

FEDERAL COURT

Posted: February 2

Updated: Today at 9:14 PM

## [Groups sue on behalf of Atlantic salmon](#)

### **Friends of Merrymeeting Bay and Environment Maine go to court**

By [Scott Monroesmonroe@mainetoday.com](mailto:Scott.Monroesmonroe@mainetoday.com)

Staff Writer

Environmental advocates have made good on a pledge to go after the owners of local dams in order to protect the endangered Atlantic salmon.

The following dams and their owners are named in the lawsuit filed by Maine environmental groups:

\* Weston Dam in Skowhegan, Shawmut Dam in Fairfield, and Lockwood Dam in Waterville, on the Kennebec River; and the Brunswick Dam on the Androscoggin River are owned by NextEra Energy Resources, Inc., and affiliated entities. The Merimil Limited Partnership is also accused of violations at Lockwood Dam.

\* Hydro Kennebec Dam in Winslow is owned by Brookfield Renewable Power, Inc., and an affiliate.

\* Worumbo Dam on the Androscoggin River in Lisbon Falls is owned by Miller Hydro Group.

\* Pejepscoot Dam on the Androscoggin River in TopshamTopsham is owned by Hydro Partners Limited Partnership.

Friends of Merrymeeting Bay and Environment Maine said Tuesday they had filed lawsuits in U.S. District Court in Portland, claiming the dam owners are violating the federal Endangered Species Act and Clean Water Act by not providing the salmon with safe passage.

The lawsuits, which were filed Monday against each dam owner, name four dams on the Kennebec River: the Weston Dam in Skowhegan, Shawmut Dam in Fairfield, Lockwood Dam in Waterville, and Hydro Kennebec Dam in Winslow.

An attorney representing the groups says it's the first lawsuit of its kind nationally that goes after private companies, and not the government, to protect the fish.

"We're at a situation where there's little time left; these dams are pushing an iconic Maine fish to the brink of extinction," said Emily Figdor, director of Environment Maine. "It's too bad we have to sue the dam owners to act, but they're breaking the law and we need to stop killing the

salmon."

Of the four dams named in the suit, NextEra Energy owns dams in Skowhegan, Fairfield and Waterville, while Brookfield Renewable Power, Inc., and an affiliate owns the dam in Winslow.

NextEra spokesman Steve Stengel said Tuesday that company officials "have not seen the lawsuit and therefore have no comment at this time."

On Tuesday, Julie Smith-Galvin, spokeswoman for Brookfield Renewable Power, said "We are reviewing the filing and have no comment at this time."

The lawsuits were expected. Last July, the Bowdoinham-based Friends of Merrymeeting Bay and Douglas Watts, president of Friends of Kennebec Salmon, announced the plan to file lawsuits unless the dam owners took action to protect Atlantic salmon in the Kennebec River.

With the addition of the group Environment Maine to the cause, several dams on the Androscoggin River were also added to the list. The group is part of Environment America, a federation of advocacy organizations across the country.

The river's salmon, declared an endangered species in 2009 by the federal government, are being sliced up and killed as they pass through turbine blades at the dams, the plaintiffs contend. They suggest the installation of "basic" protective measures to prevent the migrating fish from swimming into the spinning turbine blades.

"The easiest way to do that is to install iron gates across from where the water comes down, so it physically keeps the fish swimming through them, and allow them to go through a bypass channel to go over the top of the dam," Watts said.

The groups, in a statement, say the dam owners have declined to install "simple protection measures -- such as installing effective devices to divert salmon from turbines -- that have been adopted elsewhere."

Also cited in the lawsuits are claims that the dam owners 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 conducted studies to prove such passages are safe.

The Kennebec River was home to 100,000 Atlantic salmon before dams were installed in the early 19th century, Watts said, but now the fish are in danger of extinction.

In 2010, five adult salmon returned to the Kennebec and 10 returned to the Androscoggin, according to the environmental groups.

The lawsuits say that the salmon populations in the Kennebec and Androscoggin rivers are protected under the Endangered Species Act. By hampering the salmon's passage, the dams are also preventing them access to "significant amounts of spawning and rearing habitat" and altering their natural habitat "to such a degree that the essential behavior patterns of the fish are significantly impaired," the groups claim.

The federal act allows citizens to sue those who "take" -- meaning kill, harm, or harass -- an

endangered species, according to attorney David Nicholas, who represents the groups. He said the lawsuits are "the first cases to be brought against anyone for a take of Atlantic salmon, that isn't against the government but private entities."

"We're looking for a court ruling that the companies are in violation of the Endangered Species Act and the Clean Water Act, and we're looking for a court injunction to order the companies to comply with the 'take' prohibition in the Endangered Species Act," Nicholas said.

Nicholas said no further hearing dates had been set yet; the next step is for the defendants to file responses, he said.

"We're hoping the judge will say, 'We know when salmon go through the turbines they're probably going to get killed and you need to keep them out of your turbines,'" Watts said. "So, we're hoping the judge will say, 'That's a reasonable solution and you should do it.'"

Scott Monroe -- 861-9239

smonroe@centralmaine.com

**Were you interviewed for this story? If so, please fill out our [accuracy form](#)**

**[Send Question/Comment to the Publisher](#)**

Recommend

Sign Up to see what your friends recommend.

[Tweet](#)<

**Find this article at:**

[http://www.kjonline.com/news/groups-sue-on-behalf-of-atlantic-salmon\\_2011-02-01.html](http://www.kjonline.com/news/groups-sue-on-behalf-of-atlantic-salmon_2011-02-01.html)

Check the box to include the list of links referenced in the article.