



**UNITED STATES  
NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE RD. SUITE 210  
LISLE, IL 60532-4352

March 9, 2017

EA-16-282

Mr. Lawrence Gray  
Radiation Safety Officer  
Tilden Mining Company, L.C.  
P.O. Box 2000  
Ishpeming, MI 49849

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 03034221/2016001(DNMS)  
AND NOTICE OF VIOLATION - TILDEN MINING COMPANY, L.C.

Dear Mr. Gray:

On September 12-13, 2016, an inspector from the U.S. Nuclear Regulatory Commission (NRC) conducted a special inspection at your Tilden Mine in Marquette County, Michigan, with continued in-office review through February 16, 2017. The purpose of the inspection was to review elements of your radioactive materials security program to ensure that this program was established, implemented and maintained in accordance with NRC requirements. The in-office review included an evaluation of information not available at the time of the on-site inspection. The enclosed non-public inspection report (Enclosure 2) presents the results of the inspection.

During this inspection, the NRC staff examined activities conducted under your license related to public health, safety, and security. Additionally, the staff examined your compliance with the Commission's rules and regulations as well as 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, apparent violations of NRC requirements were identified and are being considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violations were of a security-related nature. Details of the violations, as well as the corrective actions that have since been taken to restore compliance with regulatory requirements, are discussed in Enclosure 2.

Enclosures 1 and 2 contain Sensitive  
Unclassified Non-Safeguards Information.  
When separated from the Enclosures, this  
transmittal letter is decontrolled.

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Because the NRC has not made a final determination in this matter, the NRC is not issuing a Notice of Violation for these inspection findings at this time. Mr. Ryan Craffey of my staff discussed the circumstances surrounding these apparent violations, the significance of the issues, and the need for lasting and effective corrective action with you on February 17, 2017. Before the NRC makes its enforcement decision, we are providing you an opportunity to either: (1) respond in writing to the apparent violations addressed in the enclosed inspection report within 30 days of the date of this letter; (2) request a Predecisional Enforcement Conference (PEC); or (3) request Alternative Dispute Resolution (ADR). Please contact Aaron T. McCraw at 630-829-9650 or [aaron.mccraw@nrc.gov](mailto:aaron.mccraw@nrc.gov) within 10 days of the date of this letter to notify the NRC of your intended response.

If you choose to provide a written response, it should be clearly marked as "Response to the Apparent Violations in Inspection Report No. 03034221/2016001(DNMS); EA-16-282," and should include, for the apparent violations: (1) the reason for the apparent violations, or, if contested, the basis for disputing the apparent violations; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken to avoid further violations; and (4) the date when full compliance was or will be achieved. In presenting your corrective actions, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty for the apparent violations. The guidance in NRC Information Notice (IN) 96-28, "Suggested Guidance Relating to Development and Implementation of Corrective Action," may be useful in preparing your response. You can find the information notice on the NRC's website at: <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/info-notices/1996/in96028.html>. In addition, if you choose to provide a written response, please mark your entire response, "Security-Related Information – Withhold from Public Disclosure under Title 10 of the Code of Federal Regulations (CFR) 2.390." In accordance with 10 CFR 2.390(b)(ii), the NRC is waiving the affidavit requirements for your response to this letter. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information. Your response may reference or include previously docketed correspondence, if the correspondence adequately addresses the required response. If an adequate response is not received within the time specified or an extension of time has not been granted by the NRC, the NRC will proceed with its enforcement decision or schedule a PEC. Additionally, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555 0001, with a copy to the Director, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenville Road, Suite 210, Lisle, IL 60532.

If you choose to request a PEC, it will afford you the opportunity to provide your perspective on the apparent violations and any other information that you believe the NRC should take into consideration before making an enforcement decision. The topics discussed during the conference may include the following: information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned to be taken. If a PEC is held, the NRC will issue a press release to announce the time and date of the PEC. The PEC will be closed to public observation due to the security-related nature of the findings, however, the PEC will be transcribed.

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In lieu of a PEC, you may also request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a third party neutral. The technique that the NRC has decided to employ is mediation. Mediation is a voluntary, informal process in which a trained neutral (the “mediator”) works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information concerning the NRC’s program can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC’s program as a neutral third party. **Please contact ICR at 877-733-9415 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.**

The NRC has also determined that additional Severity Level (SL) IV violations of NRC requirements occurred. The SL IV violations, also of a security-related nature, were evaluated in accordance with the NRC Enforcement Policy, and are cited in the enclosed, non-public Notice of Violation (Notice) (Enclosure 1). The NRC is citing the violations in the enclosed Notice because the inspector identified them.

You are required to respond to this letter regarding the SL IV violations, and should follow the instructions specified in the enclosed Notice when preparing your response. The guidance in IN 96-28 may also be useful in preparing this response. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

The NRC found, and is concerned, that a lack of adequate oversight of your radioactive materials security program appeared to be a contributing factor to each of the violations and apparent violations identified during this inspection. Therefore, in addition to the items listed in the preceding paragraphs, your written response should also include a discussion of what measures you have implemented or will implement to strengthen the oversight of this program to ensure that radioactive materials will be secured in accordance with all regulatory requirements.

Please be advised that the number and characterization of the apparent violations described in the enclosed inspection report may change as a result of further NRC review. You will be advised by separate correspondence of the results of our deliberations on this matter.

In accordance with 10 CFR 2.390 of the NRC’s “Rules of Practice,” a copy of this letter will be available electronically for public inspection in the NRC’s Public Document Room or from the NRC’s Agency wide Documents Access Management System (ADAMS), accessible from the NRC’s website at <http://www.nrc.gov/reading-rm/adams.html>. However, Enclosures 1 and 2, and your written response, if you choose to provide one, will not be made available electronically for public inspection because of the security-related information that is or would be contained in each.

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Please feel free to contact Mr. Craffey if you have any questions regarding this inspection. Mr. Craffey can be reached at 630-829-9655.

Sincerely,

*/RA/*

John B. Giessner, Director  
Division of Nuclear Materials Safety

Docket No. 030-34221  
License No. 21-26748-01

Enclosures:

1. Notice of Violation (non-public)
2. IR 03034221/2016001(DNMS) (non-public)

cc w/o encl: State of Michigan

~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

L. Gray

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Letter to Lawrence Grey from John Giessner dated March 9, 2017

SUBJECT: NRC SPECIAL INSPECTION REPORT NO. 03034221/2016001(DNMS)  
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DATE	3/2/2017		3/2/2017		3/7/2017		3/9/2017	

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