



Section I--Violation Data

|  |                                |  |
|--|--------------------------------|--|
| 1. Date<br>Mo Da Yr<br>12/06/2011                | 2. Time (24 Hr. Clock)<br>0800 | 3. Citation/<br>Order Number<br>4900509            |
| 4. Served To<br>Berman Cornett (Safety Director) |                                | 5. Operator<br>Performance Coal Company, et al.    |
| 6. Mine<br>UPPER BIG BRANCH MINE-SOUTH           |                                | 7. Mine ID<br>46-08436<br>(Contractor)             |
| 8. Condition or Practice                         |                                | 8a. Written Notice (103g) <input type="checkbox"/> |

The failure to conduct an adequate examination for potentially dangerous conditions and to assure safe operating condition was not being performed on the Fairchild scoop, S/N T339-267, located on the Tailgate 22 section. Several obvious permissibility deficiencies were observed on the scoop that should have been found during the weekly exam. The deficiencies are listed in Order No. 4900494.

The record of the weekly exams on the scoop has "packing gland on order" listed for the exams performed on 3/11/10, 3/05/10, 2/26/10, 2/19/10, 2/12/10, 2/05/10, and 1/29/10. There is no corrective action listed or any indication that the scoop was removed from service.

The operator has engaged in aggravated conduct constituting more than

See Continuation Form (MSHA Form 7000-3a)

|              |  |                      |  |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/><br>Safety <input checked="" type="checkbox"/><br>Other <input type="checkbox"/> | B. Section<br>of Act | C. Part/Section of<br>Title 30 CFR<br>75.512 |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No

D. Number of Persons Affected: 012

11. Negligence (check one) A. None  B. Low  C. Moderate  D. High  E. Reckless Disregard

12. Type of Action 104(d)(2)

13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice

E. Citation/  
Order Number 8082692

F. Dated Mo Da Yr  
03/17/2009

15. Area or Equipment The Fairchild scoop serial #T339-267 on the TG 22 section.

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

Section III--Termination Action

17. Action to Terminate

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E16

20. Event Number 4440348

21. Primary or Mill

22. Signature Keith McElroy

23. AR Number 24153

Mine Citation/Order  
Continuation

U.S. Department of Labor  
Mine Safety and Health Administration



Section I--Subsequent Action/Continuation Data

|   |   |                                      |
|---|---|--------------------------------------|
| 1. Subsequent Action 1a. Continuation<br><input type="checkbox"/> <input checked="" type="checkbox"/> | 2. Dated (Original Issue)<br>Mo Da Yr<br>12/06/2011 | 3. Citation/<br>Order Number 4900509 |
| 4. Served To<br>Berman Cornett (Safety Director)  | 5. Operator<br>Performance Coal Company, et al.     |                                      |
| 6. Mine<br>UPPER BIG BRANCH MINE-SOUTH  | 7. Mine ID<br>46-08436                              | (Contractor)                         |

Section II--Justification for Action

Continuation of 8. Condition or Practice

ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard.

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 |
|----------------|------------------|------------------------|-------------------------------------|--|--------------------------------------|

Section IV--Inspection Data

|                                |                          |                                 |                                 |
|--------------------------------|--------------------------|---------------------------------|---------------------------------|
| 9. Type of Inspection E16      | 10. Event Number 4440348 |                                 |                                 |
| 11. Signature<br>Keith McElroy | AR Number<br>24153       | 12. Date Mo Da Yr<br>12/06/2011 | 13. Time (24 Hr. Clock)<br>0800 |