



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8431839
4. Served To Jim Gump, Safety Director		5. Operator DAVID STANLEY CONSULTANTS LLC
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 YBV (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

An employee of David Stanley Consultants LLC has failed to conduct adequate preshift examinations in the North area of the mine where an explosion occurred on April 5, 2010 which resulted in 29 fatalities and serious injuries to two miners. This employee of David Stanley Consultants performed inadequate preshift examinations for several months prior to the explosion.

The inadequate examinations include violations of the following subsections of 75.360:

(b) Over many shifts, the employee of David Stanley Consultants failed to adequately examine the areas along the travelways from the Ellis Portal to

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 75.360
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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 type="checkbox"/>	Occurred <input checked="" 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: 029		
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)(1)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action	A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 01/05/2012	B. Time (24 Hr. Clock) 1600
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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) E06	20. Event Number 4440347	21. Primary or Mill
22. Signature Pat Stanfield 23908 Dean Cripps		23. AR Number 23590

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) 12/06/2011			3. Citation/ Order Number 8431839	
4. Served To Jim Gump, Safety Director				5. Operator DAVID STANLEY CONSULTANTS LLC		
6. Mine UPPER BIG BRANCH MINE-SOUTH				7. Mine ID 46-08436		(Contractor) YBV

Section II--Justification for Action

Continuation of 8. Condition or Practice

the three working sections: headgate 22, tailgate 22, and the longwall. The examiner failed to identify very obvious hazardous conditions throughout the examined areas. For example, accumulation of loose coal, coal dust, and float coal dust were present in the entries and crosscuts throughout these areas. Additionally, entry widths exceeded the required widths of the approved roof control plan in at least 16 locations.

(g) The examiner conducted preshift examinations on the tailgate 22 section, headgate 22 section, intake rooms off the North Mains and Glory Hole Mains, and travelways/track entries. For these locations, the examiner repeatedly failed to record the results of the required air quality checks.

The failure to identify, record and correct hazards in one area of the mine can result in injury or loss of life in another part of the mine, due to the confined nature of the underground mining environment. The contractor's failure to conduct adequate preshift examinations exposed miners to ongoing hazards. This failure to conduct adequate preshift examinations and to identify and correct obvious hazardous conditions contributed to the explosion on April 5, 2010 and the resulting 29 deaths, disabling injuries to one miner, and serious injuries to another miner.

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

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 E06		10. Event Number 4440347			
11. Signature Pat Stanfield 23908 Dean Cripps		AR Number 23590	12. Date Mo Da Yr 12/06/2011		13. Time (24 Hr. Clock) 0800