

This document is for discussion purposes only. The Colorado Habitat Exchange (CHE) Working Group submitted a proposed Agreement for our consideration on Dec. 31, 2014. Through the agreement, CHE seeks “some level of regulatory assurances” for participants in the CHE. Potential options for what “some level of regulatory assurances” might mean are explored below.

Most of the options described have aspects which may make them novel approaches for us. As such, we cannot guarantee that we can achieve all the options. However, we want to discuss and explore the options to try and find a workable solution that will best meet CHE’s expectations and achieve Greater sage-grouse conservation.

Agreement Options:

- I. **The Service recognizes the mitigation program through a letter.** We might recognize the CHE as a method that will improve Colorado’s ability to track voluntary participation under CO’s 1200 series rules. OGCC encourages operators to consult with CPW. CPW provides guidance on avoidance, minimization, and compensatory mitigation. CHE tracks which providers follow CPW recommendations and provides streamlined access to mitigation projects.
- II. **An agreement between CHE, BLM, and FWS documents FWS support and recognition of the use of CHE for compensatory mitigation that BLM may require.**
BLM RMP revisions may require compensatory mitigation to offset unavoidable impacts in sage-grouse habitat. An agreement could recognize the CHE as a reasonable method for BLM to accept if operators are required to offset unavoidable impacts.
- III. **Recognize CHE credits regardless of species status.*** We might agree that, if credits are released or purchased/reserved (in anticipation of a future project) prior to a listing decision that finds warranted, credits could be used to meet necessary mitigation that might be identified during a post-listing consultation. However, there would be no assurances that the credits would be sufficient.

At the time of project (post-listing) consultation, avoidance, minimization, and remaining impacts would be assessed by the Service. Remaining impacts might be measured using the CHE or by another method identified by the Service. Pre-listing mitigation credits would be weighed against necessary mitigation identified during consultation.

- IV. **Recognize CHE method of debit calculation.** In order to recognize a programmatic approach to debit calculations, the Service would need to know that avoidance and minimization of impacts are required prior to measurement of debits. BLM RMPs may require avoidance and minimization. On private lands, the state could establish land use regulations that require avoidance and minimization or the CHE could adopt the components of the BLM RMPs (NSOs, CSOs, etc.) to achieve comparable avoidance and minimization.

* **Credit Providers and CCAAs.** A landowner's decision to seek regulatory assurances under a CCAA is separate from a decision to participate in the CHE. A CCAA must provide a conservation benefit that would preclude the need to list if replicated by other landowners. The level of benefit that exceeds the CCAA standard could be sold as a credit in the CHE. The CCAA level of conservation benefit could be identified as a minimum function per acre (i.e. a number greater than the regional average site-scale %).