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Lawsuit claims dams harm endangered salmon

Tuesday February 1st, 2011
Kevin Miller
Bangor Daily News
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AUGUSTA, Maine — Conservation groups filed a lawsuit in federal court Monday against the owners of several dams on the Kennebec and Androscoggin rivers, claiming the companies were violating the Endangered Species Act by failing to protect Atlantic salmon.

The lawsuits, filed in federal courts in Portland and Bangor by Friends of Merrymeeting Bay and Environment Maine, claim that endangered Atlantic salmon are being harmed or killed in the turbines of seven dams on the two rivers.

Additionally, the lawsuits contend the dams impede salmon migration and alter habitat needed by the once-abundant fish. The result is salmon populations at "perilously low levels," according to the lawsuits.

The plaintiffs want the court to find the companies in violation of the Endangered Species Act and to order them to take unspecified steps to avoid harming or killing salmon.

The corporations targeted by the lawsuit are Brookfield Renewable Power, NextEra Energy Resources, Merimil Ltd. Partnership, Miller Hydro Group and Topsham Hydro Partners. Those corporations operate the Weston, Shawmut, Lockwood and Hydro Kennebec dams on the Kennebec River and the Brunswick, Worumbo and Pejepscot dams on the Androscoggin River.

Representatives for Brookfield Renewable Power and NextEra declined to comment Monday evening because they had not yet seen the lawsuits.

In June 2009, the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration announced that Atlantic salmon populations in the Kennebec, Androscoggin and Penobscot rivers would be protected as endangered species.

Such a designation prohibits salmon from being harassed, injured or killed. But companies or even government agencies can apply for special permits or statements from the federal government to shield themselves from liability.

To date, none of the dam owners have received such permits. "Until they get those permits, they are all violating the law because they are killing fish, and the Endangered Species Act says you can't do that," said Ed Friedman, chairman of the Friends of Merrymeeting Bay.

In recent years, nearly 1,000 or more adult Atlantic salmon have returned to the Penobscot annually to spawn. In addition, salmon advocates hope populations of the fish will rebound upon completion of a massive river restoration project involving the removal of two Penobscot dams and construction of a new fish bypass around a third.

But returns on the Kennebec and Androscoggin rivers have been virtually nonexistent.

Just five salmon were counted returning to the Kennebec last year and nine to the Androscoggin, according to trap count numbers from the Department of Marine Resources.

Friedman pointed out that it was members of his group and the Friends of Kennebec Salmon that filed the lawsuit that forced the federal agencies to review the status of salmon in the three large rivers. Now, those groups are having to turn to the courts again to force dam owners to comply with the Endangered Species Act, he said.

Friedman said the dam owners could take a number of steps to avoid harming salmon, ranging from shutting down turbines during salmon migration — an unlikely scenario, given the length of the spawning season — to installing screens over turbines.

"Salmon aren't on the same timetable as the [federal] services or the dam owners," he said.

The lawsuits come at a time of heightened political tension between environmentalists and business interests. Gov. Paul LePage and likely members of his administration have said environmental regulations are stymieing business growth.

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