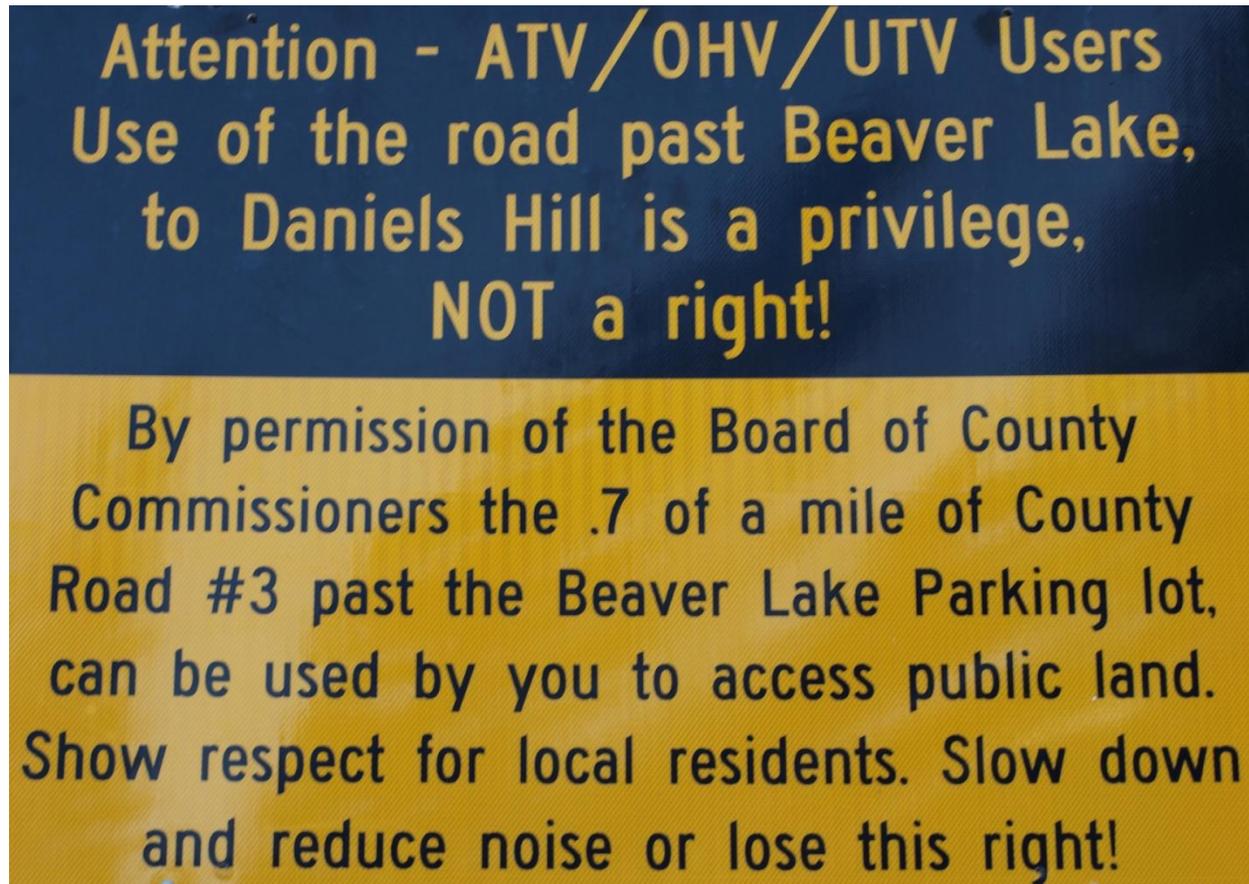


Alex Menard's Opinion
2/2021

This sign is posted at the parking area of the historic Marble Millsite, where the Town of Marble has designated parking for ATV drivers to unload trailers.



What does this sign mean? Colorado state vehicle codes state that a county road, like CR3 through Marble, is closed to use by unregistered OHVs (Off Highway Vehicles) unless specifically designated for that use by the county. ATVs are allowed to travel through CR3 from Beaver Lake to Daniels Hill because of a specific action by our county commissioners.

For this privilege granted to ATV users by our commissioners, residents of Marble and surrounding areas get the privilege of noise, dust, trampling of vegetation, erosion, the scaring away of wildlife, the pleasure of being run off the road and dusted by speeders, trash, human waste, problems with accessing our own driveways, reduced quality of emergency response due to blocked access, water pollution and even blinding lights shining in our faces.

Many local non motorized outdoor enthusiasts forego the entire backcountry accessed by the Lead King Loop (LKL) for the entire summer and fall because of how unpleasant the access is made by ATV overuse. The LKL contains over a dozen trailheads which are the only direct approaches to the high country from Capitol Peak to the Maroon Bells , that are available on this side of the Elk Range.

In economics, the concept of an externality refers to the effects caused by one person's actions on another person, who does not choose those effects. You can call externalities unintended consequences. Even the most libertarian viewpoint will acknowledge that a primary reason for government is to deal with externalities. The ATV externalities are listed in the previous paragraph.

Most ATV drivers cover their face with a dust mask to deal with the dust that they stir up. Many wear helmets which protect their heads and muffle the noise they create. Many use superbright lights to warn other travellers that they are approaching. Do other travellers on the loop, including jeeps, cyclists and pedestrians, need to use dust masks, helmets, warning lights and ear protection to deal with the externalities created by ATVs?

How did it happen that the Lead King Loop became a route so dominated by ATVs that other users are discouraged? The area traversed by the loop is immediately adjacent in many places to the Maroon Snowmass Wilderness, which was established as one of the first wilderness areas in the US by the original Wilderness Act of 1964. Outward Bound chose this area as their original base camp in North America and still uses it. More recently, the Aspen Valley Land Trust acquired a parcel on the loop for school backcountry programs. Both programs are now limited by the ATV overuse.

The Gunnison County director of Public Works has stated in a conversation with a realtor, that property values along CR3 are decreased because of noise and dust. Realtor Jeff Bier told Steve Finn, landowner at the base of Daniel's Hill, that his property value was reduced up to 10 % because of noise and dust from ATV use. We all know that our quality of life is negatively affected by this use, but this property devaluation is demonstrable and measurable evidence. Local landowners are now pursuing their options for a lawsuit to force action by the county, alleging negligence in enforcement of speeding laws and the resulting loss of property values due to the externalities imposed upon them.

This possible action has a clear path. First, Gunnison County has a duty of care, that is, a legal obligation to protect us from the externalities of ATVs, especially considering that the county has allowed them access. Second, there has been no enforcement of speeding, parking or other regulations at all. This shows a breach of duty. Third, we can establish causation between this breach of duty and the effects listed in the second paragraph. Finally, physical damage is easy to document and the loss of appraised value of adjacent properties can help establish a dollar value for this claim.

If our three commissioners can be persuaded to direct the county to recede OHV use on CR3 between Beaver Lake and Daniels Hill, this would reduce ATV use on the Loop by at least 90% and trailer parking in Marble by almost 100%. Jeeps and licensed motorcycles would still be allowed. ATV users could still drive up to Daniels Hill with trailers and unload there, but that is so difficult and limited that it would discourage use by almost everyone. The county could also prohibit parking at the base of Daniel's Hill. This solution has already been implemented to deal with an identical situation in Pitkin County. Locals could still use their ATVs in town and landowners in Crystal would also be exempted as their ATVs are considered ranch utility vehicles by state vehicle codes.

The quality of a solution should be judged by its effects and also by how easy it is to implement. This suggested solution involves only persuasion of three county commissioners and no involvement of town

or federal governments. Commissioner Liz Smith can personally testify how ATV noise made it difficult to hold a community meeting in the Millsite Park last summer. This solution could be in place before the next summer of Hell begins. Just because a solution is not perfect is not a reason to do nothing. In fact, this action would solve multiple problems for the Towns of Marble and Crystal and for the Forest Service on the entire Lead King Loop.

Here is what you do: Send an email to :

Marlene Crosby, Director of Public Works for Gunnison County (mcrosby@gunnisoncounty.org)

and our three commissioners, Elizabeth Smith (eksmith@gunnisoncounty.org),

Johnathan Houck (jhouck@gunnisoncounty.org)

and Roland Mason (rmason@gunnisoncounty.org).

Describe the situation last summer and state that it is unacceptable. If you don't like my proposed solution, suggest another.

Key points are:

1. This is an emergency situation! The impact of the existing ATV use on the Loop is so great on the environment and community that it should stop immediately. Only if the county is able to provide support services and resource protection should use by ATVs be reconsidered.
2. Publicity and signage begins immediately to inform ATV users of this change in regulation.
3. The Gunnison County undersheriff has stated that beginning in June, two full time deputies will be available on this side of Kebler Pass. Somerset certainly does not need both. One should be stationed here in Marble full time during summer and fall to enforce regulations. This deputy could even be a partner to USFS and patrol the Lead King Loop. Pitkin County has similar arrangements with the forest service.

Let's bring serenity back to our valley!

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