of all the years I have fished, I honestly come across one agent in my life that was real nasty to me. From the time he stepped on the boat until the time he stepped off. All the others I have ever dealt with, may I see your license please. May I see your boat registration? Sit down and talk to you, I have never had a problem with any of them. I have had one in all the years I have been out there that was really nasty from the time he stepped on the boat until the time he stepped off the boat. And the attitude I got from that one agent, I was guilty of doing something wrong and he was going to find it out. But I wasn't. But most of the

other ones I have ever dealt with are very, very professional in what they do and they try to use a tremendous amount of common sense. But, what I am trying to say is, like, if we can enforce this law, this specific law to the letter, well then we have to go to Title 56 and take every law in Title 56 and enforce it to the letter. No discretion, no common sense, no nothing. That is all I am trying to say.

Deputy Secretary Kimball: Is that the way you think we ...

Mr. Schaferkott: No, that is the way it should not be, I don't think it should be that way. All I am trying to say is, Clyde, if you are going to interpret one law to the letter and hold that one law to the letter, then every law in that book has to be interpreted to the letter. No discretion. You can't take one law and hold it to the letter then turn around and take the other hundred of them and use discretionary, common sense in interpreting these. If you can do that with that one, you have to put that one in these hundred or take these other hundred and put it with the one.

Deputy Secretary Kimball: So getting back to the unattended nets, are you saying that we are not enforcing the unattended net law to the letter of the law, is that right?

Mr. Schaferkott: Well, no matter which way I answer it, I am wrong. No matter which way I answer that question, I am wrong.

Commissioner Mialjevich: The real question should be...

Deputy Secretary Kimball: With the statement you have been making, is that well is here and there, pick and choose.

Mr. Schaferkott: Well all I am trying to say is, in other words, I was trying to rebut Mr. Jenkins' statement. In other words that is all I was trying. In other words, he is saying that this law has to be interpreted to the letter. That is all I was trying to do. And that is what I am saying, if you are going to interpret this law to the letter, if you take your boat out and something happens and one number out of your letters get rubbed off and you were fishing or something that day, and you were tied up next to a boat and that one number got rubbed off, they can legally write you a ticket for that.

Deputy Secretary Kimball: Right.

Mr. Schaferkott: Okay, so if you are going to write a ticket to a man because he stuck a knife in his hand and take his nets and send him to court and make him spend \$1,500 to get an attorney, well then when that man comes, when they come across that man with that one number missing off that boat, they are going to have to write that man a ticket too.

Deputy Secretary Kimball: Again, we are not talking about individual cases because we haven't heard the full story. As Paul Harvey would say, for the rest of the Story that is what they have District Attorney's and court rooms for.

Commissioner Mialjevich: One question, Barry, do you fish more than one area? Do you fish statewide.

Mr. Schaferkott: Mostly Lake Borgne, Lake Pontchartrain now a days, Tee John. I don't really do too much traveling because of my family ...

Commissioner Mialjevich: Because some of the here say that I got over the telephone was that in different areas the same law was enforced a different way. And that is what I was wanting to find out about.

Mr. Schaferkott: We got stopped, I think it was 5 years ago or 6 years ago in Cocodrie. They supposedly were fishing redfish. Well we were fishing bulls in Cocodrie and were tailing them and the two agents that stopped us, I will tell you what, I will, I don't even know their names, I will give them both a gold star. When I say professional in the way they handled everything that went on out there, first thing he said when he stopped us, he said we hear you are fishing redfish. I said nope. He looked into the boat and he said, man you ought to go talk to the oyster fishermen, ya'll can get more money for these fish. And, he went through the boat, ask me, whatever he ask for me, it was always may I have this, do you have this, may I see this. And there was five of us that they stopped and there was nobody there to complain about the way they handled the situation. I really don't have any complaints about the agents. I don't Tommy, I have been around water all of my life and one time I got an agent that was really, he was determined to prove that I was doing something wrong on that boat.

(An Unidentified Speaker): Apparently you have never been to Region 5 ...

Mr. Schaferkott: Well let's put it this way, when we were stopped we were in Cocodrie and that is suppose to be a really nasty place too. Okay, I don't know.

(An Unidentified Speaker): You must have not been in Cameron Parish or Vermilion Parish if you were treated right.

Commissioner Mialjevich: Oh, I wouldn't say that, I wouldn't say that.

Deputy Secretary Kimball: No. We are getting ready to get back to Region 5. Region 5 problems with unattended gill nets.

Mr. Schaferkott: The only thing I say, Clyde, is that if that one law is going to be interpreted to the letter, then you have to do every law like that. If that one law is going to be used by discretionary, then they can do that to the other laws. That is all I am saying. Thank you.

Commissioner Mialjevich: Thank you.

Deputy Secretary Kimball: Well, we can always do that to the best of our ability.

Mr. Schaferkott: I would rather not see you do it to the letter of the law.

Deputy Secretary Kimball: Do we have somebody from District 5 on unattended gill nets.

Mr. Pete Gerica: I am not District 5, but unattended nets is being discussed.

Deputy Secretary Kimball: Okay, go ahead.

Mr. Gerica: Pete Gerica, President of Lake Pontchartrain Fisherman's Association, and I get the bitches from everybody. I also get the bad hat put on my head when something goes wrong from some of my guys, then you hear that agents are looking for you. Alright? I have seen the bad side more than the good side. I have had nets that were stolen which five agents knew they were stolen, alright, and four weeks later from they date they were reported stolen, I had Sandy Dares mail me tickets in the mail for unattended nets with them tag numbers on them. And that cost me money to go to court because I had to go for an arraignment, I had to go for this, I couldn't plead for my own case. Because in Orleans Parish they said I was incompetent to do that. And you know as well as anybody, I have been in Baton Rouge as much as you all have and I have seen the laws being made now and if anybody knows the damn law, I ought to know it.

Deputy Secretary Kimball: Who made that judgement that you couldn't ...

Mr. Gerica: Assistant District Attorney who was on the GCCA. Alright?

Deputy Secretary Kimball: Well, that is outside of us anyway.

Mr. Gerica: Well, that is outside of the deal and all that. But the thing is, is like Barry said, it cost us money every time it happens. Nobody takes that, a day that we don't fish is a day that we might loose five days for because you don't catch every day. That might be the one day out of five that you would've made money, so your family starves again. And I think that when an agent goes out there and makes a case, if he is going to do it to the so called letter of the law, he better know the law himself. And not use his discretion from parish to parish where it changes. Know like Barry said we got, Lake Pontchartrain has a bunch of districts bounding it. If you are in St. Tammany, they enforce it one way and if you are in Orleans, they do it another way.

Deputy Secretary Kimball: The unattended nets?

Mr. Gerica: Yes.

Deputy Secretary Kimball: Do you know how ...

Mr. Gerica: In Lake Borgne, if you are sleeping on a net, like you said sleeping you are unconscious, alright. I would like to see anybody sit out there for twelve hours and not take a nap in the boiling heat and everything else, alright, and especially if you are in a small open boat. I am fortunate, I have different boats, I have a cabin on one of them. But, I mean, if I have to sit out there and risk my life, which is against maritime law, I mean if the weather gets to such a case where I am risking my life, maritime law I can leave them nets sit there. I guarantee anybody. Just like Barry's case was thrown out of

court, it would be unconstitutional. But the problem is, none of us have enough money to bring it to a higher enough court to where the law is going to be changed to where it is going to be fair and equitable.

Deputy Secretary Kimball: And, you can't get the legislature to change it?

Mr. Gerica: Well, you know that, you chaired it. I mean ...

Commissioner Mialjevich: There are a few road blocks.

Mr. Gerica: We asked for a colored buoyed system. They ain't nothing simpler than that. Nothing could be simpler than a color buoyed system on a Monday it is a blue ball, a Tuesday it's a red ball. You know, a 24 hour attendance system. Agent blows by, the nets got the wrong ball, he writes them up. But nobody wants to do that. They would rather have a complicated mess. I have seen a little Vietnamese that I fish with in Lake Borgne, they sleeping on each end of their nets and the Delta Tide comes in the middle and picks up the nets in the middle and tells them, see you in court. One of the guys starts bitching, he says, well do you have a hat? He said yes, why? He said, because it gets cold in jail. I mean these people, I seen them with two boats sunk out there. It got rough enough that two sports sunk. Vietnamese can't talk English. He brought them in, picked them up out of the water, four guys, brought them into the dock, now he left his nets. Now if it wouldn't have been so rough, the agents would have picked his nets up and brought them off and he would have to go to court and prove that he did a good deed which maritime law says he can't leave them people in the water. I had a case where the Coast Guard stopped me from running my nets to go get a duck hunter that was freezing to death. You know, the Coast Guard just flat told me to switch to Channel 16, I talked to them, they commandeered me and my boat to help that injured person. But then if I get an agent that is going to be, you know, less than fair, you know he has something against set nets, well he will pick all my nets up and I got to go prove it in court. That is unfair.

Commissioner Mialjevich: Let me ask you a question. One of the comments I had from people calling me over the phone was, when an agent do pick up a net, then instead of taking the fish out, that they just cut big holes and cut the fish out. Have you experienced that.

Mr. Gerica: Well, I can only speak from the nets that I had that was stolen, that was taken, alright. I went to court, I paid the whole nine yards and all that and then I had to play the other little game is only on certain days in the beginning of the month can you get your equipment. Now a Court Order says immediate dismissal. Now immediate, if you are talking to me on a net, I have to be there. But apparently, immediate for an agent, is the first Monday or the first Wednesday of the month. You see? Now when I pick them nets up, it was a waste of my time. They had holes in there that looked like somebody ran an outboard motor through them. So, all I got was a couple of corks and some lead line, you know. And, there was 3,000 feet of net that didn't have anchors on it either. Now I know whoever put them nets out had to have something to hold them to the bottom. But then again, if you go to argue it, you have to back to court and you got to spend more money. And, we don't have the money. The state's done got us into a point where we just barely surviving. Apparently, they don't want

us out there. If the Department don't want us fishing, then put a damn law in and eliminate us. If not, I think, what I think the Department should have is, when somebody gets a citation, they ought to have some kind of way to talk to Landrum and Puckett and have some kind of deal before you go to a Hearing here, before you go to court and have to spend money. I mean the agents talk to them, they are public servants, they work for the state.

Deputy Secretary Kimball: Well, unfortunately because of certain reasons set out by laws already passed by the legislature, we can not act as a jury and a judge. I mean that is in any ...

Mr. Gerica: But basically you act that way when you write the ticket, you go to court and try to prove it.

Deputy Secretary Kimball: Well, that is the way the law is and we enforce the law the way it is written and that is it.

Mr. Gerica: I have seen, like I said, I have seen a lot of horror stories of people and it is mostly gill nets.

Deputy Secretary Kimball: I am sure they may be some, there is always some. But our agents are trained professionally now, whereas ten or fifteen years ago, they didn't have the training, they didn't have the education, and part of their training is to enforce the law but also we try to instill good sense, common sense, fairness and justice. And that is the way that they are instructed to treat the people. We are not sport fishermen, we are not commercial fishermen, we are just charged with protecting the resources in this State, so that people like yourselves, myself, our children, grandchildren can continue to enjoy it. But I am not going to go without defending enforcement like they are a bunch of renegades out there. I will take that to task and if there are some instances where something is done that is questionable or if you feel like you were treated unfairly or disrespectfully or something, that is what we like to listen to because in Enforcement I can tell you, we look into any allegations made against any of our agents in the field. Somebody puts the allegation down in writing and we look into it. Col. Vidrine is adamant on that. I mean he investigates every complaint we get on every agent in the field and if need be an agent is wrong, disciplinary action is taken because the Enforcement Division strives not to have that. And, there is going to be instances naturally.

Mr. Gerica: I think a lot of it can be cleared up just if every year when the legislative puts their little law package out, if this Department would have some kind of open hearing meeting where the agents are briefed at the same time people like me can sit in it, somebody that is President of an organization can sit in on it, or maybe somebody from one organization ...

Deputy Secretary Kimball: Briefed on the laws, you are talking about?

Mr. Gerica: Just a meeting like in here when all the laws are presented and the way that the law is read out for the agent to enforce, so that there will have parity in the law that way, it is not a judgement call.

Deputy Secretary Kimball: We do that, we are in the process right now, it started this week. We go around from region to region and go over all the new laws that were just enacted and we give all the agents in the field and their supervisors, they have copies of the new laws and we go from regional office to regional office and discuss all the changes because it is not easy on these guys in the field either. They have to carry a law book like that, but that is not our fault.

Mr. Gerica: I understand that but I mean you have guys out there that don't know the legislature exists. I can give you a for instance on that in Lake Borgne. Everybody was thinking that the trawl board size was dropped because one agent on one of the boats said ya'll would be able to pull your big boards again. So, everybody put big trawl boards, everybody was breaking the damn law. But it was just a deal, that is how quick things get turned around.

Deputy Secretary Kimball: Well, you may have some, I am sure you have some people out there that are not capable of interpreting some things.

Mr. Gerica: The bill wasn't even passed and he was telling them it was passed.

Deputy Secretary Kimball: That is not, they are not perfect. People in the field are not perfect.

Mr. Gerica: Well nobody is perfect.

Deputy Secretary Kimball: The legislature, they all go over the laws and they pass them and they still don't know what they mean. But we have to enforce it, that is the bottom line with the Enforcement Division in this Department. We are suppose to enforce these laws.

Commissioner Jenkins: Clyde, I think Pete has a good suggestion there, though. We are talking about informing the agents and he is talking about including people in the industry and the fisherman too.

Commissioner Mialjevich: Informing the fishermen too.

Mr. Gerica: We have organization heads that we know of.

Deputy Secretary Kimball: Who track legislation.

Commissioner Jenkins: Pardon me?

Deputy Secretary Kimball: Who track legislation.

Mr. Gerica: Like I am President of an Organization, Henry is, we have different people that can spread the word back to our people just like your people. And that way, everybody is on equal playing field because that is the problem most people have. We switch, as we migrate around and catch species of fish, we bounce from region 8 to 6 to 7 or wherever.

Deputy Secretary Kimball: Well, I agree and I wish we had the ways and means to hold meetings with every organization statewide on every hunting law, fishing law, bird watching law, whatever we have with individuals. Of course, that is not, number one, it would be a nice service, but it is not the responsibility of this Department. It is a burden on us just to take care of our own in-house people keeping them up with the laws. And, in fact, I don't know if we have all, I mean we are printing something, the print out, we had 250 printed for Enforcement, it is that thick and we have trouble getting that done because we can't do it here, we will have to send it to somewhere else to cost us money to print them and this is for people who are out there. I wish we could go to the general public, I mean have big meetings.

Mr. Gerica: Well, I mean, like when you go to Region 8, alright, when you are in Region 8, say I am in Region 8 right there, I could go sit in that meeting with Sandy or whoever is at the meeting and I would at least have some knowledge of the way the Department and the Department heads want to interpret how they are going to enforce that law. So that, when I get the five or six phone calls at my house, or I am on a VHS radio and 9 people are saying different interpretations of the law, I could say no that is not a fact. This is the way it is going to be done and I think it would kind of like circumvent a lot of this people getting ticketed for stuff they don't understand. Ignorance is no excuse of the law, but sport fishermen and commercial alike, they don't know the law anymore.

Deputy Secretary Kimball: Like I said, but I don't dispute what you are saying and if there is a sensible way that we could do something that affect, we will and we would.

Commissioner Mialjevich: Let's look into that, that is the whole problem of this meeting today, Mr. Kimball. The people don't know how a law is going to be interpreted and enforced and if they wanted to be outlaws they wouldn't give a damn about how you enforce it or regulate it. They want to be law abiding citizens, so we need some kind of inter-reaction to, where they are going to know what is going to be enforced and how and maybe some kind of way with a Finfish Task Force or Commission Meeting half a day, like we dedicate to setting the shrimp season, we could dedicate half a day of a Commission Meeting to let's let the general public know this is the laws that got passed and this is how they are going to be enforced. It would be beneficial to the commercial, recreational and John Q Public.

Deputy Secretary Kimball: I don't disagree with that, of course, bear in mind, you would be talking to the same people that are here every Commission Meeting. So I don't know how many people out in the field, sort of speak, would gain anything by it. That is the sad thing. Usually, to make something like that effective and work, you have to go to them, to the general public, because a lot of these people just don't have the means to come to Baton Rouge or can't take the time or just for some reason or another, don't come here. So, the only ones that you would be reaching would be most of the same people you see out here right now, here at every Commission Meeting.

Commissioner Mialjevich: Let's work on that.

Deputy Secretary Kimball: That is it. And, how the information filters back to their people, I don't know, it is hard to say. People a lot of times, including myself, loose track of the laws. But let's get back to the unattended nets. The unattended nets, the problems in area 5. Is anybody here from area 5 who has a problem with the unattended nets.

Mr. Harry Brown: My name is Harry Brown, I'm from Cameron, Louisiana, I'm a commercial fisherman and I'm Chairman of the Fisherman's Trappers Committee for Farm Bureau and I think I qualify for being in District 5, Mr. Kimball.

Deputy Secretary Kimball: For a long time.

Mr. Brown: One thing we hear, I want to bring to everybody's attention especially Enforcement people, is the fact this unattended law was initiated and was introduced into state legislature by the commercial fishing people. This is not something that some special interest group introduced at one time to harass us with. This law was introduced by the commercial fishing people and it has come home to haunt us. There was a time in the south end of Calcasieu Lake where you could pick up any number of nets and you couldn't find anybody that owned them and they've all full of redfish and that was the purpose of this net being introduced. But, now this was prior to the system that we have now and we didn't have, the only people we had down there were by two good friends, Mr. Nunez and Craig Guillory and they were overworked. There was no way they could get around to doing everything they had to do. And, that was one of the reasons that this law was introduced to start out with, was to get them some help down there and get the people that was part time fishermen and whatever terminology you want to put on them down there to run their nets. And, it was embarrassing to me, we was out there trying to make a living and here are all these nets are floating around, well what are you guys doing out there, you know. So, that was the reason this law was really passed and introduced and passed and they come out of Cameron Parish as well as the right to fish bill come out of Cameron Parish. I know of two bills that we really feel pretty close to. One thing I would like to have a copy of that letter from Mr. Roach before we leave and I think if we could we would all like to have a copy of this unattended net law, the bill or the law before we leave if we could so we can have a little bit better understanding about what is the law and what isn't the law. Now, I say last week that I had several fishermen come in and talk to me about I've been threatened by the game wardens and telling me he is going to give me a ticket because I had a dead redfish in the net and I had several of my fishermen quit fishing because they were afraid they were going to get a ticket for having a dead redfish in their net.

Deputy Secretary Kimball: Do you have a name of an agent that...

Mr. Brown: No sir, and the people that done the complaining are not here.

Deputy Secretary Kimball: An accusations are made against anybody, me personally, if somebody made an accusation against me, I want their names.

Mr. Brown: Well, I understand what you are saying. But, I am bringing it up ...

Deputy Secretary Kimball: And, I think it is only fair to treat the Enforcement people the same way.

Mr. Brown: Well that is like we have, we have one gentleman here that has been threatened about having a redfish.

Deputy Secretary Kimball: Well good I hope he comes up here and sights the problem and gives the name who threatened him and we will look into it because we don't tolerate that.

Mr. Brown: As far as the way the Enforcement people are conducting themselves, I have no complaint. I have been treated very, very congenial and as fine as I could've asked to be and I have been harassed on several different occasions but it is always by some new agent that don't understand what he is doing and he is out to prove that he is Rambo or something like that and if he treed a he coon he was the hero of the month down here at Baton Rouge. Well, that don't get it and it don't work and it don't do nothing but cause a lot of chaos and confusion. And I have been treated as nice by these people as I could possibly ask to be treated and I don't have no complaint. I think we have a lot of confusion about what this law really intended to do and what the law is trying to accomplish.

Deputy Secretary Kimball: How do you interpret the enforcement of the unattended gill net law in your area, your region?

Mr. Brown: Well, we have had several different interpretations in our area of how this law is to be applied. I don't have no complaint with them, I don't ever have no problem with them. My son went to court and the judge set his case aside. We have had several trials in Cameron Parish over the unattended net law and every time they went to court, the Department has never won a case yet that I know of.

Deputy Secretary Kimball: Right, I am aware of that.

Mr. Brown: So, I would say you need to adjust your interpretation.

Deputy Secretary Kimball: Right now they are telling me that as a result of the court or the jurisdictional interpretation by the D.A.'s, the judges in general and everything else, that in order to try to make it more effective and fair and understand it is more or less not a written policy at this time, but you might call it an acceptable level of tolerance like in any law. Having lost every case, we try to be fair and say okay we are going to give you some minutes, so many minutes to get there which is a choice we make in all fairness in trying to deal with a situation where we would be wasting our time and everybody's time and the tax payers dollars if we just continue to write it and nothing was done with them. And, do you have a problem with that, the current process whatever it is, the way it is going?

Mr. Brown: I have a problem getting up in the morning, I got all kind of problems. But the only thing that I would like to ask is, or one of the things I would like to ask, there are several different things I got on my mind but we are going to limit this to gill nets...

Deputy Secretary Kimball: Do you have some recommendations as to how we, or perhaps how the legislature could change the gill netting law?

Mr. Brown: Well, the 28th or 29th of this month last year I got bit by a spider on my boat about four o'clock in the morning. That thing pert near killed me but I managed to get my nets up before I got to where I was immobile, I couldn't even move any more. And I called the Sheriff and he came and got me off my boat and carried me in because I was afraid I would fall over board and my wife works with me and I was afraid she couldn't get me back on there. Had I not been able to gotten my nets up, I wouldn't thought a bit more than anything and calling my agent and telling him look, I am down, I can't move, how about picking these nets up for me, I wouldn't mind doing that at all. And, I don't think they would have minded getting them out of the water for me. I think that is just common courtesy.

Deputy Secretary Kimball: Yes sir, that is the way we think we ought to cooperate with everybody.

Mr. Brown: Certainly, that is the kind of relationship I want to have with these people. As far as me being afraid to do this or afraid to do that, if I am afraid of something going on in my district, I am going to go see that man right there. That is what he wants me to do. I called him last week and talked to him, I talked to him day before yesterday.

Deputy Secretary Kimball: That is why we have Captains in every region and hopefully part of their job is to deal with the general public, their concerns, complaints, whatever on a local level, that is only logical.

Mr. Brown: Mr. Collins has boarded my boat and treated me as fine as I would have ever want to be treated by anybody. I am sure if I was wrong and out of line, he would have given me a ticket, that is what his job is. But as far as me hating a game warden, I don't hate no game warden, they are humans just like I am. I think on several different occasions there, that they could have used a little bit more discretion. But like I say, it wasn't anybody that I was use to doing business with, it is always some new man that I don't really don't know and you will get problems out of that because they don't know who I am and I don't know who they are. When I first came to Cameron Parish to fish, the first thing I done was went to see Captain Jardelle and he told me what I was suppose to do and what I wasn't suppose to do. I never did have, I went for years and I never even had a problem of any kind. I think now we have, you have different interpretation of the law. I sent two boats to Vermilion and they didn't no more than get there and they got two tickets, each one of them got a ticket. And, had that boat been in Cameron Parish, I wouldn't have gotten a ticket.

Deputy Secretary Kimball: Why do you think that, do you think that is maybe because of the way the courts treat such citations?

Mr. Brown: It could be that, I never been to court in Vermilion Parish, I paid the tickets and that was the end of it. But it was numbers on a boat or something of that, they weren't in the right place or some off the wall hogwash like that. I mean, when we go into a different area, one thing in Vermilion, you

have to have flares on a boat. I have seen people that bought flares before they left to go in Vermilion Bay to shrimp and get over there and the flares are out of date and everything else and they still get a ticket. But that does not got nothing to do with the unattended net law, but it is a different interpretation. We would like to really talk about the harassment business a little bit from these new agents when they come along there. I think when a new agent or task force or strike force or whoever these guys are suppose to be that come in there from another area, that they ought to at least have one of our local people with them at all times.

Deputy Secretary Kimball: We try to do that, we really do. But as you know we are rather short handed, that is why we created the Statewide Task Force is to go in and help in areas where we don't have the manpower. But we do try to have some local agent with the people we send in there. But it don't always work out that way.

Mr. Brown: Clyde, last weekend you had more game wardens on the lake than you had commercial fishermen, man.

Deputy Secretary Kimball: Well, we been getting a lot of complaints.

Mr. Brown: Sure did, they was all there. They ain't short handed, you can hang that on somebody else because they had plenty of help.

Deputy Secretary Kimball: They have plenty of help all over, we get calls right now. In fact, I could use about 100 more people on the Statewide Task Force. By the time we get them over there, then they are calling from Fourchon and Grand Isle and you know.

Mr. Brown: That is like everybody getting up here and saying ain't nobody perfect, they ain't married.

Commissioner Mialjevich: Wow man, my wife is in the audience.

Mr. Brown: Yes, I know.

Commissioner Mialjevich: Mr. Brown, before you go. Tomorrow is Open House, Open Door Policy across the state with the Department where people can go in and talk to the Captains and do the same thing we are doing here except it won't be recorded, it won't be formal. Do you think you could get those guys that didn't show up today for financial or whatever reasons to go into the district office and maybe register their complaint?

Mr. Brown: I don't know, I'm disappointed they are not here today. I drove over here to try to see what we could do to help our situation.

Commissioner Mialjevich: Do you have any reason why you think they didn't come today?

Mr. Brown: No, I don't know. One in particular was one of my fisherman, he quit gill netting because of this. He said I can't go out there. What he done, the gill told him, he said if I find a gill net, I mean a redfish in your

net, I am going to give you a ticket for a dead redfish. He got so upset he forgot a net and he went and finished taking his nets up and he come back in and he come down there and talked to me and he said, man, said that guy got me so upset that I don't know what to do. He was in a state of, really, he was nervous and then he got a ...

Commissioner Mialjevich: A ticket for leaving the net out there.

Mr. Brown: He left the net out there and you know ...

Commissioner Mialjevich: If he left it out there, there ain't nothing you can do about that.

Deputy Secretary Kimball: Well, I wish he was here, he and the agent that supposedly told him that, I wish they were both here, we would find out just what ... I would like to know what kind of citation he was going to write.

(An Unidentified Speaker): I don't know why he left just one if he was that nervous. ... had twelve nets out there, he picked eleven of them and he left one.

Mr. Brown: That is what he told me when he called me and he said that I got another ticket.

Commissioner Mialjevich: Well maybe they can resolve that in the district office tomorrow.

Mr. Brown: He is offshore shrimping now, I don't know.

Commissioner Mialjevich: He quit altogether and went shrimping now. He went from bad to worse.

Deputy Secretary Kimball: Is anybody else here from ...

Commissioner Mialjevich: Let me ask you one last question, did you get any phone calls regarding this meeting, except, any phone calls?

Mr. Brown: I had several.

Commissioner Mialjevich: Pertaining to what?

Mr. Brown: I talked back and forth all the time to everybody that I know of that is in the fish business, that is my life, the fish business.

Commissioner Mialjevich: Okay, because someone told me and again, and I was trying to verify this, that someone was calling up the fisherman and saying don't come to the meeting and all that kind of stuff. That is strictly somebody just passing me a flug then.

Mr. Brown: No, nobody didn't call me and tell me not to come.

Commissioner Mialjevich: All right then I want to know because I want to know the truth. I don't want no misunderstandings or anything.

Mr. Brown: Nobody ever called me that I know of and tell me not to come to a meeting because that is my constitutional rights.

Commissioner Mialjevich: Okay, good, because you know that is the best way, because you know a lot of people hear things and they believe it is the truth. And, if I hear something I am going to ask people if this is true or not, that is why I am asking you. I appreciate, I am glad of the answer I got from you because I was worried if it would've went the other way. Thank you Mr. Brown.

Mr. Brown: Yes sir.

Deputy Secretary Kimball: Is anybody else here from Region 5 that wants to say something? Then I will get back to you, anybody from Region 5 that wants to say anything concerning gill nets.

Commissioner Mialjevich: Okay, one more or two more, then the lady, Mr. Kimball.

Mr. Ronnie Brown: Yes, I am from Region 5, from Cameron. That is my daddy right there. Ronnie Brown from Holly Beach. I got an unattended, me and my wife got an unattended last year and we took them to court. The D.A. had a real snotty attitude, he is pure GCCA died in the wool. But the judge is fair and honest and he told us, we was about 800 foot off the end of our nets with a generator on a boat, we were asleep, it was wintertime. Then fish lived all night long, you go set your nets out, you get up in the morning at daylight, you take them up, no dead fish. The judge set right there and told us he couldn't find nothing criminally wrong with us sleeping. The unattended part on this, the way that law reads, is that the commercial fisherman has to be identified without the game warden leaving the vicinity of the net. Alright, on us we have two buoys on each end of a 600 foot net with a buoy every 100 foot therefor. On each one of those buoys is wrote our name, and our fishing license number and that is about as identifiable as we can get. And, like it was Mark Davis that give me the ticket. It wouldn't have broke that man's arm to drive that boat 800 foot and wake us up. He knew we was there. But it cost me five days to go in court and like the man said that is five working days. That is where we need to come to some kind of understanding. Like when we are on the barge at the island, it wouldn't hurt ya'll to come by there and say hey we want to go check these nets out. Sure, let's go. It would stop them from getting cut up because you know this yourself, how many nets have been cut up in that lake by game wardens, riding and looking, that is how they find them. They run around the shores, (motor noise), they hit it with an outboard motor, they take out half a length of that table ya'll are sitting at.

(An Unidentified Speaker): That is the only way we can find them because ...

Mr. Brown: Yes, and they got the buoys on them.

(An Unidentified Speaker): Sometime.

Mr. Brown: They all, all of us do. If we don't we get a ticket for it.

(An Unidentified Speaker): Well then apparently ya'lls is not cut up if ya'll got buoys.

Mr. Brown: It don't help it. You know what them buoys do, it give a sports fisherman targets to shoot at. Every net I've got is cut at least 15 times besides each one of them orange buoys, that gives them a shooting zone to hit. They see that buoy, oh there is a gill net, let's go cut it. Boom. Pick up a telephone, call the District Attorney, file charges against them. I filed on Terry Shaughnessy five different times, I just finally quit. I said to heck with him, if I catch him cutting them again, I am going to shoot him. He ain't cut no more nets since. Of course, the D.A. didn't like it none either.

Commissioner Mialjevich: That is good information.

Deputy Secretary Kimball: That goes back to proving my point that it shows you in certain areas and in certain circumstances, the court system makes the call as to whether or not to prosecute.

Mr. Brown: The judge is the one who get to call on it though.

Deputy Secretary Kimball: The D.A. has the right to nol pros it before it gets to the court, before it gets to the judge. And if the D.A. nol pros' it, the judge never hears of it, sees it or anything else. But if he does, then the judge can dismiss it as you said.

Mr. Brown: We need some way or another of where we can handle it without it costing us an arm and a leg because the way it is now, there is not that much money left in this fishing business because we can't touch no more redbfish, our trouts done been cut half in two on a quota and they never did give the redbfish a chance for the quota system to work.

Deputy Secretary Kimball: About the only way that I can off the top of my head think of being able to do it without you having to pay would like in all other criminal matters, you have the right to an attorney and you can't afford one, the court will appoint you one.

(An Unidentified Speaker): Yes, but the one they appointed me told me I was guilty before I even got to a hearing ...

Deputy Secretary Kimball: I am not questioning that, what I am saying, again that is not us.

Mr. Brown: That is the same with us. We were sitting in a parking lot on a lunch break, we hadn't even been to court and he told us we had appeals to go to.

Deputy Secretary Kimball: Well, maybe ya'll should have a set too with the Judge's Association and the D.A.'s Association or whatever.

Mr. Brown: We did, we tried that all ready. We met with ya'll in Cameron there at the Courthouse with Glen Alexander and we tried to get the same thing we are going here, some guidelines to work off of because they was taking the nets and they was confiscating them. They was taking them up and putting them in a boat. Told us right then and there they were not going to take any more nets, they was going to give us the tickets if they found us on unattended, they wasn't going to take no nets. When Mark come up there that morning and give me the ticket, he had a brand new net, he didn't take no ragged net, he had my only brand new net I had he had it in the boat with him and we hadn't been out of the courthouse maybe a month, maybe 30 days. I asked him what he was doing with my net in the boat, he said we got to take it. I said, bull. I lashed on to it and started putting it in my boat and he wasn't going to get out of here with my brand new net. We need to get some kind of working relationship, something where we can go out here and fish and make a living and not be worried about this. Because when you go out, we are not thieves and we are not outlaws.

Deputy Secretary Kimball: We know that, all we do is enforce the law and that is it. That is our duty and that is all.

Mr. Brown: I think that it is the way they enforce it. They run around the lake without no lights on the boat at night, they turn the flashing light on, they don't put no siren or nothing on and when you are out there at night, 12:00 or 1:00, 2:00, 3:00 in the morning.

Deputy Secretary Kimball: Well maybe it is because if somebody is outlawing we don't want to let them know we are coming two miles away.

(An Unidentified Speaker): What he is talking about, Clyde, is when you approach the net at night, the D.A. in Cameron has requested that in case they are sleeping on their boat, a quarter of a mile away, turn on your blue light so they can identify you as agents, so they can (?) nets to claim them, that is what he is talking about.

Mr. Brown: Yes, well how about coming to our boats or stuff to let us know that ya'll are there so we can go show ya'll where the nets are at to keep the nets from getting cut off.

(An Unidentified Speaker): ... change the law (?) we will go to your boat.

Deputy Secretary Kimball: That was at the ...

Commissioner Jenkins: I like that, how do you know which boat to go to?

Mr. Brown: There is not that many of us left.

Commissioner Jenkins: I mean, you have to search the lake, wake up everybody to say, is that your net. Can I ask you a question, you made the statement that the trout quota had been cut in half, can you tell me, can you explain that to me. I didn't know anything about it.

Mr. Brown: Yes, when the trout quota first came out, how many trout were we allowed to catch a year?

Commissioner Jenkins: Well, you tell me, you said it was cut in half.

Mr. Brown: First off, they took, was it 75,000 from us and then last year they took another 25,000? That is what I mean, that is what I am asking you.

Commissioner Jenkins: No, he made the statement it was cut in half and I am asking you.

Mr. Brown: If not half, it is so close to it, it is not even funny.

Commissioner Jenkins: No.

Mr. Brown: How many trout was cut from it?

Commissioner Jenkins: About 20%.

Mr. Brown: All right, was that biologically done sound?

Commissioner Jenkins: Yes sir.

Mr. Brown: What was your proof?

Commissioner Jenkins: I am not here to answer the questions, but ...

Commissioner Mialjevich: We are getting off the gill net thing here fellows.

Deputy Secretary Kimball: I think we have one more person from Region 5 that wants to ...

Commissioner Mialjevich: Thank you, thank you very much for that information.

Deputy Secretary Kimball: Yes, thank you.

Commissioner Mialjevich: Randy wants to put out a questionnaire, send him a copy of this, he will have some excellent reading. You know, after this lady, maybe the representative from the Natural Resources, what is his name, Mr. Wade Adams might have a statement about what we might be able to do in Baton Rouge, if they have anything.

Ms. Mary Poe: I'm Mary Poe, I live in Cameron Parish, I own and operate a charter boat ... in that area.

Commissioner Mialjevich: The last name again, the last name again?

Ms. Poe: Poe, P-o-e.

Commissioner Mialjevich: Thank you ma'am.

Ms. Poe: I will give you a little scenario how all this got started and then you may want to point the finger at some of your folks out there. On July 14 ...

(An Unidentified Speaker): Can I ask a question?

Deputy Secretary Kimball: Well, let her finish with ...

Commissioner Mialjevich: We are going to have a little discussion.

Deputy Secretary Kimball: As long as we are sticking to the gill net problem.

Ms. Poe: On July 14th, there was a gill netter off Commissary Point who the first morning we saw him, which was on Thursday had killed like 35 to 40 redfish and they were floating belly up all over Commissary Point. And, Wildlife and Fisheries got a call that afternoon late, the next day we went out there, this same gill netter was out there, we saw 45 to 50 dead floating redfish. Wildlife and Fisheries was called again. We were also videoing him this whole entire time and this man left his gill net unattended and went home each night. The day that he got the ticket a mother ship showed up after that and we actually saw him leave his nets. He did not stay with his nets. On Monday, 150 to 200 floating dead redfish showed up at Pelican Point, Commissary Point, Old Settlement. This is why the agents were called. They didn't go out there on Monday, they came on Saturday. I was checked just like ya'll were checked three different times on Saturday. I was also written up for a violation, so you are not the only ones out there getting written up. Everybody in my boat was checked, all of my fish were measured, my life jackets were taken out and observed, everything was checked on my boat. Just like you get checked, I got checked, only except I got checked three times that day. On Sunday, I did not get checked. On Monday, I got checked. On Tuesday, I got checked. Yesterday, I got checked. So, you are not the only ones getting checked out there and I am glad they are out there because they need to be and I appreciate them being out there because it is going to save somebody's life because this is getting way blown out of proportion and if anybody wants to see all of the dead redfish that are on these tapes, this is what one man did in a total of about ten days and this is why all of this has come about.

(An Unidentified Speaker): That is one person, that is not everybody.

Ms. Poe: There were four blue, two blue roller rigs and two other small boats that ran over my husband down at Nine Mile, down at Old Jettys and ya'll been putting your nets out there and killing trout, lots of trout and this doesn't make sports fishermen happy when they go out there. This doesn't make the sports fisherman real happy when they go out there.

Commissioner Mialjevich: Sir, keep the comments until you get to talk please. I asked ya'll that at the beginning to respect the speaker. They respected the other speakers, please respect the lady. Yes, yes, I would appreciate it.

Ms. Poe: This is, the reason why we are having the conflict down there is because a lot of dead, the dead floating redfish and the fact that, you know, they may be in attendance, you know, on their mother ships sleeping at night, but it is the fact that they are killing all these fish, they are not running their nets on a timely basis and the water is hot and everybody knows it. The next morning they are throwing, you know, dead fish out every where. And, you have a bunch of sports fishermen out there fishing right now and they see what is going on and they're calling Wildlife and Fisheries. And when we get on to Wildlife and Fisheries, Wildlife and Fisheries has to get on to someone else. And, they are checking everybody, they are not going out there and harassing just the commercial fisherman, you know. I am being checked, everybody is being checked out there. So, I would just like to say that, you know, the fact that the blue light and the thirty minutes they get, I think they are real lucky because the guys over east that are commercial fishermen don't get any blue light or thirty minutes and they don't have a judge and a district attorney that is as lenient as what we have. And, that is all I have.

Deputy Secretary Kimball: Okay, Ms. Poe, may I ask you one, you are saying that the problem you see with the gill nets is the by-catch sort of speak, the kill of the redfish.

Ms. Poe: They were leaving, I mean, on two occasions they were left unattended that I, you know, that I know of. I sat and watched.

Deputy Secretary Kimball: Well, I am sure we don't catch everybody. There's no way.

Ms. Poe: And, there is a lot more people aware of it on Calcasieu Lake. I mean they're calling us up saying I'm seeing dead floating redfish. I saw them yesterday afternoon, so I know there is not a lot you can do with them, you know, because it is by-catch. But when they catch six flounder and they have 40 dead redfish and they won't move off an area, you know.

Deputy Secretary Kimball: See, that is the problem, the dilemma that Enforcement Agents are faced with, with these, you know, these dead by-catch sort of speak. We can't write, if they are fishing legal, we can't write them anything on it, you see.

Ms. Poe: Well, you just think, you know, if they wanted to catch redfish some day, you know.

Deputy Secretary Kimball: And I think Randy Roach has indicated that that is one of the things they are going to be looking at as far as gill netting. Now what the legislature is going to do, I don't know.

Ms. Poe: Yes, it makes him look bad.

Deputy Secretary Kimball: Whatever they do, I hope it makes it easier on our guys out in the field too because a lot of times they are in a dilemma and they can't do what perhaps one individual would like to see done, you know or another individual would like to see done. And hopefully the legislature will

clarify that and make our job easier and be better for everyone concerned. They have a hard job.

Ms. Poe: I make a living just like they do, fishing every day. I mean I actually am a guide, I go out there and fish every single solitary day of the week just about, fish seven days a week and try to make my living that way too only except I use a rod and reel and I can discriminate whether I want to keep a 14 inch speckled trout. I can also release, you know, my less than 10 inch or a 10 inch speckled trout back to the water virtually unharmed if it is not gut hooked. I mean, we do have some that, you know, are going to float belly up.

Deputy Secretary Kimball: You always are going to have some that are going to die. I mean, I have been fishing all my life.

Ms. Poe: But the way they are going at it is, if they get on a spot and there is redfish there, they don't care how many they kill because they can't keep them. It is like it's not a value to them.

Deputy Secretary Kimball: We are getting off the subject and I don't think they want to kill anything just for the matter of killing. I really, and I don't think anybody on either side of this issue is for just killing, I really don't. But we are getting off the subject any way. But I appreciate your remarks and understand your concern as well as you can see the Enforcement's dilemma or problem as far as by-catch kill.

Ms. Poe: Well, I just want to say too, that they are not, I mean, they are not out there being targeted by Wildlife and Fisheries like I say, they are checking us just as much as they are checking everybody else.

Deputy Secretary Kimball: Well, they are instructed to check everybody regardless.

Commissioner Mialjevich: One question, I think what we heard from Mr. Brown is the real commercial fisherman doesn't want to catch and kill redfish needlessly nor wants to let fish die in his nets because he has no sale. It would be like me dragging my shrimp nets for 24 hours and pick up mush. What am I going to sell, mush? I want to sell a quality shrimp and I think that is the same dilemma with the real commercial fisherman wants to sell a quality fish. And, I applaud you and I would ask you to keep us your good work and if you do see these less than commercial fishermen that does have a license to kill going out there and going around the law and leaving his nets unattended, call, please call. Because I don't stand for that either because we have to share this resource equally between us. And, if you wipe it out or a commercial fisherman wipe it out or some chemical spill wipes it out, then nobody benefits. And, it is not that I am against you or anything and I don't want to come across like that, but what I am looking for is some kind of working arrangement where everybody can be half way happy and we save that resource because I don't want fish just dying in nets. Nobody wants that.

Ms. Poe: Well, nets, you know, nets do not discriminate. I mean there is no gill net.

Commissioner Mialjevich: Now, now audience, please, you can come up and make a statement audience.

Ms. Poe: There is no gill net now that is going to pick out a trout and a redfish.

Commissioner Mialjevich: No, no, you can come make a statement after. I thank you, ma'am very much.

Commissioner Jenkins: Mary, I would like to ask you a question.

Deputy Secretary Kimball: Go ahead, Mr. Jenkins, Then we got to move on, its twenty minutes to twelve.

Commissioner Mialjevich: Twenty minutes? All right.

Commissioner Jenkins: Mary, my understanding of one of the reasons we have an unattended net law, I think, is if the net were attended instead of unattended, the fish wouldn't be dying in the net because the fishermen could release the net, isn't that right, Tee John?

Commissioner Mialjevich: Right and that is what the commercial fisherman wants.

Commissioner Jenkins: So, you wouldn't be killing all those darn fish if the nets were being attended.

Ms. Poe: Correct.

Commissioner Jenkins: And Mr. Kimball, the problem is not the law but, you know, the way people abuse it. If they got all these redfish dying in the net and there was a man sitting there tending to his net releasing the fish that he didn't want to catch or shouldn't be catching, you wouldn't have this problem. So, I think that you know we are looking at wanton waste if people actually go out there and deliberately let those nets sit and don't attend them and kill all these fish. I mean it is not a by-catch, there should be no by-catch with an attended net. And, I guess my question to you Mary was, just to verify that, isn't it a fact that you know that's what happening out there, that these nets are sitting there unattended and the fish are collecting in them and dying and when the fisherman comes along ...

Ms. Poe: Yes, they are putting their nets out at dark and they are leaving them just the way they put them out until the next morning.

Commissioner Jenkins: Right, so it is unattended nets.

Ms. Poe: So, it is unattended as far as I am concerned.

Commissioner Jenkins: That is the problem. Thank you.

Commissioner Mialjevich: Thank you, thank you very much.

Deputy Secretary Kimball: Along those lines, Mr. Jenkins, I agree and that is part of the dilemma every one is in. In fact until the legislature makes some determinations as far as definitions other than they say immediate attended, but if they don't address the by-catch, which is coming. In fact we all know nets in general are coming up in the next session of the legislature, you can look for it. You can have one extreme to the other and you can imagine which extreme is going to be in the legislature, it is going to be to prohibit netting in Calcasieu Lake or maybe all inland waters, that is coming, I mean, everybody has been aware of that. And you are going to see a big push for that and one of the arguments is going to be, I call it a by-catch because if you are fishing legally you are not breaking the law and there is not a court in this state that is going to prosecute you on it. I mean they are telling you, the courts view a lot of things, they don't view it as commercial sports just like we as enforcing the law, we are not suppose to view it that way. But the big, the big question is going to be the guidance that we are going to get from legislation that is introduced and that goes for enforcement as well as fishermen in general. And that is going to be another battle which has been an on-going battle for quite a few years. And how it is going to come out, I don't know, but it is, you know, a lot of things would be easier on enforcement as well as the fishermen both sports and commercial if more diligence was taken on all accounts. Of course, we all are people and all people don't react the same way, they don't respond the same way. This thing, this meeting was called to address the conflict and problems of gill netting primarily in District 5. We had three people address this group from District 5 and all of them said they had no problem with Enforcement. They did have some questions about the interpretation et cetera, et cetera, no problems that we don't have as Enforcement people in this Department. The best thing I can see out of it is the fact that we are going to continue to enforce the laws as dictated to us by the legislature for everyone and do it to the best of our ability and we do want good relationship with the fishermen, sports as well as commercial. And our agents are educated and informed and directed to act accordingly because our people work for you. They work for the State, you are the State, you pay their salaries, we do owe you respect and we do have to protect the resources for you the people and that is the bottom line of enforcement. And, sure there is going to be some instances, we want to know about them, we want to know the incident, the name so we can look into it, anything. And, it should be that way with any organization, not only a state agency, not only the Division of Enforcement with this Department. Perhaps, you may belong to an organization whether its sports fishermen or commercial fishermen and you know some people and its out there, we all know that, you know some people who are outlawing. They are hurting you, perhaps you should come forth, go talk to the individuals or report them because you would be protecting yourself, your own livelihood that you are struggling to maintain as it is. I don't think everybody that is a commercial fisherman or a sport fisherman doesn't want to be fair, you know, a lot of people don't. Again, that is life. But the majority of the people are not out there to just violate the laws and they want to abolish and kill everything, I mean hell, then you are really out of work. So, we do our best and we appreciate the efforts and discussions that goes on and we like more of it and if you have a problem in the New Orleans area, or any region in this state, whether it's fishing, hunting, whatever, that is why we have regional offices, that is why we have Captains. If you have an agent or any that, I don't care what Department in this, what Division in this Department, whether it is in the Game Division, or Inland

Fisheries, if you have a problem, talk to somebody. We want to keep an open door policy and I am over Enforcement and I can tell you with full cooperation of the Colonel and all people in the Department, we want to maintain a line of communication with everybody and we will look into any wrong doing and if it is proven to be a wrong doing by one of our agents, we will take action. And that should go for the whole Department, all of the other Divisions because we work for you and we are concerned about the resource because that is what the whole fight is about. It is not about, I am a commercial fisherman, I am a sports fisherman, that is secondary. It is about the resource because they are not a sports fisherman, you are not a commercial fisherman, if you have no fish. You know, we all got common sense, we all know that. A lot of times we all lose sight of it, but any way that is the bottom line that I have to say. You want to add something else?

(An Unidentified Speaker): No, just coming back with this lady who said, I kind of take a little exception because the magic word they. I got lumped into the they and I don't appreciate it. I am not an outlaw, I do not kill redfish on purpose, I do not waste them. My father taught me don't waste a thing. And, I do not like being lumped with people, the same way as I don't think you would be appreciate to lump with recreational fishermen who go sell fish on the side and put the money in their pocket.

Deputy Secretary Kimball: Okay, that is, that is counteracts.

Commissioner Mialjevich: That is a statement. Okay, anybody else that didn't make a statement wants to make a statement. I know they had some rumbling in the crowd a while ago and I promised we would keep some kind of order. Anybody has an additional statement because myself I haven't heard any solution to how it is going to be enforced yet. Okay, good enough. Okay, Mr. Brown?

Mr. Brown: The way, the way that law is written, I don't really think the way they are enforcing this law was according to the letter of the law. They said that that man can't be located in the immediate area. (Mr. Brown was asked to raise the microphone.) I am sorry. The way that law is written there, it says it can't be located in the immediate area, now what does that mean. It means I am fishing in Calcasieu Lake, I am not getting drunk down in New Orleans somewhere. I am in the lake and you know where I am at, I got my mast light on, I got I am in my boat, if I am not in the water, I am in my boat and I can be located. And one more thing I want to bring up, Mr. Collins and I was talking about it yesterday, we've got a new piece of webbing that we are fishing that won't catch redfish. It will catch the drum and it will catch the flounder and it will catch the marketable fish that we have, but a redfish is a real strong swimming fish and it absolutely won't hold it. This might be a solution to this problem. I think there might be some way or another to reward a fisherman if he does fish this type of webbing to eliminate the problem or whatever. And, I would be glad at any time to sit down and talk to anybody that wants to talk about it. But if we are not going to reach a, if we have reached the point of impasse, it don't make no sense the way we talk to each other. That is kind of a bad way to be.

Commissioner Mialjevich: Right. I am hoping this is going to set the stage to start some talking again with level headed people.

Mr. LeJeune: I would like to say again.

Commissioner Mialjevich: Identify yourself again.

Mr. LeJeune: Eddie LeJeune from Cameron. On about the net, we've been experimenting, I guess you could say, highly costly as it is, we can't afford much, but we have found some webbing that does discriminate redfish and Mr. Collins, he was an eyewitness to this, and if there is some way we can work out maybe something about the unattended (?) with this new webbing, it discriminates like I said to where maybe something could be worked up to where we could leave at night and go back to our families because this webbing does not seem to kill as many redfish, maybe one and maybe there could be something worked out with this. The agents have been doing an excellent job in patrolling. I have been checked quite often and they've been doing a great job as far as making sure everything is right. I just, if we could form something and get it resolved on some of this we would appreciate it or the help of the agents in helping us out.

Deputy Secretary Kimball: Well believe me, as agents we would like to resolve it too because we, like I say, we have to enforce what the legislature gives to us and as I know and everyone here knows that it has been an on-going fight in the legislature for quite a number of years. The redfish issue and the nets, etc. and hopefully Randy Roach and Sam Theriot and perhaps you should approach Randy about this new netting or something to that effect. You know that takes legislation too as far as, and also, have you showed anybody in the saltwater fisheries department. Do they know about this new netting ya'll are experimenting with or whatever?

Mr. LeJeune: No.

Deputy Secretary Kimball: You should approach them too, make them aware of it because they could make a determination and recommendation as far as to the usefulness.

Mr. LeJeune: That is, we are hoping that maybe the agency can help us out on this in the right context to do this.

Deputy Secretary Kimball: Well, we would be glad to if you want to get with me or whoever has it, we can put you with someone, someone within the Department to, like I said, to show them the netting, etc. I don't know anything about it, this is the first I have heard about it. But, perhaps someone in saltwater fisheries, Corky Perret's shop, would be willing to look at it. They may already be aware of it, I am just not aware of it.

Mr. LeJeune: Okay, thank you.

Deputy Secretary Kimball: Thank you, sir. Tee John?

Commissioner Mialjevich: We've got one more and then I think we are running out of time. So, please.

Mr. Bourge: My name is Jim Bourge, I'm from Abbeville. We kind of got a little off base here on some of the things that were said. I don't think there

is really any animosity between the commercial fishermen that heavily versus the Enforcement agents as made to believe. But believe it or not, you said earlier, you made the statement that you wish some of the people down in Region 5, Calcasieu - Cameron area could have showed up. I've talked to several of them personally, believe it or not, they are so intimidated they are scared to show up. They said, the minute I get up to that podium and this is a true belief that they have, now whether it is, whoever's fault, I don't know. But they are scared. The minute they get up here to this podium and identify themselves, they are making themselves targets for harassment by Enforcement agents. I am not saying it is going to happen, I am not accusing ya'll it's going to happen, but that is the perception that they have.

(An Unidentified Speaker): Who are they?

Mr. Bourge: I will get with you the names.

Deputy Secretary Kimball: Jim, would you do this then. We would like to know.

Commissioner Mialjevich: Please do, me too.

Deputy Secretary Kimball: But, it may not be something, a lot of people are just scared to appear in public anyway.

Commissioner Mialjevich: Or just afraid to talk.

Deputy Secretary Kimball: Or just afraid to talk. Why don't you tell those people who tell you that to go to Lake Charles, Captain Chad Manuel's office. No, don't go tomorrow, it would be next week.

Commissioner Mialjevich: I thought it was this Friday.

Deputy Secretary Kimball: The Agents Association is having their Convention starting tomorrow.

Commissioner Mialjevich: But isn't tomorrow where we have the Open Door Policy?

Deputy Secretary Kimball: Right.

Commissioner Mialjevich: Great timing, huh?

Mr. Bourge: I just wanted to bring that point across.

Commissioner Mialjevich: It is not to be ugly, it is just ...

Deputy Secretary Kimball: But anyway.

Mr. Bourge: Like I said it is just a point that I wanted to bring across.

Deputy Secretary Kimball: Yes, if they have a problem and if they are too timid to talk to him, tell them to come see me. They can talk to me.

Mr. Bourge: Okay.

Commissioner Mialjevich: They surely can't be timid talking to me.

Mr. Bourge: But like I said, it is just something I thought I should come back up here and bring mention of.

Deputy Secretary Kimball: But we don't want here say, I want proof, names, ... if they are going to accuse somebody, anybody in this Department not only Enforcement, I want to know who and give me an example and I will look into it and get to the bottom of it one way or another. Because like I said hearing one side of the story I don't hunt to that.

Commissioner Mialjevich: Names, times, places, everything.

Mr. Bourge: Yes, you have to go on both sides.

Deputy Secretary Kimball: Right and I can't do it without knowing who is in involved, who is pointing the finger and who they are pointing the finger at. That is no problem, we can handle that, we handle it every day.

Mr. Bourge: That is one of the reasons that I had come back up.

Commissioner Mialjevich: Is that it, Jim? Thank you Jim. I would like to thank everybody for coming and I would like to thank them. Now are we going to get some kind of, I don't know what you call it, I don't know whether to call it a ruling or something on how they are going to do the enforcing of the gill nets today or tomorrow or something. What is going to go from here, Mr. Kimball?

(An Unidentified Speaker): ... do it today so we can start enforcing it when I get back at 2:00.

Deputy Secretary Kimball: Well, if I'm here and this is what the meeting was called for and if I am going to make the judgement according, after discussing it with both of our attorneys yesterday afternoon, this is the bottom line, there is no more thirty minutes time, it is immediate. I don't know if that is what you wanted, Tee, but that is the law.

(An Unidentified Speaker): ... immediate contact, if a guy is in a boat and he sees I am working a net on the other side, he immediately knows who I am if my name is on that net.

Deputy Secretary Kimball: If he sees you there on your nets, you are attending your nets.

Mr. Gerica: Not necessarily. Somebody needs to talk to Sandy Dares.

Deputy Secretary Kimball: Well, we are going to issue a thing, I mean, this whole meeting was called about this. That is what Tee John wanted and he just asked for clarification. Clarification is I can not or the lawyers can not go against what the law states. Now if a D.A. or judge wants to interpret it differently, that is his prerogative, we have nothing to do with it. But if we

have to, I mean, you know, as a we thought was a level of tolerance with the thirty minutes, that is not following the letter of the law and that is what Tee John wanted to know, a yes or no, and the only I can do it is give him a straight answer, yes, we will enforce it by the letter of the law.

(An Unidentified Speaker): This is statewide, Mr. Kimball?

Deputy Secretary Kimball: Statewide, from Enforcement standpoint. Now what the judicial system does with it, how they interpret it, how they are going to act, that is their prerogative.

(An Unidentified Speaker): Good, there will be no questions now.

Commissioner Mialjevich: Nope, that is it. That is the best.

END OF MEETING.

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