

November 13, 2007

Ferry County Commissioners
290 E. Tessie Avenue
Republic, WA 99166

Dear Commissioners,

Your draft of proposed Ferry County Ordinance No. 2007-22, "Ferry County Off Highway Vehicle Ordinance" has been posted and you have requested comments from the public. The draft lists fifty Ferry County road segments that you propose to authorize for use by Off Highway Vehicles based on Washington State Law, RCW 46.09.

We have reviewed RCW 46.09 and observed that the controlling section is 46.09.180, "Regulation by Local Political Subdivisions or State Agencies". It reads as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of less than three thousand persons may, by ordinance, designate a street or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of less than three thousand persons and an off-road vehicle recreation facility.

We have underlined the portion of the law that was added by House Bill 2617 dated June 7, 2006. Our Representatives and Senators sponsored and approved this bill allowing local jurisdictions to authorize off-road vehicles to operate on designated city or county roads. Prior to that time cities and counties did not have this authority. A copy of the Final Bill Report HB 2617 is attached for your information.

You will notice that both RCW 46.09.180 and the final bill report clearly contain the words "...if the road or highway is a direct connection between a city with a population of less than three thousand persons and an off-road vehicle recreation facility".

Your proposed ordinance is deeply flawed because most of the fifty roads listed do not meet those criteria.

It is requested that your proposed draft be thoroughly reviewed by our Prosecuting Attorney and approved for compliance with all aspects of RCW 46.09 rather than being "approved as to form". It is further requested that the draft of Ordinance No. 2007-22 be revised extensively to include only those Ferry County roads that can be lawfully justified.

Roy and Wanda Lammer
PO Box 149
Danville, WA 99121

cc: Representative Joel Kretz , Representative Bob Sump, Senator Bob Morton, Ferry County Prosecuting Attorney Mike Sandona