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Lawsuit aimed at protecting Kennebec salmon revived

A federal appeals court overturned the dismissal of part of a suit that questions fish protection at dams in Waterville, Skowhegan, Fairfield and Brunswick.

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A federal appeals court has revived part of a lawsuit brought by two Maine-based environmental groups hoping to save Atlantic salmon and American shad populations from being chewed up in the turbines of four hydroelectric dams on the Kennebec River.

The four dams are in Waterville, Skowhegan, Fairfield and Brunswick and owned by affiliates or partners of Brookfield Power US Asset Management, LLC.

Additional Images



Workers stand atop the Brookfield Dam that spans the Kennebec River between Winslow and Waterville in this file photo. The dam is one of four owned by Brookfield that are the subject of a

lawsuit by environmental groups seeking to protect Atlantic salmon. A federal appeals court Monday revived part of the suit that was dismissed last year. Staff file photo

Environment Maine and Friends of Merrymeeting Bay brought the lawsuit [in 2011](#), claiming that four companies that operate the dams have not demonstrated that measures they say they have taken to protect the salmon are effective, and asking for a court order shutting the dams during migration seasons.

A federal district judge dismissed one of two counts in the case last year, ruling that the environmental groups couldn't prove their case.

The First Circuit Court of Appeals in Boston reversed the dismissal Monday, ruling that the groups should be allowed to contest the effectiveness of the systems, including installation of by-passes to carry fish around the turbines, that the dam owners installed to protect fish.

Atlantic salmon were declared an endangered species by the federal government in 2009.

The suit claims that the dam operators in violation of the federal Clean Water Act, because they have not produced evidence that salmon passing through the turbines is safe and won't result in significant injury or death to migrating fish.

"Brookfield is required to operate its dams in strict compliance with all federal laws, including the ones designed to protect Maine's precious natural resources," Emily Figdor, director of Environment Maine said in a news release. "As long as Brookfield continues to violate its water quality certifications, we will be in court to fight for strict enforcement on behalf of the public."

The environmental groups say they will push to closing the hydro facilities if that's what it takes to save the fish.

"If Brookfield simply can't keep adult fish out of its turbines, they should shut off the turbines during migration season," Ed Friedman, chair of Friends of Merrymeeting Bay said in the news release. "Without safe dam passage for salmon and shad, these species will not recover."