



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>8250032            |
| 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)                                       |
| 8. Condition or Practice                         |   | Ba. Written Notice (103g) <input type="checkbox"/> |

The failure to conduct an adequate examination for potentially dangerous conditions was not being performed on the Long Airdox shield hauler, S/N 636-1010, located on the Headgate 21 longwall section. Several obvious deficiencies were observed on the hauler that should have been found during the weekly exam. The deficiencies are listed in Citation Nos. 8250025 and 4900293.

The operator has engaged in aggravated conduct constituting more than 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   
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 <input type="checkbox"/>    | Unlikely <input type="checkbox"/>   | Reasonably Likely <input checked="" type="checkbox"/> | Highly Likely <input 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 checked="" type="checkbox"/>  | Permanently Disabling <input type="checkbox"/>        | Fatal <input type="checkbox"/>              |  |
| C. Significant and Substantial:                          | Yes <input checked="" type="checkbox"/>   | No <input type="checkbox"/>   | D. Number of Persons Affected: 009                    |   |  |
| 11. Negligence (check one)                               | A. None <input type="checkbox"/>          | B. Low <input type="checkbox"/>   | C. Moderate <input type="checkbox"/>                  | D. High <input checked="" type="checkbox"/> | E. Reckless Disregard <input 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/<br>Order Number<br>8082692        |
| 15. Area or Equipment                                    |   |   |   |   | F. Dated<br>Mo Da Yr<br>03/17/2009             |
| Long Airdox shield hauler serial #636-1010.              |   |   |   |   |  |

|                     |                     |                        |
|---------------------|---------------------|------------------------|
| 16. Termination Due | A. Date<br>Mo Da Yr | B. Time (24 Hr. Clock) |
|---------------------|---------------------|------------------------|

Section III--Termination Action

|                         |                     |                        |
|-------------------------|---------------------|------------------------|
| 17. Action to Terminate |                     |                        |
| 18. Terminated          | A. Date<br>Mo Da Yr | B. Time (24 Hr. Clock) |

Section IV--Automated System Data

|   |     |                             |                        |
|---|-----|-----------------------------|------------------------|
| 19. Type of Inspection<br>(activity code) | E16 | 20. Event Number<br>4440348 | 21. Primary or Mill    |
| 22. Signature<br>Keith McElroy            |     |                             | 23. AR Number<br>24153 |

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.

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/Order Number<br>8250032 |
| 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

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<br>E16   | 10. Event Number<br>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 |