

STATE OF  
COLORADO

Simmons - DNR, Leigh &lt;leigh.simmons@state.co.us&gt;

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## New 110D application

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Kiel Schleusner <info@candymountainprospecting.com>  
To: "Simmons - DNR, Leigh" <leigh.simmons@state.co.us>

Fri, May 30, 2025 at 2:28 PM

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Good afternoon Leigh,

Thank you for your response letter. My client and I have reviewed it and have some concerns. I've attached a response outlining these issues to this email to ensure we move forward correctly.

We noted that the letter mentioned missing information. However, we want to assure you that all the necessary details were included in the documents submitted with the permit application.

Furthermore, regarding the required exhibits, we have provided all that are necessary for a project of this nature. Only two exhibits from the provided list are required for submission and approval.

16. **Maps & Exhibits:** Submit TWO (2) complete, unbound copies of the following application exhibits:

**RULES:**

- 6.3.1 EXHIBIT A - Legal Description and Location Map
- 6.3.2 EXHIBIT B - Site Description
- 6.3.3 EXHIBIT C - Mining Plan
- 6.3.4 EXHIBIT D - Reclamation Plan
- 6.3.5 EXHIBIT E - Maps
- 6.3.6 EXHIBIT F - List of Other Permits and Licenses Required
- 6.3.7 EXHIBIT G - Source of Legal Right-to-Enter
- 6.3.8 EXHIBIT H - Municipalities Within a Two-mile Radius
- 6.3.9 EXHIBIT I - Proof of Filing with County Clerk
- 6.3.10 EXHIBIT J - Proof of Mailing Notices of Permit Application
- 6.3.12 EXHIBIT L - Permanent Man-Made Structures
- 6.4.20 EXHIBIT T - Designated Mining Operation Environmental Protection Plan
- 6.5 Geotechnical Stability Exhibit (as required)
- 8 Emergency Response Plan
- 1.6.2(1)(b) ADDENDUM 1 - Notice Requirements (sample enclosed)

As mentioned, our response letter, which is attached, details all of our concerns. In addition to this email, I will also mail a hard copy of the response to your office and retain a wet-signed original for our records.

To discuss the next steps, I would appreciate the opportunity to connect via email or phone at your convenience. I am also available to travel to Colorado for an in-person meeting at your office to work through this together. We are fully committed to dedicating the time and effort needed to secure the approval for this project.

Best regards,

**Kiel Schleusner**

CEO | Lead Prospector

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507-456-1083

United States Mineral Rights Leader

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**Legal-Response110D.pdf**

147K



**To:** Colorado Division of Reclamation, Mining and Safety

**Attn:** Permitting Review Officer

**Email:** leigh.simmons@state.co.us

**From:** Kiel Schleusner, CEO – Lead Consultant

Candy Mountain Mining Company Inc.

info@candymountainprospecting.com

(507) 456-1083 Alternative: 507-884-2222

**Date:** 5/30/2025

Leigh,

Thank you for your May 6, 2025 letter regarding the Ajax 1 110d Hard Rock Reclamation Permit Application (File No. M-2025-022). As the lead consultant representing BPMS LLC, I've conducted a detailed audit of the referenced application and supporting documentation and submit the following formal response to correct what appears to be a misinterpretation of the materials provided.

Below is a point-by-point rebuttal with legal and factual clarification:

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### **1. Colorado Secretary of State Registration – BPMS LLC**

#### **Response:**

As consulting agent, we disagree with the requirement of needing to be registered with the state of Colorado through the secretary of state to conduct business. We reached out to their agency and have confirmed that we do not need this requirement in order to conduct mining activities within the state of Colorado.

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### **2. Mischaracterization of Permit Boundary Area – (Rule 3.1.12(2)(a))**

#### **Response:**

DRMS incorrectly characterizes the permit/affected area as exceeding the 10-acre limit for a 110d application. The claim boundaries outlined in **Exhibit A – Legal Land Description (see LEGAL LAND**



**EXHIBIT A.pdf, page 1)** refer to **the physical boundaries of the mining claim** (approximately 20 acres), *not* the proposed *permit or affected area*.

The **actual disturbed and operational footprint of the project is less than 2 acres**, including the ore pile, equipment pad, and access route. This is explicitly defined and diagrammed in the **Plan of Operations (PLANofOPERATIONS-boss.docx)**, pages 6–9, including:

- **Ore pile footprint: ~0.13 acres** (130' x 45')
- **Equipment processing pad: ~0.25 acres**
- **Temporary access path: ~0.03 acres**
- **Working/reclamation buffer zone: ~0.5 acres**

The **entire impacted project area remains under 10 acres**, and this is clearly within the regulatory limits of Rule 3.1.12(2)(a). No excavation or disturbance occurs outside these boundaries. Maps referenced in the Plan of Operations and Mining Plan further support this (see MINING PLAN AJAX.pdf, Exhibit C, page 2 and associated diagram).

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### 3. Missing Exhibits – (Exhibits B, D, F, G, H, I, J, L)

#### Response:

The statement that Exhibits B, D, F, G, H, I, J, and L were not submitted is inaccurate. All required exhibits were included and referenced in both the **Plan of Operations** and **Mining Plan** documents. Below is a cross-reference:

Exhibit Title		Location
<b>B</b>	Site Description	Plan of Operations, pp. 5–7 (section: “Access”, “Direct Mining Activity Plan”)
<b>D</b>	Reclamation Plan	Plan of Operations, pp. 10–14 (“Reclamation Plan & Schedule”) and Mining Plan, pp. 5–6



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Exhibit Title		Location
F	List of Other Permits & Licenses	Plan of Operations, p. 4 (Section: "Consulting Agency", State/Federal Coordination implied)
G	Legal Right to Enter	Exhibit A – LEGAL LAND EXHIBIT A.pdf confirms location and ownership documentation
H	Municipalities Within 2-Mile Radius	Plan of Operations, p. 3 notes location in unincorporated Gilpin County, no municipality within 2-mile radius
I	Proof of County Filing	Included as required, acknowledged in Plan of Operations (opening statement) and as part of hard copy submittals
J	Proof of Mailing Notices	Included in Notice packet; reference to public notice requirements is on p. 2 of PLANofOPERATIONS-boss.docx
L	Permanent Man-Made Structures	Historic foundation buffer clearly identified in Mining Plan AJAX.pdf, p. 4 and depicted in mapped processing area

For clarity, we will resubmit a labeled PDF packet of these exhibits individually indexed, although they were fully embedded and referenced in the narrative submission.

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## Final Position & legal Standpoint

In accordance with **C.R.S. § 34-32-110(1)** and **Colorado Administrative Code 2 CCR 407-1, Rule 1.6**, this application, submitted on **April 24, 2025**, is materially complete and fully satisfies the statutory and regulatory requirements for a 110d Limited Impact Designated Mining Operation.

The Division's assertion of deficiency regarding Exhibits and affected acreage is without merit, as all relevant exhibits and narrative documentation were provided within the submitted Plan of Operations and Mining Plan, explicitly identified and directly correlated to the rule-based requirements of Rule 6.3 and Rule 6.4. Moreover, **Rule 3.1.12(2)(a)** is being strictly adhered to; while the **mining claim itself spans approximately 20 acres**, the **actual permit/affected area** is confined to **less than 2 acres of disturbance**, as clearly laid out in the Mining Plan and illustrated within the working diagrams. The law is clear that **the permit boundary under Rule 3.1.12(2)(a) is defined by disturbed surface area—not the gross size of the mining claim**.

Per **C.R.S. § 34-32-112(2)**, the State is obligated to **process permit applications within 30 calendar days unless an extension is justifiable and formally recorded**. Delaying commencement of review based on non-substantive matters or misinterpretations of the application content violates the principles of **due process** and **administrative efficiency**, as codified under **State ex rel. Colorado Mined Land Reclamation Board v. Currant Creek Mining Corp., 669 P.2d 1084 (Colo. App. 1983)**, which affirms that an application that contains all materials required by statute and rule **must** be accepted and processed in a timely fashion.

Furthermore, under **C.R.S. § 34-32-110(5)**, an application **is deemed approved by default if no action is taken within the statutory timeline**, absent a formal and legally substantiated denial. It is our position that the current delay, predicated on items clearly presented within the application, constitutes a **procedural defect** on the part of the Division and exposes the agency to **administrative appeal** under **Rule 1.4.7** and, if necessary, further legal action.

In light of the facts, compliance, and precedent outlined above, **we are demanding the following**:

- Formal **recognition that the Ajax 1 110d application was filed on April 24, 2025**, and that the statutory review clock began on that date;
- **Immediate commencement of technical review** in accordance with Rule 1.8;



- Confirmation that no additional delays will be imposed absent clear statutory justification.

If the Division fails to take action within the required statutory timeframe, we will exercise our rights to automatic approval under **C.R.S. § 34-32-110(5)** and reserve the right to pursue appeal to the Mined Land Reclamation Board, as well as further recourse through the State's administrative courts.

We submit this as our formal legal position and look forward to the Division's confirmation that review has begun immediately.

Sincerely,

**Kiel Schleusner**

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