

Posted: July 19

Updated: Today at 9:42 PM

[Dam lawsuits should proceed, judge says](#)

STAFF AND WIRE REPORTS

PORTLAND -- A federal magistrate is recommending that two lawsuits against dam owners on the Androscoggin River be allowed to move forward.

Local dams on the Kennebec River are targeted in separate lawsuits filed by the Friends of Merrymeeting Bay and Environment Maine environmental groups. They filed four complaints last winter seeking to have the owners and operators of seven Maine dams take action to protect dwindling populations of endangered Atlantic salmon.

U.S. Magistrate Judge John Rich last week recommended that motions by Miller Hydro Group and Topsham Hydro Partners -- seeking to have the lawsuits dismissed -- be denied. Miller Hydro Group owns the Worumbo Dam and Topsham Hydro Partners owns the Pejepscot Dam, both on the Androscoggin River.

Federal Judge George Singal will make the final determination on the motions.

Atlantic salmon were declared endangered in the two rivers in 2009. The two groups want dam owners to take measures to protect the fish from being killed by the dams' spinning turbines.

Separate cases are also pending involving local dam owners. Florida Power & Light/ NextEra Energy Resources, Inc., which owns the Weston Dam in Skowhegan, Shawmut Dam in Fairfield, and Lockwood Dam in Waterville, all on the Kennebec River; and the Brunswick Dam on the Androscoggin River, have filed separate motions to dismiss the lawsuits. Those motions haven't received a recommendation yet.

Brookfield Renewable Power, Inc., which owns the Hydro Kennebec Dam in Winslow, has not yet filed any motions for denial.

David Nicholas, a lawyer representing the environmental groups, said Monday that the dam owners had 10 days to respond before a ruling is issued.

"If Judge Singal adopts it, we will be proceeding toward trial and doing work necessary for trial," Nicholas said. "NextEra/ FPL have filed motions to dismiss as well, but the judge hasn't ruled on those yet."

Nicholas said the federal magistrate's recommendation is important because it "emphasizes that citizens have a right to directly enforce the Endangered Species Act."

The environmental groups claim the dam owners are violating the federal Endangered Species Act and Clean Water Act by not providing the salmon with safe passage. Nicholas has said these are the first lawsuits of their kind nationally that are going after private companies, and not the government, to protect the fish.

The plaintiffs contend that 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. They suggest the installation of "simple" protective measures to prevent the migrating fish from swimming into the spinning turbine blades.

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, the groups say, but now the fish are in danger of extinction.

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