

## ADA Proclamation: Converting words to action on non-compliant driveway crossings

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Commissioners,

I was very appreciative of the unanimous support you gave the Americans with Disabilities Act proclamation at the July 22, 2020 meeting. This part of the proclamation is most notable:

- "BE IT FURTHER PROCLAIMED that the Ada County Highway District does hereby reaffirm that the full promise of the ADA will only be reached if the Ada County Highway District remains committed in our efforts to **fully implement the ADA.**"

I emphasized "fully implement the ADA" because it brings to mind a serious ongoing lack of such a commitment on ACHD projects as it pertains to non-compliant sidewalks at driveways.

At your June 10, 2020 meeting you approved a resurfacing project on Owyhee from Cherry to Overland. This corridor was subject to an ACHD sidewalk project a few years ago that added sidewalks, built new curb ramps, and replaced non-compliant ramps. However, where sidewalks already existed south of Nez Perce, ACHD failed to *fully implement* ADA because it ignored non-compliant sidewalk segments that cross driveways.

For people in wheelchairs, navigating a cross slope in excess of 2% is a dangerous endeavor as slopes greater than that tend to pitch people into the street. The same is true for someone may be using another mobility devices or is on crutches. Driveways are where most of these unsafe conditions exist along many of ACHD's streets.

*Exhibit A* in the attachment shows two sidewalk segments that cross driveways on Owyhee, just south of Nez Perce. I used a \$30 smart level and a \$1 box of chalk from Dollar Tree to show that these slopes are well in excess of the ADA-required 2%. You'll see in the pictures they are 8.5% to 9%. There are others along this route with similar non-compliant design.

During the discussion at the June 10 meeting, the topic of the Owyhee project meeting ADA standards was discussed. (<https://youtu.be/dEOwKwytvc>).

At the 54:15 mark of the video, Deputy Director David Wallace asserts that "This was designed to federal standards." At the 57:55 mark, Commissioner Baker asked "Doesn't this project bring up to standards the ADA requirements?" At the 58:00 mark, Mr. Wallace re-affirmed that it did.

This is simply not true as, under the project approved by ACHD, these non-compliant cross slopes will remain.

My guess is that ACHD staff looks at meeting ADA standards on such a project through a very narrow lens. Federal policy requires an agency like ACHD to bring curb ramps up to current ADA standards when there is a resurfacing project. It does not stipulate driveways be addressed. That does not, however, mean that ACHD has made the corridor ADA-compliant by simply following the federal major alterations rule. In the spirit of ACHD's proclamation to "fully implement ADA," doing a change order on this project to fix these sidewalk driveway slopes would indeed bring that route up to ADA standards, as Mr. Wallace professed that it already did.

There's a difference in doing the minimum that ADA requires versus "fully implementing" ADA. The Owyhee project is an example of that. Are you following federal law with what you're doing on Owyhee with the resurfacing project? Yes. Will Owyhee between Overland and Cherry be ADA compliant when that project is complete? No. Why would ACHD not take the opportunity to fix these driveways when it's already going to be out there doing a major project? You don't do only the minimums on things like travel lane widths when you widen a road. You "fully implement" the improvements for lane width.

I found one possible problem as to why staff may believe it meets standards, and that is in your [ADA Transition Plan map](#) that shows which routes have sidewalk deficiencies. You'll see in Exhibit A that the people in charge of collecting this data and field verifying it marked the Owyhee corridor south of Overland as having no deficiencies, when the pictures I show next to that section of the map indicate these driveways are indeed deficient, thus do not meet standards.

On my journey back from looking at Owyhee, I came across more troubling areas where ACHD's Transition Plan map showed no deficiency but sidewalks crossing driveways were in excess of ADA standards for 2% cross slope.

- *Exhibit B* is probably the most egregious on **Overland, just west of Vista**. ACHD was out there not that long ago rebuilding ramps. But nothing was done to fully implement ADA by making very severe slopes on driveways compliant. I invite you to try to cross that 12% cross slope in a wheelchair and feel it pull you toward the street as that pickup truck rounds that corner.
- *Exhibit C* shows a similar issue on **Federal Way, Protest to Overland**, where the deficiencies map shows no issues but sidewalk driveways cross slopes are in excess of 2%.
- I was most alarmed with what I saw on **Columbus, between Overland and Kootenai** (*Exhibit D*). Again, it's an example of looking at ADA through a very narrow lens. Those of you who have been in the Commission for a long time know what a pain this project was to finally get implemented. But the project decision-makers conveniently stopped short of fixing non-compliant driveways just north of Overland, and as a result Columbus between Overland and Kootenai is not up to ADA standards despite spending a million dollars thinking it would be. I don't know if they thought, like with Owyhee, that since that section already had sidewalks that it wasn't to be touched or if they failed to evaluate non-compliant driveways when they defined the project limits.

When will these driveways be fixed under ACHD's current investment budget? Never, as there is no indication in the Transition Plan map or document that these non-compliant cross slopes across driveways are identified as a problem. There is no program to retrofit non-compliant sidewalk crossings of driveways. This means "fully" implementing ADA, as you proclamation commits to, is not part of ACHD's short- or long-range plans.


There are remedies to this:

1. **Immediately direct staff to allocate \$100,000** in the next two budgets for "High Priority Unsafe Driveway Crossing Compliance." Add this program to the IFYWP and continue that allocation.
2. **Ask the ADA Advisory Committee to prioritize which routes are most important.** Perhaps Owyhee or Columbus isn't as important as Overland or Federal Way because it doesn't have as much risk from high-speed adjacent traffic. Let the ADA Committee members make that decision and work with staff to priority routes.
3. **In allocating \$100,000 a year to this, do not penalize the Community Programs** to make up for ACHD deficient actions of the past. Move the money from somewhere else in the budget. Another option is to allocate part of the \$400,000 non-compete contract MIG got this year to give you ADA advice and move it to actual compliance implementation.

Thanks in advance for your prompt and immediate action to not only change order Owyhee to fix these driveway crossings so Mr. Wallace's claims are true, but also a commitment to fully implement ADA by creating a new budget allocation to fix non-compliant driveway crossing while not penalizing the Community Program Budget. That would be a great way to show that the 30th Anniversary of the Americans with Disabilities Act is truly subject to a re-commitment by ACHD by turning a proclamation into meaningful action.

Best regards,  
Don Kostelec

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