



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900290
4. Served To Berman Cornett (Safety Director)		5. Operator PERFORMANCE COAL COMPANY, et al
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

An agent of the Operator (Qualified Electrician) failed to conduct an adequate Weekly electrical examination of the J.B. Long personnel carrier (serial #472B-195, located on HG22) for the weeks prior to 04.05.2010. The following citations are issued affecting the safe operation of the Approved Permissible electrical equipment;

- (1) Order #4900287 is issued citing 30 C.F.R. Part 75.503 for failure to maintain the equipment in permissible condition. Nineteen defects are cited.
- (2) Order #4900288 is issued citing 30 C.F.R. Part 75.518 for failure to provide adequate overload/short-circuit protection. The main circuit breaker and fuses inside the XP enclosure have been removed.

These citations are obvious, extensive, and have existed for a significant

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.512
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input checked="" type="checkbox"/> Occurred <input type="checkbox"/>			
B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 012
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input checked="" type="checkbox"/>			
12. Type of Action 104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
15. Area or Equipment J.B.Long personnel carrier (serial # 472B-195)			

16. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV--Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number 4440348	21. Primary or Mill
22. Signature Patrick Alan Stanfield		23. AR Number 23908

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/06/2011	3. Citation/ Order Number 4900290
4. Served To Berman Cornett (Safety Director)	5. Operator PERFORMANCE COAL COMPANY, et al	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Continuation of 8. Condition or Practice

amount of time prior to 04.05.2010. A casual observer could have detected some of the obvious defects. The operator has a practice of not maintaining electrical equipment in safe operating condition and performing poor examinations. Adequate examinations are necessary to assure that electrical equipment does not fall into a complete state of disrepair, such as this personnel carrier.

This mine is on a 103(i) spot for methane liberation. This machine is located in an area affected by a mine explosion on 04.05.2010. The Operator is issued a high number of similar citations/Orders, upon inspection of the electrical equipment, following the explosion. Order #4900591 is issued citing 30 C.F.R. Part 75.370(a)(1) for repeated failure to maintain the minimum ventilating velocity on HG 22, where this equipment is located. Order #8226115 is issued citing 30 C.F.R. Part 75.400 for accumulations of combustibles (including HG 22). Order #8226116 is issued citing 30 C.F.R. Part 75.403 for lack of rock dusting (including HG 22).

The Operator has engaged in aggravated conduct constituting more than ordinary negligence. This is an unwarrantable failure to comply with a mandatory standard.

This violation is a flagrant violation.

This citation is being issued to the following entities as a unitary operator: Performance Coal Company, Massey Coal Services, Inc., A.T. Massey Coal Company, Inc., and Massey Energy Company.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E16	10. Event Number 4440348		
11. Signature Patrick Alan Stanfield	AR Number 23908	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800