



Conservation Council of New Brunswick  
Conseil de conservation du Nouveau-Brunswick  
[www.conservationcouncil.ca](http://www.conservationcouncil.ca)

February 2, 2012

Roger Fleming  
1625 Massachusetts Avenue, NW  
Suite 702  
Washington, DC 20036

Dear Mr. Fleming:

Please find enclosed a letter I sent yesterday to Judge Torresen regarding the Friends of Merrymeeting Bay v. Olsen case. I have advised the Judge that you have received a copy.

Sincerely,

Matthew Abbott  
Fundy Baykeeper





Conservation Council of New Brunswick  
Conseil de conservation du Nouveau-Brunswick  
[www.conservationscouncil.ca](http://www.conservationscouncil.ca)

February 1, 2012

Judge Nancy Torresen  
Edward T. Gignoux United States Courthouse  
156 Federal Street  
Portland, Maine 04101

Dear Judge Torresen:

We are writing you in regards to the Friends of Merrymeeting Bay v. Olsen case that sits before you now. We realize that a letter directly to the court is unconventional. However, our organization takes great interest in the case before you, indeed have been following and speaking out on this issue for over a decade, and would like to express our interest in the case. We would also like to advise that, should the case go forward, we will submit an amicus curiae brief to the court.

As you know, the St Croix River forms part of the Canada – U.S.A. border between New Brunswick and Maine. It has been a source of consternation for Canadians that the State of Maine has unilaterally denied passage of alewife to waters that are shared between the two countries. We believe that the extirpation of alewives from approximately 98% of their spawning habitat in the St Croix River has diminished the quality of the St Croix watershed, and indeed the broader Bay of Fundy / Gulf of Maine system. It has prevented the production of significant numbers of a species that plays a keystone role in the ecosystem.

We would like to echo the plaintiffs in emphasizing the ecological, economic, historical, and cultural importance of the alewife in the Gulf of Maine and Bay of Fundy System. Travelling in large schools, alewives serve as feed stock for groundfish, such as cod,<sup>1</sup> various pelagic fish species, and fish-eating birds.<sup>2</sup> They also serve as cover from prey for spawning salmon and salmon fry; an important function given the severely depleted wild Atlantic Salmon populations.<sup>3</sup> Alewife also provide marine derived nutrients to the river system through their excreted materials, eggs,<sup>4</sup> and carcasses.<sup>4</sup>

The alewife is the only known host for the freshwater mussel *Anodonta implicata* (alewife floater).<sup>5</sup> The alewife floater will not be able to populate areas blocked to alewife, such that to block the alewife from the St. Croix watershed is also to block the alewife floater, and the important ecological role they play, such as filtering freshwater ecosystems, storing nutrients and minerals in their shells and tissues, and serving as food for a variety of aquatic species.<sup>6</sup> The variety and scope of the ecological role played by the alewife led the International St. Croix River Watershed Board to identify the alewife “as one of its major environmental health indicators”<sup>7</sup> in the St. Croix River.<sup>8</sup>

Given this important ecological role, it is clear to us that the extirpation of alewives has led to diminished water quality in the St Croix River. The yearly alewife migration is a critical phase in the ecology of the river, and without the spawning migration nutrient flows, filtering functions of the alewife floater, and the nutritional needs of alewife predators the quality of the river is diminished.



OF ENVIRONMENTAL LEADERSHIP  
DE LEADERSHIP ENVIRONNEMENTAL

180 rue St. John Street, Fredericton, N.B. Canada E3B 4A9  
Tel: 506.438.8747 Fax: 506.438.1047 Email: [info@conservationcouncil.ca](mailto:info@conservationcouncil.ca)



2012-02-01  
10:48 AM EST



Conservation Council of New Brunswick  
Conseil de conservation du Nouveau-Brunswick  
[www.conservationcouncil.ca](http://www.conservationcouncil.ca)

While being a critical part of St. Croix and Passamaquoddy ecosystems, alewives also serve important part of the commercial fishing industry. Alewife are important to those who gather them both as food and lobster bait. They are commercially marketed as pet food and fertilizer,<sup>9</sup> as well as for other purposes. The loss of significant numbers of alewife, due to the State of Maine's law banning alewife from the river, has prevented Canadian and United States citizens from engaging in the economic activity associated with healthy alewife runs.

The Conservation Council of New Brunswick has a long history of conducting research and engaging in policy discussions regarding human impacts on the marine environment and coastal fisheries. Beginning in 2003, the Fundy Baykeeper, a program of the Conservation Council, has maintained an active patrol in the waters off South West New Brunswick (including the lower reaches of the St Croix River), and tracks the environmental impact of a number of human activities. Our past activities include the establishment of the Musquash Estuary, the last intact estuary in the Gulf of Maine, as the regions first Marine Protected Area; extensive research examining the impact of nutrient pollution from salmon aquaculture and other sources on the coastal environment; an ongoing and already successful campaign to curb industrial marine debris in the Bay of Fundy and; a project to identify, assess and remediate or remove tidal barriers.

We will close by reasserting the importance of this case to us as an organization committed to fostering a healthy and resilient Gulf of Maine / Bay of Fundy. We see the forced extirpation of alewives from the St Croix River to have a significant negative impact on the ecosystems and coastal citizen's who rely on this keystone species.

Sincerely,

David Coon  
Executive Director

Matthew Abbott  
Fundy Baykeeper

40 years  
OF ENVIRONMENTAL LEADERSHIP  
DE LEADERSHIP ENVIRONNEMENTAL

180 rue St. John Street, Fredericton, N.B., Canada E3B 4A9  
Tel: 506.459.3747 Fax: 506.459.1047 E-mail: [info@conservationcouncil.ca](mailto:info@conservationcouncil.ca)



United Nations  
International Year of Freshwater



Conservation Council of New Brunswick  
Conseil de conservation *du* Nouveau-Brunswick  
[www.conservationscouncil.ca](http://www.conservationscouncil.ca)

<sup>1</sup> Adrian Jordaan, Carolyn Hall and Michael Frisk, *Is the recovery of cod (Gadus morhua) along the Maine coast limited by reduced anadromous river herring populations?*, (Stony Brook, NY: Marine Sciences Research Center, School of Marine and Atmospheric Sciences Stony Brook University, 2008), 6.  
<http://www.gomher.org/JordaanTegnerReport.pdf>

<sup>2</sup> Ethan Nedeau, "The Amazing Alewife," *Gulf of Maine Times*, Summer 2003, Volume 7, No. 2.

<sup>3</sup> Atlantic Salmon Federation, *Statement - Alewife Passage in the St. Croix River*, (St. Andrews, NB: Atlantic Salmon Federation, 2009). &

Rory Saunders, Michael A. Hachey, and Clem W. Fay, "Maine's Diadromous Fish Community: Past, Present, and Implications for Atlantic Salmon Recovery," *Fisheries* 31, no. 11, (2006): 543.  
<http://www.maine.gov/dmr/searunfish/reports/saundersetal2006.pdf>

<sup>4</sup> FB Environmental for International St. Croix River Watershed Board, *St. Croix River: State of the Watershed Report*, 2008, 17.

<sup>5</sup> Nedeau.

<sup>6</sup> Nedeau.

<sup>7</sup> International St. Croix River Watershed Board, *Annual Report*, (International St. Croix River Watershed Board, 2008), 16.

<sup>8</sup> FB Environmental for International St. Croix River Watershed Board, 17.

<sup>9</sup> Nedeau.



OF ENVIRONMENTAL LEADERSHIP  
DE LEADERSHIP ENVIRONNEMENTAL

180 rue St. John Street, Fredericton, N.B., Canada E3B 4A9  
Tel: 506.458.8747 Fax: 506.458.1047 Email: [info@conservationcouncil.ca](mailto:info@conservationcouncil.ca)



UNEP  
UNITED NATIONS ENVIRONMENTAL PROGRAM