

# Rio Grande Cutthroat trout designation ends up in court

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DENVER — Last week, Colorado joined 16 other states in challenging the Interior Department's changes in how endangered species are put on and taken off the list, including a new rule that allows the financial cost of listing a species to be a determining factor.

This includes the Rio Grande Cutthroat trout, normally found in high-elevation streams and lakes of the Rio Grande, Canadian and Pecos rivers in Colorado and New Mexico, according to Colorado Parks and Wildlife, which says the fish now only occupies some 12 percent of its historic habitat on about 800 miles of streams.

In a federal lawsuit filed by the Tucson, Arizona-based Center for Biological Diversity, U.S. District Senior Judge Marcia Krieger ruled that the service used one method of counting the fish when it first considered adding it to the endangered list in 2008, but changed that method when it reconsidered its decision in 2014 without explaining why.

"We've been fighting to save Rio Grande cutthroat trout for more than 20 years," said Michael Robinson, a conservation advocate for the center. "It's a relief to have it one step closer to getting the help it so badly needs. The trout is barely hanging on in a small number of tiny, isolated headwater streams."

"Because the service had offered no explanation for the different methodologies it used in 2008 and 2014 to calculate the number of healthy trout populations, the court must conclude that the change in methodology was, on the instant record, arbitrary and capricious," Krieger wrote.

"It may very well be that new studies, new sampling methods, or other analytical tools developed since 2008 call into question the service's 2008 determination that 2,500 trout are required

before a population can be declared stable,” she added. “But the service has not pointed the court to evidence in the record that establishes the basis for such a change in methodology.”

As a result, Krieger reversed the service’s 2014 denial of adding the fish to the endangered species list, and ordered the federal agency to provide more analysis and explanation for the criteria it used to calculate what constitutes a healthy trout population.

Officials with the center said this doesn’t mean the trout will be added to the list just yet, but the ruling gets it closer to that goal.

Robinson said the service had found that the trout deserved protection in 2008, but never actually added it to the list. In 2014, it changed its mind about that determination, saying it the fish didn’t need protection, but did so after arbitrarily lowering that 2,500-fish population threshold to just 500, he said.

“The Fish and Wildlife Service moved the goal posts in order to get to a politically driven decision that the trout doesn’t warrant protection,” Robinson said.

“The livestock industry and states like Colorado and New Mexico oppose trout protections.”