



Testimony of the Atlantic Salmon Federation on

LD 1049: An Act to Protect Maine's Inland Fisheries from Invasive Fish

April 24, 2023

Senator La Fountain, Representative Landry, and Honorable Members of the Joint Standing Committee on Inland Fisheries and Wildlife:

My name is John Burrows, and I am the Executive Director of U.S. Operations for the Atlantic Salmon Federation (ASF), an international non-profit conservation organization dedicated to the conservation and restoration of wild Atlantic salmon and their environment. I represent more than 2,500 members and volunteers with ASF, our Maine Council, and a dozen local affiliates working on river and fisheries conservation and restoration across Maine.

ASF is providing testimony in opposition to LD 1049 because it places in statute an approach to preventing the introduction of invasive fish species that has not been effective elsewhere; has not been thoroughly reviewed by state fisheries agencies as part of a comprehensive risk analysis of the threats from invasive fish in Piscataquis River and how to best reduce them; conflicts with several federal laws; and will have significant negative consequences for endangered Atlantic salmon and other native fish in the Piscataquis River.

ASF's opposition to LD 1049, however, should in no way be construed that we are unconcerned with the issue of invasive fish and their impacts on Maine's native fish species and aquatic ecosystems. Non-native fish are one of the greatest threats to aquatic biodiversity and aquatic ecosystems across the globe and ASF has consistently advocated over the years for improved and consistent policies and regulation around this issue in Maine and in Atlantic Canada. We have also put resources into educational campaigns and active efforts to suppress newly discovered populations of illegally introduced non-native northern pike in the Penobscot River watershed. In Canada, we have spent more than a decade and several million dollars in a massive effort to eradicate non-native smallmouth bass from the Miramichi River watershed in New Brunswick and we supported similar efforts in Nova Scotia. As leaders in the conservation and protection of native coldwater fish in eastern North America, we take this issue incredibly seriously.

The Department of Inland Fisheries and Wildlife has a well-thought-out, strategic approach for how to prevent, contain, and make conditions less favorable for invasive non-native fish. This is outlined in the Department's recently completed *Strategic Management Plan for Fisheries*:

A rule of thumb for limiting the success of non-native introductions is, put simply, to make conditions more suitable for the desirable resource and less suitable for the invader. Hence, response strategies often involve habitat alterations that support containment or suppression. Examples include construction of fish passage barriers to contain an invasive species, removal of barriers to return an impounded system back to more natural

or free-flowing riverine condition, flow alterations to optimize and minimize habitat suitability, and construction or removal of physical habitat features to favor the desired resource. **All of these habitat actions require a firm understanding, often gained through a comprehensive risk analysis, of the life history and habitat requirements of all species within the project area and the potential positive and negative impacts on them.** This helps us to identify likely outcomes and respond with a course of action. **For highly valued native species, especially highly mobile riverine species such as brook trout, a primary conservation strategy is to expand and reconnect river networks through fish passage enhancement or barrier removal; however, this action may expand the range (and, therefore, the potential threats) of introduced fish. Thus, these actions require thorough planning and consideration of unintended consequences.**¹

ASF believes that this is a far better way of addressing this issue than what is proposed within LD 1049, and we have offered our assistance in such an effort to both the Department of Inland Fisheries and Wildlife and the Department of Marine Resources.

Passage of LD 1049 would create significant conflicts with a number of federal laws, particularly the Clean Water Act, Federal Power Act, and Endangered Species Act (ESA). By mandating “a vertical barrier at least 4 feet tall” in the fishway of the Brown's Mill Dam on the Piscataquis River, several species of native sea-run fish that have been the focus of a decades' long restoration effort by the State of Maine, Penobscot Indian Nation, federal agencies, and the conservation community would be substantially impacted. American shad and river herring would be completely precluded from passing upstream of Brown's Mill and most endangered Atlantic salmon would also be unable to pass. This would put the owner of the dam in violation of the ESA by not providing safe, timely, and effective passage for Atlantic salmon at the site. This would also severely impact our ability to achieve the recovery goals (both quantity of accessible habitat and number of returning adults) necessary for downlisting and eventually delisting Atlantic salmon from the Endangered Species List.

LD 1049 provides no flexibility to state resource managers as to the size, type, or location of the barrier. This precludes deliberate planning and analysis, which is the best approach for determining the most appropriate and effective options to prevent or minimize the spread of non-native fish species. It also mandates a method that has been completely ineffectual at preventing invasive fish introductions in Maine; largemouth and smallmouth bass, northern pike, black crappie, and other non-native fish can be found above impassable dams all over the State.

There are several ways to address the spread of non-native fish species, ranging from regulation to education to active eradication efforts to maintaining barriers in key places. With respect to physical barriers, a deliberate and thorough assessment of the risks and options needs to be completed at a watershed or subwatershed level. This work needs to detail what resources are at risk and where they are located, the habitat requirements and other characteristics of the non-native species that poses the risk, an assessment of the locations and types of barriers that may

¹ <https://www.maine.gov/ifw/fish-wildlife/fisheries/strategic-management-plans.html>. Volume 2, page 39.

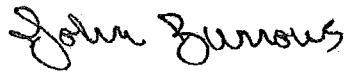
prevent non-natives from accessing new areas of a watershed, and the negative impacts of barriers on other species. LD 1049 does not do any of this.

Such an analysis might very well determine that the Brown's Mill Dam is an appropriate long-term site for a barrier that prevents invasive fish from accessing upstream habitat. However, it is also very possible that there are other, more effective options. An up-to-date comprehensive risk analysis could reveal, for example, that maintaining other barriers to protect certain lakes or stream segments elsewhere in the watershed might be just as effective and would have less negative impact on Atlantic salmon and other species. It is also likely that a careful, comprehensive analysis would demonstrate that a barrier substantially less than 4 feet in height at Brown's Mill may be just as effective at precluding passage of invasives, while also causing less harm to native fish species. Or the analysis may find that a completely different technology or method than a vertical barrier would be the best alternative.

The issue of invasive fish needs to be addressed in a thoughtful and strategic manner that is both effective for dealing with the threat but also minimizes the impact on native aquatic species and their ecosystems. LD 1049 does not take such an approach and would have substantial negative consequences. We urge the Committee to vote ought not to pass on this legislation.

Thank you for your time and consideration.

Sincerely,



John R.J. Burrows
Executive Director, U.S. Operations
Atlantic Salmon Federation