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Group set to sue Colorado over water pact

By J.R. Logan

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A Santa Fe-based environmental group is hoping the plight of a four-inch fish and a little brown bird will provide leverage to change administration of an interstate water agreement that has been unmovable for 75 years.

Wildearth Guardians has given notice that it plans to sue the state of Colorado over the amount of water pumped out of the Rio Grande before it crosses into New Mexico each year. The group argues that irrigation in the San Luis Valley leaves so little water in the river that it imperils habitat of two endangered species — the Rio Grande silvery minnow and the Southwestern willow flycatcher.

Jennifer Pelz with Wildearth Guardians told *The Taos News* that while the lawsuit is based on requirements under the Endangered Species Act, it is meant to address the health of the Rio Grande in general. “My focus is the river, the silvery minnow just happens to be the canary in the coal mine,” Pelz said.

Sporadic flows in the Rio Grande have long alarmed environmentalists because of the effect on vegetation and wildlife that have adapted to the natural cycle of ups and down. The current drought has left some parts of the Rio Grande dry, and diversions up and down the river have significantly altered its natural pattern.

River guides in Taos County have also taken issue with how water in the river is managed. Some have pointed out that Colorado irrigators pull out as much as 98 percent of the river during peak irrigation season, which often coincides with rafting season. They contend that low flows are killing business and hurting the local economy.

However, Colorado farmers point out that the drought is hurting them as well. Officials there point out that the state is still meeting its obligations under the Rio Grande Compact, which spells out exactly how much water Colorado must deliver to the state line every year.

The notice from Wildearth Guardians contends that Colorado’s obligations under the Endangered Species Act are “above and beyond” the requirements of the compact.

Pelz said the notice is meant to bring Colorado into the discussion with wildlife managers and irrigation districts in New Mexico to talk about how to manage flows for the health of the river. “We’ve always known that [Colorado] had a role,” Pelz said. “Now is the time that everything is on the table.”

Pelz said she Wildearth Guardians did not approach the Colorado Department of Natural Resources —the agency that administers water use in the Rio Grande on the Colorado side — before it gave notice of the lawsuit.

The Colorado Department of Natural Resources declined to comment on the lawsuit beyond an emailed statement from executive director Mike King, who said it was “disappointing to be threatened with a lawsuit by a group that has never reached out to discuss the issue.”

A spokesperson from the Colorado Attorney General’s Office did not return a message seeking comment.