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## Water needs of minnow not met, environmentalists say

By [John Fleck / Journal Staff Writer](#)

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The federal agencies overseeing the Rio Grande have repeatedly failed to meet their legal requirement to ensure river flows and habitat for the Rio Grande silvery minnow, the environmental group WildEarth Guardians claimed in legal notices filed this week.

The “notices of intent” allege violations of the federal Endangered Species Act and start a 60-day clock ticking toward possible litigation. The notices highlight growing tensions between human water use and the Rio Grande’s natural ecosystem in what is shaping up to be the fourth consecutive year of drought, and set the stage for potentially bruising litigation this summer.

Human water diversions have left the Rio Grande ecosystem with too little water to maintain the minnow and other species that depend on the river’s flow, including the valley’s iconic cottonwoods, said Jen Pelz, Wild Rivers Program coordinator for WildEarth Guardians.

Last year, the group filed a formal “notice of intent” that triggered negotiations with federal officials over environmental issues and river management, without litigation. Asked if WildEarth Guardians plans to actually file suit this time, Pelz on Tuesday said, “Yes.”

Spokesmen for the U.S. Bureau of Reclamation and the U.S. Fish and Wildlife Service, the two agencies named in the new filings, declined comment.

Human management of the Rio Grande, with dams upstream to regulate the river’s flow and levees to confine it to a narrow channel, have substantially changed the habitat for the minnow. The fish once lived from Española to the Gulf of Mexico, but is now only found in central New Mexico.

Low river runoff has caused minnow populations to crash further in recent years, according to data collected for the Middle Rio Grande Endangered Species Collaborative program, a joint effort by local, state and federal water managers and users.

The potential for a fourth straight drought year poses serious risk for the endangered species, Pelz said in an interview. “The minnow has not spawned in the last three years,” Pelz said, “which is crucial to their recovery and survival.”

More than 95 percent of the fish found in surveys last summer came from hatcheries, which are being used to augment the dwindling natural fish population.

A plan developed in 2003, after similar litigation, required habitat restoration and water management operations that mimicked the river's natural flow, including a spring spawning peak for the fish. WildEarth Guardians alleges the river's managers have failed to carry out those plans.

Signed in 1973 by President Richard Nixon, the Endangered Species Act declared that species at risk were intrinsically important and that we had a national obligation to save them from the "consequence(s) of economic growth and development untempered by adequate concern and conservation."

While the Endangered Species Act focuses on specific species, especially the minnow, more is at risk than just a single kind of fish, Pelz said. "The cottonwood forest is reliant on flood flows, and there being enough water in the river," she said.

Water managers say they have been doing their best to meet the needs of the environment and farmers and other human water users, given the limited supply nature has to offer.

"We're trying to find creative ways to get everyone what they need," said David Gensler, water manager for the Middle Rio Grande Conservancy District, the valley's largest farm irrigation water provider.

Among the possibilities is the use of upstream dams to manage flows to create high flows in late spring for spawning, according to Rolf Schmidt-Petersen, Rio Grande basin manager for the New Mexico Interstate Stream Commission. But no decisions about that can be made until April or May, Schmidt-Petersen said.

With less water available behind upstream dams, each year that the drought persists makes things harder, Schmidt-Petersen said. "Our options are more limited than they have been in the past," he said.

With a 60-day clock now started, WildEarth Guardians' filings raise the possibility that key late spring water management decisions will be made in the midst of federal litigation, University of New Mexico law professor Reed Benson, an Endangered Species Act expert, pointed out. But it is not clear whether there is time for the court fight to influence how much water is used by humans or left in the river for fish in 2014, Benson said.

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