

**APPENDIX A
RELEVANT BASELINE REGULATIONS**

TABLE 1		
FEDERAL REGULATIONS		
Regulation	Description	Units Potentially Affected
Soil and Water Resources Conservation Act of 1977	This Act provides for a continuing appraisal of U.S. soil, water and related resources, including fish and wildlife habitats, and a soil and water conservation program to assist landowners and land users in furthering soil and water conservation. Specifically, this Act authorizes the Secretary of Agriculture to establish a cooperative conservation program with Federal, state, and local stakeholders for the management of private grazing land to conserve and enhance private grazing land resources. http://ipl.unm.edu/cwl/fedbook/soilwate.html ; http://www4.law.cornell.edu/uscode/16/2005b.html	All
Watershed Protection and Flood Prevention Act	This Act authorizes Federal assistance to local organizations for conservation projects in watershed areas for conservation and use of land and water, and flood prevention. Specifically, the Secretary of Agriculture is authorized to enter into agreements with local organizations and landowners to provide financial and other assistance in the development of plans to conserve and develop the land's soil, water, woodland, wildlife, energy and recreation resources, and enhance water quality. (16 U.S.C. §§ 1001-1009) http://ipl.unm.edu/cwl/fedbook/wpfpa.html	All
Endangered Species Act Landowner Incentives Program	This program provides technical and financial assistance to private landowners to address the needs of threatened and endangered species, while also incorporating the need for economic development. In 2001, the program distributed a grant of \$25,000 for the restoration of PMJM habitats in the Mountain Prairie Region. http://news.fws.gov/NewsReleases/R9/CD4EF83F-3AAB-4872-B67D51DDC6B315D8.html	All
The Special Regulations, (also known as 4(d))	Prescribes species specific conditions under which the take of PMJM would or would not be in violation of section 9. Four types of activities are exempted from the take prohibitions of section 9 by the Special Regulations. The exemptions include the following activities 1) rodent control inside structures and within 10 feet of structures, 2) ongoing agricultural activities, which includes farming and ranching, 3) maintenance of existing landscaped areas, and 4) the diversion of water associated with existing water rights. The Special Regulations apply to both Colorado and Wyoming, specifically Arapahoe, Boulder, Douglas, Elbert, El Paso, Jefferson, Larimer, and Weld Counties in Colorado and Albany, Converse, Goshen, Laramie, and Platte Counties in Wyoming. The regulation reduces the number of consultations that would otherwise be required. The regulation expires on May 22, 2004 and encourages that HCPs be developed during this time.	All

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Special Regulations Amendment	Amends the Special Regulations to exempt certain noxious weed control and ditch maintenance activities from the section 9 take prohibitions. Each activity is limited to the destruction of 1/4 mile of riparian shrub habitat within one linear mile of ditch within a year if BMPs are followed. Activities include clearing trash, debris, vegetation, and silt by either physical, mechanical, chemical, or burning procedures, and reconstruction, reinforcement, repair, or replacement of existing infrastructure with components of substantially similar materials and design. The amendment runs concurrently with the existing rule and expires May 22, 2004.	All
Federal Power Act (FPA)	Section 10(j) of the FPA requires FERC to consider both power and non-power resources during the licensing process and instructs FERC to actively solicit input regarding “adequate and equitable” fish and wildlife measures from Federal and state resource agencies.” FERC must consider these recommendations during the licensing process but does not have to incorporate the recommendations into the license if they “may be inconsistent with the purposes and requirements of the FPA” or if the recommendations are not supported by substantial evidence. Section 18 of the FPA provides that FERC require facility owners/operators to construct, maintain, and operate fishways, at their own expense, if operation of the facility will impact the passage of fish species in the project area or planned for introduction in the area. http://ipl.unm.edu/cwl/fedbook/fedpower.html	All
Clean Water Act (CWA)	The purpose of the CWA is to restore the physical, biological, and chemical integrity of the waters of the United States. Under section 401 of the CWA, all applicants for a Federal license or permit to conduct activity that may result in discharge to navigable waters are required to submit a state certification to the licensing or permitting agency. The certification must state that the discharge complies with the requirements of sections 301, 302, 303, 306, and 307 of the CWA. http://www.epa.gov/owow/wetlands/facts/fact10.html Section 404 of the CWA prescribes a permit program for the discharge of dredged or fill material into navigable waters. Specifically, pursuant to section 404, permit applicants are required to show that they have “taken steps to avoid wetland impacts, where practicable, minimized potential impacts to wetlands, and provided compensation for any remaining, unavoidable impacts through activities to restore or recreate wetlands.” The ACOE issues section 404 permits.	All

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Fish and Wildlife Coordination Act	The purpose of this act is to ensure that fish and wildlife resources are equally considered with other resources during the planning of water resources development projects by: 1) authorizing the Secretaries of Agriculture and Commerce to provide assistance to Federal and state agencies in protecting game species and studying the effects of pollution on wildlife; 2) requiring consultation with the Bureau of Fisheries prior to constructing any new dams to provide for fish migration; and 3) requiring consultation with the Service for water impoundment or diversion projects with a Federal nexus. 16 U.S.C. §§1-667e. http://www4.law.cornell.edu/uscode/16/661.html	All

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TABLE 2 STATE REGULATIONS		
<u>Regulation</u>	<u>Description</u>	<u>Units Potentially Affected</u>
Colorado Legislative Declaration Regarding Wildlife (Colorado Constitution, Title 33, Article 1)	Declares Colorado’s policy that “the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors” and provides that all wildlife within the state not lawfully held by private ownership is the property of the state government. Provides the Commission with the authority to shorten, extend, or close hunting seasons on any species of wildlife as necessary to assure maintenance of adequate wildlife populations and preserve a proper ecologically-balanced environment. This statute also authorizes the Commission to adopt regulations necessary to protect and maintain all land and water interests acquired by the Commission. http://64.78.178.12/cgi-dos/stattoep.exe?P&ttl=33&art=1	SP3-13
Colorado Non-Game and Endangered Species Conservation (Colorado Constitution, Title 33, Article 2)	The Colorado Non-game and Endangered Species Act establishes that “it is unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment any species or subspecies of wildlife appearing on the list of wildlife indigenous to this state determined to be threatened within the state pursuant” to Subsection (1) of this act. http://64.78.178.12/cgi-dos/stattoep.exe?P&ttl=33&art=2	SP3-13
Legislative declaration - basic tenets of Colorado water law. (Title 37, Article 92)	The regulation declares that all water in or tributary to natural surface streams, not including non-tributary ground water, is state property. http://64.78.178.12/cgi-dos/stattoep.exe?P&ttl=37&art=92	SP3-13
Colorado Natural Areas Act (Colorado Constitution, Title 33, Article 33)	This Act provides the Board with authority to establish criteria for evaluating and designating natural areas, promulgating rules for the designation of natural areas, and develop plans for the management and use of designated natural areas (areas “representing diverse ecosystems, ecological communities, and other natural features or phenomena”). http://64.78.178.12/cgi-dos/statdspp.exe?LNP&doc=33-33-102	SP3-13

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TABLE 2 STATE REGULATIONS		
<u>Regulation</u>	<u>Description</u>	<u>Units Potentially Affected</u>
Colorado State Land Use Planning (Title 30, Article 28)	Colorado does not have a statewide land use plan. Instead, counties and municipalities appoint planning commissions who prepare a master plan for the growth of their jurisdictions. According to the state's enabling legislation, local planning commissions are to protect lands from activities which could cause material danger to a significant wildlife habitat and/or endanger a wildlife species. http://64.78.178.12/cgi-dos/statdspp.exe?LNP&doc=30-28-106	SP3-13

TABLE 3 VOLUNTARY MEASURES AND OTHER PROTECTIONS		
Program	Description	Units Potentially Affected
Habitat Protection Program, Colorado (also called the Collaborative Planning Project)	A voluntary program in which state and local governments collaborate with private parties to produce a voluntary plan designed to protect endangered species habitats. The program is still in the early stages of development. Due to the voluntary nature of this program, it is difficult to measure the level of baseline protection afforded the PMJM by implementation of the program. http://wildlife.state.co.us/T&E/Species/Mouse/faq.htm#6 http://wildlife.state.co.us/HPP/hppintro.asp	SP3-13
Habitat Protection Grants, Colorado Department of Natural Resources	\$250,000 was allocated specifically to conserve PMJM. Actions may take the form of acquisition of fee title, easements, or long-term leases, or habitat improvement and restoration. Colorado Division of Wildlife. 2002. "The Status of Colorado's Threatened or Endangered Fish, Amphibians, Birds, and Mammals." Colorado Division of Wildlife Threatened and Endangered. http://wildlife.state.co.us/T&E/PMApp.asp (7/22/02)	SP3-13

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TABLE 3 VOLUNTARY MEASURES AND OTHER PROTECTIONS		
Program	Description	Units Potentially Affected
Albany County Land Use Planning	No data.	NP1, 2, 3, 4, 5
Converse County Land Use Planning	No data.	NP1
Laramie County Land Use Planning	<p>A voluntary development plan designed to “direct development away from critical wildlife areas and movement corridors and plan development in a manner that minimizes disturbances to these areas” and to “establish buffer zones around key habitat features.” It also states that “if a sensitive species or habitat is identified by the County as threatened or endangered or is part of the County Habitat Conservation Plan (HCP), the developer shall ensure the protection of the species or habitat.” (An HCP is currently being constructed for the County). In addition, building projects located in either flood plains or areas near wildlife habitat must obtain special permits that must include appropriate mitigation plans for projects near wildlife habitats.</p> <p>Laramie County: http://webgate.co.laramie.wy.us/Planning/plan1.htm HCP Plan: http://www.laramiecounty.com/gis/hcphtml/hcpwhat.html Flood Plain: http://webgate.co.laramie.wy.us/Planning/Forms/FLOODPLAINREGULATIONS.htm Wildlife Regulation: http://webgate.co.laramie.wy.us/Planning/Forms/subdevregs.html</p>	SP1, 2, 3 NP3, 5
Platte County	No data.	NP1, 3
Boulder County Comprehensive Plan	<p>Provides protection for critical wildlife habitats, critical plant associations, rare plant sites, natural communities, riparian areas, wetlands, environmental conservation areas and natural areas. When wetland alterations can not be avoided mitigation is required. If environmental conservation areas are disturbed conservation easements are required. Natural areas are protected from any destruction or alteration.</p> <p>Draft Boulder County Habitat Conservation Plan For the Preble’s Meadow Jumping Mouse. June 18, 2002. Boulder County, Colorado.</p>	SP8,9

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Program	Description	Units Potentially Affected
Boulder Valley Comprehensive Plan	Sets a limit to the physical expansion of the city of Boulder. The protection of Boulder Valley Natural Ecosystems baseline information for the planning process. Draft Boulder County Habitat Conservation Plan For the Preble's Meadow Jumping Mouse. June 18, 2002. Boulder County, Colorado.	SP8
City of Boulder Land Use Regulations	Requires a floodplain development permit for any development activities conducted within the floodplain. In order to determine whether to approve the permit, the city manager will consider the effect of the building project on both waterways and lands that are upstream or downstream of the building project. http://www.ci.boulder.co.us/cao/brc/9-9.html	SP8
Boulder County Land Use Code	Permits are required for the construction of new buildings and major modifications of old ones. Floodplain regulations restrict uses within the 100 year floodplain, specifically location and expansion or enlargement of structures and construction methods. Building projects which are in floodplains or which may have a significant impact on wild life must submit a report analyzing the project's impact on wildlife and outlining mitigation techniques. Wetland protection regulations discourage development in and around wetlands. A development project which will adversely affect an endangered species will not be granted a wetland development permit. Inventory of Existing Local Regulations, Incentives, and Purchase Programs In the PMJM Study Area Affecting Development in Riparian Areas, January 1998, Prepared as an Attachment to the Comments of the Colorado Department of Natural Resources And Selected Steering Committee Members. http://www.co.boulder.co.us/lu/help_center/index.htm http://www.co.boulder.co.us/lu/pdf/prebles.pdf	SP8, 9

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Program	Description	Units Potentially Affected
Boulder County Open Space Program	The Open Space Program manages over 27,000 acres of land in Boulder County. This land is a combination of ownership, conservation easements, and trails. Certain lands are proposed state Natural Areas and have known populations of PMJM.	SP8,9
Louisville Zoning Ordinances	The Floodplain Overlay Zone District restricts development in the 100 year floodplain by prohibiting any development that would increase base flood levels by more than one foot at any point, limiting permitted structures to those with low flood damage potential, restricting fills and deposits, restricting storage of hazardous materials, and regulating construction materials and methods. Subdivision regulations regulate general subdivision design and construction standards. The preservation of natural features and vegetation is required, to the maximum extent possible. No encroachments will be made on natural channel areas, and drainage areas should be left in the natural state.	SP8

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Program	Description	Units Potentially Affected
Douglas County 2020 Comprehensive Master Plan	<p>Wildlife conservation areas, wildlife movement corridors, flooding, water quality, rural development, and open space provisions provide protection for the PMJM. Wildlife conservation areas were defined and agreed upon by the Colorado Division of Wildlife, Colorado Division of Park and Outdoor Recreation, Douglas County Open Space Department, Douglas County Planning Department, and other conservation groups. Provisions to protect wildlife movement corridors include stricter reviews of development and other land uses, consultation with Colorado Division of Wildlife, land management agencies and Douglas County Open Space Department on proposed developments and land uses, noxious weed control, habitat restoration and improvement, conservation easements, habitat and corridor banking, clustering development, locating development outside of corridors, minimizing the impacts of transportation projects, pet control, revegetation, and education. Provisions to minimize the effects of flooding prohibit development in the 100 year floodplain, protect and preserve riparian corridors to link habitat. Provisions to protect water quality require developers to replace or rehabilitate topsoil and vegetation destroyed or disturbed. Rural development provisions use building envelopes, clustering and other site design techniques to preserve important rural and natural features in addition to requiring the minimization tree, vegetation and soil disturbance and controlling for runoff. Open space provisions use a resident imposed sales tax to acquire land and develop recreational trails and parks.</p> <p>Douglas County 2020 Comprehensive Master Plan. May 2001. Douglas County, Colorado. http://www.douglas.co.us/Planning/comp%20plan/2020_comp.htm</p>	SP11, 12, 13

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Program	Description	Units Potentially Affected
Douglas County Land Use Planning	<p>Requires permits for new single family home projects certifying that drainage, erosion and sediment controls are in place. The primary purpose of the permitting process is to protect, “to the greatest extent practicable, life, property and the environment from loss, injury and damage by storm water runoff, erosion, sediment transport, ponding, flooding, landslides, accelerated soil creep, settlement and subsidence, excessive dust, and other potential hazards, caused by grading, construction activities and denuded soils.” The open space conservation district preserves natural features such as wildlife corridors, habitats, and other areas of important environmental significance. The design enhancement overlay district requires the overall site design to include a minimum of 30 percent open space and address wildlife corridors and habitat areas. The floodplain overlay district can be used to restrict development in areas of special flood hazards. Douglas County also requires developers to read an informational sheet on the PMJM and sign a document agreeing to work with the Fish and Wildlife Service to mitigate damage to the PMJM. In addition, a comprehensive HCP is being developed for the PMJM.</p> <p>http://www.douglas.co.us/Departments.htm http://www.douglas.co.us/planning/comp%20plan/2020_comp.htm HCP: http://www.co.el-paso.co.us/preble/conservationplan.asp</p>	SP11, 12, 13

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Program	Description	Units Potentially Affected
El Paso County Land Use Code	<p>Land development guideline provisions state that no land use be initiated that would adversely affect the quantity, quality, or dependability of the county's water resources or would result in destruction of wildlife habitats. All subdivision plans must include both an evaluation of the impact of the development on project streams, lakes, topographic, or other natural features or wildlife habitats and possible mitigation techniques. Forest and recreation zone districts are intended to preserve open space and protect environmental resources. The minimum lot size is five acres, and the structural coverage of each lot is limited to 25 percent. Public dedication standards require subdivisions to dedicate land or a cash payment on lieu of land. One of the criteria for land selection is protection of watersheds and wildlife. Development proposals will include provisions to guarantee for revegetation and for soil stabilization during and after development of a site.</p> <p>Board of County Commissioners. El Paso County Land Development Code. June 29, 2000. http://www.co.el-paso.co.us/Planning/LDC/LDC-Main.htm</p>	A1
Colorado Springs Zoning Ordinances	<p>Development, including fill, new construction, substantial improvements and other development, is prohibited in the floodway, unless evidence is provided that the development will not increase flood levels. All new residential construction or substantial improvements shall have the lowest floor, including the basement, one foot above the base flood elevation. The base flood elevation has a one percent chance of being equaled in any given year.</p> <p>Hillside area overlay zone district conserves natural features and aesthetic qualities of hillside areas. Restricts development in areas characterized by slope, vegetation, drainage rock outcroppings, geological conditions. Approval by the City may have to be obtained before building, cutting vegetation or grading. Criteria for approval includes whether natural vegetation is preserved and incorporated into the project design to the maximum extent possible.</p> <p>City of Colorado Springs, Colorado City Code. Passed May 26, 2002. Chapter 7: Planning, Development and Building.</p>	A1

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Program	Description	Units Potentially Affected
Colorado Springs Open Space Program	The open space provisions provide protection for environmental features including wildlife habitat, significant vegetation, and water resources. ¹ Wildlife habitat encompasses everything needed to live in an area, including movement corridors, water supply, food, and shelter. Open space may be used to protect habitat for species important to the region, including threatened and endangered species. Open space can protect significant vegetation and other types of native and non-invasive vegetation, as well as threatened and endangered species. Water resources include all types of water bodies, including natural or artificial wetlands, and streams. Open space can be used to protect water resources by protecting the water bodies themselves and by preserving surrounding and nearby vegetation that filters pollutants and slows run-off and erosion.	A1
Monument Zoning Ordinances	In the planned development zone district 20 percent of the gross site area is required to be open space, in addition to 10 percent land dedication required under the subdivision requirements. Land within the 100 year floodplain will not be subdivided until all compliance with all requirements of the floodplain ordinance are met.	A1

¹ Colorado Springs Open Space Plan

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Program	Description	Units Potentially Affected
Jefferson County Land Use Code	<p>In order to obtain a permit, new building projects must submit a plan outlining the impact of the project on fish and wildlife and describing mitigation techniques. In addition, a separate permit is required for all projects within flood plain zones. Wildlife habitat preservation is required, noise and light sources must be oriented away from habitat areas. An area may not be rezoned to a designation that would allow development if the property has significant or desirable wildlife habitat or migration routes. No permanent dwellings or overnight structures are allowed in the 25 year floodplain. In addition, a separate permit is required for all projects within flood plain zones. Uses in the 100 year floodplain are regulated to limit the construction of structures and facilities permitted in the floodplain and to protect the hydraulic characteristics of the watercourse.</p> <p>http://206.247.49.21/ext/dpt/public_works/planning/index.htm http://206.247.49.21/ext/dpt/public_works/planning/ldr/ldr-2-5-02.pdf http://ww2.co.jefferson.co.us/ext/policy/chap0507.htm</p>	SP9, 10, 13
Jefferson County Open Spaces Program	<p>A portion of sales tax revenues is used to fund the planning, acquisition, maintenance and preservation of open space. To date over 30,000 acres of open space have been preserved, and PMJM have been located in two of the County's parks. Purchase priority is based on the existence of wildlife habitat.</p>	SP9, 10, 13
Arvada	<p>Floodplain regulations restrict uses that may be dangerous due to flood damage, or susceptible to flood damage. All permitted floodplain uses must adopt flood proofing measures. No development will occur in the 100 year floodplain unless it conforms with the floodplain zoning provisions. The method and pattern of construction in the floodplain is restricted, while greenbelt, open space, recreational facilities and trails are encouraged in the floodplain area. Wildlife movement corridors and areas of significant wildlife habitat are protected from new development, while floodplains will only be used for open space. Subdivisions are required to preserve existing features that provide value, such as trees and watercourses.</p>	SP10

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Program	Description	Units Potentially Affected
Larimer County	<p>The Larimer County Code requires a minimum 100 feet setback from the centerline of all established streams, creeks, rivers, and wildlife habitat for farming, all new building projects, and forestry operations. No residential development is allowed within the 100 year floodplain, unless an approved plan to alleviate flood conditions is submitted. Subdivisions are required, to the maximum extent possible, preserve wildlife habitat, natural terrain, natural drainage, existing topsoil, trees, and fisheries. Moreover, an approved Wildlife Conservation Plan is required for all projects that are likely to have a significant impact on wildlife habitat.</p> <p>http://www.co.larimer.co.us/planning/planning/land_use_code/land_use_code.htm http://www.co.larimer.co.us/planning/planning/land_use_code/section8.PDF http://www.co.larimer.co.us/planning/planning/land_use_code/section4.PDF (flood plains)</p>	SP4, 5, 6, 7
Teller County	<p>The County requires developers to complete a report on the potential impact of development projects in areas with a high potential impact on endangered wildlife. If the development's impact on a key endangered species is found to be high or moderate, then mitigating measures must be targeted to the specific wildlife impact brought about by the development.</p> <p>http://www.co.teller.co.us/CDS/Planning/LandUseRegs/u-z.htm</p>	SP13
Weld County Land Use Plan	<p>The County's master plan states that "the County will identify and strive to protect critical or unique habitat areas of high public value, such as habitats of endangered or unique species, significant viewing areas and breeding and spawning areas." It also states that new developments should be located and designed to preserve significant wildlife habitats. In addition, the County's plan discourages land uses which require drainage, excessive removal of riparian vegetation and alterations of river or stream banks.</p> <p>http://www.colocode.com/weld/weld_22.pdf</p>	SP3
Other Measures		

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Program	Description	Units Potentially Affected
Colorado Ecosystem Partnership	Agreement for cooperative planning between Federal and state agencies.	
Natural Areas Partnerships Initiative	Development of a state-wide strategy to coordinate public and private efforts to protect natural areas.	
Colorado System for Conservation Planning	Division of Wildlife project to establish priorities for habitat protection.	
Colorado Biological Conservation Data System	Natural Heritage Program cooperative arrangement among the Department of Natural Resources, Division of Wildlife, Colorado State University, and private and Federal agencies to set biodiversity conservation priorities.	
Colorado Great Outdoors Program	Established by the Colorado Constitution to protect crucial wildlife habitat, natural areas and open spaces established by the Colorado Constitution.	
Colorado Natural Areas Program	Protection of undisturbed habitats, habitats that are an important source of genetic material, or used by threatened and endangered species.	
Wyoming Land Use Management Planning program (WLUMP)	Identifies hot spots or land most valuable for multiple uses, ranks land according to its highest use, and provides lands ranking in the top one-third for purchase.	
Wyoming Wildlife Trust Fund	Purchases land for wildlife habitat.	

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Wyoming Habitat Extension Program	Offers incentives and technical assistance to private landowners for preventing damage from wildlife and enhancing habitat. Also offers tax credits for habitat protection.	