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June 6, 2014

*VIA HAND DELIVERY / VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, NO. 7010  
3090 0002 9923 5206 / VIA REGULAR MAIL*

John Avery  
787 CR 120  
Hesperus CO 81326

**Re: DEMAND TO CEASE AND DESIST: TRESPASS & NUISANCE  
Our File No. 1919.004**

Dear Mr. Avery:

This firm represents Clifford and Carolyn Attkisson, trustees of the Attkisson 1994 Revocable Trust, the owner of Lot 2 Horseman's Park, located at 244 Equestrian Trail, Hesperus, Colorado, and Jeff and Claire Bradshaw, the owners of Lot 3, Horseman's Park, located at 789 CR 120, Hesperus, Colorado. Your entity, Luke the Duke, LLC, owns the property adjacent to and east of my clients' properties, located at 787 CR 120, Hesperus, Colorado.

Trespass.

My clients advise that you have been using the private driveway that is located on my clients' properties, which connects the Bradshaws' property to County Road 120 and to the Attkissons' property, for the hauling of construction materials from your property. This letter is sent to **DEMAND THAT YOU IMMEDIATELY CEASE AND DESIST USING THIS PRIVATE DRIVEWAY** for the hauling of construction materials or for any other purpose and that you direct all of your agents, contractors, and subcontractors to also cease using such road.

You have trespassed on my clients' properties at least three times that my clients have witnessed, commencing on May 16, 2014. You have no legal easement, license or other permission from my clients to use their private driveway. You have no legal easement on any portion of their properties other than as shown on the plat for Horseman's Park subdivision. Your illegal use of the private driveway is evident from the tracks from the mining operation on your property (discussed below) to the driveway.

If you do not immediately discontinue the trespass on my clients' properties and direct all agents to discontinue their trespasses, this firm is directed to institute legal action against you to obtain monetary damages and injunctive relief restraining you from further trespasses.

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Nuisance.

Additionally, it is my clients' understanding that your mining operation on your property is illegal, in that the operation requires a mining permit from the Colorado Division of Reclamation, Mining and Safety and from the La Plata County Planning Department and that no such permits exist. Your operation unreasonably and substantially interferes with my clients' use and enjoyment of their properties, due to the noise, dust, and safety issues it presents, and therefore constitutes a nuisance. Further, although you have advised Mr. Bradshaw that you intend to reclaim your property with a pond, it is my clients' understanding that you currently own no water rights with which to fill any such pond. My clients question whether your property will be appropriately reclaimed and are concerned about the resulting negative impact on their property values.

My clients demand that you **CEASE AND DESIST ALL MINING ACTIVITIES ON YOUR PROPERTY** until such time as you have obtained all required state and county permits and have posted all required bonds.

Overuse of Equestrian Trail Easement.

In connection with your unpermitted mining operation, numerous dumptrucks and other heavy equipment have been using and are continuing to use Equestrian Trail for access to and from your property from Cross Creek Road on a consistent basis. This commercial and/or industrial use of Equestrian Trail is not contemplated in the easement documents that created Equestrian Trail and is unreasonably overburdening the Attkissons' property.

Trailer.

Finally, my clients object to the presence of the blue trailer that you have placed at the boundary line between you property and the Bradshaws' property, near the entrance to County Road 120, which has been spray-painted with the statement "I Love Obama, Muslims [sic] and Lawyers" and "BJ Construction" (an inversion of the name of Mr. Bradshaw's company, JB Construction). Your installation of this trailer at this location is perceived as intending to harass and intimidate my clients, and has upset the Bradshaws' children, and my clients demand that it be removed.

Please contact me or have your attorney contact me at your earliest opportunity.

Very truly yours,

**GOLDMAN, ROBBINS & NICHOLSON, PC**



Lindsey K.S. Nicholson  
[nicholson@grm-law.com](mailto:nicholson@grm-law.com)

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cc: Cliff and Carolyn Attkisson (via email only)  
Jeff and Claire Bradshaw (via email only)  
Monte Albrecht, La Plata County Sheriff's office (via email only)