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Lawsuits seek to protect salmon from dams

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BOWDOINHAM — Two Maine conservation groups filed lawsuits Monday against dam owners and operators on the Androscoggin and Kennebec rivers alleging violations of federal law by killing Atlantic salmon with rotating turbine blades.

The lawsuits filed in federal courts in Portland and Bangor assert that dam owners are violating the federal Endangered Species and Clean Water acts.

The Atlantic salmon are on the Endangered Species List and are due full protection under the ESA, Ed Friedman, chairman of Friends of Merrymeeting Bay, said Tuesday in Bowdoinham.

“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,” Friedman said.

Suits by Friends and Environment Maine to enforce the ESA were filed against:

- * NextEra Energy Resources Inc., and affiliated entities for violations at Brunswick Dam on the Androscoggin River and Weston, Shawmut and Lockwood dams on the Kennebec River. NextEra is formerly Florida Power and Light.
- * Topsham Hydro Partners Limited Partnership for violations at Pejepscot dam on the Androscoggin.
- * Miller Hydro Group Inc. for violations at Worumbo dam on the Androscoggin in Lisbon Falls.
- * Brookfield Renewable Power Inc., and an affiliate for violations at Hydro Kennebec dam on the Kennebec River.
- * and the Merimil Limited Partnership for violations at Lockwood dam.

Of those who could be contacted, Steve Stengel of NextEra and Julie Smith-Galvin of Brookfield Power declined comment on Tuesday via e-mail.

“We have not seen the lawsuit, therefore we have no comment at this time,” Stengel said.

“We’re in the process of reviewing it and have no comment at this time,” Smith-Galvin said.

The ESA authorizes citizens to sue those who kill, harm, or harass an endangered species.

The groups charge that these dam owners have hindered salmon recovery by refusing to implement simple protective measures adopted elsewhere, like installing effective devices to divert salmon from swimming into spinning turbines.

They claim that these dams:

- * 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 essential behavior patterns of the fish are significantly impaired.

"Miller and Topsham are kind of the two smaller players here, but FPL, they're obviously a multi-billion-dollar company, and Brookfield is ... a multi-billion dollar energy/holding company," Friedman said.

"These guys could afford to do what we're asking and what they should do, out of chump change."

Friedman said fish lifts or elevators have been installed at the Worumbo and Pejepscot dams, and a fish ladder at the Brunswick-Topsham dam.

But that isn't enough, he said. Last year, only 20 adult salmon returned to the Androscoggin; another five salmon returned to the Kennebec.

The suits, he said, were a last resort.

"We've tried talking to these companies, and we've gone through administrative regulatory channels as well, and what happens is they just keep on delaying," he said.

Currently, to take or kill threatened or endangered species, Friedman said dam owners and operators can apply for an incidental take permit (ITP) from the U.S. Fish and Wildlife and National Marine Fisheries services. However, attempts to mitigate that mortality must also be made.

"So the problem with that is it's an applicant-driven process. There's no time lines on it," Friedman said.

"So it's whenever Florida Power and Light or NextEra get around to getting their application filed, and there are two choices they can take and they're taking the longer one.

"So they're looking at a three-year process, and our point is, meanwhile, the Endangered Species Act says you can't kill these fish without interim protection, so until you get your ITP, you're violating the law."

"And what we're saying is, 'You can't do that. It's against the law,'" he said.

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