

April 7, 2011

Mr. John Harmon, P.E.
President
Vigo Coal Company, Inc.
528 Main Street, Suite 202
Evansville, IN 47708

SUBJECT: NRC ROUTINE INSPECTION REPORT NO. 03036884/11-01(DNMS) AND
NOTICE OF VIOLATION – VIGO COAL COMPANY, INC.

Dear Mr. Harmon:

On March 23, 2011, the U.S. Nuclear Regulatory Commission (NRC) conducted an inspection at the Vigo Coal Company, Inc., office in Evansville, Indiana, concerning licensed activities at the Cypress Creek mine in Boonville, Indiana. The NRC inspector held an exit meeting with you and your staff at the completion of on-site activities.

The purpose of this inspection was to examine activities conducted under your license as they relate to public health and safety and to confirm compliance with the Commission's rules and regulations and with the conditions of your license. Within these areas, the inspection consisted of selected examination of procedures and representative records, observations of activities, and interviews with personnel.

Based on the results of this inspection, the NRC has determined that a Severity Level IV violation of NRC requirements occurred. This violation was evaluated in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at (<http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>). The violation concerned the failure to notify NRC within 60 days of the decision to permanently cease activities at the Cypress Creek Mine in Boonville, Indiana, as required by Title 10 of the Code of Federal Regulations (10 CFR), Section 30.36(d)(3). Specifically, in June 2010, the licensee returned the analyzer to the manufacturer; the manufacturer removed, packaged, and shipped the device. The root cause of this violation was the mistaken belief that a letter notifying NRC had been sent. As corrective action, on March 25, 2011, you submitted to NRC a request to terminate your license authorizing activities at this mine.

The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in this letter. The violation is being cited in the Notice because it was identified by the inspector.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket in this letter.

J. Harmon

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Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the Public without redaction.

Sincerely,

/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-36884
License No. 13-32559-01

Enclosure:
Notice of Violation

cc: Sam Laws, Radiation Safety Officer
State of Indiana

J. Harmon

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Therefore, you are not required to respond to this letter unless the description herein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy or proprietary information so that it can be made available to the Public without redaction.

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/RA/

Tamara E. Bloomer, Chief
Materials Inspection Branch
Division of Nuclear Materials Safety

Docket No. 030-36884
License No. 13-32559-01

Enclosure:
Notice of Violation

cc: Sam Laws, Radiation Safety Office
State of Michigan

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NOTICE OF VIOLATION

Vigo Coal Company, Inc.
Evansville, Indiana

Docket No. 030-36884
License No. 13-32559-01

During a U.S. Nuclear Regulatory Commission (NRC) inspection conducted on March 23, 2011, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the Code of Federal Regulations (10 CFR), Section 30.36(d)(3) requires, in part, that, within 60 days after the licensee has decided to permanently cease principal activities at an entire site, each licensee provide notification to the NRC in writing of such occurrence.

Contrary to the above, as of June 24, 2010, the licensee had decided to permanently cease principal activities at the Cypress Creek mine, and the licensee failed to notify the NRC in writing within 60 days of this occurrence.

This is a Severity Level IV violation (Section 6.3).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance will be achieved, is already adequately addressed on the docket in the letter transmitting this Notice of Violation (Notice). However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, Inspection Report No. 030-36884/11-01(DNMS)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region III, within 30 days of the date of the letter transmitting this Notice.

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 7th day of April 2011

Enclosure