

Friends of Merrymeeting Bay

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GROUPS SUE MAINE HYDRO DAM OWNERS, SEEKING PROTECTIONS FOR ENDANGERED ATLANTIC SALMON

Lawsuits Under Endangered Species Act And Clean Water Act Claim Turbines Kill Salmon, Dams Block Migration

Kennebec and Androscoggin River Dams at Issue

PORTLAND AND BANGOR, MAINE: Two conservation groups, Friends of Merrymeeting Bay and Environment Maine, in an effort to protect the nearly-extinct Atlantic salmon populations of the Kennebec and Androscoggin Rivers in Maine, filed lawsuits on January 31, 2011 against multiple dam owners and operators on the rivers, claiming they are violating the federal Endangered Species Act (ESA) and Clean Water Act (CWA). The salmon populations in both rivers are on the Endangered Species List and are due full protection under the ESA. The suits were filed in United States District Court in Portland and Bangor.

“Unless dam owners stop stalling on basic salmon protection measures, the clock will strike midnight for the remaining Atlantic salmon in the Kennebec and Androscoggin rivers,” said Ed Friedman, Chair of Friends of Merrymeeting Bay. “As an immediate first step, owners must prevent salmon from swimming into spinning turbine blades,” he added.

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The groups claim dams on the Kennebec and Androscoggin Rivers: kill and injure migrating salmon when they attempt to pass through the dams' rotating turbine blades; impede upstream and downstream salmon passage, which prevents salmon from gaining access to significant amounts of spawning and rearing habitat; and alter the natural habitat to such a degree that the essential behavior patterns of the fish are significantly impaired.

"These dams are pushing an iconic Maine fish to the brink of extinction. With the number of Atlantic salmon perilously low, the need for action to protect the fish and their habitat is urgent," said Emily Figdor, director of Environment Maine.

There are almost no Atlantic salmon returning to the Kennebec and Androscoggin Rivers, where runs historically reached 100,000 or more. In 2010, five adult salmon returned to the Kennebec and 10 returned to the Androscoggin.

Douglas Watts, President of Friends of Kennebec Salmon, a FOMB member, and long time advocate for Atlantic salmon restoration, said, "Forty years ago there were no bald eagles in this part of Maine. Now there are hundreds. Atlantic salmon recovery can't begin until the dam owners stop killing them."

The ESA authorizes citizens to sue those who kill, harm, or harass (known as a "take" under the ESA) an endangered species. Suits to enforce the ESA were filed against: NextEra Energy Resources, Inc., and affiliated entities for violations at Weston, Shawmut, and Lockwood dams on the Kennebec River and Brunswick dam on the Androscoggin River; Brookfield Renewable Power, Inc., and an affiliate for violations at Hydro Kennebec dam on the Kennebec River; the Merimil Limited Partnership for violations at Lockwood dam; Miller Hydro Group for violations at Worumbo dam on the Androscoggin; and Topsham Hydro Partners Limited Partnership for violations at Pejepscot dam on the Androscoggin.

The groups charge that dam owners have hindered salmon recovery by refusing to implement simple protection measures – such as installing effective devices to divert salmon from turbines – that have been adopted elsewhere.

The Complaints filed in the cases cite the findings by the National Marine Fisheries Service and U.S. Fish and Wildlife Service that dams "are among the leading causes of both historical declines and contemporary low abundance" of Kennebec and Androscoggin salmon, and that "dams remain a direct and significant threat to Atlantic salmon."

The groups also allege that the owners and operators of Weston and Shawmut dams (NextEra and affiliates), Lockwood dam (NextEra and Merimil), and Hydro Kennebec dam (Brookfield and an affiliate) are violating “water quality certifications” issued by the State of Maine under the Clean Water Act by allowing downstream-migrating adult salmon and adult shad to pass through the turbines of the dams without having first conducted studies to prove that such passage is safe.

Friends of Merrymeeting Bay is a non-profit organization dedicated to preserving the ecological, aesthetic, biological, and commercial values of Merrymeeting Bay and its watershed through research, advocacy, education and land conservation. FOMB has over 400 members.

Environment Maine is a citizen-based environmental advocacy organization with more than 5,000 members and activists that works to preserve Maine’s open spaces, protect clean air and water, and move the state toward a clean energy future.

The groups are represented by David A. Nicholas of Newton, Massachusetts; Joshua R. Kratka and Charles C. Caldart of the National Environmental Law Center; and Bruce M. Merrill, of Portland, Maine.