

Mine Activity Data



1. Action: a. New Entry b. Update 2. Activity Code: E01 3. Event Number: 4117121

4. Date Event Started: 4/4/2007 5. Date Event Finished: 7/10/2007 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 01 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group 01 10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check one) a. First b. Interim c. Last d. Not Applicable 12. Area of Inspections a. Active Sections 4 b. Idle Sections 1

c. Outby Areas d. Shafts/Slopes e. Surface Areas (UG) f. Surface Workings g. Company Records h. ATF i. Impoundments j. Refuse Piles

k. Major Construction (1) Shaft/ Slope Sinking 0 (2) Impoundment Construction 0 (3) Buildings 0 (4) Dragline/ Shovel 0 (5) Other 0 l. Miscellaneous

m. MMU/Pit Number (1) 029 (2) 030 (3) 040 (4) 041

13. Number of Samples Collected a. Air Samples 29 b. Rock Dust Spot 0 c. Rock Dust Survey 2 d. Respirable Dust 16 e. Noise 0 f. Other 0

14. Impoundments/Refuse Piles:

a. Number	b. FHC	c. Configuration

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results

a. This Inspection	Citations		Orders		Safeguards		Other	
	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
(1) New Issuances	68							
(2) Terminations/Vacations	66/0							
(3) Modifications/Extensions	2/14							
(4) Left Pending	2							
b. Previously Issued								
(1) Modifications/Extensions								
(2) Terminations/Vacations	2/0							

18. Signature and Card Number of Authorized Representative/ Right of Entry Person(s) Responsible for Activity

Card Number
23644
23879

d. _____

19. Key Entered By _____ Date _____

17. Remarks:
R3039, R3062, R3072, R5148, R5186, R5191, R5192, R6708, R6716, R6730, R6738, R6739, R6744, R6754, R6756, R6764, R6786, R6793, R6798, R7617, R7642, R7664, R7666, S0525, S0546, S0568, S0581, S0583, S0596

KTS
7107

Shift	Sun			Mon			Tue			Wed			Thur			Fri			Sat					
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3			
Week 1 4/8/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 2 4/15/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 3 4/22/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 4 4/29/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 5 5/6/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 6 5/13/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>								
Week 7 5/20/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 8 5/27/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 9 6/3/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 10 6/24/2007	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mine Citation/Order

6/5/07

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

MS
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1152	3. Citation/ Order Number 7263906
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Less than 50 fpm of air is being provided along the No. 6 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

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 75.351(e)(3)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or Illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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

MS
5-2-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/30/2007	3. Citation/ Order Number	7263906 - 01
4. Served To Virgil Bowman, Electrician Foreman			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Work is being performed to correct the belt ventilation and a revision has been submitted to MSHA.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date	Mo Da Yr 05/04/2007	B. Time (24 Hr. Clock)	0800	<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	E01	10. Event Number	4117121
		AR Number	23644
		12. Date	Mo Da Yr 04/30/2007
		13. Time (24 Hr. Clock)	1152

Mine Citation/Order
Continuation

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

M-5
5-10-7 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/30/2007	3. Citation/ Order Number	7263906 - 02
4. Served To Rick Hodge, Superintendent			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Work is being performed to get sufficient air as required but additional time is needed.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date	Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock)	0800	<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	E01	10. Event Number	4117121
		AR Number	23644
		12. Date	Mo Da Yr 05/09/2007
		13. Time (24 Hr. Clock)	1600

Mine Citation/Order
Continuation

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

MS 5-21-07 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7263906 - 03
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/23/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/16/2007	13. Time (24 Hr. Clock) 0740

Mine Citation/Order
Continuation

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

14-1
5-29-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7263906 - 04
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The velocity now measures as required; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121		
11. Signature [Redacted]	AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 1229

Mine Citation/Order

02/27/08

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

MS
4-11-7



Section I - Violation Data

1. Date Mo Da Yr 04/09/2007	2. Time (24 Hr. Clock) 0925	3. Citation/ Order Number 7263948
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 high voltage cable at the end of the track on the No. 2 section was not guarded and was below the required 6-1/2 feet where men disembarked the mantrip.

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 75.807
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Section II - Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
	D. Number of Persons Affected: 001

11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(a)	13. Type of Issuance (check one)	Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
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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	F. Dated Mo Da Yr
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15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/09/2007	B. Time (24 Hr. Clock) 1100
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Section III - Termination Action

17. Action to Terminate The cable was guarded.

18. Terminated	A. Date Mo Da Yr 04/09/2007	B. Time (24 Hr. Clock) 1200
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Section IV - Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
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22. Signature	23. AR Number 23644
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MSHA Form 7000-3, Mar 85 (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

4/30/07

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

MS
4417



Section I--Violation Data

1. Date Mo Da Yr 04/09/2007	2. Time (24 Hr. Clock) 1026	3. Citation/ Order Number 7263949
4. Served To Bill Harles, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 methane monitor on the left miner (040-0 MMU), operated in the No. 2 section, read 4.3% methane when a known mixture of 2.5% was applied.

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 75.342
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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: 006

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/09/2007	B. Time (24 Hr. Clock) 1100
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Section III--Termination Action

17. Action to Terminate The miner was calibrated and reads accurately.

18. Terminated	A. Date Mo Da Yr 04/09/2007	B. Time (24 Hr. Clock) 1037
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

4/30/07

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

MSJ
4.12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1037	3. Citation/ Order Number 7263950
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 No.2 LBB belt starter box has an accumulation of float coal dust up to 1/16 in. on the energized components.

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 75.400
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" 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 checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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		F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/11/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

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Mine Citation/Order
Continuation

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

MS
4-12-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/10/2007	3. Citation/ Order Number 7263950 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The belt starter box was cleaned.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121		
11. Signature [Redacted]	AR Number 23644	12. Date Mo Da Yr 04/11/2007	13. Time (24 Hr. Clock) 1505

Mine Citation/Order

02/27/08

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

M-1
4-12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 7263952
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 high voltage cable is not guarded where miners travel underneath to access the scoop charger on the #2 Section 040/041 MMU.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.807
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		D. Number of Persons Affected: 001	
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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			F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1200
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Section III--Termination Action

17. Action to Terminate The high voltage cable was guarded

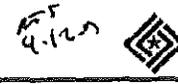
18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1422
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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.

02/27/08



Section I-Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1219	3. Citation/ Order Number 7263953
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

8. Condition or Practice 8a. Written Notice (103g)

The roof is not being adequately supported on the No.2 section 041 MMU in that 3 parallel cracks are present with separation observed from the rib diagonally to the opposite rib in the No.6 entry at spad No. 21187. One of the cracks was approximately 30 ft in length. Three straps had been installed, but additional straps are needed. There was a 10 ft deep test hole next to the 3 parallel cracks. In addition one wide roof bolt was observed in the No.4 entry 1 break inby the feeder on the right inby corner. The roof bolt was measured to be 5 1/2 ft. from the corner.

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 75.202(a)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 04/10/2007 B. Time (24 Hr. Clock) 1330

Section III-Termination Action

17. Action to Terminate The cracks were strapped and the missing bolt was installed

18. Terminated A. Date Mo Da Yr 04/10/2007 B. Time (24 Hr. Clock) 1412

Section IV-Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4117121 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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.

4/30/07

MS 4-127



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1248	3. Citation/ Order Number 7263954
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 040 MMU continuous miner JM5903 on the #2 section is not being maintained in a permissible condition. The conduit is missing for an undetermined length on a power control cable on the right side of the machine. In addition, the left conveyor motor lead has damaged conduit exposing the motor lead above the panel on the left side of the machine.

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 75.503
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 002		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/11/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
4-12-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/10/2007	3. Citation/ Order Number	7263954 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

The conduit was replaced on the operator side and repaired on the off side

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121		
		AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
		23644		04/11/2007	1452

Mine Citation/Order

02/27/08

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

MSHA Form 7000-3
11-12-07

Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1345	3. Citation/ Order Number 7263955
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 automatic emergency park brake for the #2 shuttle car ET17020 operated on the 040/041 MMU #2 section is not being maintained as required. When the manual park brake release was tested, it would not release the park brake with the machine de-energized.

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 75.523-3(c)(2)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>					
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 04/12/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

4-68-7


Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/10/2007 Mo Da Yr	3. Citation/ Order Number 7263955 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The manual pump check valves were replaced and the brakes can now be released with the machine de-energized.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121		
11. Signature 	AR Number 23644	12. Date 04/17/2007 Mo Da Yr	13. Time (24 Hr. Clock) 1110

Mine Citation/Order

4/30/07

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

4-12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1315	3. Citation/ Order Number 7263956
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 #2 Shuttle Car on the 040/041 MMU #2 section is not being maintained in a permissible condition. The traction motor conduit is pulled out from under the clamp on both traction motors, exposing the motor leads on both sides of the machine.

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 75.503
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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: 002

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1410
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

MS
4-12-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/10/2007	3. Citation/ Order Number 7263956 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The conduit was secured underneath both clamps of the packing glands on each traction motor

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 04/10/2007	13. Time (24 Hr. Clock) 1410
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4/30/07

MS 4.12.7



Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 7263957
4. Served To David Taraczkozy (Donut) Chief Electrician		5. Operator PERFORMANCE COAL COMPANY
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 fire suppression actuator bottle is missing on the right side of the #2 Roof Bolter on the 041/MMU #2 section.

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 75.1107-4(a)(2)(i)
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <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"/>	Highly Likely <input type="checkbox"/>
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 002
11. Negligence (check one)			
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>
12. Type of Action 104(a)		13. Type of Issuance (check one)	
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>	
14. Initial Action			F. Dated Mo Da Yr
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 04/11/2007	B. Time (24 Hr. Clock) 1300
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Section III--Termination Action

17. Action to Terminate	The actuator and cartridge was replaced
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18. Terminated	A. Date Mo Da Yr 04/11/2007	B. Time (24 Hr. Clock) 1300
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

4/30/07

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

4-12-7



Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1320	3. Citation/ Order Number 7263958
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Accumulations of coal, coal dust and oil up to 3 inches in depth over the entire machine were allowed to exist on the #2 Roof Bolting machine (Serial # 2003339) on the 041 MMU #2 section.

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 75.400
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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: 002

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/12/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
41.02-7


Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/11/2007	Mo Da Yr	3. Citation/ Order Number 7263958 - 01
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4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY
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6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
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Section II--Justification for Action

The machine was washed

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121
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	AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1128
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4/30/07

MSJ
4-12-7 

Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1330	3. Citation/ Order Number 7263959
4. Served To David Taraczkozy (Donut) Chief Electrician		5. Operator PERFORMANCE COAL COMPANY
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 torque wrench supplied for the #2 Roof Bolting machine on the 041 MMU #2 section would not work when tested.

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 75.204(g)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>					
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 04/11/2007	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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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

4.1.12-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/11/2007	3. Citation/ Order Number 7263959 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

A new torque wrench was supplied for this bolting machine.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1125

Mine Citation/Order

4/30/07

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

MSJ
4-12-07



Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1420	3. Citation/ Order Number 7263960
4. Served To David Taraczkozy (Donut) Chief Electrician		5. Operator PERFORMANCE COAL COMPANY
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 No 1 shuttle car, (Ser.# ET16880) on the 040 MMU #2 section is not being maintained in a permissible condition. The packing gland on the pump motor on the off side is excessively loose and not installed correctly.

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 75.503
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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: 002

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/12/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

4-1
4.12.7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/11/2007	3. Citation/ Order Number 7263960 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The pump motor packing gland was repacked and installed correctly.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1150
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02/02/08

MS-5
4-12-7



Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1311	3. Citation/ Order Number 7268761
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Three parallel cracks with obvious separation was allowed to exist in the #5 entry on the 041 MMU #2 section. Six straps had been installed, but additional straps were needed to adequately support the roof in this intersection. In addition, at survey spad #21182 in the #4 entry there are two roof bolts, one on each side of the feeder that were loose or damaged.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.202(a)
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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 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 04/11/2007	B. Time (24 Hr. Clock) 1411
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Section III--Termination Action

17. Action to Terminate Additional straps were installed in the #5 entry intersection and two posts were set in the #4 entry

18. Terminated	A. Date Mo Da Yr 04/11/2007	B. Time (24 Hr. Clock) 1434
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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.

02/27/08

MS
1-12-7



Section I--Violation Data

1. Date Mo Da Yr 04/11/2007	2. Time (24 Hr. Clock) 1158	3. Citation/ Order Number 7268762
4. Served To David Taraczkozy (Donut) Chief Electrician		5. Operator PERFORMANCE COAL COMPANY
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 approved roof control plan is not being followed on the 040 MMU #2 section. Personnel have gone inby permanent roof support in the #2 face. A survey spad #21193 had been installed and a centerline had been painted inby the second row of bolts outby the face. The distance from the second row of roof bolts to the face was measured in excess of 11 ft. Management shall retrain the miners on this area of the approved roof control plan.

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 75.220(a)(1)
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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 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:			D. Number of Persons Affected:			
		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	001		
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/13/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

M.S.
4-12-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/11/2007	3. Citation/ Order Number 7268762 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The miners were retrained on the roof control plan requirements for staying behind the second row of bolts from the face, per inquiries on the section and documentation.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1130

Section I -- Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo 04	Da 11	Yr 07	3. Citation/ Order Number	7	2	6	8	7	6	2	0	2
4. Served To Greg Fernett		By Certified Mail		5. Operator Performance Coal Company											
6. Mine Upper Big Branch Mine - South						7. Mine ID 4 6 - 0 8 4 3 6 - (contractor)									

Section II -- Justification for Action

Upon further review at conference, this citation is modified as follows.

Item 10 a from reasonably likely to unlikely

Item 10 b from permanently disabling to lost workdays

Item 10 c from yes to no

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	Mo	Da	Yr	B. Time(24HrClock)	C. Vacated <input type="checkbox"/>	D. Terminated <input type="checkbox"/>	E. Modified <input checked="" type="checkbox"/>
A. Date							

Section IV -- Inspection Data

9. Type of Inspection	T 0 2	10. Event Number	9 8 3 2 2 6 8
11. Sign	[Redacted]	AR Number	2 0 8 3 7
		12. Date	Mo Da Yr 0 1 1 7 0 8
		13. Time(24 Hr.Clock)	1 0 3 0

Line Citation/Order

5/9/07

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

MS
4-17-7



Section I--Violation Data

1. Date Mo Da Yr 04/16/2007	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 7268763
4. Served To Rick Nacola (maintenance foreman)	5. Operator PERFORMANCE COAL COMPANY	
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 fire suppression system (sprinkler) on the #4 North Mains belt drive is not operating as required by regulation. When tested, the walk side near the belt drive head would not de-energize the drive motors when water flowed through the system.

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 75.523-3(b)(3)
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>	12. Type of Action 104(a)		
13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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		F. Dated Mo Da Yr		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/17/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, (Rev. 06/2005) 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

M-1
4-28-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/16/2007	3. Citation/ Order Number 7268763 - 01
4. Served To Rick Nacola (maintenance foreman)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The fire suppression flow switch has been replaced and tested

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1025

Mine Citation/Order
Continuation

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

PC 5
4.18-7


Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/16/2007	3. Citation/ Order Number 7268763 - 02
4. Served To Rick Nacola (maintenance foreman)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change	From	To
9. C. Part/Section	75.523-3(b)(3)	75.1101-10
Reason	Incorrect 30 CFR used	
	Incorrect 30 CFR used	

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 checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 04/17/2007	13. Time (24 Hr. Clock) 1450
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Mine Citation/Order

2/26/08 CA

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

MS
4-17-7



Section I--Violation Data

1. Date Mo Da Yr 04/16/2007	2. Time (24 Hr. Clock) 1103	3. Citation/ Order Number 7268764
4. Served To Rick Nicolau, (maintenance chief)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

8. Condition or Practice
Float coal dust was present in the belt starter box (s.n.22037-2300-1105 AEEI) in service at the #4 North Mains belt drive. The dust was also on the energized components.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 04/17/2007 B. Time (24 Hr. Clock) 0800

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) E01 20. Event Number 4117121 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS 4.18-7

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/16/2007	3. Citation/ Order Number	7268764 - 01
4. Served To Rick Nicolau, (maintenance chief)			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

The coal dust was cleaned from the inside of the starter box and the components

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121		
		AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
		23644		04/17/2007	1019

5/9/07

NS
4-17-7



Section I--Violation Data

1. Date Mo Da Yr 04/16/2007	2. Time (24 Hr. Clock) 1412	3. Citation/ Order Number 7268765
4. Served To Rick Nicolau, (maintenance chief)		5. Operator PERFORMANCE COAL COMPANY
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 CLA Fork Lift, Model LT 4040, (Ser.No. 152) located on the No 8 Glory hole belt is not being maintained as required by regulation. When tested on an incline, the automatic emergency parking brake would not hold the fork lift stationary.

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 75.523-3(b)(3)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (Is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input checked="" type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>			B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>
D. Written Notice <input type="checkbox"/>					

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/16/2007	B. Time (24 Hr. Clock) 1430
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Section III--Termination Action

17. Action to Terminate The parking brake was adjusted and the forklift now holds stationary on an incline.

18. Terminated	A. Date Mo Da Yr 04/16/2007	B. Time (24 Hr. Clock) 1435
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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.

6/5/07

MS
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 7268766
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Less than 50 fpm of air is being provided along the No. 7 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

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 75.351(e)(3)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

MS
3-2-7


Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268766 - 01
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Work is being performed on the belt air and a revision has been submitted to MSHA, therefore an extension is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/04/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/30/2007	13. Time (24 Hr. Clock) 1105

Mine Citation/Order
Continuation

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

MPS
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268766 - 02
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Work is being performed to get sufficient air as required but additional time is needed.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/09/2007	13. Time (24 Hr. Clock) 1605
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Mine Citation/Order
Continuation

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

4-3
5-21-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/30/2007	Mo Da Yr	3. Citation/ Order Number 7268766 - 03
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/23/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/16/2007	13. Time (24 Hr. Clock) 0730
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Mine Citation/Order
Continuation

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

MS
5-24-07



Section I—Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268766 - 04
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II—Justification for Action

The velocity now measures as required; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV—Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 1205
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Mine Citation/Order

5/9/07

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

MS
4.18-7



Section I--Violation Data

1. Date Mo Da Yr 04/17/2007	2. Time (24 Hr. Clock) 1425	3. Citation/ Order Number 7268767
4. Served To Rick Hodge, Superintendent		5. Operator PERFORMANCE COAL COMPANY
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 weekly examination has not been performed every 7 days as required for the #2 section (040/041 MMU) in that the airways were examined 03/20/2007 and again on 04/09/2007. The examiner was on his way to make the airways on 04/17/2007. This was observed on the date board in the left return and in the weekly book.

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 75.364(b)(2)
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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: 009

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/18/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

4-19-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/17/2007	3. Citation/ Order Number 7268767 - 01
4. Served To Bennie Presley, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change From To

8. Condition Or Practice

Reason The weekly examination has not been performed every 7 days as required for the #2 section (040/041 MMU) in that the airways were examined 3/20/2007, 3/28/07, 4/2/07, and 4/9/07. The examiner was on his way to make the airways on 4/27/2007. This was observed on the date board in the left return and in the weekly book.

To add the dates 3/28/07 and 4/2/07 to the violation.

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 checked="" type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/18/2007	13. Time (24 Hr. Clock) 1430

Mine Citation/Order
Continuation

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

MS
19-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/17/2007	3. Citation/ Order Number 7268767 - 02
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The weekly requirements have been discussed with the mine examiners and management, the cited area has been examined and recorded per records, and a weekly examiner has been accompanied on his travel; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 04/18/2007	13. Time (24 Hr. Clock) 1431
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Mine Citation/Order

2/26/08 CR

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

MS
4.12-7



Section I--Violation Data

1. Date Mo Da Yr 04/17/2007	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 7268768
4. Served To Rick Hodge, Superintendent		5. Operator PERFORMANCE COAL COMPANY
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 right miner on the #2 section has an oil leak behind the main control compartment causing an accumulation of coal and oil on cables and equipment therein.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
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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: 002

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

12. Type of Action 104(a)

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/18/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

MS
4/26/07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 04/17/2007	3. Citation/ Order Number 7268768 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The accumulations on the Rt. Miner were removed.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/25/2007	13. Time (24 Hr. Clock) 1415

5/9/07

MS 4-19-7 

Section I--Violation Data

1. Date Mo Da Yr 04/18/2007	2. Time (24 Hr. Clock) 1445	3. Citation/ Order Number 7268769
4. Served To Bennie Presley, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
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 methane detectors in use at this mine have not been calibrated every 31 days as required. Only 2 were calibrated in February and 3 in March per records. Detector 024 was calibrated 1/29/07 and again on 4/12/07 per records. This mine is on a 15-day methane spot inspection schedule.

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 75.320(a)
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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: 010

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

12. Type of Action: 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 04/24/2007 B. Time (24 Hr. Clock) 0800

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) E01 20. Event Number 4117121 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MPS
4-26-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/18/2007	3. Citation/ Order Number	7268769 - 01
4. Served To Bill Harless, Mine Foreman			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

31 methane and multi-gas detectors have been calibrated

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121
AR Number	23644	12. Date	Mo Da Yr 04/25/2007
		13. Time (24 Hr. Clock)	0950

Mine Citation/Order

2/26/08 CR

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

RTJ
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1152	3. Citation/ Order Number 7268770
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 # 6 beltline is not being maintained in a safe condition for travel. Both left corner ribs of the intersection at No. 101 breakthrough are broken with obvious cracks and separation in excess of two feet in length and eighteen inches in height and twelve inches thick. Miners walking in this area would be exposed to this violative condition.

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 75.202(a)
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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 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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>			
	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		D. Number of Persons Affected: 001	
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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 F. Dated Mo Da Yr	
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 04/30/2007	B. Time (24 Hr. Clock) 1400
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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

MPS
5-10-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/30/2007	3. Citation/ Order Number	7268770 - 01
4. Served To Tom Sheets, Electrician			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II-Justification for Action

The rock has been pulled from the cited area.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121	
11. Signature	AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
[Redacted]	23644		05/09/2007	1445

6/5/07

MS
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1220	3. Citation/ Order Number 7268771
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Less than 50 fpm of air is being provided along the No.5 beltline where the carbon monoxide sensors are spaced at 1000 ft intervals. 30 CFR states that where less than 50 fpm of air is provided along belt entries that carbon monoxide sensors shall be placed at 350 ft intervals.

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 75.351(e)(3)
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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(a)

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

14. Initial Action
A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number
F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

MTJ
5-2-7


Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268771 - 01
4. Served To Virgil Bowman, Electrician Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Work is being performed to correct the belt ventilation and a revision has been submitted to MSHA.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/04/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121		
	AR Number 23644	12. Date Mo Da Yr 04/30/2007	13. Time (24 Hr. Clock) 1220

Mine Citation/Order
Continuation

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

MS
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/30/2007	Mo Da Yr	3. Citation/ Order Number 7268771 - 02
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Work is being performed to get sufficient air as required but additional time is needed.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/09/2007	13. Time (24 Hr. Clock) 1610
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Mine Citation/Order
Continuation

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

MS
5-21-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268771 - 03
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4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY
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6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
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Section II--Justification for Action

Repairs are being made to the ventilation system to correct the problem; therefore, additional time is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/23/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121
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AR Number 23644	12. Date Mo Da Yr 05/16/2007	13. Time (24 Hr. Clock) 0735
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Mine Citation/Order
Continuation

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

1485
5-29-07



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/30/2007	Mo Da Yr	3. Citation/ Order Number 7268771 - 04
4. Served To Rick Hodge, Superintendent			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II-Justification for Action

The velocity now measures as required; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 1253
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MS
5-1-1



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1125	3. Citation/ Order Number 7268772
4. Served To Harley Taylor, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
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 top is not being adequately supported in the area of 76- 80 brks. In the main intake on the way to North Mains (idle section). The top has fallen out from around numerous bolts and timbers set previously have fallen down.

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 75.202(a)
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>
	Fatal <input type="checkbox"/>		
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001

11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action	104(a)	13. Type of Issuance (check one)	Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
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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	F. Dated Mo Da Yr
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15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 0800
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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)	20. Event Number 4117121	21. Primary or Mill
22. Signal	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

MS
5-2-07



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268772 - 01
4. Served To Harley Taylor, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Work is being performed in the area and an extension is granted.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/03/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 04/30/2007	13. Time (24 Hr. Clock) 1125

Mine Citation/Order
Continuation

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

MS
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268772 - 02
4. Served To Tom Sheets, Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The breaks 76-80 have had the rock fall from around the bolts in numerous locations but new timbers have been installed which now supports the roof; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/09/2007	13. Time (24 Hr. Clock) 1200
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Mine Citation/Order

2/26/08 CA

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

MS
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 7268773
4. Served To Harley Taylor, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
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 top between #5 and #6 entries at 48 and 49 break in the Main Intake is not being adequately supported in that the top has fallen out from around all the bolts for over half the length of the block in each break, leaving the area unsupported. This is the primary escapeway for the LBB section.

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 75.202(a)
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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 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 04/30/2007	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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
5-2-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/30/2007	3. Citation/ Order Number 7268773 - 01
4. Served To Harley Taylor, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Each breakthrough was timbered off and marked with danger boards.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/01/2007	13. Time (24 Hr. Clock) 1230

Mine Citation/Order

2/26/08 ch

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

MS
5-1-7



Section I--Violation Data

1. Date Mo Da Yr 04/30/2007	2. Time (24 Hr. Clock) 1215	3. Citation/ Order Number 7268774
4. Served To Harley Taylor, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

8. Condition or Practice 8a. Written Notice (103g)

The top is not being adequately supported in the area of 49- 50 break in the main intake. Five bolts have the draw rock fallen out from around them in the intersection of 50 brk and more are in this condition to the outby end of 49 break. This is the primary escapeway for the LBB section.

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 75.202(a)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/ Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 04/30/2007 B. Time (24 Hr. Clock) 1600

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) E01 20. Event Number 4117121 21. Primary or Mill

22. Signature [REDACTED] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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

MS
5-2-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/30/2007	3. Citation/ Order Number	7268774 - 01
4. Served To Harley Taylor, Fireboss				5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH				7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Work is being performed in the area and additional time is needed. An extension is granted.

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
	05/02/2007		0800			

Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121
AR Number	23644	12. Date	Mo Da Yr 04/30/2007
		13. Time (24 Hr. Clock)	1215

Mine Citation/Order
Continuation

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

MS
5-10-7 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/30/2007	3. Citation/ Order Number	7268774 - 02
4. Served To Tom Sheets, Electrician			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

The bolts have had the rock fall out from around them but timbers have been set to support the roof in the airway; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121	
	AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
	23644		05/09/2007	1135

Citation/Order

8/9/07

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

MS
5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 7268775
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

A change in the ventilation system was made without the District Manager's approval. The North Mains return and intake was switched without approval.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.370(a)(1)
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>		D. Number of Persons Affected: 001		
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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			F. Dated Mo Da Yr	

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/14/2007	B. Time (24 Hr. Clock) 0900
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 20418. 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

per
5-21-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/08/2007 Mo Da Yr	3. Citation/ Order Number 7268775 - 01
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

An annual map showing changes to the ventilation system has been submitted on the annual review received 4/30/07 from the operator. Additional time is granted for the review and approval process of the annual map.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 05/28/2007	B. Time (24 Hr. Clock) 1100	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/14/2007	13. Time (24 Hr. Clock) 1100
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Mine Citation/Order
Continuation

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

MS
5-29-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/08/2007	3. Citation/ Order Number 7268775 - 02
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The ventilation department has not completed the annual review; therefore, additional time is granted.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 06/11/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 0900

Mine Citation/Order:
Continuation

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

MS
6-25-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/08/2007	3. Citation/ Order Number 7268775 - 03
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Additional time is granted to allow the Ventilation Department to review the plan.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 06/27/2007	B. Time (24 Hr. Clock) 0900	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 06/21/2007	13. Time (24 Hr. Clock) 1202
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Mine Citation/Order
Continuation

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

MS
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Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/08/2007	Mo Da Yr	3. Citation/ Order Number 7268775 - 04
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)

Section II-Justification for Action

Ventilation is still reviewing the map, therefore additional time is granted.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 07/02/2007	B. Time (24 Hr. Clock) 0900	<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 E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 06/25/2007	13. Time (24 Hr. Clock) 1650
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Mine Citation/Order
Continuation

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

7-19-7 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/08/2007	3. Citation/ Order Number 7268775 - 05
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The ventilation department is still reviewing the plan; therefore, additional time is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 07/26/2007	B. Time (24 Hr. Clock) 0800	<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 E01	10. Event Number 4117130	
AR Number 23644	12. Date Mo Da Yr 07/12/2007	13. Time (24 Hr. Clock) 1300

Mine Citation/Order
Continuation

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

143
8-1-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/08/2007	3. Citation/ Order Number 7268775 - 06
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The plan has been received and approved by the district manager; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117130	
AR Number 23644	12. Date Mo Da Yr 07/31/2007	13. Time (24 Hr. Clock) 1011

Mine Citation/Order

2/26/08 ch

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

MS 5.2.7



Section I--Violation Data

1. Date Mo Da Yr 05/01/2007	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 7268776
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
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 No. 1 Scoop is not being maintained in a safe operating condition. When tested the automatic emergency parking brake would not bring the machine to a complete stop. When tested on a grade the automatic emergency parking brake would not hold the machine. The machine was removed from service until repairs were made.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.523-3(b)(1)
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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 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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	D. Number of Persons Affected: 001
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>	12. Type of Action 104(a)		
13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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		F. Dated Mo Da Yr		

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 1400
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Section III--Termination Action

17. Action to Terminate The automatic emergency parking brake was replaced by an agent of the operator.

18. Terminated	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 1314
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/5/07

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

MSJ
5-2-7



Section I--Violation Data

1. Date Mo Da Yr 05/01/2007	2. Time (24 Hr. Clock) 1225	3. Citation/ Order Number 7268777
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Three permanent splices on the No. 2 shuttle car (sn.ET17056) are not effectively insulated or sealed against moisture. Two of the splices are showing all three of the insulated inner conductors. One other splice had two insulated conductors exposed and the red conductor in the same splice was exposing 480 volts AC power.

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 75.604(b)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 1245
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Section III--Termination Action

17. Action to Terminate All three splices were repaired

18. Terminated	A. Date Mo Da Yr 05/01/2007	B. Time (24 Hr. Clock) 1240
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

6/5/07

U.S. Department of Labor
Mine Safety and Health Administration7-5
5-2-7

Section I--Violation Data

1. Date Mo Da Yr 05/01/2007	2. Time (24 Hr. Clock) 1145	3. Citation/ Order Number 7268778
4. Served To Mike Burke (Block Superintendant)	5. Operator PERFORMANCE COAL COMPANY	
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 right miner on the 041-0 mmu No. 2 section did not follow the approved methane dust control plan. The left side vertical spray block sprays are plugged with pipe plugs. The plan requires these sprays to be operating while loading. The correct number of sprays were present on the miner and the pressure was correct, but the spray configuration is incorrect.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.370(a)(1)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 checked="" type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 05/07/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MSA
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/01/2007 Mo Da Yr	3. Citation/ Order Number 7268778 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The sprays are now located as required by the newly approved methane and dust control plan.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/08/2007	13. Time (24 Hr. Clock) 1120

Mine Citation/Order

6/5/07

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

MSHA



Section I--Violation Data

1. Date Mo Da Yr 05/01/2007	2. Time (24 Hr. Clock) 0928	3. Citation/ Order Number 7268779
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
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 methane dust control plan for the 040-0 mmu No. 2 section left continuous miner is not being complied with as required. There are 49 working sprays with 75 psi delivered, but the spray configuration does not match the methane/dust control plan.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.370(a)(1)
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Section II--Inspector's Evaluation

10. Gravity:						
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 checked="" type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>		
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001			
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input checked="" type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action	104(a)		13. Type of Issuance (check one)	Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <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	F. Dated Mo Da Yr
15. Area or Equipment						

16. Termination Due	A. Date Mo Da Yr 05/07/2007	B. Time (24 Hr. Clock) 0800
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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)	E01	20. Event Number 4117121	21. Primary or Mill
22. Signature			23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

Mr
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/01/2007	Mo Da Yr	3. Citation/ Order Number 7268779 - 01
4. Served To David Taraczkozy (Donut) Chief Electrician				5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH				7. Mine ID 46-08436 (Contractor)

Section II--Justification for Action

The sprays are now located as required by the newly approved methane and dust control plan.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/08/2007	13. Time (24 Hr. Clock) 1210
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Mine Citation/Order

6/5/07

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

RFS
5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 1243	3. Citation/ Order Number 7268780
4. Served To Mike Burke (Block Superintendant)		5. Operator PERFORMANCE COAL COMPANY
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 take up roller and belt is running over and against an accumulation of wet to damp coal on No. 2 section No. 1 belt.

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 75.400
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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: 010

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1400
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

M-S
5-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/08/2007 Mo Da Yr	3. Citation/ Order Number 7268780 - 01
4. Served To Tom Sheets, Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The accumulations have been removed from the cited area.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date 05/09/2007 Mo Da Yr	13. Time (24 Hr. Clock) 1247

Mine Citation/Order

2/21/08

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

M-1
5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 1215	3. Citation/ Order Number 7268781
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Only 7,168 cubic feet of air per minute could be measured in the last open break 2-1 on the No. 2 section 040-0 MMU.

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 75.325(b)
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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 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: 002		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1230
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Section III--Termination Action

17. Action to Terminate Adjustments were made to the ventilation controls and 16,380 cfm could be measured.

18. Terminated	A. Date MoDa Yr 05/08/2007	B. Time (24 Hr. Clock) 1224
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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.

MS
5-10-7



2/29/08

Section I--Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 1207	3. Citation/ Order Number 7268782
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

There are 3 open breaks located in the No. 2 section 040 MMU 2-1. The third stopping had been stacked but had not been plastered.

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 75.333(b)(1)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 002		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of issuance (check one)			
		Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>	
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1300
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Section III--Termination Action

17. Action to Terminate The stopping was completed and the requirements discussed with the new section foreman.

18. Terminated	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1452
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Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4117121	21. Primary or Mill
22. Signatu			23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/5/07

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

MS
5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 1115	3. Citation/ Order Number 7268783
4. Served To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

There are 3 open breaks located in the No. 2 section 041 MMU 6-7. The 2nd break did not have a ventilation control present and the 3rd break had a stopping which had been stacked but had not been plastered (SS 21267).

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 75.333(b)(1)
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 002		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)	13. Type of Issuance (check one)		Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <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	F. Dated Mo Da Yr
15. Area or Equipment						

16. Termination Due	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1145
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Section III--Termination Action

17. Action to Terminate The stopping was completed and the missing curtain installed.

18. Terminated	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1328
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Section IV--Automated System Data

19. Type of inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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.

MS
5-10-07



6/5/07

Section I--Violation Data

1. Date Mo Da Yr 05/09/2007	2. Time (24 Hr. Clock) 1405	3. Citation/ Order Number 7268784
4. Served To Tom Sheets, Electrician		5. Operator PERFORMANCE COAL COMPANY
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 takeup roller and belt is running on and against accumulations of wet to damp coal and mud on the No. 2 LBB belt.

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 75.400
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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: 010

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/09/2007	B. Time (24 Hr. Clock) 2000
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, 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

M.S.
5-21-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/09/2007	3. Citation/ Order Number 7268784 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The accumulations have been removed from the cited area.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/16/2007	13. Time (24 Hr. Clock) 1130

2/27/08

MS 5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/09/2007	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 7268785
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 smoking program is not being followed in that: No. 2 section owl shift is searching in a pattern 4/23, 4/30 and 5/7; Outby Owl searched in pattern 4/12, 4/19 and 4/26; No. 1 section day shift did not perform and/or record search for week of 4/1; and No. 1 section Owl shift did not perform and/or record search for week of 4/1.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1702
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action	104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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	
F. Dated Mo Da Yr					

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/11/2007	B. Time (24 Hr. Clock) 1000
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

1253
5-24-07


Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/09/2007	3. Citation/ Order Number 7268785 - 01
4. Served To Dave Petry, Shift Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The smoking program has now been discussed with all foreman; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 05/20/2007	13. Time (24 Hr. Clock) 2330
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Mine Citation/Order

6/5/07

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

MS 5-10-7



Section I--Violation Data

1. Date Mo Da Yr 05/09/2007	2. Time (24 Hr. Clock) 1045	3. Citation/ Order Number 7268786
4. Served To Tom Sheets, Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

Float coal dust was present mainly on the offside of the 1 North belt beginning at the tail and extending outby to 45 break, a distance of approximately 850 feet. The float dust was deposited on rock dusted surfaces and damp on nature.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 010		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/09/2007	B. Time (24 Hr. Clock) 1900
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, May 05 (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

MS
5-21-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>		2. Dated (Original Issue) Mo Da Yr 05/09/2007	3. Citation/ Order Number 7268786 - 01
4. Served To Mike Vaught, Safety Director		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)	

Section II-Justification for Action

Additional rock dust has been applied to the cited area rendering the float coal dust inert.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/16/2007	13. Time (24 Hr. Clock) 0940

Mine Citation/Order

6/5/07

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

MS
5-217



Section I--Violation Data

1. Date Mo Da Yr 05/14/2007	2. Time (24 Hr. Clock) 1221	3. Citation/ Order Number 7268787
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 left reverse light on the Caterpillar 966 loader, PIN 1SL01272, was inoperative when examined.

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 77.1605(d)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/14/2007	B. Time (24 Hr. Clock) 1300
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Section III--Termination Action

17. Action to Terminate The light has been replaced.

18. Terminated	A. Date Mo Da Yr 05/14/2007	B. Time (24 Hr. Clock) 1422
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 2126108 CH

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

MS
5-21-7



Section I--Violation Data

1. Date Mo Da Yr 05/16/2007	2. Time (24 Hr. Clock) 0925	3. Citation/ Order Number 7268788
4. Served To Mike Vaught, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

The 1 North belt switch at break 47 was turned off to shut the beltline down. The belt activated overriding the belt switch and starting the belt.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other	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 checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>			
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		D. Number of Persons Affected: 001	
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input checked="" type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>
12. Type of Action	104(a)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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
F. Dated Mo Da Yr				

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 0940
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Section III--Termination Action

17. Action to Terminate The switch was checked and cleaned.

18. Terminated	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 1145
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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, 400 3rd Street, SW MC 2120, Washington, DC 20410. 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.

6/5/07

MS
5-21-07



Section I--Violation Data

1. Date Mo Da Yr 05/16/2007	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 7268789
4. Served To Mike Vaught, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g)

The roof is not adequately supported on the 1 North belt at break 45. The roof has fallen out from around approximately 15 bolts exposing up to 18 inches of bolt leaving the plates not adequately installed against the roof. At break 48, bolts have broken off on the offside of the belt leaving the area inadequately supported.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.202(a)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 1200
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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, MSB 2120, Washington, DC 20410. 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

MS
5-24-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/16/2007	3. Citation/ Order Number 7268789 - 01
4. Served To Earl Roles, Outby Maintenance Chief	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Break 45 has been dangerous off preventing travel thru the area and break 48 has had additional support installed; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/21/2007	13. Time (24 Hr. Clock) 0310

Mine Citation/Order

2/26/08 ch

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

MS
5-247



Section I--Violation Data

1. Date Mo Da Yr 05/21/2007	2. Time (24 Hr. Clock) 0236	3. Citation/ Order Number 7268790
4. Served To Earl Roles, Outby Maintenance Chief		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Float coal dust was present in the LBB No. 1 belt box on the structure and on energized components. This mine is a 103(i) spot inspection mine.

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 75.400
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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 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: 010	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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	F. Dated Mo Da Yr
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0251
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Section III--Termination Action

17. Action to Terminate The accumulations were removed from the belt starter box.

18. Terminated	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0245
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/13/07

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

MSF
5-24-7



Section I--Violation Data

1. Date Mo Da Yr 05/21/2007	2. Time (24 Hr. Clock) 0225	3. Citation/ Order Number 7268791
4. Served To Earl Roles, Outby Maintenance Chief	5. Operator PERFORMANCE COAL COMPANY	
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 water supplied for the fire suppression system at the LBB No. 2 head was turned off on the outby Lil' Snappy valve.

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 75.1101-3
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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
14. F. Dated Mo Da Yr			

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0240
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Section III--Termination Action

17. Action to Terminate The water was turned back on restoring coverage.

18. Terminated	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0227
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/13/07

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

MS
5-24-7

Section I--Violation Data

1. Date Mo Da Yr 05/21/2007	2. Time (24 Hr. Clock) 0052	3. Citation/ Order Number 7268792
4. Served To Earl Roles, Outby Maintenance Chief	5. Operator PERFORMANCE COAL COMPANY	
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 carbon monoxide sensor No. 114 located at LBB No. 4 tail (No. 1 section) was last calibrated 41 days ago per the sensor and read 55 parts per million when tested.

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 75.351(n)(3)
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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: 010

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0110
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Section III--Termination Action

17. Action to Terminate The sensor was calibrated.

18. Terminated	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0101
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/13/07

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

MS
5-24-7



Section I--Violation Data

1. Date Mo Da Yr 05/21/2007	2. Time (24 Hr. Clock) 0018	3. Citation/ Order Number 7268793
4. Served To Earl Roles, Outby Maintenance Chief	5. Operator PERFORMANCE COAL COMPANY	
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 doors at Plumley Switch were both open with no one traveling thru either when observed.

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 75.333(d)(3)
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <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"/>
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001
11. Negligence (check one)			
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>			
12. Type of Action 104(a)		13. Type of Issuance (check one)	
		Citation <input checked="" type="checkbox"/>	
		Order <input type="checkbox"/>	
		Safeguard <input type="checkbox"/>	
14. Initial Action		E. Citation/ Order Number	
A. Citation <input type="checkbox"/>		F. Dated	
B. Order <input type="checkbox"/>		Mo Da Yr	
C. Safeguard <input type="checkbox"/>			
D. Written Notice <input type="checkbox"/>			

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0033
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Section III--Termination Action

17. Action to Terminate The doors were closed.

18. Terminated	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0020
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

21208 ch

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

MS-5-24-7



Section I--Violation Data

1. Date Mo Da Yr 05/21/2007	2. Time (24 Hr. Clock) 0120	3. Citation/ Order Number 7268794
4. Served To Earl Roles, Outby Maintenance Chief	5. Operator PERFORMANCE COAL COMPANY	
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 telephone supplied for the No. 1 section (029-030) does not activate a visual or audible alarm when activated by the dispatcher. The telephone will communicate from surface to the section.

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 75.1600-2(b)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 010		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action.			E. Citation/ Order Number	F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/>			B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/21/2007	B. Time (24 Hr. Clock) 0500
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

M-5
5-22-7 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>		2. Dated (Original Issue) Mo Da Yr 05/21/2007	3. Citation/Order Number 7268794 - 01
4. Served To EARL ROLES, OUTBY MAINTENANCE CHIEF		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The audible or visual alarm for the communication system of the MMU 029-0, 030-0, Section has been repaired and working properly when activated by the dispatcher at this time.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01 (b) (7)(C)	10. Event Number 4117121	11. AR Number 23879	12. Date Mo Da Yr 05/21/2007	13. Time (24 Hr. Clock) 0830
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ISHA

Mine Citation/Order

6/13/07

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

MSHA
5-24-17



Section I--Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1146	3. Citation/ Order Number 7268795
4. Served To Charles Semenske, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Coal and coal fines were allowed to accumulate around the snub roller of the #3 belt tail. The off-side bearing is hot to the bare hand touch surrounded by combustible material. The coal is 14" deep and 9' long. 0.2% ch4 and 20.8% O2 was present. Also, there were approximately 46 rollers turning in or rubbing against coal accumulations wet to damp in nature. The belt is 3100 feet in length.

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 75.400
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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 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: 010		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/23/2007	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
5-29-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 05/22/2007	3. Citation/Order Number 7268795 - 01
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The roller was cleared on 5/22/07 and the accumulations have now been removed from the rollers; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 1410

Mine Citation/Order

6/13/07

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

MS
5-24-07



Section I--Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 7268796
4. Served To Charles Semenske, Fireboss		5. Operator PERFORMANCE COAL COMPANY
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 intake air split for the #1 section (primary escape way) can not be traveled in its entirety due to water over 18" deep, rib to rib, approximately 100' long at 65 break to 66 break.

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 75.364(b)(1)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (Is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 010		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input checked="" type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number.		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/24/2007	B. Time (24 Hr. Clock) 0900
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
5-29-07



Section I—Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 05/22/2007	3. Citation/ Order Number	7268796 - 01
4. Served To Bill Harless, Mine Foreman			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II—Justification for Action

The water has been over 18" deep per evidence but the area is now passable in the intake; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV—Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121	
	AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
	23644		05/24/2007	1353

Mine Citation/Order

6/13/07

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

MSF
5-24-1



Section I—Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 7268797
4. Served To Charles Semenske, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
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 transformer for the LBB #4 belt (SN# 8255-500-795) is not being maintained in a safe condition. A door on the side of the box measuring 2' by 2' could be easily opened and expose holes measuring 5" by 5" and 3" by 3" which would allow access to energized components.

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 checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>	12. Type of Action 104(a)		
13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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		F. Dated Mo Da Yr		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1140
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Section III—Termination Action

17. Action to Terminate The door was bolted shut.

18. Terminated	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1520
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Section IV—Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 05 (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

6/13/07

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

445
5-24-7



Section I--Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1307	3. Citation/ Order Number 7268798
4. Served To Rick Nicolau, (maintenance chief)		5. Operator PERFORMANCE COAL COMPANY
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 trailing cable for the No. 3 shuttle car, ET17505, operated in No. 1 section 030-0 MMU was set on 1500 amps with a No. 2 cable. The maximum allowed is 800 amps.

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 75.601-1
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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 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 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: 001		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one)		
			Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action	E. Citation/ Order Number			F. Dated Mo Da Yr	
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1322
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Section III--Termination Action

17. Action to Terminate The trip setting was lowered.

18. Terminated	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1309
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/13/07

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

MS
5-247



Section I--Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1045	3. Citation/ Order Number 7268799
4. Served To Rick Nicolau, (maintenance chief)	5. Operator PERFORMANCE COAL COMPANY	
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 centerline for the left return on No. 1 section at Survey Station 21307 is located in the left rib showing the mining projections are not being followed.

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 75.203(b)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 010		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 05/23/2007	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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
5-29-7 

Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/22/2007	3. Citation/ Order Number 7268799 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The mining projections have been discussed with the continuous mining machine operators on this section and the centerline is now accurate; therefore, the citation is terminated.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121		
	AR Number 23644	12. Date Mo Da Yr 05/24/2007	13. Time (24 Hr. Clock) 1255

Mine Citation/Order

6/13/07

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

MSF
5-24-07



Section I--Violation Data

1. Date Mo Da Yr 05/22/2007	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 7268800
4. Served To Rick Nicolau, (maintenance chief)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Only 2,712 cubic feet of air could be measured in the 4 Right crosscut where the roof bolter was operating.

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 75.370(a)(1)
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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 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: 002	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input checked="" type="checkbox"/>		C. Moderate <input type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action		104(a)		13. Type of Issuance (check one)		
				Citation <input checked="" type="checkbox"/>		
				Order <input type="checkbox"/>		
				Safeguard <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		F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1120
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Section III--Termination Action

17. Action to Terminate Adjustments were made to the ventilation system and 4,572 could be measured.

18. Terminated	A. Date Mo Da Yr 05/22/2007	B. Time (24 Hr. Clock) 1109
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Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4117121	21. Primary or Mill
22. Signature			23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

6/14/07

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

6-11



Section I--Violation Data

1. Date Mo Da Yr 05/29/2007	2. Time (24 Hr. Clock) 1001	3. Citation/ Order Number 7268801
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 intake near No.1 section (opposite spad no. 2120 in the left return) was not travelable, in that water was allowed to accumulate over 18" deep for a distance of 100'. This is the primary escapeway.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.364(b)(5)
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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: 009

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/29/2007	B. Time (24 Hr. Clock) 1200
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Section III--Termination Action

17. Action to Terminate The water was pumped and the area is now passable.

18. Terminated	A. Date Mo Da Yr 05/29/2007	B. Time (24 Hr. Clock) 1350
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

2/26/08 *cd*

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

*M.S.
8-47*



Section I--Violation Data

1. Date Mo Da Yr 05/29/2007	2. Time (24 Hr. Clock) 1110	3. Citation/ Order Number 7268802
4. Served To Bennie Presley, Block Superintendent		5. Operator PERFORMANCE COAL COMPANY
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 roof control plan was not being followed, in that three sets of dates, times, and initials were present in by the second complete row of bolts out by the No. 5 face on No. 1 section (030 MMU).

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 75.220(a)(1)
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/31/2007	B. Time (24 Hr. Clock) 0900
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 05 (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

MS
6-12-9



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 05/29/2007 Mo Da Yr	3. Citation/ Order Number 7268802 - 01
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The firebosses have been talked to concerning going inby support and location.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 06/07/2007	13. Time (24 Hr. Clock) 1523

Mine Citation/Order

2126108 CR

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

MS
6-4-7



Section I--Violation Data

1. Date Mo Da Yr 05/30/2007	2. Time (24 Hr. Clock) 1115	3. Citation/ Order Number 7268803
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4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY
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6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
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8. Condition or Practice 8a. Written Notice (103g)

The Fairchild scoop T339-136 used on the No. 1 section 029/030 MMU had an inoperative lock on the batteries in that the lock handle was broken off. The lock was not lowered to allow the battery plug to lock.

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 75.503
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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: 009

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 05/30/2007 B. Time (24 Hr. Clock) 1215

Section III--Termination Action

17. Action to Terminate A new lock was installed.

18. Terminated A. Date Mo Da Yr 05/30/2007 B. Time (24 Hr. Clock) 1345

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4117121 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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, 405 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

2126108 ch

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

MS
6-1-1



Section I--Violation Data

1. Date Mo Da Yr 05/30/2007	2. Time (24 Hr. Clock) 1210	3. Citation/ Order Number 7268804
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 opening in excess of .007 inches was found on the cable reel collector ring of the middle shuttle car, ET17504, operated on the No. 1 section 029/030 MMU.

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 75.503
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 002		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)	13. Type of Issuance (check one)		Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <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	F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/30/2007	B. Time (24 Hr. Clock) 1300
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Section III--Termination Action

17. Action to Terminate The opening was closed.

18. Terminated	A. Date Mo Da Yr 05/30/2007	B. Time (24 Hr. Clock) 1235
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

2/27/08

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

MS
6-5-7


Section I--Violation Data

1. Date Mo Da Yr 06/04/2007	2. Time (24 Hr. Clock) 1345	3. Citation/ Order Number 7268805
4. Served To Bennie Presley, Block Superintendent		5. Operator PERFORMANCE COAL COMPANY
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 pump cable for the 110 volt energized pump at break No.126 was not maintained in a permissible condition in that the cable was not completely hung on insulators and was in contact with the rib and wooden rib boards at break No.129.

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 75.516
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Section II--Inspector's Evaluation

10. Gravity:						
A. Injury or illness (has) (is):		No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	No <input checked="" 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 checked="" type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action:				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 06/05/2007	B. Time (24 Hr. Clock) 0800
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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) EOA	20. Event Number 411712X	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
6-6-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 06/04/2007 Mo Da Yr	3. Citation/ Order Number 7268805 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The cable has now been hung on insulators.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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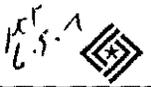
Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	R Number 3644	12. Date Mo Da Yr 06/05/2007	13. Time (24 Hr. Clock) 1040
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Mine Citation/Order

6/21/07

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



Section I--Violation Data

1. Date Mo Da Yr 06/04/2007	2. Time (24 Hr. Clock) 1355	3. Citation/ Order Number 7268806
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 break No.102 has about 20' long where the rib has rolled leaving about 12' of top unsupported. There are indications from tracks and a dated fireboss board that the fireboss had recently traveled through the area.

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 75.202(a)
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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 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: 001	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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	
F. Dated Mo Da Yr				

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 06/04/2007	B. Time (24 Hr. Clock) 2000
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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) E0X	20. Event Number 411712A	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MSHA
6-6-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 06/04/2007 Mo Da Yr	3. Citation/ Order Number 7268806 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Timbers were installed at the cited area.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 06/05/2007	13. Time (24 Hr. Clock) 1030

Mine Citation/Order

2/27/08

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

MS-1
6.5.7



Section I--Violation Data

1. Date Mo Da Yr 06/04/2007	2. Time (24 Hr. Clock) 1342	3. Citation/ Order Number 7268807
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 man trip #7 has four inoperative sanders. This vehicle was taken underground this a.m.

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 75.1403-6(b)(3)
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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 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: 005	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input checked="" type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 4623817	F. Dated Mo Da Yr 05/03/1998
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 06/04/2007	B. Time (24 Hr. Clock) 1800
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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) E0X	20. Event Number 411712X	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar-05 (revised) 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

Mr
66-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/04/2007	3. Citation/ Order Number 7268807 - 01
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The sanders are operating properly.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 06/05/2007	13. Time (24 Hr. Clock) 1530
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Mine Citation/Order

7/11/07

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

6.6.7



Section I--Violation Data

1. Date Mo Da Yr 06/05/2007	2. Time (24 Hr. Clock) 1352	3. Citation/ Order Number 7268808
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 Long-Airdox Shield Hauler SN 636-1012 was not maintained in a permissible condition in that there was an opening in excess of .005 inches on the lid of the tram motor.

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 75.503
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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(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 06/05/2007	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)
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 4117123	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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, 401 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

MS 6-25-7 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 06/05/2007	3. Citation/ Order Number 7268808 - 01
4. Served To Rick Hodge, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Additional time is granted due to location of machine.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 06/25/2007	B. Time (24 Hr. Clock) 0900	<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 E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 06/21/2007	13. Time (24 Hr. Clock) 1200

Mine Citation/Order
Continuation

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

6277



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) 06/05/2007	Mo Da Yr	3. Citation/ Order Number 7268808 - 02
4. Served To Bill Harless, Mine Foreman		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)	

Section II-Justification for Action

The opening has been closed.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	11. R Number 3644	12. Date Mo Da Yr 06/25/2007	13. Time (24 Hr. Clock) 1450
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Mine Citation/Order

6/28/07

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

LOT
66-7



Section I-Violation Data			
1. Date	Mo Da Yr	2. Time (24 Hr. Clock)	3. Citation/Order Number
	06/05/2007	1415	7268809
4. Served To		5. Operator	
Bill Harless, Mine Foreman		PERFORMANCE COAL COMPANY	
6. Mine		7. Mine ID	
UPPER BIG BRANCH MINE-SOUTH		46-08436	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>

The AEEI Splitter SN 22910-206 at break No.33 was not maintained in a permissible condition in that the stress clamp for the feed through cable was broken allowing removal of the tap terminating inductor that was installed.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR
			75.503

Section II-Inspector's Evaluation							
10. Gravity:							
A. Injury or illness (has) (is):		No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>		
C. Significant and Substantial:			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)							
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input checked="" type="checkbox"/>		D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action			13. Type of Issuance (check one)				
104(a)			Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>				
14. Initial Action				E. Citation/Order Number		F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>	
15. Area or Equipment							

16. Termination Due	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)
	06/06/2007		0800

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)	20. Event Number	21. Primary or Mill	
E01	4117121		
22. Signature			23. AR Number
			23644

MSHA Form 7000-3, Mar 85 (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

MSD
6-12-07



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/05/2007	3. Citation/ Order Number 7268809 - 01
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The splitter box has been repaired.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 06/07/2007	13. Time (24 Hr. Clock) 1350
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Mine Citation/Order

7/11/07

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

MSJ
6-12-07



Section I--Violation Data

1. Date Mo Da Yr 06/07/2007	2. Time (24 Hr. Clock) 1313	3. Citation/ Order Number 7268810
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Float coal dust was present on the No. 2 belt from the tail to the head, including the connecting crosscuts, a distance of approximately 3600 feet, wet to dry in nature. Coal was accumulated under and against the belt in the takeup.

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 75.400
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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: 009

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 06/12/2007 B. Time (24 Hr. Clock) 0800

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) FOI 20. Event Number 4117121 21. Primary or Mill

22. Signatu [redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MS
627-1



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/07/2007	3. Citation/ Order Number 7268810 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The belt was rock dusted rendering the float coal dust inert.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	
AR Number 23644	12. Date Mo Da Yr 06/25/2007	13. Time (24 Hr. Clock) 1415

Mine Citation/Order

711107

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

6-12-07 

Section I-Violation Data

1. Date Mo Da Yr 06/07/2007	2. Time (24 Hr. Clock) 1050	3. Citation/ Order Number 7268811
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Float coal dust was present on the No. 3 belt from the tail to the head, including the connecting crosscuts, a distance of approximately 4700 feet, wet to dry in nature. Coal was accumulated under and against the belt in the takeup.

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 75.400
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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 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 checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)	13. Type of issuance (check one)		Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <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	F. Dated Mo Da Yr
15. Area or Equipment						

16. Termination Due	A. Date Mo Da Yr 06/12/2007	B. Time (24 Hr. Clock) 0800
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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)	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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, 401 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

MSF
6277



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/07/2007	3. Citation/ Order Number 7268811 - 01
4. Served To Bill Harless, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The belt was rock dusted rendering the float coal dust inert.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	11. Number 644	12. Date Mo Da Yr 06/25/2007	13. Time (24 Hr. Clock) 1335
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Mine Citation/Order

7/1/07

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

MT
6-12-07



Section I-Violation Data

1. Date Mo Da Yr 06/07/2007	2. Time (24 Hr. Clock) 1220	3. Citation/ Order Number 7268812
4. Served To Bennie Presley, Block Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 rib was not adequately supported in the No. 2 belt at No. 81-82 break. The rib was cracked approximately 2 inches deep and the broken rib was approximately 20 feet long and 8 feet high.

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 75.202(a)
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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 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 type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input checked="" type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 06/07/2007	B. Time (24 Hr. Clock) 1800
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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) D01	20. Event Number 4117121	21. Primary or Mill
22. Signatu		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (revised) In accordance with 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, 40 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

MS
6277



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 06/07/2007	3. Citation/ Order Number	7268812 - 01
4. Served To Bennie Presley, Block Superintendent			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

The area was timbered and made safe to travel.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4117121	
	AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
	23644		06/25/2007	1330

Mine Citation/Order

7/11/07

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

MSHA 217

Section I - Violation Data

1. Date Mo Da Yr 06/26/2007	2. Time (24 Hr. Clock) 0905	3. Citation/ Order Number 7268816
4. Served To Rick Nicolau, (maintenance chief)	5. Operator PERFORMANCE COAL COMPANY	
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 Cat Forklift SN 4EM04289 has no operative lights on front or back.

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 77.1606(c)
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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(a)

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 06/26/2007	B. Time (24 Hr. Clock) 1000
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Section III - Termination Action

17. Action to Terminate Front and rear lights were restored to an operative condition.

18. Terminated	A. Date Mo Da Yr 06/26/2007	B. Time (24 Hr. Clock) 1230
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Section IV - Automated System Data

19. Type of Inspection (activity code)	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (revised) In accordance with 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 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, 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

7/24/07

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



Section I - Violation Data

1. Date Mo Da Yr 06/26/2007	2. Time (24 Hr. Clock) 1212	3. Citation/ Order Number 7268817
4. Served To Scott Halstead, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor) <input type="checkbox"/>
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Float coal dust & fine coal, black in color & damp to wet in nature was present on the No. 1 North belt from the head to the tail. No. 1 North belt is 4900' in length. 0% Methane was present.

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 75.400
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Section II - Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001	
11. Negligence (check one)			
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>
12. Type of Action 104(a)		13. Type of Issuance (check one)	
		Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>	
14. Initial Action			F. Dated Mo Da Yr
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 06/28/2007	B. Time (24 Hr. Clock) 1200
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

MSHA
7-17-1 

Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/26/2007	3. Citation/ Order Number 7268817 - 01
4. Served To Scott Halstead, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Additional rock dust has been applied to the cited area rendering the float coal dust inert.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E02	10. Event Number 4117129		
	AR Number 23644	12. Date Mo Da Yr 07/12/2007	13. Time (24 Hr. Clock) 1031

Mine Citation/Order
Continuation

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

MS
4297



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>		2. Dated (Original Issue)	Mo Da Yr 08/07/2006	3. Citation/ Order Number	7256487 - 03
4. Served To Rick Hodge, Superintendent			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

The area has now been sealed; therefore, the order is terminated.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection	E01	10. Event Number	4117121
(b) (7)(C)		AR Number	23644
		12. Date	Mo Da Yr 04/26/2007
		13. Time (24 Hr. Clock)	1245

Mine Citation/Order
Continuation

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

RTS
4-12-7



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 03/27/2007	Mo Da Yr	3. Citation/ Order Number 7265035 - 01
4. Served To Rick Hodge, Superintendent			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II-Justification for Action

The revision has been received and approved by the district manager;
therefore, the citation is terminated

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4117121	AR Number 23644	12. Date Mo Da Yr 04/11/2007	13. Time (24 Hr. Clock) 0730
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Mine Citation/Order

VACATED

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

4.12.7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (revised) In accordance with 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

VACATED

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

4.12-7



Section I-Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III-Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV-Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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 checked="" type="checkbox"/> Reasonably Likely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>	12. Type of Action 104(a)		
13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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"/>		
15. Area or Equipment		E. Citation/ Order Number		
16. Termination Due A. Date 04/10/2007		B. Time (24 Hr. Clock) 1050		

Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12.07



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity)	20. Event Number 4117121	21. Primary or Mill
22. Signature	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12.7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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 checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one)		
			Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <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	F. Dated	Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity)	20. Event Number 4117121	21. Primary or Mill
22. Signatu	23. AR Number 23644	

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12.7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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 checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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		F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12-7



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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 checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(a)		13. Type of Issuance (check one)		
			Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action	E. Citation/ Order Number			F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4117121	21. Primary or Mill
22. Signature			23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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

VACATED

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

4.12.07



Section I--Violation Data

1. Date Mo Da Yr 04/10/2007	2. Time (24 Hr. Clock) 1038	3. Citation/ Order Number 7263951
4. Served To David Taraczkozy (Donut) Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 door on the belt starter box for the No.2 LBB belt drive is not secured to prevent contact with energized 480 volt A.C. components

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 checked="" type="checkbox"/>	Reasonably Likely <input 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1050
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Section III--Termination Action

17. Action to Terminate The operator secured the door.

18. Terminated	A. Date Mo Da Yr 04/10/2007	B. Time (24 Hr. Clock) 1045
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Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4117121	21. Primary or Mill
22. Signature			23. AR Number 23644

MSHA Form 7000-3, Mar 85 (revised) in accordance with 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.

Plan Review

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



1. MSHA Office 0401 - Mt. Hope, WV		2. Mine ID 46-08436
3. Mine Name UPPER BIG BRANCH MINE-SOUTH	4. Company Name PERFORMANCE COAL COMPANY	

Roof Control

Adequate Deficiencies in Plan (Briefly Describe)

Plan appears adequate if followed. Plans discussed with Rick Hodge, Superintendent and Bill Harless, Mine Foreman as well as roof bolter operators, miner operators, section foremen, and mine examiners.

Ventilation

Adequate Deficiencies in Plan (Briefly Describe)

Plans appear adequate if followed. Citations were issued for making changes without approval and methane and dust control plans not being followed. Plans were discussed with Rick Hodge, Superintendent; Bill Harless, Mine Foreman; mine examiners; section foremen; miner operators and roof bolter operators.



7-10-07

Date

Rory T. Sander

Supervisor Signature

7-10-7

Date

Mine Citation/Order

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

MS
5-21-7



Section I--Violation Data

1. Date Mo Da Yr 05/16/2007	2. Time (24 Hr. Clock) 0925	3. Citation/ Order Number 7268788
4. Served To Mike Vaught, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

The 1 North belt switch at break 47 was turned off to shut the beltline down. The belt activated overriding the belt switch and starting the belt.



See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other	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 checked="" type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>	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 type="checkbox"/> No <input checked="" type="checkbox"/>	D. Number of Persons Affected 001	

11. Hygiene (check one)	A. None <input type="checkbox"/> B. Low <input checked="" type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(a)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>
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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	F. Dated Mo Da Yr
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15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 0940
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Section III--Termination Action

17. Action to terminate The switch was checked and cleaned.

18. Terminated	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 1145
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
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22. Signature	23. AR Number 23644
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MSHA Form 7000-3, Mar 85 (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 1-800-REG-FAIR (1-800-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 4th St. SW, MC 2120, Washington, DC 20418. 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

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

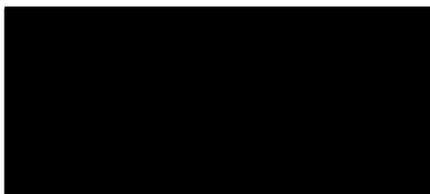
MS
5-21-7



Section I--Violation Data

1. Date Mo Da Yr 05/16/2007	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 7268789
4. Served To Mike Vaught, Safety Director		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)

8. Condition or Practice
The roof is not adequately supported on the 1 North belt at break 45. The roof has fallen out from around approximately 15 bolts exposing up to 18 inches of bolt leaving the plates not adequately installed against the roof. At break 48, bolts have broken off on the offside of the belt leaving the area inadequately supported.



8a. Written Notice (103g)

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.202(a)
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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

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(a)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <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
F. Dated Mo Da Yr	

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/16/2007	B. Time (24 Hr. Clock) 1200
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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) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

Form 7000-3, Mar 85 (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, MS 2126, 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

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

MS
4-19-07



Section I--Violation Data

1. Date Mo Da Yr 04/18/2007	2. Time (24 Hr. Clock) 1445	3. Citation/ Order Number 7268769
4. Served To Bennie Presley, Fireboss	5. Operator PERFORMANCE COAL COMPANY	
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 methane detectors in use at this mine have not been calibrated every 31 days as required. Only 2 were calibrated in February and 3 in March per records. Detector 024 was calibrated 1/29/07 and again on 4/12/07 per records. This mine is on a 15-day methane spot inspection schedule.

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 75.320(a)
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Section II--Inspector's Evaluation

Severity:

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: 010

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due

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) E01 20. Event Number 4117121 21. Primary or Mill

Signature [Redacted] 23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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.

MS
 5-10-7



Section I-Violation Data

1. Date Mo Da Yr 05/08/2007	2. Time (24 Hr. Clock) 1115	3. Citation/ Order Number 7268783
4. Inspected To Mike Burke (Block Superintendent)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

8. Condition or Practice 8a. Written Notice (103g)
 There are 3 open breaks located in the No. 2 section 041 MMU 6-7. The 2nd break did not have a ventilation control present and the 3rd break had a stopping which had been stacked but had not been plastered (SS 21267).



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 75.333(b)(1)
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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: 002

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1145
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Section III-Termination Action

17. Action to Terminate The stopping was completed and the missing curtain installed.

18. Terminated	A. Date Mo Da Yr 05/08/2007	B. Time (24 Hr. Clock) 1328
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4117121	21. Primary or Mill
22. Signature		23. AR Number 23644

MSHA Form 7000-3, Mar 85 (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 rule-making and 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.