

"Fish vs. farmers" feud looms on Rio Grande

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A looming lawsuit over the endangered Rio Grande silvery minnow threatens to revive a "fish vs. farmers" battle over water management in central New Mexico.

The environmental group WildEarth Guardians has informed federal officials that it plans to file suit as early as mid-July, alleging that the Army Corps of Engineers and the Bureau of Reclamation are not doing enough to keep water in the river for the endangered Rio Grande silvery minnow.

Federal officials say they lack the legal authority to take farmers' water and leave it in the river for fish.

Declining silvery minnow populations, despite more than a decade of efforts by federal, state and local water agencies, are evidence that not enough is being done to protect the fish and the river ecosystem on which it depends, said Jennifer Pelz of WildEarth Guardians.

"The river's not very healthy if the fish can't survive in it," Pelz said in an interview. "It's not about the fish. It's about the river. It's about the health of the river, the health of the bosque, people's quality of life in New Mexico."

In legal notices filed over the last five months laying the groundwork for litigation, Pelz and her colleagues allege a range of environmental problems with the way the river is managed, but their most explosive claim is a simple one — that the U.S. Bureau of Reclamation needs to step in and reduce water deliveries to central New Mexico farmers in order to preserve environmental flows in the river channel itself.

In recent weeks, Pelz has formally notified the Bureau of Reclamation and others that she intends to take the case to federal court within the next several weeks. She will not ask for farmers' water to be curtailed immediately, but that is a possibility later this summer, Pelz said.

"If Reclamation wants water they, like everyone else, need to buy it," said Valencia County farmer Janet Jarratt.

Jarratt said litigation of the sort WildEarth Guardians is proposing will trigger the sort of "fish vs. farmers" battle that has repeatedly plagued river management in the western United States in recent decades.

"Farmers are not esoteric like, arguably, environment is," Jarratt said in an interview. "It's how you live and die. So if they want to go down the path of fish vs. farmer again, that's where they're taking us."

According to the Census of Agriculture, there are approximately 3,000 irrigated farms in the Valley, averaging about 20 acres each.

The Rio Grande silvery minnow once lived on much of the length of the Rio Grande, from the Española Valley to the Gulf of Mexico. The only surviving native population lives in the stretch of the river between Bernalillo and Elephant Butte Reservoir. The U.S. Fish and Wildlife Service declared the fish "endangered" in 1994, triggering federal Endangered Species Act protections that require water users to take steps to avoid the fish's extinction.

Similar Endangered Species Act battles between farmers and environmentalists have tied up river management on the Klamath River near the Oregon-California border, and in central California's Sacramento-San Joaquin Delta. In New Mexico, similar litigation over the minnow tied up river management and fueled controversy in the late 1990s and early 2000s.

A 2003 truce involving new river operating rules to attempt to protect fish populations and a collaborative effort by water agencies forestalled litigation for the last decade, but the fourth consecutive year of low river flows has put growing pressure on efforts to share water between human users and the environment.

Mike Hamman, head of the Bureau of Reclamation's Albuquerque office, said litigation would complicate collaborative efforts now underway among valley water agencies to help the silvery minnow and, more broadly, the entire ecosystem.

That has been especially difficult in the fourth year of drought, Hamman said, but the group is trying to do the best it can with the limited water available to keep viable habitat available for the dwindling minnow population.

The agencies, including representatives of federal, state and local government, engineered an artificial rise in the river in May to simulate a pulse of snowmelt runoff. They are now working to maintain pools of water for minnow habitat as the river dries.

The 2003 truce included minimum flow standards intended to keep stretches of the Rio Grande wet for the endangered fish, which water managers say they believe they will be able to meet this year. But Pelz said more recent research suggests the minnow needs more water than required by the 2003 guidelines.

WildEarth Guardians also plans to sue the U.S. Army Corps of Engineers, which operates Cochiti Dam, Pelz said. Corps officials acknowledge Cochiti has changed the river in ways that could make life more difficult for the silvery minnow.

But in a June 13 letter laying out their legal position, agency officials said congressional action authorizing the dam's construction leaves them no flexibility to change the way the dam is operated to help the fish.