

STATE OF  
COLORADO

Hays - DNR, Peter &lt;peter.hays@state.co.us&gt;

---

**M-2020-15**

---

**David Emslie** <dave@prospectorsgoldandgems.com>  
To: peter.hays@state.co.us

Fri, Feb 28, 2020 at 9:59 AM

I received your certified letter the other day. Thank you for taking interest the recent television series "reclaimed" where I did some contract and acting work with for the entertainment industry that ended up on the Discovery channel. Just as I have in the past for other shows.

As many people who watch too much television. It is often times believed that everything seen must be true when in fact it is for entertainment purposes and is fabricated from many hours of selective editing to spin a story to sell commercial air time on television for sponsors and entertainment for viewers.

The divisions assessment that the activities seen on the show appear to be "staged" is correct.

We are very well aware of the definitions in C.R.S. 34-32-101 and have not conducted any activity that would be defined as mining or a mining operation as defined by the statute.

Mining tools and equipment and historical buildings were shown on the show. But because television depiction is fantasy it is not anything that either MSHA or the DMRS can use as evidence as they are edited fantasy. They have no bearing on investigations or factual basis as it's a concept called "acting" otherwise known as "pretending" it is fictional.

For the stage Temporary track with deck screws was layed upon the ground on landscaping timbers in order to roll a historic mine car on the stage that was constructed. This is why the timbers were not buried into the ground as would be necessary for a real mining operation. The stage was made to be "TV pretty" and it was.

As the set was leased out I am not even aware of who the actors who were seen on the show pushing the empty cart. Last I checked there are no laws or regulations pertaining to temporarily setting landscape timbers on top of the ground on private property with rails held by contractor screws and pushing an empty hand cart along rail for an iconic shot that television producers decided to take and editors decided to splice into an entertainment series.

Had the author of the letter from the DMRS watched subsequent shows. It would be evident that the rail and timber and ore cart were in fact sold and removed from the site and moved to a site for use in Arizona where they are currently. As the cart and rail was sold to be used as a prop and transported to a site in Arizona.

This is the problem when choices are made based on limmited information and an incomplete picture overreacting is a common phenomenon. A perfect

example is the fear caused by HG Wells war or the worlds radio broadcast in the 1930s because people actually believed what they heard was real.

As the letters is full of doubt as well as correct assertions, as well as very troubling threatening overtones that are Paramount to extortion if I am reading into the intent of the letter correctly. And are indeed infact a violation of constructional rights in accordance to 403 U.S. 388 (1971), the US Supreme Court ruled that an implied cause of action existed for an individual whose Fourth Amendment freedom from unreasonable search and seizures had been violated

As it has been Determined that fictional television shows are indeed fiction a search of private property typically means a hostile intention from agencies, especially with the threatening overtones of the letter received. The DMRS is hear by put on notice that any trespass, threat, or other violation of rights. Shall involve the DMRS and any employee or agent of said agency in a USC 1983 lawsuit both personally and to the agency. And that no premission or consent is given to access the property at the site with out express written permission.

Also be it known that any interference now or future with business in filming, staged events or maintenance on our private property does constitute a tortous interfece equity suit and will also result in damages that will be collected from the agency and it's agents personally in suits of law.

The letter sent by its own admission states that the author knows the events were staged and hence ends any investigation from this fishing scheme and attempt to use the color of law For invasion of privacy. Still a fourth amendment rights violation and shall not be tolerated. Clearly the author has doubts that any Mining or violations have taken place by their own admission in writing. And in this letter by admission agents made an attempt to trespass. But also claim to have been saved from this action by snow and private property. It would seem there is confusion and doubt in the authors mind. However let there be no doubt that any violations of Rights would force us to file suit against the agency and it's agents personally as required by law.

As it is clear by the intent of the letter fund raising by civil penalty by the agents looking for "illegal mining" is clearly the goal of a site visit due to events that are fictional and hence not probable cause. It would seem such confusion and inexperience would also dominate an inspection and would likely confuse historic man made structures and mined material for modern in an attempt to raise revenue. Sorry. That is not going to happen.

Our intent is cleaning up and maintenance of the site for commercial and residential use in time. Activities that are not under the jurisdiction of the DMRS as such activities are not mining as defined by the statute and allowed by the zoning in the country and they are aware. They are also legal by state statute to do maintenance on private property.

Should the use be limited mining as defined in C.R.S. 34 obviously a permit would be filed as required by statute. However as no mining activity is happening as pointed out by the agent that wrote the letter. That is is "staged" therefore no further action is required to waste state resources, or to risk litigation with private parties on constitutional rights violations that can be filed already with just the information presented in the letter from the DMRS that would absolutely be a waste and loss if state resources.

The content of this letter is not intended to be adversarial but matter of fact should there be overreach or overzealous action. The DMRS is not a body that regulates television programs so there is no reason to have any discussion about that subject. Shows, companies and business can and will do as they please or by contract with premission from those parties for entertainment and other business.

Once the time is right should a permit be required for potential mining. We will be working with the DMRS at that time. And at that time inspection would be welcome as it would be part of the process. Until that time the site remains as private property and a set for entertainment and other non mining business that is not under the jurisdiction of the DMRS.

Should the DMRS wish to engage in business on the site for filming or otherwise, the rate for myself or for use of the site is \$1000 per day for use and consulting should the DMRS have any filming or set needs. Currently the only thing mined from this site is "entertainment value" that is visual and nothing is removed or extracted from it's natural occurrence. As defined in the statute 34 that I am well aware of.

It is truly unfortunate that the agents of the DMRS have chosen to make such a hostile approach.

The supposed goal of a mine reclamation agency should be to work with and Foster environmental cleanup and responsible mining with land and claim owners and not to threaten them with enforcement action and constitutional rights violations.

Recent scientific and technological advancements have indeed made for a situation where zero waste mining and reclamation of these sites is a thing and doable. It is truly unfortunate that the agents of the DMRS do not wish to discuss this ground breaking technology and advancement. but instead linger in the dark ages and wish to cling to ideology of enforcement over advancement to hunt for enforcement policies as detailed by the letter. The choice of the agency to do good and Foster the development of environmental cleanup of many of these piles of acid producing waste rock. That would be of benefit to the navigatable waterways of the United States. Clean drinking water for the people of Denver and downstream and the use of the material for industry, construction materials and critical minerals for the department of defense. Should the department wish to work with people and companies and Foster the development of clean green mining that is of actual benefit to human health and the environment, as well as creation

green jobs and the materials needed by industry in the private and defense sectors. That will also have the benefit of leaving behind a cleaner and better environment than we have currently. I would welcome such a friendly and positive discussion if those are truly goals of this agency and want to know how the agency will work to Foster that. But they must and shall be within the scope of fast track and reasonable permitting as defined by multiple acts of Congress and other federal agencies for the needs of the United States.

So if the DMRS wishes to have discussion on how our advancements in technology can help with what I believe is a mutual goal that is of benefit to human health and the environment please communicate how the DMRS will help to Foster that process and knock it off with the enforcement garbage. Do not threaten people who can be your allies in a mutually beneficial goal that can bring to the forefront technologies and actions there are of benefit to the people of the state and to the people and business of the United States.

Should this not be the case higher powers and federal agencies will be involved as common sense and scope of law will prevail to either make or break this agency. I would tend to think building and fostering a positive relationship would be better than one that would lead to detrimental actions.

That being the case I will allow for a "do over" should the agency wish to make an introduction and state how they will encourage and Foster environmental cleanup of the many sites that dot the hillsides of Colorado that people wish to have cleaned up without interference or excessive impediment as has obviously been the case for decades from this agency. That is what is of interest and should be the discussion as game changing technology and thinking has been applied in other states and places in the world. Only in Colorado has this not happened and according to experts the DMRS and its policies is the reason why.

The ability to completely remove and use everything to benefit does exist and has been studied that is safe. Clean and of benefit for all involved.

Should this be the case you may email me or send a letter in writing detailing positive development to move forward as I would be interested in cleaning up the environmental problems around the state that linger from over a century ago with the technology that leaves no waste or discharge. Perhaps something positive can come from this contact? I look forward to a positive response that will build a positive mutually beneficial relationship that are within the goals stated by the statute to bring about responsible and clean processing in the future. We are living in a changing new world and would hope the agents at the DMRS have the foresight to see and understand that and make responsible choices to Foster a good relationship.

David Emslie

