

Friends of Merrymeeting Bay

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Friends of Merrymeeting Bay Announces Intent to Sue Departments of Commerce and Interior on Long-Overdue Kennebec Salmon Listing

“Atlantic Salmon, like so many species in and around the Gulf of Maine, are literally dying for attention” said Ed Friedman, chairman of Friends of Merrymeeting Bay [FOMB]. The Friends announced today their intent to sue U.S. Fish and Wildlife Service and NOAA Fisheries [formerly the National Marine Fisheries Service] for a violation of the Endangered Species Act [ESA]. Joining FOMB in the official notice to the federal agencies are the Maine Toxics Action Coalition [MTAC] and the Center for Biological Diversity [CBD].

“We are fighting to save a species long heralded in this state for its place in our environment, ecological network and certainly our economic base,” said Kathleen McGee, director of MTAC. “State and federal resource agencies abdicated their responsibility to protect these magnificent animals when listing them only on a few small Maine rivers with little or no political obstacles and ignoring them on rivers where they used to team in numbers uncountable. Today we can count on one hand how many salmon go up the Kennebec”, added McGee.

On May 11, 2005, Friends of Merrymeeting Bay, the Maine Toxics Action Coalition and Douglas Watts filed a petition to list the population of Atlantic salmon (*Salmo salar*) in Maine’s Kennebec River as endangered under the ESA. In response to the petition, on November 14, 2006, NOAA Fisheries issued a *90-day finding* that “the petition presents substantial scientific information indicating that the petitioned action may be warranted.” It has been more than two and a half years since filing of the petition and more than a year since the 90-day finding. The Services still have not made a final determination on the original petition. Failure to make a final determination on the petition within 12 months of its submission is a violation of the ESA.

In the interim, the Services completed a Status Review of the Gulf of Maine population of Atlantic salmon. The review, authored by a Biological Review Team [BRT] is a peer reviewed document that echoes strongly the concerns of the petitioners for the fate of Atlantic salmon not just in the Kennebec but in the Androscoggin and Penobscot Rivers

as well. When protective actions went into effect several years ago on some of Maine's smaller rivers, fish on the large rivers were inexplicably excluded from ESA protection. Many think the salmon are protected throughout their range by the ESA, but they are not.

"But for the state of the species, we could not be happier with the Status Review conclusions" said Ed Friedman, chairman of FOMB. "The review confirms our concerns that these once prolific fish are on the verge of extinction and they deserve protection on Maine's large rivers as well." "The review also strongly incriminates hydroelectric turbines as a major cause of mortality for out-migrating fish, something FOMB has been litigating over for several years", he added.

The groups filed their official 60-day notice pursuant to the citizen suit requirement of the ESA and are represented by attorney David Nicholas who also represents FOMB in their efforts to provide safe and effective passage at dams for eels and other migratory fish. Watts filed a similar letter January 18th.

Mike Senatore, an attorney with the Center for Biological Diversity noted: "Making a final determination on listing the Kennebec Atlantic salmon will not require a significant commitment of resources from the Services. A Biological Review Team has already written a Status Review, which supports listing the Kennebec Atlantic salmon. Any further delay is biologically and legally unjustified."

"It is fitting around President's Day to remember that in the days of our Founding Fathers, the Kennebec and other Maine Rivers overflowed with Atlantic salmon and other migratory fish species." remarked David Nicholas, "We can only hope our efforts today are not too late."

Friends of Merrymeeting Bay is a non-profit organization dedicated to preserving the ecological, aesthetic, historical, recreational and commercial values of Maine's Merrymeeting Bay and its watershed, which includes the Kennebec and Androscoggin Rivers. The salmon petition and status review may be found in the legal documents section of the "cybrary" on the FOMB web site at www.friendsofmerrymeetingbay.org. The Center for Biological Diversity is a national non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center and its members are concerned with the conservation of endangered species, including the Atlantic salmon, and the effective implementation of the Endangered Species Act. The Center has recently opened an office in Vermont which will focus on northeast biodiversity and public lands issues. The Maine Toxics Action Coalition conducts and distributes research, studies and analysis relating to environmental, economic and social justice issues and develops policy solutions, proposals and educational materials which address above issues included but not limited to: air, water, toxics and wildlife.

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