

STATE OF
COLORADO

Uebelher - CDOT, Jennifer <jennifer.uebelher@state.co.us>

Hwy 149 Pilot

2 messages

Diane [REDACTED]

Fri, Mar 12, 2021 at 8:11 AM

To: Jennifer Uebelher <jennifer.uebelher@state.co.us>, Herman Stockinger <herman.stockinger@state.co.us>

Dear Transportation Commissioners,

Thank you so very much for taking your valuable time to seriously discuss the Hwy 149 Pilot. It is my sincerest hope that you will also consider my input and read this correspondence to the end. (highlighted sections at the end are copies of my personal experiences and validation of some of my statements) ATV and OHV issues are controversial and divisive not only nationwide but worldwide. BUT the ONLY true reason Hwy 149 and Hinsdale County, CO are "unique" is because of it's ATV/OHV history and County Sheriff Ron Bruce's belief that he had some type of special authority to allow all off-road vehicles to drive illegally on State Highway 149.

You have been tasked to decide whether or not to allow a portion of State Highway 149 to be turned into part of a recreational trail system referred to as the Alpine Loop. I am asking you to consider the following reasons for stopping this pilot once and for all.

- SAFETY

- With all the undaunting reporting and evidence of safety risks, that in itself should indicate why OFF HIGHWAY VEHICLES should not be allowed on HIGHWAYS under any circumstances.

- Does anyone know if OHV liability insurance actually covers those vehicles while driving on a State Highway?

- HINSDALE COUNTY BACKGROUND

- The Alpine Loop has been a 4WD tourist destination long before ATVs/OHVs and will continue to be without the use of Hwy 149 to off-road vehicles. For the old & young, any 4WD vehicle can take you around the Loop.

- All tourists must exit "The Loop" to go into both Silverton and Ouray. Silverton has limited access to OHVS. And Ouray does not even allow OHVs on their roads. Why then, must the use of Hwy 149 be seen as a necessity to "complete the Loop" in Hinsdale County?

- There IS direct access for OHVs to the entire Loop trail system from The Town of Lake City via CR20. CDOT used to require 'no other local access to trail systems' before assisting communities creating alternate routes adjacent to State Highways.

- LEGISLATIVE HISTORY

- Hinsdale County voters have never voted to allow off-road vehicles on any of the County roads. A single local court case (now proven mute), Town of Lake City's elections and a rogue County Sheriff are why every inch of roads/streets/alleys in Hinsdale County are now open to OHV traffic. It is not fully supported by everyone.

- The first vote that passed (after 3 elections that voted no) in The Town of Lake City allowing roads open to OHV use was before the State even passed legislation sanctioning individual locations to open their roads.

- When it was determined the County regulations were not compliant with State regulations, Hinsdale County leaders fought to have HB 18-1103 created in order to be in compliance. In that same HB Legislators also amended 33-14.5-108 creating the loophole that has brought this issue for you to determine the legitimacy. Make no mistake your vote/decision WILL set precedence for use of off-road vehicles on State Highways statewide.

- The HB regarding OHVs are listed under Parks & Wildlife. Why? As an attempt to surpass years worth of State and Federal laws and regulations that govern public safety on roadways? At this time Colorado does not acknowledge these machines as "vehicles". You are being asked to validate questionable legislation, again, based on a Statewide Legislative Bill.

- ECONOMICS

- Every "economic report" I've seen or heard does not include incurred costs to State or Local entities. I believe a forensic investigation of Lake City and Hinsdale County revenues should be required to even address that claim and prove that that sole type of recreational tourist and use of Hwy 149 has been the only economic driver to the community. And to show a balance of income and costs.

- Both State Patrol and Hinsdale County Sheriff Office have minimal officers on staff for very large areas to cover. The Hwy 149 Pilot is not a priority for the State Patrol and HCSO was directed to ignore OHVs, especially on Hwy 149. And while it may be a new Sheriff, he was instructed under the authority of Ron Bruce when he was sheriff. And they intend to hire Ron Bruce back as a deputy this coming summer.

It is my understanding you would like to find a compromise for this issue. I considered suggesting one to you. But I know from closely watching this issue develop, that the leaders of the community and proponents of off-road vehicles will never accept anything but their way and only full access to drive wherever they want. They want everything for no cost and no accountability. That is a proven record for the past 4-5 years at least. The use of Hwy 149 started as an illegal free-for-all and it just continues, but as a sanctioned free-for-all because there is no accountability. It is just a bunch of resolutions calling it a "pilot".

The following are what I believe to be evidence of why this issue has ended up on your plate.

Karsian - CDOT, Andrew <andy.karsian@state.co.us>

Fri, Aug 31, 2018, 3:48 PM

to me

Diane -

My sincere apologies that it took this long to answer your letter!

We are continuing to try and work through this ongoing issue in Hinsdale County. It is very difficult as you well know. The question we struggle with is how to protect the rights and safety of the residents while also protecting the economy of Lake City and Hinsdale, and figure out how to manage the number of OHV riders in the region. No easy answer, and no silver bullet are available.

As you accurately surmised in our prior conversation, law enforcement in the region is doing little to enforce the current state laws prohibiting OHVs on state highways down there. CDOT and State Patrol thought that if the local law enforcement isn't doing anything, then something needs to be done so that, through inaction, the problem doesn't become 10x worse.

The thought we had was begin a pilot program in a controlled area to record what the impacts of the OHVs are in the region. Without the program's data, we'll just continue having circular conversations about the issue and nothing will be done. Some hopes we have for the pilot include:

- being able to capture the number of OHVs using the state highway;
- record the various traffic infractions/ law violations that occur during the summer months;
- assist in educating the drivers about responsible driving behaviors that could lead to more self governing; and,
- have numbers and facts that will shape future policy conversations around the issue.

I know Zane would like to hear from you about any ideas you may have in shaping the pilot program. It isn't that we've not solicited opinions from the public, it is that we're just beginning to develop the program and haven't reached out to folks yet. I will contact him and let him know of your desire to participate in the process.

I hope this helps clarify a little of what is going on and helps alleviate one or two of your concerns. Please feel free to continue contacting me and I will strive to be more speedy in future replies back to you!

Best Regards,

Andy

Andy Karsian

State Legislative Liaison

The following is a Letter to The Editor printed in the September 22, 2017 edition of the Silver World Newspaper. Written in response to letters I'd written.

Grant -

As you are well aware, I loathe to write letters to the editor but Ms. Diane [REDACTED] and her husband, Wade [REDACTED], have finally "poked me in the eye" one too many times and I am compelled to write.

I'll refer only to her most recent letter and then to the letter she sent to 7th Judicial District Attorney Dan Hotsenpiller.

Ms. [REDACTED] comments regarding the BOCC meeting Sept. 6th, when a portion of that meeting was dedicated to discussion with representatives from Colorado Department of Transportation. A portion of that was set aside for our OHV dilemma. I had to be in Denver for a two-day State POST Board meeting but had been asked to participate in the 90 minute time with CDOT. Nearing the end of that discussion, I was asked to weigh in on the topic and did so briefly.

Ms. [REDACTED] states that local government and the state government "Hinsdale County and The Town of Lake City do not have the money or means to make a LEGAL access for (unlicensed) OHVs/ATVs to be able to complete the Alpine Loop. And neither does the state. Nor do they want to spend their precious dollars on such a cause (re: a set-aside path paralleling State Route 149 for OHV/ATV use.)". "Their precious dollars" are actually our dollars, hard-earned money paid for by various taxes imposed on us. Certainly we should consider those funds as "Precious". Most of our citizens have not participated in these conversations but I can tell you that assuming we could acquire the necessary easements, it would likely cost \$5-6 million dollars to create that path when the easiest answer is to do exactly what we are doing now...sharing the road with OHV/ATV traffic.

Ms. [REDACTED] is incensed that I have told my staff to ignore the mere presence of this traffic on Route 149. I did this simply because I thought it was the fair thing to do and I have tried to live my law enforcement life guided by that principle. We have had a court ruling in place since 2002 and reaffirmed in 2008, handed down by Chief District Judge Steven Patrick. That ruling which was initially ruled on by then Chief District Judge Larry Vickers, was that based on interstate reciprocity agreement, those machines licensed and titled in their home states as motor vehicles, must be recognized here. Eventually I felt it was patently unfair then to prohibit the majority of the machines here from Colorado, Texas and Oklahoma to not enjoy the same privilege. Arbitrarily I said it was going to essentially be hands-off regarding their mere presence from Elk Road to the north of our town limits to the CDOT yard south of Lake City. Units without license plates caught outside that window would in fact then be cited under CRS 33-14.5-108. I can tell you I have personally issued two such citations but, by in large, we have had excellent cooperation by operators in this respect. Speaking to the respect issue, we have found a heavy majority of OHV/ATV operators to be nothing but respectful. They do not want to lose what we have now made available. There are no more "outlaw" OHV/ATV operators than there are ones that operate all our other means of transportation. They then become our problem and we do the best we can with our limited personnel.

As most folks can imagine, it matters not what those of us in law enforcement do, it will make someone angry. We realize that and simply try to minimize those emotions as best we can.

Ms. [REDACTED] makes this statement, "But speeding licensed ones are OK..." Oh, come on, Ms. [REDACTED], you've got to be kidding.

I could go on and on regarding her most recent letter and others she and Wade have written but I'll now go to the crux of why I am so annoyed with them. Ms. [REDACTED] is attempting to have me investigated and arrested for "ignoring the law". Her pleas to the Attorney General, Colorado Bureau of Investigation and DA Hotsenpiller to that end have fallen on deaf ears. They all know full well this simply falls into the discretion area peace officers are granted. There are so many, many laws on the books that every peace officer, every day, ignores. To hear outcries that "...It's the law and you must enforce it," is insanity at best. The public should absolutely fear agencies or officers who try to operate in such a fashion. Instead, they should be praying that we are all blessed with a very large dose of "gray". I recently had this same discussion with Colorado State Patrol Captain Laurie Hadley in Montrose. The discussion largely revolved around the OHV issue on this short section of 149. She said that "... it's the law and it's our job to enforce it." I initially tried the discretion route but was rebuffed. I told her that her troopers were not enforcing traffic laws every time they were on duty and she was adamant that was not happening. I told her I could make her a list but would attempt to break it down to the lowest denominator. I said, "Assuming a particular speed limit is 55 mph, is 56 mph breaking the law?" She responded in the affirmative. So then I asked if her troopers were issuing citations for 56 mph in 55 mph zones. she responded with an "Of course not!" I told her I rested my case. Everything we do is largely discretionary and the public should never want it to be anything but. Do I have a couple of hard and fast "don't do it" violations? Sure, DUI would be at the top of that list but it truly is a short list.

Ms. [REDACTED] also alleges that the reason more people are not speaking out against OHVs on 149 is because "...for fear of Sheriff Bruce's retaliation." Aw, come on Ms. [REDACTED] you've got to be kidding. You obviously know little about me. I respect differing opinions but only when they are based on firm ground and devoid of hysterics and hate. Have a polite conversation about this, but it becomes readily clear you hate my guts and have taken that hateful rhetoric into the public forum. So here we are. But please, please trust me when I say that I have never retaliated against anyone because they disagree with me.

You want black and white? Be so very, very careful where you decide to take that route. You will find a very healthy segment of our population who have been contacted by me or my staff and you will find that a large preponderance of written warnings have been issued vs citations. We are not looking to beat our population up with citations but rather are looking for reasonable compliance AND for what is fair. I remain steadfastly convinced my position regarding OHVs on this short stretch of 149 is simply fair. This has not resulted in mayhem and chaos (except perhaps in your mind and that of a few others).

Instead, it has drawn a significant increase in money being spent in our town and county, which we desperately need. It has also significantly enhanced the Alpine Loop experience. We have not yet seen a single crash involving an OHV/ATV on 149 since we began this process. That does not mean it won't happen. Odds are that sooner or later it will. But what about the crashes we've had with pickups, Jeeps, motorcycles and SUVs? Are we to ban those now? I'm simply saying this is NOT a public safety issue.

Ms. [REDACTED] and Mr. [REDACTED], I believe you wake up in the morning hating OHVs/ATVs and me, and go to bed feeling the same way. I'm sorry for that and hope you can find another, more beneficial outlook on life. In the meantime, if Hinsdale County and the Town of Lake City residents are as equally unhappy with me as you two are, then their recourse is a recall. Folks will not get a chance to vote against me again, as I will not seek re-election as your Sheriff next year. I have largely accomplished all that I had hoped for. That was to provide a professional, courteous, caring and honest law enforcement agency to our citizens and visitors. I believe I have done that.

With my deepest respect, Ronald B. Bruce Hinsdale County Sheriff

In the reply from DA Hotsenpiller on Sept 8, 2018 he wrote:

"We encourage you to continue your efforts to raise awareness about public safety issues in your community. Ultimately, the citizens of Lake City and Hinsdale County are the ones that must balance the competing interests involved and advise public officials of their desires with respect to public safety issues."

I am asking you, with great respect, to end any and all OHV/ATV use of Colorado State Highways anywhere in the State. And I thank you for considering my input.

Most Sincerely,

Diane [REDACTED] - Former working resident and still a Hinsdale County property owner.

Questions? : [REDACTED]

Uebelher - CDOT, Jennifer <jennifer.uebelher@state.co.us>

Fri, Mar 12, 2021 at 8:16 AM

To: [REDACTED]

Cc: Herman Stockinger <herman.stockinger@state.co.us>

Ms. Salzmann-

Thank you for your email. I will make sure it is available for the commissioners. Please note that the packet deadline has already passed so this will not be in the initial section of emails but it will be posted online in a separate section for their review. Thank you.

Kind Regards,

Jennifer Uebelher
Transportation Commission Liaison
Office of Policy and Government Relations

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