

BANGOR DAILY NEWS

Group threatens EPA with lawsuit over St. Croix alewives



Robert F. Bukaty | AP

Alewives congregate in the historic Damariscotta Mills fishway in Nobleboro in June 2005.

By Kevin Miller, BDN Staff

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ELLSWORTH, Maine — Two individuals and a southern Maine organization are ramping up their legal fight to restore alewives to the St. Croix River, this time accusing the U.S. Environmental Protection Agency of complicity in preventing the fish from spawning Down East.

Friends of Merrymeeting Bay, Doug Watts of Augusta and Kathleen McGee of Bowdoinham have notified the EPA that they intend to file suit against the agency within 60 days over alleged violations of the Clean Water Act.

A type of river herring, alewives spawned by the millions during the 1980s in the St. Croix River, which separates Maine and New Brunswick. But they all but disappeared in the river after blockades were put up in the 1990s, prompting a dispute that continues today.

The complainants are trying to overturn a 2008 state law that blocks the passage of sea-run alewives above Grand Falls Dam near the Washington County town of Princeton. The 2008 law was viewed as a compromise in the pitched cross-border battle over the lowly fish.

Fishing guides, sporting camp owners and others want to keep alewives out of the upper St. Croix watershed because they say large spawning runs will ruin the economically important smallmouth bass fishery. The other side accuses the state of purposefully suppressing an ecologically important indigenous fish species based on false fears that alewives will harm bass, a non-native fish introduced by sportsmen.

Friends of Merrymeeting Bay and the two individuals are poised to press the EPA on the alewife issue based on feedback from a judge in an earlier, unsuccessful federal suit against the state of Maine. Specifically, the complainants charge that the EPA has neglected to enforce a provision of the Clean Water Act that would require the federal agency to review any changes to water quality as a result of the fish passage blockades at Grand Falls Dam.

“What the Maine Legislature did in response to a few shrill voices is absolutely unconscionable and in total violation of the Clean Water Act,” Ed Friedman, chairman of Friends of Merrymeeting Bay, said in a statement. “By ignoring this, the EPA has only added insult to injury. Neither fish species dependent on river herring, nor the endangered Gulf of Maine ground-fishing industry can afford the continued collapse of St. Croix alewives.”

A representative from the EPA could not be reached for comment Tuesday afternoon.

Patrick Keliher, commissioner of the Maine Department of Marine Resources, said the state is waiting for the International Joint Commission to complete an alewife restoration proposal that has been in the works for several years. The International Joint Commission is the body that works to resolve disputes over waters separating the U.S. and Canada.

Keliher said that if the commission puts forward a plan, Maine hopes any proposed restoration attempts would take place at a slow pace so that the state can take steps to minimize any impacts on the bass fishery.

As for the threatened lawsuit against the EPA, Keliher declined to respond, saying Friends of Merrymeeting Bay “usually takes extreme approaches to try to find solutions to issues.”

The group and its partners have been successful in the past, however.

For instance, Watts and Friends of Merrymeeting Bay filed a petition in 2005 to classify populations of Atlantic salmon in the Kennebec River as an endangered species. In 2008, they followed up with a federal suit attempting to force the federal agencies to make a decision on the petition. In 2009, federal agencies expanded the endangered species listing for salmon in Maine to include all of the Penobscot River as well as the Kennebec and Androscoggin rivers.

Asked why a Bowdoinham-based organization is getting heavily involved in St. Croix alewives, Friedman said the health of alewives is a much broader issue. Alewives are considered an important forage fish, especially for groundfish, and occasionally are used as bait by commercial fishermen.

“There is a direct connection between what happens in the St. Croix River and in the Gulf of Maine, and there is a direct connection between what happens in the Gulf of Maine and what happens in Merrymeeting Bay,” Friedman said.

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