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## Colorado water use threatens silvery minnow, filing says

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Colorado water use is depriving the Rio Grande of spring flows needed to keep the endangered Rio Grande silvery minnow alive, an environmental group charged in a legal notice filed this week.

The notice by the Santa Fe-based group WildEarth Guardians expands the struggle over environmental flows in the Rio Grande, a struggle that until now had focused on trade-offs among water interests within New Mexico.

"It definitely does open another front in the battle to save the minnow," said University of New Mexico water law professor Reed Benson, an Endangered Species Act expert.

The filing, a formal notice of intent to sue the Colorado Department of Natural Resources, charges that irrigation in the San Luis Valley, north of the New Mexico-Colorado border, is significantly reducing the spring runoff peak, which the minnow depends on for spawning.

Colorado Department of Natural Resources spokesman Todd Hartman on Wednesday declined comment.

In the past, some New Mexicans have complained that water users on the middle Rio Grande, from the Santa Fe area to Elephant Butte Reservoir, have been forced to deal with the minnow problem, with water users upstream in Colorado bearing no responsibility. The minnow, once widespread from northern New Mexico all the way to the Gulf of Mexico, is now only found in the central New Mexico stretch of the Rio Grande. As a result, water agencies operating in central New Mexico, especially the U.S. Bureau of Reclamation, the Middle Rio Grande Conservancy District and the New Mexico Interstate Stream Commission, have borne the entire legal burden of keeping enough water in the Rio Grande to keep the fish alive.

During the drought conditions last year, what flows there were in the Rio Grande in Colorado dropped to near zero at the New Mexico state line because Colorado users were diverting water for crop irrigation. That is legal under the Rio Grande Compact,

the set of rules that divide the river's water among neighboring states. But simply meeting the requirements of the compact does not absolve Colorado of additional obligations under the Endangered Species Act if their actions put the minnow at risk, said Jen Pelz, Wild Rivers Program director for WildEarth Guardians.

Benson said there are precedents for efforts to hold upstream water users accountable for environmental effects in a downstream state. On the Platte River, Colorado and Wyoming have voluntarily joined an effort to preserve water flows and habitat for the endangered whooping crane. The crane's habitat is found in central Nebraska.

In Florida, environmentalists and government agencies are currently fighting with Georgia water users over reduced flows in the Apalachicola River, which they allege has harmed oyster beds in Apalachicola Bay.

Colorado has 60 days to respond to WildEarth Guardians before a lawsuit can be filed.