

Private property at 14,000 feet

By Brendan Leonard
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When Maury Reiber bought the Present Help silver mine at the top of 14,286-foot Mount Lincoln in the '50s, not that many people were interested in climbing 14,000-foot peaks in Colorado. We weren't suing the crap out of each other, either.

In the past 20 years, though, bagging Colorado's 58 14ers has become a popular hobby, drawing about 500,000 hikers a year to at least one summit attempt. We've also discovered that we can sue McDonald's for making us fat, or when we accidentally spill scalding coffee on our crotch.



"I think the view from the top of Mount Lincoln is one of the most beautiful in the state of Colorado," Reiber says. "I don't want to deny that to anybody." But in 2005, his lawyer advised him that with the amount of people hiking on his property, a lawsuit was a definite possibility.

Reiber and a couple of other owners of mining property on Mounts Lincoln, Democrat, Cameron and Bross - collectively known as the "Decalibron" to peak-baggers who traverse the 7.5-mile ridgeline route that connects the peaks - decided to close the property to the public, effectively saving them from liability for injuries caused if a hiker were to wander off the trail and fall down one of who-knows-how-many mine shafts and tunnels that pock the mountains.

"There's holes up there I don't even know about," Reiber says. Climbers who stay on the trail are fine, but the one percent of those who don't present a lawsuit waiting to happen, so Reiber and the other owners "closed" the mountains in June 2005. The town of Alma leased 3,900 acres from the landowners in August 2006, accepting the liability, but the peaks have remained closed since then while a plan that satisfies all parties is worked out.

Dozens have been trespassing on the peaks since they were closed. Their guidebooks, printed before 2005, obviously don't list the closures. Nor do popular Web sites that peak-baggers look to for beta on the 14ers. However, as long as the land is closed on paper, the landowners are still well protected from lawsuits. Trespassers, however, are jeopardizing future access to the peaks, says Cara Doyle, executive director of the Mosquito Range Heritage Initiative.

If the mountains weren't closed and you injured yourself, you'd have to prove the owner "failed to use reasonable care." If they're closed, however, and you trespass on the land, you have to prove the owner "willfully or deliberately" caused the injury, personal injury lawyer Ken Jaray told the Colorado Springs Gazette in July 2005.

House Bill 1049, signed by then-Gov. Bill Owens in March 2006, sounded like it would

solve all the problems. The language of the bill gave immunity to those who owned land on or adjacent to a 14,000 peak if someone was injured on their land. But, in order to satisfy the group of landowners, a safe trail must be clearly marked and signed. The Colorado Fourteeners Initiative, the Mosquito Range Heritage Initiative, the Colorado Trust for Public Land, the Town of Alma, the Park County Democrats, the U.S. Forest Service and more than 100 volunteers have been working on that. They hope to have trails on Mount Democrat and Mount Lincoln open before the end of 2007, if they can beat the snowfall, according to T.J. Rapaport, former executive director of CFI.

Mount Bross, the last leg of the Democrat-Lincoln-Cameron-Bross traverse, is a different matter altogether. More than 120 different owners have claims on Mount Bross, says Doyle, and getting them together to talk about a plan isn't going to be easy.

We owe this entire debacle to the Mining Act of 1872, written in a pre-litigious, pre-peak-bagging, pre-guidebook society. The Mining Act of 1872 authorized mining on public lands, allowing anyone to stake a claim. When initially established, the mining claims were unpatented, but claim owners could file for a patent, which then made it private land, very similar to a homestead. If you were willing to try to mine a 14,000-foot choss pile in the middle of the Rocky Mountains back in the late 1800s, you could own it. Recently, Congress has considered overhauling the Mining Act, but hasn't agreed on anything specific.

Even after all the trails have been built and all the signs have been posted, Maury Reiber and the other landowners can still close the peaks to the public, and if the price of silver eventually goes up enough, they probably will.

They won't be the only 14ers with access issues. In 2004, Rusty Nichols, who owns mining claims in Silver Pick Basin near Telluride, cut off access to the Silver Pick Trail, a popular route to 14ers Mount Wilson, El Diente Peak and Wilson Peak. In August 2007, the Trust for Public Land reached an agreement to buy the land from Nichols, and re-open the trail.

Culebra Peak, the southernmost 14er, just north of the New Mexico border, has been privately owned for years. But for years, the owners have allowed access to a limited number of hikers, for a \$100 fee, some of which goes towards maintaining the road to the trailhead.

In the West, you can, in fact, own a mountain. Long before you were slogging up Mount Lincoln for fun and summit photos, there were real hardmen working there year-round, in mines at 14,000 feet. As a side note, there are 636 "13ers" in Colorado to keep you busy while you're waiting for Mount Bross to open up.

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5 PRIVATE PEAKS (and a privately owned canyon)

- Ted Turner's Armendaris Ranch in New Mexico is 360,000 acres and contains the entire [Fra Cristobal mountain range](#). It's used by the Turner Endangered Species Fund to reintroduce Desert Bighorn Sheep and the Aplomado Falcon.
- [White Butte](#), the state high point of North Dakota, is privately owned. The owners charge \$10 per car.
- [Shiprock Peak](#), N.M., is Navajo property and has not been allowed to be climbed since 1970.
- [Culebra Peak](#) is privately owned and is part of the Cielo Vista Ranch. Climbers have to pay \$100 and sign a liability waiver.
- [Animas Peak](#) is part of Gray Ranch, a 500-square-mile ranch owned by the Animas Foundation (part of the [Malpai Borderlands Group](#)). People who have asked the manager about access to the peak have been kindly denied.
- [Crawdad Canyon](#), near St. George, Utah, is a privately owned sport-climbing park with more than 180 routes. There's also a pool and a restaurant in the canyon. Climbing is \$5, swimming is \$6.