



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0935	3. Citation/ Order Number 8405566
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"/>

The mine operator failed to give experienced miner training to miners that were newly employed or transferred to the mine. Many employees that came to the Upper Big Branch mine were sent directly to work with little to no experienced miner training. In some cases, a portion or all of this training was conducted by non-approved instructors; in other cases, no training was ever given. Also there were frequent occasions where miners started working at the Upper Big Branch mine and did not receive experienced miner training until weeks or months after their employment began. There were also occasions where much of the training was given at the Marfork training center where mine tours, approved mining plans, and map instruction were not given to the employees. A representative of MSHA's Educational Field Services and Field Services Staff has determined

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 48.6
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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: 001

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 All employees listed in the condition practice.

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 Randall Lewis		23. AR Number 24262

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.



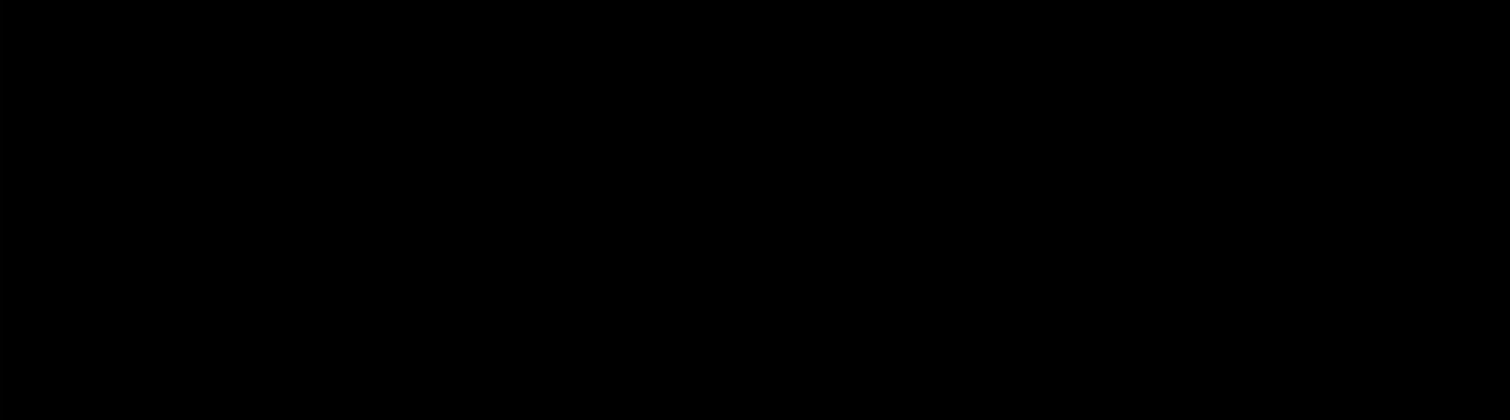
Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/06/2011	3. Citation/Order Number 8405566
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Section II--Justification for Action

Continuation of 8. Condition or Practice

that experienced miner training was not provided as required. The employees that did not receive the required training included:



The review of the UBB Safety Audits (S-1), Item No:D-0489 H, provided by Performance Coal Company from September 2008 to February 2010, performed by the Massey Mine Rescue members indicates training deficiencies. The audit at Performance, dated 9-29-09 and 10-2-09, identified the following employees as not having Experienced Miner Training and there is no evidence that deficiencies were corrected for:



Failure to conduct training would expose miners to the hazards found in the underground and surface areas of a mine.

The Federal Mine Safety and Health Act of 1977 states that an untrained miner is a hazard to himself and others. The 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, 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 Randall Lewis	AR Number 24262	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0935

Mine Citation/Order  
Continuation

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



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