

AUG 27 2008

3-10-08
MSHA

Section I--Violation Data

1. Date Mo Da Yr 03/07/2008	2. Time (24 Hr. Clock) 0816	3. Citation/ Order Number 7279743
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 pre-shift examination conducted on the No. 2 section (MMU 040, 041) for the day shift was not adequate. Hazardous conditions in the No. 2 entry were not dangerous off or recorded in the pre-shift examination book. There were two bolts that had been damaged by equipment. One was pulled away from the mine roof so that the roof plate was not firm against the top. The other bolt had been sheared off flush with the mine roof. Also, there was a surface crack in the mine roof extending the entire width of the entry with no supplemental support. These conditions were obvious to the most casual observer and expose miners to hazards related to falls of the mine roof.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.360(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 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 type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(d)(1)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/>		
14. Initial Action A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 7279742	F. Dated Mo Da Yr 03/07/2008
15. Area or Equipment The 041 MMU.				

16. Termination Due	A. Date Mo Da Yr 03/07/2008	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate The section was examined by a certified foreman. Also, the No. 2 entry was re-bolted and supplemental support was installed.

18. Terminated	A. Date Mo Da Yr 03/07/2008	B. Time (24 Hr. Clock) 0930
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4120607	21. Primary or Mill
22. Signatu		23. AR Number

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.



Section I--Violation Data

1. Date Mo Da Yr 04/22/2008	2. Time (24 Hr. Clock) 1037	3. Citation/ Order Number 7278782
4. Served To Gary May, 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 operator was not following the approved ventilation plan on the #2 section (MMU 040-0) to control methane and respirable dust. The continuous mining machine was mining from #2 entry to #3 entry. The dust was visible from 2 breaks outby the end of the shuttle car. The air reading at the miner was 4,095 CFM, the ventilation plan minimum of air is 5,400 CFM without the scrubber 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 75.370(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 type="checkbox"/>	Highly Likely <input checked="" 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: 002		
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(d)(2)			13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 7279743		F. Dated Mo Da Yr 03/07/2008	
15. Area or Equipment The #2 section (MMU 040-0).						

16. Termination Due	A. Date Mo Da Yr 04/22/2008	B. Time (24 Hr. Clock) 1100
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Section III--Termination Action

17. Action to Terminate The operator made ventilation changes to get 6,900 CFM of air to the continuous mining machine.

18. Terminated	A. Date Mo Da Yr 04/22/2008	B. Time (24 Hr. Clock) 1100
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4120376	21. Primary or Mill
22. Signature		23. AR Number

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.

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/22/2008	3. Citation/ Order Number 7278782 - 01
4. Served To Gary May, 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

Change	From	To
8. Condition Or Practice		
Reason	To read (MMU 041-0)	
15. Area or Equipment		
Reason	To read (MMU 041-0)	

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 4120376		
11. Signature 	AR Number 	12. Date Mo Da Yr 04/23/2008	13. Time (24 Hr. Clock) 0639

Section I--Violation Data

1. Date Mo Da Yr 07/25/2008	2. Time (24 Hr. Clock) 1020	3. Citation/ Order Number 7183892
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 Approved Supplement, Dated 07-14-2008, to the Approved Roof Control Plan, Permit No.4-RC-11-94-12307-11, was not being Complied with in the Construction Area Outby the No.1 Section. 50 Ton Heintzmann Jack or Equivalent had not been Installed Across the Crosscut in the Track Entry Left of Survey Station No.19879 and the Block Outby for the Entire Length of the Block Prior to or after the Block had been Split. The Split through the Block at Survey Station No.19879 had been Driven 19 to 20 Feet in Width beginning at Survey Station No.19879 and Extended Inby for 150 Feet. The Approved Supplement Requires that 50 Ton Jacks or Equivalent be Install Across the Crosscuts and the Pillar Blocks Inby and Outby for the Entire Length of the Blocks and the Width through the Pillar Splits will not Exceed 16 Feet. All the Crews and the Foremen have been Instructed in the

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)
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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(d)(2) 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 7279743 F. Dated Mo Da Yr
03/07/2008

15. Area or Equipment Construct work in Outby area off of No.1 Section

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

17. Action to Terminate Additional Supports, Jacks, Cribs and Timbers have been installed in the affected area.

18. Terminated	A. Date Mo Da Yr 07/25/2008	B. Time (24 Hr. Clock) 1825
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4118287	21. Primary or Mill
22. Signature		23. AR Number

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

7-28-08


Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 07/25/2008	3. Citation/ Order Number 7183892
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

Continuation of 8. Condition or Practice

Requirements of the Roof Control Plan. This area has been mined for Several Shifts and is Located 250 Feet outby the Active Section. The area had been Examined but the Conditions Cited had not been Reported for Correction.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4118287		
11. Signature 	AR Number 	12. Date Mo Da Yr 07/25/2008	13. Time (24 Hr. Clock) 1020



Section I--Violation Data

1. Date Mo Da Yr 07/25/2008	2. Time (24 Hr. Clock) 1525	3. Citation/ Order Number 7183893
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 Primary Escapeway, Main Intake, from No.1 Section was not Separated with Permanent Type Stoppings from the Belt Conveyor Entry at Four (4) Locations. The Stoppings had been Removed and Brattice Cloth had been Installed as a Separation. The area had been Examined and the Conditions had not been Reported for Correction.

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 75.380(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 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: 010		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action	104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/>		
14. Initial Action	A. Citation <input type="checkbox"/>	B. Order <input checked="" type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 7279743
15. Area or Equipment					F. Dated Mo Da Yr 03/07/2008
No.1 Section					

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

Section III--Termination Action

17. Action to Terminate Permanent type stoppings have been installed in the affected areas separating the primary escapeway from the belt conveyor entry.

18. Terminated	A. Date Mo Da Yr 07/25/2008	B. Time (24 Hr. Clock) 2115
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4118287	21. Primary or Mill
22. Signature		23. AR Number

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7/20/09 

Section I--Violation Data

1. Date Mo Da Yr 03/17/2009	2. Time (24 Hr. Clock) 0035	3. Citation/ Order Number 8082692
4. Served To Homer Wallace, Supt.		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 operator failed to make an adequate preshift examination of the #3 section on 3/16/ 2009 for the oncoming 3rd shift. The examination conducted by evening shift section foreman, Russell Gunoe, on 3/16/09 from 22:30 to 2300 hours, was inadequate in that the following hazardous conditions were not reported:

- 1) The left roof bolter was operating in the 2L crosscut without any ventilation curtain.
- 2) The #2 face was approximately 50' deep without any ventilation curtain.
- 3) The #3 face was approximately 60' deep without any ventilation curtain.
- 4) The #6 face was approximately 40' deep without any ventilation curtain and the energized right roof bolter was parked in the face.
- 5) The energized right continuous miner was sitting in the #5 face

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 75.360(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: 008

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

12. Type of Action 104(d)(1) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/ Order Number 8074834 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The entire #3 working section.

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

17. Action to Terminate An adequate examination of the section has been conducted of the section and the results recorded in the preshift book.

18. Terminated	A. Date Mo Da Yr 03/17/2009	B. Time (24 Hr. Clock) 0500
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119932	21. Primary or Mill
22. Signatu		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

3/20/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/17/2009	3. Citation/ Order Number 8082692
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Continuation of 8. Condition or Practice

with the ventilation curtain 20' back from the face. 6) The check curtain to be used as a stopping between the #6 and 7 entry was missing. 7) The back up check curtains were missing in the #3,4 and 5 entries. 8) The check curtain between the #4 and 5 entry was missing.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119932		
11. Signature 	AR Number 	12. Date Mo Da Yr 03/17/2009	13. Time (24 Hr. Clock) 0035

4/9/09 


Section I--Violation Data

1. Date Mo Da Yr 04/07/2009	2. Time (24 Hr. Clock) 0615	3. Citation/ Order Number 8082700
4. Served To Gary May, 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 operator is failing to comply with pages 16 items #2 and #5, and page 17 of the approved roof control plan on the #3 pillar section. The operator started pillaring before connecting two entries into the mains to establish a bleeder. Only one entry was connected to the old mains. Also the operator failed to leave 1/2 of a block on the outside entries of this initial pillar panel.

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 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: 008

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

12. Type of Action 104(d)(1) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 8074834 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The operator is prohibited from conducting further pillaring operation until all miners on the #3 section are retrained in the parts of the mine ventilation plan concerning pillaring.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119936 21. Primary or Mill

22. Signature  23. AR Number 

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4/8/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 04/07/2009	3. Citation/Order Number 8082700 - 01
4. Served To Gary May, 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

Change	From	To
8. Condition Or Practice		
Reason	Change from the "approved roof control plan" to the "approved ventilation plan"	
12. Type of Action1	104(d)(1)	104(d)(2)
Reason		
14. Initial Action	Citation	Order
Reason	incorrectly marked order	
14. E. Citation/Order Number	8074834	8082692
Reason	inadvertently entered d-1 citation number instead of initial d-1 order number	

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 4119936		
11. Signatu	AR Number	12. Date Mo Da Yr 04/07/2009	13. Time (24 Hr. Clock) 1617

Mine Citation/Order
Continuation

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

4/17/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>		2. Dated (Original Issue)		3. Citation/Order Number	
		04/07/2009		8082700 - 02	
4. Served To			5. Operator		
Gary May, Mine Foreman			PERFORMANCE COAL COMPANY		
6. Mine			7. Mine ID		
UPPER BIG BRANCH MINE-SOUTH			46-08436 (Contractor)		

Section II--Justification for Action

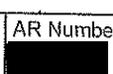
All the miners on the #3 section have been retrained on the mine ventilation plan concerning pillars, MSHA has reviewed the mine ventilation plan with management. The Bleeder punch-out has been supported with a triple row of jacks, through the length of the punch through.

See Continuation Form

Section III--Subsequent Action Taken

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

Type of Inspection	10. Event Number		
E01	4119936		
1. Signature	AR Number	12. Date	13. Time (24 Hr. Clock)
		04/09/2009	1028

4/8/09 

Section I--Violation Data

1. Date Mo Da Yr 04/07/2009	2. Time (24 Hr. Clock) 1002	3. Citation/ Order Number 8082701
4. Served To Gary May, 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 operator is failing to provide a secondary means of communication on the #3 section. When tested the intake phone failed to function.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act 316(b)	C. Part/Section of Title 30 CFR
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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: 008

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 Written Notice

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 04/07/2009	B. Time (24 Hr. Clock) 1100
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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 4119936	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4/17/09 

Section I--Violation Data

1. Date Mo Da Yr 04/08/2009	2. Time (24 Hr. Clock) 1220	3. Citation/ Order Number 8082711
4. Served To Tom Sheets, 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 operator has made an incomplete or inadequate effort to fix the secondary communication system on the #3 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 316(b)	C. Part/Section of Title 30 CFR
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input type="checkbox"/>	Reasonably Likely <input type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input 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 type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected:		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action	104(b)	13. Type of Issuance (check one)			
		Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number	F. Dated	Mo Da Yr
A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082701		04/07/2009
15. Area or Equipment The secondary communication system on the #3 section.					

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4119936	21. Primary or Mill
22. Signature 			23. AR Number 

Mine Citation/Order
Continuation

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

4/17/09

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 04/08/2009	3. Citation/ Order Number 8082711 - 01
4. Served To Gary May, 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 intake phone now functions 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 4119936		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 04/09/2009	13. Time (24 Hr. Clock) 1105

4/17/09 

Section I--Violation Data

1. Date Mo Da Yr 04/09/2009	2. Time (24 Hr. Clock) 1320	3. Citation/ Order Number 6612410
4. Served To ANDY COALSON (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 OPERATOR HAS SUBMITTED AN INACCURATE AND MISREPRESENTING MAP TO THE DISTRICT MANAGER FOR APPROVAL ON 3/13/2009. THE MAP HAS INACCURATE INFORMATION FOR THE ELLIS PUNCH OUT.

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 75.372(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: 016
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment THE #2, #3, AND #4 ENTRIES FOR THE ELLIS PUNCH OUT FOR A DISTANCE OF 300 FT. UNDERGROUND FROM THE HIGHWALL.

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

4/10/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/09/2009 Mo Da Yr	3. Citation/ Order Number 6612410 - 01
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

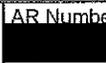
The operator has submitted a correct 75.372 map to MSHA.

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 4119936		
11. Signatu 	AR Number 	12. Date Mo Da Yr 04/13/2009	13. Time (24 Hr. Clock) 0730

4/17/09 

Section I--Violation Data

1. Date Mo Da Yr 04/09/2009	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 6612411
4. Served To ANDY COALSON (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 75.1200 MAP LOCATED AT THE MINE OFFICE FOR THE ELLIS PUNCH WAS NOT UP-TO-DATE AND ACCURATE. THE MAP SHOWS TWO NATURAL AIR ENTRIES AS BEING PUNCHED OUT TO THE SURFACE TO, WHEN IN FACT THE ENTRIES ARE NOT. ALSO THE MAP SHOW A REGULATOR AND AIR LOCK DOORS INSTALLED WHERE THE ENTRIES ARE SHOWN TO PUNCH OUT. THE MAP DID NOT SHOW LINE BRATTICES (CURTAIN) IN THE 2 ENTRIES THAT WAS DROVE IN APPROXIMATELY 150 FT. WITHOUT BEING CONNECTED.

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 75.1200
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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: 016

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE #2, #3 AND #4 ENTRIES FOR THE ELLIS PUNCH OUT FOR A DISTANCE OF 300 FT. UNDERGROUND FROM THE HIGHWALL.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3, April 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4/17/09 

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 04/09/2009	3. Citation/ Order Number 6612411 - 01
4. Served To ANDY COALSON (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

Change	From	To
8. Condition Or Practice		
Reason	THIS CITATION SHOULD HAVE READ : THE 75.1200 MAP LOCATED AT THE MINE OFFICE FOR THE ELLIS PUNCH OUT WAS NOT UP-TO-DATE AND ACCURATE. THE MAP SHOWS TWO NEUTRAL AIR ENTRIES (#2 AND #3)AS BEING PUNCHED OUT TO THE SURFACE AND THEY'RE NOT. ALSO THE MAP SHOWS VENTILATION CONTROLS THAT ARE NOT PRESENT IN THE #2 ENTRY (REGULATOR) AND A SET OF AIR LOCK DOORS IN THE #3 ENTRY. THE MAP DID SHOW LINE BRATTICE (CURTAIN) IN THE 2 ENTRIES (#2AND #3) WHERE THE CURTAIN WAS EXTENDED IN THE MINED ENTRIES FOR APPROXIMATELY 150 FT. WITHOUT BEING CONNECT.	
9. A. Violation Type	Safety	Other
Reason		
10. A. Injury or Illness	Unlikely	No Likelihood
Reason		
10. B. Injury Expected	Lost Workdays	No Lost Workdays
Reason		

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 4119936	
11. Citation Number 	12. Date Mo Da Yr 04/10/2009	13. Time (24 Hr. Clock) 0829

Citation/Order
Continuation

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

4/10/09



Section I—Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/09/2009	3. Citation/Order Number 6612411 - 02
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II—Justification for Action

The 75.1200 map now shows the entries correctly.

Section III—Subsequent Action Taken

See Continuation Form

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 4119936		
11. Signature	AR Number	12. Date Mo Da Yr 04/13/2009	13. Time (24 Hr. Clock) 0725

4/17/09 

Section I--Violation Data

1. Date Mo Da Yr 04/09/2009	2. Time (24 Hr. Clock) 1210	3. Citation/ Order Number 6612412
4. Served To ANDY COALSON (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 OPERATOR HAS FAILED TO CONDUCT WEEKLY EXAMINATIONS #2 AND #3 ENTRIES THAT ARE NOT CONNECTED AT THE ELLIS PUNCH OUT. THESE ENTRIES ARE DROVE IN APPROXIMATELY 150 FT. WITH LINE BRATTICE (CURTAIN) INSTALLED.

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(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 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: 016
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11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(d)(2)	13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>
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14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
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15. Area or Equipment THE #2, #3, AND #4 ENTRIES FOR THE ELLIS PUNCH OUT FOR A DISTANCE OF 300 FT. UNDERGROUND FROM THE HIGHWALL.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4/10/09 

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 04/09/2009	3. Citation/ Order Number 6612412 - 01
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

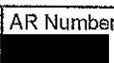
The cited entries have been examined and the results recorded in the weekly exam book.

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 4119936		
11. Signature 	AR Number 	12. Date Mo Da Yr 04/13/2009	13. Time (24 Hr. Clock) 0825

4/22/09

Section I--Violation Data

1. Date Mo Da Yr 04/21/2009	2. Time (24 Hr. Clock) 0842	3. Citation/ Order Number 8082734
4. Served To Rick Foster, 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 operator is failing to conduct a preshift exam of the unconnected room driven 25' deep off the #4 section intake at spad 5738. The room is ventilated with line curtain.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.360(b)(6)(ii)
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Section II--Inspector's Evaluation

10. Gravity:

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

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

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The #4 section intake.

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

17. Action to Terminate The room has been examined.

18. Terminated	A. Date Mo Da Yr 04/21/2009	B. Time (24 Hr. Clock) 0845
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

5/12/09 

Section I--Violation Data

1. Date Mo Da Yr 05/11/2009	2. Time (24 Hr. Clock) 1044	3. Citation/ Order Number 8082762
4. Served To Charley Semenske, Weekly Examiner	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 operator is failing to certify weekly examinations by leaving Dates, Times and Initials in the examined area. There are not any up to date, Dates, Times and Initials present in the neutral entries going towards DPP # 1 to prove that a weekly examination has been conducted of 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 75.364(g)
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Section II--Inspector's Evaluation

10. Gravity:

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

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

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment Natural entries from LBB #4 head to DPP #1.

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

17. Action to Terminate The area has been examined and DTI's are now present.

18. Terminated	A. Date Mo Da Yr 05/11/2009	B. Time (24 Hr. Clock) 1050
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

7/17/09 

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 05/11/2009	3. Citation/ Order Number 8082762 - 01
4. Served To Charley Semenske, Weekly Examiner	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

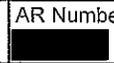
Change	From	To
15. Area or Equipment		
Reason	Change the word "Natural" to read "neutral"	

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 4119936		
11. Signature 	AR Number 	12. Date Mo Da Yr 05/12/2009	13. Time (24 Hr. Clock) 1153

5/17/09

Section I--Violation Data

1. Date Mo Da Yr 05/11/2009	2. Time (24 Hr. Clock) 1100	3. Citation/ Order Number 8082763
4. Served To Charley Semenske, Weekly Examiner		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 operator is failing to examine at least one entry of each intake air course, in its entirety, so the entire air course is traveled. The LBB intake split going towards the Ellis punch-out is not being examined in its entirety. The intake is blocked by two roof falls, two breaks out-by spad 21054 and the intake has been endangered off due to bad top and bad ribs from spad 21054 to spad 21539. This conditions were reported on 03/23/09 and the intake was endangered off at this time. The last complete exam of this area was on the week ending 03/21/09.

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 Unlikely Reasonably Likely Highly Likely Occurred

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

C. Significant and Substantial: Yes No D. Number of Persons Affected: 001

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The LBB intake split going towards the Ellis punch-out.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

5/12/09 

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 05/11/2009	3. Citation/ Order Number 8082763 - 01
4. Served To Homer Wallace, Supt.	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	Change spad 21054 to spad 21254.	

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 4119936		
11. Signature 	AR Number 	12. Date Mo Da Yr 05/12/2009	13. Time (24 Hr. Clock) 1146

Mine Citation/Order
Continuation

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

0/27/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 05/11/2009	3. Citation/ Order Number 8082763 - 02
4. Served To Charley Semenske, Weekly Examiner	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

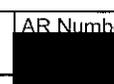
A revision to the vent plan concerning the affected area has been approved and the necessary changes in ventilation have been made to make the LBB entries common air.

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 4119936		
11. Signatu 	AR Number 	12. Date Mo Da Yr 06/23/2009	13. Time (24 Hr. Clock) 0755

5/12/09

Section I--Violation Data

1. Date Mo Da Yr 05/11/2009	2. Time (24 Hr. Clock) 1132	3. Citation/ Order Number 8082764
4. Served To Charley Semenske, Weekly Examiner		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 operator is failing to leave Dates, Times, and Initials in enough locations to prove that a weekly examination for hazardous conditions has been conducted. There are not any up to date, Dates, Times and Initials present in the right return were it travels around the panel off of LBB #4 head.

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(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 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 type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)			
		Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number	F. Dated	Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082692		03/17/2009

15. Area or Equipment The right return were it travels around the panel off of LBB #4 head.

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

17. Action to Terminate The area has been examined and DTI are now present.

18. Terminated	A. Date Mo Da Yr 05/11/2009	B. Time (24 Hr. Clock) 1135
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

5/12/09

Section I--Violation Data

1. Date Mo Da Yr 05/12/2009	2. Time (24 Hr. Clock) 1157	3. Citation/ Order Number 8082767
4. Served To Homer Wallace, Supt.		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 mine operator is failing to comply with the approved mine ventilation plan. The operator is failing to examine EP's 53 and 54 in the location approved in the mine ventilation map.

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 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 type="checkbox"/>		D. High <input checked="" type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(d)(2)			13. Type of Issuance (check one)			
			Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>	
			Safeguard <input type="checkbox"/>		Written Notice <input type="checkbox"/>	
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input type="checkbox"/>			B. Order <input checked="" type="checkbox"/>		C. Safeguard <input type="checkbox"/>	
D. Written Notice <input type="checkbox"/>			8082692		Mo Da Yr 03/17/2009	
15. Area or Equipment EP's 53 and 54.						

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

17. Action to Terminate		
18. Terminated		
A. Date Mo Da Yr	B. Time (24 Hr. Clock)	

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

5/19/09 

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 05/12/2009	3. Citation/ Order Number 8082767 - 01
4. Served To Homer Wallace, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

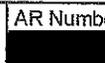
The weekly examiner have been retrained as to the proper location to check EP 53 and 54.

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 4119936		
11. Signatur 	AR Number 	12. Date Mo Da Yr 05/18/2009	13. Time (24 Hr. Clock) 0742

6-4-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 06/03/2009	2. Time (24 Hr. Clock) 1010	3. Citation/ Order Number 8082817
4. Served To Gary May, 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 operator is failing to maintained the #2 belt on the #1 section. A stand is improperly installed at break 48, causing the stand to twist and the belt to rub the metal across the width of the bottom cross member of the stand. At break 52, the stand is damaged, causing the belt to rub on the frame on the walkway side. At break 87, the stand is improperly installed, causing the stand to twist and the belt to rub the metal across the width of the bottom cross member of the stand.

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 75.1731(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 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: 003		
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"/> Written Notice <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 06/03/2009	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 4119936	21. Primary or Mill
22. Signat		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

6-4-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 06/03/2009	2. Time (24 Hr. Clock) 1053	3. Citation/ Order Number 8082819
4. Served To Gary May, 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 operator is failing to add additional roof support where the belt/track entry on the #1 section was mined over 20 wide. The operator cuts this entry 22' wide to allow for the belt and track to be in the same entry. The operator has not added additional support for 450' near the end of the belt.

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 75.203(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: 011		
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>					
12. Type of Action 104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009	

15. Area or Equipment The #3 belt on the #1 section is to be removed from service until additional support is added for the necessary distance.

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

17. Action to Terminate The operator has set sand jacks for the length of the affected areas.

18. Terminated	A. Date Mo Da Yr 06/03/2009	B. Time (24 Hr. Clock) 1426
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Violation Data

1. Date Mo Da Yr 06/08/2009	2. Time (24 Hr. Clock) 1025	3. Citation/ Order Number 8082828
4. Served To Andy Coalson, 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 operator has failed to take any action to fix the conditions on the #2 Belt, cited in citation #8082817.

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 75.1731(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 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 type="checkbox"/>	
C. Significant and Substantial:			D. Number of Persons Affected:			
C. Significant and Substantial:		Yes <input type="checkbox"/>	No <input type="checkbox"/>			
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(b)			13. Type of Issuance (check one)			
			Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>	
			Safeguard <input type="checkbox"/>		Written Notice <input type="checkbox"/>	
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082817		Mo Da Yr 06/03/2009	

15. Area or Equipment The #2 Belt, on the #1 Section is removed from service until all cited conditions are corrected.

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

Section III--Termination Action

17. Action to Terminate The necessary repairs were made.

18. Terminated	A. Date Mo Da Yr 06/08/2009	B. Time (24 Hr. Clock) 1400
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signature		23. AR Number

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4/10/09 

Section I--Violation Data

1. Date Mo Da Yr 06/08/2009	2. Time (24 Hr. Clock) 1237	3. Citation/ Order Number 8082831
4. Served To Andy Coalson, 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 operator is failing to comply with an approved revision to the mine ventilation plan. The longwall set up is not being ventilated in the manner specified by the revision. A permanent ventilation control, required to be in place has been practically removed allowing air to short circuit to the return. A regulator required to be in place, to allow air to exit the longwall set up, is instead a solid stopping.

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 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: 007

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

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

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

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

E. Citation/
Order Number 8082692

F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The longwall set up area is not to have any work, except that necessary to correct the ventilation performed.

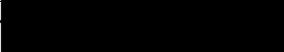
16. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate The ventilation is now corrected.

18. Terminated	A. Date Mo Da Yr 06/08/2009	B. Time (24 Hr. Clock) 1300
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Section IV--Automated System Data

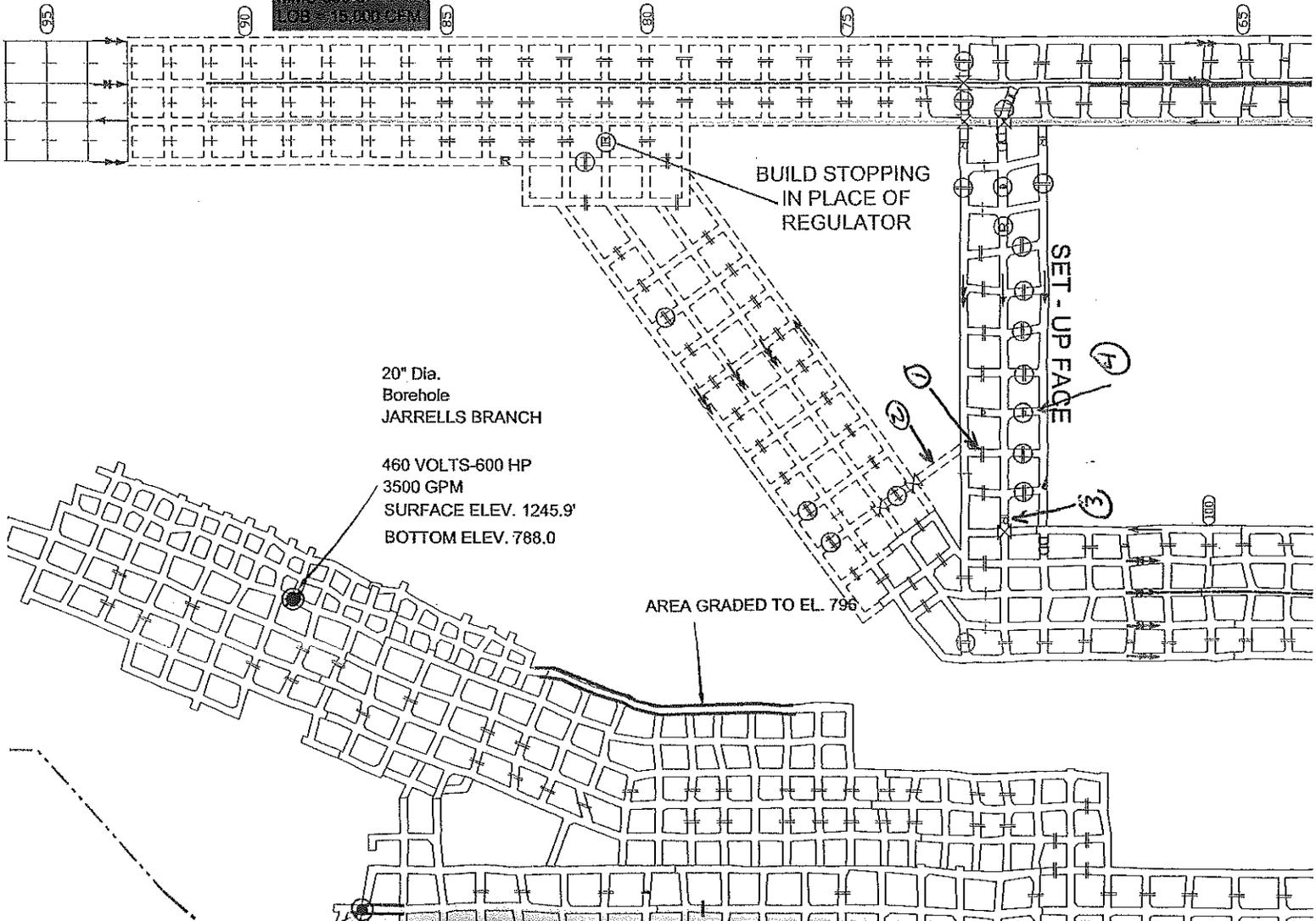
19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signat 		23. AR Number 

Citation 8082831

1000000
MMU-029-0
LOP = 10,000 CFM
MMU-020-0
LOP = 15,000 CFM

Note: controls
mark with a 
are removed.

- ① This stopping removed allowing a.m. to short circuit over the return (#2) so entire long wall set was not shorted
- ② This regulator was a solid stopping
- ③ This check curtain was removed allowing a.m. to short circuit to return



20" Dia.
Borehole
JARRELLS BRANCH

460 VOLTS-600 HP
3500 GPM
SURFACE ELEV. 1245.9'
BOTTOM ELEV. 788.0

AREA GRADED TO EL. 796

6/15/9 [Redacted]

Section I--Violation Data

1. Date Mo Da Yr 06/10/2009	2. Time (24 Hr. Clock) 1010	3. Citation/ Order Number 8082840
4. Served To Jeremy Burghduff, 3rd shift 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 operator is failing to comply with the safety precaution page, item 4 and the section specific page of the approved methane/dust control plan on the 064 MMU. Item 4 of the safety precaution page requires curtain to be advanced to within 10' of the face. The #6 face, on the #3 section is 24' deep without any line curtain. The section specific page requires all line curtain to be hung as exhausting. In the #7 entry, the operator has hung a solid check that prevents any air from passing around it and also restricts the LOB velocity to 5700cfm. (separate citation issued.)

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 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: 003	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input type="checkbox"/>		D. High <input checked="" type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(d)(2)			13. Type of Issuance (check one)			
			Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>	
			Safeguard <input type="checkbox"/>		Written Notice <input type="checkbox"/>	
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input type="checkbox"/>			B. Order <input checked="" type="checkbox"/>		C. Safeguard <input type="checkbox"/>	
D. Written Notice <input type="checkbox"/>			8082692		Mo Da Yr 03/17/2009	

15. Area or Equipment No production shall take place on the 064 MMU until the ventilation is corrected and has been verified by MSHA.

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

Section III--Termination Action

17. Action to Terminate The ventilation controls are now correctly installed.

18. Terminated	A. Date Mo Da Yr 06/10/2009	B. Time (24 Hr. Clock) 1035
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signatu [Redacted]		23. AR Number [Redacted]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

6/17/09 

Section I--Violation Data

1. Date Mo Da Yr 06/17/2009	2. Time (24 Hr. Clock) 0111	3. Citation/ Order Number 8090856
4. Served To Steve Colo, section 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 operator is failing to comply with the approved methane/dust control plan, section specific page items 4 and 7. The line curtain in the 4R crosscut is 4 rows of bolts or 15' back from the face. Also the 064 MMU continuous miner is loading in the #3 entry without any line curtain with the miner operator standing in visible dust on the return of the miner. Steve Colo, the section foreman stated to MSHA that he was aware of the conditions. Steve Colo engaged in aggravated conduct by failing to take action on a known hazard. This is unwarrantable failure to comply with a mandatory standard.

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 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: 003

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment #3 section inby the section dumping point.

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

17. Action to Terminate The section is now correctly ventilated and a safety meeting was held with the crew about ventilation and silicosis.

18. Terminated	A. Date Mo Da Yr 06/17/2009	B. Time (24 Hr. Clock) 0145
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119936	21. Primary or Mill
22. Signatu		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

6/17/09

Section I--Violation Data

1. Date Mo Da Yr 06/17/2009	2. Time (24 Hr. Clock) 0110	3. Citation/ Order Number 8090855
4. Served To Steve Colo, section 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 operator is failing to comply with page 5 of the approved ventilation plan and the 064 MMU methane dust control plan, section specific page items 4 and 7. The following conditions were found: 1) There is not a back up check present in the #5 entry. 2) The line curtain in the 4R crosscut is 4 rows of bolts and 15' back from the face. 3) The ventilation current is improperly split and air passing over the left miner is going to the right side of the section. 4) The left side continuous miner is loading in the #3 face without any line curtain and the miner man is standing in the visible dust in the return of the continuous miner. The section foreman stated he was aware of the condition of the face ventilation and failed to take action to correct it. Steve Colo engaged in aggravated conduct by failing to take action on a known hazard. This is unwarrantable failure to comply

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 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: 003

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

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

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment All equipment in by the section power center is to be de-energized and no work other than that necessary to correct the ventilation is to take place.

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

Section III--Termination Action

17. Action to Terminate The section is now correctly ventilated and a safety meeting was held with the crew about ventilation and silicosis.

18. Terminated A. Date Mo Da Yr 06/17/2009 B. Time (24 Hr. Clock) 0145

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4119936

21. Primary or Mill

22. Signature

23. AR Number

Mine Citation/Order
Continuation

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

4/17/9 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/> 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/17/2009	3. Citation/ Order Number 8090855
4. Served To Steve Colo, section foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Continuation of 8. Condition or Practice
with a mandatory standard.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119936		
11. Signal 	AR Number 	12. Date Mo Da Yr 06/17/2009	13. Time (24 Hr. Clock) 0110

06/17/09 

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 06/17/2009			3. Citation/Order Number 8090855 - 01	
4. Served To Steve Colo, section 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
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8. Condition Or Practice

Reason Change the body of citation to read, " The operator is failing to comply with page 5 of the approved ventilation plan. There is not a back up curtain in the #5 entry and the ventilation current is improperly split allowing the air current passing over the 064MMU to go to the right side and the 065MMU. Steve Colo stated to MSHA that he was aware of the condition. He engaged in aggravated conduct by failing to take action on a known hazard. This is unwarrantable failure to comply with a mandatory standard"

15. Area or Equipment

Reason Change to read, "Inby the section loading point."

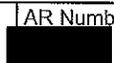
Separate plans were cited in one order.

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 4119936			
11. Signatu		AR Number		12. Date Mo Da Yr 06/17/2009	13. Time (24 Hr. Clock) 0847

7/10/09 

Section I--Violation Data

1. Date Mo Da Yr 07/09/2009	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8086127
4. Served To Gary Mays, 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 operator is failing to properly maintain the 029-040 MMU section. Loose coal has been allowed to accumulate in several locations of the section. The no.4 entry has coal measuring 1 inch to 24 inches deep for a distance of 112 feet on both ribs and the roadway. The 3 right cross-cut has coal accumulations measuring 1 inch to 24 inches deep on both ribs and the roadway for a distance of 79 feet in length. The no.3 entry, just outby the last open cross-cut has coal measuring 1 inch to 24 inches deep on both ribs and the roadway. The 2 left cross-cut has coal accumulations measuring 1 inch to 15 inches deep on both ribs and the roadway for a distance of 40 feet.

With the citation issued on 07/08/2009 citing over 2% methane in the same

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(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
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15. Area or Equipment No. 4, 3, 3-Right Cross-cut, and 2-left cross-cut on the MMU-029/040 section.

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

17. Action to Terminate All the affected areas have been cleaned and dusted.

18. Terminated A. Date Mo Da Yr 07/09/2009	B. Time (24 Hr. Clock) 1315
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 4123477	21. Primary or Mill
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22. Signature	23. AR Number
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Mine Citation/Order
Continuation

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

7/10/09

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 07/09/2009	3. Citation/ Order Number 8086127
4. Served To Gary Mays, 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

Continuation of 8. Condition or Practice

location and the problems encountered today with excessive methane, the above conditions create a hazard.

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

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E02	10. Event Number 4123477	
11. AR Number	12. Date Mo Da Yr 07/09/2009	13. Time (24 Hr. Clock) 1030

7/15/09  

Section I--Violation Data

1. Date Mo Da Yr 07/10/2009	2. Time (24 Hr. Clock) 1055	3. Citation/ Order Number 6612460
4. Served To GARY MAY (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 OPERATOR HAD MADE AN AIR CHANGE ON THE #1 SECTION WITHOUT HAVING AN APPROVED REVISION FROM THE DISTRICT MANAGER. WITH THIS AIR CHANGE MADE THE AIR HAD BEEN REVERSED IN THE #1 ENTRY FROM CROSS CUT #95 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 75.370(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: 010

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment FROM #95 CROSS CUT IN THE #1 ENTRY TO THE FACE AND FROM THE SECTION TAIL PIECE TO THE FACES OF THE #2, #3, AND #4 ENTRIES OF THE #1 SECTION.

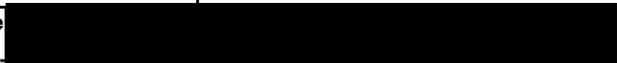
16. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate THE OPERATOR MADE A VENTILATION CHANGE AND NOW THE #1 SECTION IS USING SPLIT VENTILATION.

18. Terminated	A. Date Mo Da Yr 07/10/2009	B. Time (24 Hr. Clock) 1630
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature 	23. AR Number 	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/20/09

Section I--Violation Data

1. Date Mo Da Yr 07/13/2009	2. Time (24 Hr. Clock) 1015	3. Citation/ Order Number 6612462
4. Served To ANDY COALSON (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 OPERATOR FAILED TO FOLLOW THE APPROVED VENTILATION PLAN (METHANE DUST CONTROL) ON THE MMU-040 SECTION. THE CONTINUOUS MINING MACHINE WAS MINING THE 2 LEFT CROSS CUT WITH ONLY 1400 CFM AT THE END OF THE LINE CURTAIN.

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 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: 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"/>	Written Notice <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 07/13/2009	B. Time (24 Hr. Clock) 1030
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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 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/20/09 

Section I--Violation Data

1. Date Mo Da Yr 07/13/2009	2. Time (24 Hr. Clock) 1035	3. Citation/ Order Number 6612463
4. Served To ANDY COALSON (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 OPERATOR WAS UNABLE TO GET THE PROPER CFM BEHIND THE LINE CURTAIN IN THE #2 LEFT CROSS CUT ON THE MMU-040 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 75.370(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:

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

12. Type of Action 104(b)

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

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

E. Citation/
Order Number 6612462

F. Dated Mo Da Yr
07/13/2009

15. Area or Equipment THE PRODUCTION OF COAL IN THE #2 LEFT CROSS CUT AND THE #2 ENTRY INBY THE LAST OPEN BREAK ON MMU-040 SECTION. THIS CROSS CUT CAN BE BOLTED HAS LONG HAS THE REQUIRED CFM IS MAINTAINED.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4119293

21. Primary or Mill

22. Signat

23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

7/16/09  

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 07/13/2009	3. Citation/ Order Number 6612463 - 01
4. Served To GARY MAY (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 #2 RIGHT CROSS CUT HAS BEEN CONNECTED AND THE CONTINUOUS MINING MACHINE WAS MINING IN THE #1 FACE WITH THE REQUIRED CFM.

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 4119293		
11. Signature 	11. AP Number 	12. Date Mo Da Yr 07/14/2009	13. Time (24 Hr. Clock) 1040

7/24/09

Section I--Violation Data

1. Date Mo Da Yr 07/21/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8094525
4. Served To ANDY COALSON (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)

ACCUMULATIONS OF LOOSE COAL WAS PRESENT ALONG THE #3 SECTION FOR #1 SECTION FROM CROSS CUT #128 OUTBY TO THE #3 BELT HEAD. THIS MATERIAL WAS APPROXIMATELY 3 TO 18 INCHES DEEP FROM THE TRACK RAIL TO THE OFFSIDE RIB ON THIS BELT. THE PRE-SHIFT RECORD FOR THIS BELT LIST NEEDS SPOT CLEANED AND DUSTED SINCE 7/11/2009

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 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: 004		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)			
		Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number	F. Dated	Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082692		03/17/2009
15. Area or Equipment THE #3 BELT CONVEYOR FOR THE #1 SECTION.					

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number: 4119293	21. Primary or Mill
22. Signature			23. AR Number

MSHA Form 7000-3, April 00 (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.

7/27/09 

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 07/21/2009	3. Citation/ Order Number 8094525 - 01
4. Served To Andy Coalson, 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

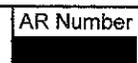
The belt has been cleaned.

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 E02	10. Event Number 4123479		
11. 	AR Number 	12. Date Mo Da Yr 07/22/2009	13. Time (24 Hr. Clock) 1542

Mine Citation/Order

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

7/21/09 

Section I--Violation Data

1. Date Mo Da Yr 07/21/2009	2. Time (24 Hr. Clock) 1145	3. Citation/ Order Number 8094526
4. Served To ANDY COALSON (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 PRE-SHIFT EXAMINATION FOR #3 BELT FOR #1 SECTION DAYSHIFT 7/21/2009 WAS INADEQUATE IN THAT APPROXIMATELY 31 BOTTOM ROLLERS WERE BROKE OFF LYING ON THE MINE FLOOR AND THE OTHER END WAS HANGING ON THE BELT RAIL.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.360(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: 004

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE #3 SECTION BELT FOR #1 SECTION.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mili
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/27/09

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) 07/21/2009 Mo Da Yr	3. Citation/ Order Number 8094526 - 01
4. Served To Andy Coalson, 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 operator has re-instructed the examiners on proper examinations.

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 4123479		
11. Sig 	AR Number 	12. Date Mo Da Yr 07/22/2009	13. Time (24 Hr. Clock) 1545

Handwritten initials/signature

Section I--Violation Data

1. Date Mo Da Yr 07/21/2009	2. Time (24 Hr. Clock) 1310	3. Citation/ Order Number 8094527
4. Served To ANDY COALSON (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"/>

ACCUMULATION OF LOOSE COAL WAS PRESENT AT THE #2 TAILPIECE (2 BELT) FOR #1 SECTION FROM THE BACK OF THE TAILPIECE OUTBY FOR TWO CROSS CUTS. THIS MATERIAL WAS APPROXIMATELY 6 TO 15 INCHES DEEP IN THIS AREA. ALSO FROM CROSS CUT #60 OUTBY TO THE #2 HEAD INCLUDING UNDER THE DRIVE MOTORS LOOSE COAL WAS PRESENT. THIS MATERIAL WAS APPROXIMATELY 2 TO 8 INCHES IN DEPTH ALONG THIS BELT FROM THE TRACK RAIL TO THE OFFSIDE RIB OF THE BELT.

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: 004

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment THE #2 BELT CONVEYOR FOR #1 SECTION.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) | In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/27/09 

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 07/21/2009	3. Citation/ Order Number 8094527 - 01
4. Served To Andy Coalson, 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

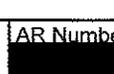
The belt has been cleaned.

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 E02	10. Event Number 4123479		
11. Site 	AR Number 	12. Date Mo Da Yr 07/22/2009	13. Time (24 Hr. Clock) 1544

7/28/09 

Section I--Violation Data

1. Date Mo Da Yr 07/27/2009	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 8094531
4. Served To RICK FOSTER (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 OPERATOR HAS FAILED TO FOLLOW THE APPROVED ROOF CONTROL PLAN (11/14/2008 5th SUPPLEMENT) FOR THE #3 SECTION THAT'S PILLARING. THIS APPROVED PLAN ITEM #33 STATES THAT FIVE 8FT. CABLE BOLTS WILL BE INSTALLED IN THE INTERSECTIONS PRIOR TO SECOND MINING OF THE PILLAR BLOCK BEING MINED. THE SECTION FOREMAN HAS BEEN FOLLOWING THE APPROVED ROOF CONTROL PLAN DATED 7/27/2007.

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)
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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: 009		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)			
		Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>			
14. Initial Action			E. Citation/ Order Number	F. Dated	Mo Da Yr
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082692		03/17/2009
15. Area or Equipment THE #3 SECTION.					

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR HAS INSTALLED THE FIVE 8FT CABLE BOLTS IN THE INTERSECTION WHERE SPAD #23466 (#7 ENTRY) IS LOCATED.

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
	07/27/2009	1245

Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	4119293	
22. Signature		23. AR Number
		

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/28/09 

Section I--Violation Data

1. Date Mo Da Yr 07/27/2009	2. Time (24 Hr. Clock) 0920	3. Citation/ Order Number 8094532
4. Served To RICK FOSTER (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 APPROVED SUPPLEMENT TO THE ROOF CONTROL PLAN DATED 11/14/2008 WAS IMPLEMENTED AT THIS MINE AND MINERS WERE NOT INSTRUCTED OF THIS REVISION ON THE #3 SECTION THAT IS PILLARING.

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(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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:			D. Number of Persons Affected:			
Yes <input type="checkbox"/>		No <input checked="" type="checkbox"/>		009		
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input type="checkbox"/>		
D. High <input checked="" type="checkbox"/>		E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)				
		Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>		
		Safeguard <input type="checkbox"/>		Written Notice <input type="checkbox"/>		
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input type="checkbox"/>		B. Order <input checked="" type="checkbox"/>		C. Safeguard <input type="checkbox"/>		
D. Written Notice <input type="checkbox"/>		8082692		Mo Da Yr 03/17/2009		
15. Area or Equipment THE #3 SECTION.						

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

17. Action to Terminate THE REVISION HAS BEEN COVERED WITH THE MINERS ON #3 SECTION.

18. Terminated	A. Date Mo Da Yr 07/27/2009	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 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7-31-09

7/29/09

Section I--Violation Data

1. Date Mo Da Yr 07/29/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8084965
4. Served To Gary May, 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 operator had 4 open cross cuts on the return side in the number 1 section. Two of these stoppings's were taken out to grade bottom in the right return for water drainage.

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 type="checkbox"/>	Reasonably Likely <input type="checkbox"/>	Highly Likely <input checked="" 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: 003		
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action		13. Type of Issuance (check one)				
104(d)(2)		Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>		Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082692		Mo Da Yr 03/17/2009	
15. Area or Equipment Number I section.						

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

Section III--Termination Action

17. Action to Terminate Two stoppings were built.

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
	07/29/2009	1500

Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E02	6284319	
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/31/09

Section I--Violation Data

1. Date Mo Da Yr 07/29/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8084966
4. Served To Gary May, 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 operator did not have the required 13,500 CFM in the LOB in the number 1 section. When checked there was only 10,080 CFM.

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 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: 003

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment Number 1 section.

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

Section III--Termination Action

17. Action to Terminate Two stopping's were built in the right return and the 10,080 CFM in the LOB satisfied the approved ventilation plan requirement of 9,000 CFM.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) 1500
07/29/2009

Section IV--Automated System Data

19. Type of Inspection (activity code) E02 20. Event Number 6284319 21. Primary or Mill

22. Signature [Redacted] 23. AR Number [Redacted]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

7/20/09

Section I--Violation Data

1. Date Mo Da Yr 07/29/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8084967
4. Served To Gary May, 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 operator is using belt air to ventilate the number 1 section.

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 75.350(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: 003

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

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

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

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

E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The number one section.

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

17. Action to Terminate The back up belt check was re-installed.

18. Terminated	A. Date Mo Da Yr 07/29/2009	B. Time (24 Hr. Clock) 1500
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 6284319	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

8/4/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1325	3. Citation/ Order Number 8094552
4. Served To RICK FOSTER (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 BEARING PLATES ON APPROXIMATELY 35 ROOF BOLTS WERE NOT FIRMLY AGAINST THE MINE ROOF 20 FT. INBY THE FAN IN THE #5 SOUTH PORTAL. WITH THESE BOLTS HANGING DOWN THIS WAS CREATING UNSUPPORTED ROOF IN THE PRIMARY ESCAPEWAY FOR APPROXIMATE DISTANCE OF 48 FT.

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(c)(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: 018

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

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

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

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

E. Citation/
Order Number 8082692

F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment TWENTY FEET INBY THE #5 SOUTH PORTAL TO THE FIRST CONNECTING CROSS CUT.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4119293

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

8/5/09



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 08/03/2009	3. Citation/ Order Number 8094552 - 01
4. Served To RICK FOSTER (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 AFFECTED AREA HAS NOW BEEN SUPPORTED.

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 4119293		
11. Citation [REDACTED]	AR Number [REDACTED]	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1130

8/5/09



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 08/03/2009	3. Citation/ Order Number 8094552 - 02
4. Served To RICK FOSTER (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

Change	From	To
10. D. Persons Affected	18	1

Reason CHANGE TO 1 PERSON AFFECTED.

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 4119293	
AR Number	12. Date Mo Da Yr 08/05/2009	13. Time (24 Hr. Clock) 0533

8/4/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1330	3. Citation/ Order Number 8094547
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		

THE OPERATOR FAILED TO MAINTAINED THE PRIMARY ESCAPEWAY FOR THE #3 AND #4 SECTIONS, IN A SAFE CONDITION TO ALWAYS ASSURE PASSAGE OF ANYONE INCLUDING DISABLE PERSONS. APPROXIMATELY 6 TO 18 INCHES OF WATER WAS PRESENT FOR A DISTANCE OF 70 FEET, CINDER BLOCKS, METAL BEAMS, 6 BY 6 TIMBERS, AND MUD WAS PRESENT 20 FT. INBY THE FAN, CREATING SLIP, AND TRIP HAZARDS. ALSO APPROXIMATELY TWELVE ROWS OF ROOF SUPPORT WERE DAMAGED TO WHERE THE PLATES WERE NOT FIRMLY AGAINST THE TOP, NO LIFELINE HAD BEEN INSTALLED FROM THE MAN DOORS OF THE FAN FOR APPROXIMATELY 135 FT. UNDERGROUND. CITATIONS WILL BE ISSUED FOR THESE CONDITIONS.

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 75.380(d)(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: 018

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE #3 AND #4 SECTIONS PRIMARY ESCAPEWAY FROM THE FAN TO THE FIRST CONNECTING CROSS CUT UNDERGROUND.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signature [Redacted] 23. AR Number [Redacted]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

8/5/09



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/03/2009	3. Citation/ Order Number 8094547 - 01
4. Served To RICK FOSTER (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 OPERATOR IS NOW PROVIDING A CLEAR AND SAFE TRAVELWAY.

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 4119293	
AR Number	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1055

8/1/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1350	3. Citation/ Order Number 8094549
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)

8. Condition or Practice
 THE ESCAPEWAY MAP WHERE MINERS CONGREGATE IN THE BATH HOUSE IS NOT CURRENT AND UP TO DATE. THIS MAP SHOWS THE PRIMARY ESCAPEWAY COMING OUT THE OLD FAN ENTRY (#4) ,BUT THE ACTUAL ESCAPEWAY COMES OUT THE #5 PORTAL.

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 75.1505(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: 018

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

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

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment THE #3 AND #4 SECTIONS.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) / In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

8/3/09



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 08/03/2009	3. Citation/ Order Number 8094549 - 01
4. Served To RICK FOSTER (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 ESCAPEWAY MAP LOCATED IN THE BATH HOUSE IS NOW UP TO DATE.

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 4119293	
AR Number	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1230



8/4/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1355	3. Citation/ Order Number 8094550
4. Served To RICK FOSTER (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 1200 MAP FOR THIS MINE WAS INACCURATE IN THAT THE OPERATOR WAS SHOWING THE FAN FOR THE SOUTH PORTALS IN THE #4 ENTRY AND THE FAN IS LOCATED IN THE #5 ENTRY. ALSO THE #4 ENTRY HAS A STOPPING INSTALLED ACROSS THE MINE OPENING. THE PRIMARY ESCAPEWAY IS SHOWN COMING OUT THE #4 PORTAL WHEN IT SHOULD BE COMING OUT THE #5 PORTAL.

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 75.1200
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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: 018

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE #3 AND #4 SECTIONS.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised). In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

8/15/09



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/03/2009	3. Citation/ Order Number 8094550 - 01
4. Served To RICK FOSTER (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 1200 MAP IS NOW UP TO DATE IN THE AFFECTED 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 4119293	
AR Number	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1300

8/4/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1400	3. Citation/ Order Number 8094551
4. Served To RICK FOSTER (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 OPERATOR HAS FAILED TO CONDUCT A PRE-SHIFT EXAMINATION ON THE ROOM THAT WAS DRIVEN APPROXIMATELY 23 FT. OFF THE INTAKE AIR COURSE AT SPAD #26 SOUTH PORTAL.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.360(b)(6)(ii)
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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: 018

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE #3 AND #4 SECTIONS.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, April 06 (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

8/5/09



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/03/2009	3. Citation/ Order Number 8094551 - 01
4. Served To RICK FOSTER (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 OPERATOR IS NOW CONDUCTING A PRE SHIFT EXAM OF THE ROOM.

Section III-Subsequent Action Taken

See Continuation Form

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 4119293				
	AR Number	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1115		

8/4/09



Section I--Violation Data

1. Date Mo Da Yr 08/03/2009	2. Time (24 Hr. Clock) 1335	3. Citation/ Order Number 8094548
4. Served To RICK FOSTER (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 OPERATOR FAILED TO INSTALL A CONTINUOUS AND DURABLE LIFELINE FOR APPROXIMATELY 135 FT. FROM THE AIRLOCK DOORS OF THE FAN TO THE FIRST RIGHT HANDED CROSS CUT UNDERGROUND. THIS IS THE PRIMARY ESCAPEWAY FOR THE #3 AND #4 SECTIONS.

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 75.380(d)(7)(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 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: 018	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input type="checkbox"/>		D. High <input checked="" type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)				
		Citation <input type="checkbox"/>		Order <input checked="" type="checkbox"/>		Safeguard <input type="checkbox"/>
		Written Notice <input type="checkbox"/>				
14. Initial Action			E. Citation/ Order Number		F. Dated	
A. Citation <input type="checkbox"/>			B. Order <input checked="" type="checkbox"/>		C. Safeguard <input type="checkbox"/>	
D. Written Notice <input type="checkbox"/>			8082692		Mo Da Yr 03/17/2009	

15. Area or Equipment THE #3 AND #4 SECTIONS PRIMARY ESCAPEWAY FROM THE FAN TO THE FIRST CONNECTING CROSS CUT UNDERGROUND.

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

8/5/09 [Redacted]



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 08/03/2009	3. Citation/ Order Number 8094548 - 01
4. Served To RICK FOSTER (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 LIFELINE IS NOW INSTALLED IN THE AFFECTED 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 4119293		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 08/04/2009	13. Time (24 Hr. Clock) 1100

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 09/01/2009	2. Time (24 Hr. Clock) 1135	3. Citation/ Order Number 6612936
4. Served To Jack Roles, Longwall Coordinator	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 intentional change in the ventilation system was in the process of being implemented and unnecessary persons were working in the mine. The operator was in the process of implementing a ventilation change approved by the District Manager on August 6, 2009. Several required ventilation controls were not yet installed, and several ventilation controls were installed but were not approved in the ventilation plan (see citation 6612934).

Airflow had reversed in the longwall set-up entries (see citation 6612934), and airflow was reversed in neutral aircourses (see citations 8094582, and 6612934).

Two coal producing sections, the number 3 section and the number 4 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 75.324(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: 010

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

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

E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment Entire mine except certified persons conducting examinations and persons necessary to insure proper ventilation.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signature [Redacted] 23. AR Number [Redacted]

MSHA Form 7000-3, (Rev. 03/01/05) 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.

9-2-09

Mine Citation/Order Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/01/2009	3. Citation/Order Number 6612936
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Continuation of 8. Condition or Practice

returned to production approximately 7 a.m. on September 1, 2009 prior to the completion of the ventilation change. Additionally, three track/motor crew persons were working in the headgate entries inby the longwall recovering high voltage line, an electrician was working along the longwall face, and several Joy Manufacturing service representatives were on the longwall section. Additionally, the number 2 section was mining coal and the number 1 section had persons working in preparation to run coal.

The condition cited was mine wide and the existence of the underlying ventilation conditions (citations 8094581 and 6612934) were both extensive and obvious. Foreman traveled and worked in the areas which were not properly ventilated.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119293		
11. Sig [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 09/01/2009	13. Time (24 Hr. Clock) 1135

Mine Citation/Order
Continuation

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

9/8/9



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 09/01/2009	3. Citation/ Order Number 6612936 - 01
4. Served To EVERETT HAGER (SUPER)	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 CHANGE WAS MADE IN ACCORDANCE WITH VENTILATION REVISIONS APPROVED ON 08/06/09 AND 09/04/09 PER 75.324(B)(1).

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 4119293	
AR Number	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 1555

9-2-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 09/01/2009	2. Time (24 Hr. Clock) 1256	3. Citation/ Order Number 6612934
4. Served To Jack Roles, Longwall Coordinator	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 operator failed to follow an approved ventilation revision, approved August 06, 2009, in that (1) a stopping was constructed across the No. 2 neutral entry adjacent from the No. 4 Seal in Seal Set 13; (2) a regulator was constructed near EP-TG 1 on the angled connector opposite Regulator 1 and 2; and (3) two regulators were installed inby and outby the longwall tailgate conveyor drive.

The following controls were not installed as approved: (1) the first regulator in EP-TG 1, the two regulators which comprise EP-LW 3.

The cited conditions collectively contributed to an air reversal in the longwall setup entries where men were working on longwall setup. A

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 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(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

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

E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment Entire mine except persons necessary to insure proper ventilation.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number. 4119293 21. Primary or Mill

22. [Redacted] 23. AR Number [Redacted]

MSHA Form 7000-3, April 2003 edition. 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.

9-2-09

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 09/01/2009	3. Citation/Order Number 6612934
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Continuation of 8. Condition or Practice

ventilation change was made which was not in accordance with 30 CFR 75.324 (see accompanying citation). A certified foreman who was directing the work force was present at the longwall setup where the air reversal was both obvious and extensive. The air reversal existed since yesterday (bleeder fan brought on line).

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119293	
11. AR Number	12. Date Mo Da Yr 09/01/2009	13. Time (24 Hr. Clock) 1256

Mine Citation/Order
Continuation

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

9/8/09 

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 09/01/2007	3. Citation/ Order Number 6612934 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

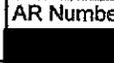
THE OPERATOR SUBMITTED A REVISION ON 09/03/09 AND IT HAS BEEN APPROVED. IN ADDITION, THE MISSING VENTILATION CONTROLS WERE INSTALLED ACCORDING TO THE REVISION DATED 8/6/09. THE LONGWALL FACE IS VENTILATED ACCORDING TO THE REVISION DATED 8/6/09.

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 4119293		
1. 	AR Number 	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 1550

9/15/09 

Section I--Violation Data

1. Date Mo Da Yr 09/15/2009	2. Time (24 Hr. Clock) 1110	3. Citation/ Order Number 8094596
4. Served To EVERETT HAGER (SUPER)		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 OPERATOR FAILED TO HAVE TWO DISTINCT ESCAPEWAYS FOR THE LONGWALL SECTION AT CROSS CUT #30 WHERE THE NEW #1 SECTION IS SETTING UP. A STOPPING HAD NOT BEEN INSTALLED AT THIS LOCATION.

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 75.380(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: 008

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 Written Notice

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 09/15/2009	B. Time (24 Hr. Clock) 1230
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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 4119293	21. Primary or Mill
22. Signatu		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

9/15/09 

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 09/15/2009	3. Citation/ Order Number. 8094596 - 01
4. Served To RICK FOSTER (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 IS NOW BELOW THE RAILS.

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 4119293	
11. AR Number	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1208

9/18/09

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 09/15/2009	3. Citation/ Order Number 8094596 - 02
4. Served To EVERETT HAGER (SUPER)	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 WRONG CITATION NUMBER WAS TERMINATED IN ERROR.

THE OPERATOR HAS INSTALLED A STOPPING.

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 4119293	
AR Number	12. Date Mo Da Yr 09/16/2009	13. Time (24 Hr. Clock) 1000

Mine Citation/Order
Continuation

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

9/18/09

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 09/15/2009	3. Citation/Order Number 8094596 - 03
4. Served To EVERETT HAGER (SUPER)	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
11. Negligence	Moderate	High
Reason		
12. Type of Action1	104(a)	104(d)(2)
Reason		
13. Type of Issuance	Citation	Order
Reason		
14. Initial Action		Order
Reason		
14. E. Citation/Order Number		8082692
Reason		
14. F. Initial Action Dated		03/17/2009
Reason		
15. Area or Equipment		
Reason	THE #1 SECTION AND THE LONGWALL SECTION.	

AFTER REVIEWING THE VENTILATION VIOLATIONS AT THIS MINE THE OPERATOR HAS SHOWN A HIGH DEGREE OF NEGLIGENCE WITH THIS CONDITION PRESENT.

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	4119293
		AR Number	
		12. Date Mo Da Yr	09/17/2009
		13. Time (24 Hr. Clock)	0805

Mine Citation/Order
Continuation

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

9/25/09 

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 09/15/2009	3. Citation/ Order Number 8094596 - 04
4. Served To EVERETT HAGER (SUPER)	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
16. A. Termination Due Date	09/15/2009	
Reason	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	
16. B. Termination Due Time	12:30	
Reason	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	

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 4119293	AR Number	12. Date Mo Da Yr 09/22/2009	13. Time (24 Hr. Clock) 0621
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Section I--Violation Data

1. Date Mo Da Yr 09/15/2009	2. Time (24 Hr. Clock) 0820	3. Citation/ Order Number 8086180
4. Served To Everette Hagar, Mine Supt.	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 fan alarm for the Bandy Town fan is not operational due to a telephone outage and the fan is not being monitored to notify this mine if an fan stoppage occurs. The phone lines have not been in operation since 2:00 am this date according to midnight management.

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 75.310(a)(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: 037

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 Written Notice

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 09/15/2009	B. Time (24 Hr. Clock) 0900
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Section III--Termination Action

17. Action to Terminate A responsible person has been posted at the fan with radio communications to this mine site to monitor the fan until the phone communications are restored.

18. Terminated	A. Date Mo Da Yr 09/15/2009	B. Time (24 Hr. Clock) 0850
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 4123487	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

9/15/09

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 09/15/2009	3. Citation/ Order Number 8086180 - 01
4. Served To Everette Hagar, Mine Supt.	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 first word of the first sentence in this citation should be "The".

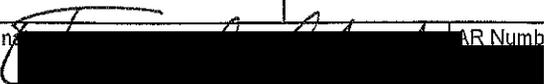
Wrong word entered.

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 E02	10. Event Number 4123487	
11. Sign  AR Number	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1500

Mine Citation/Order
Continuation

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

High 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/15/2009	3. Citation/ Order Number 8086180 - 02
4. Served To Everette Hagar, Mine Supt.	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
11. Negligence	Moderate	High
Reason	The operator waited for at least six hours to post an individual at the fan.	
12. Type of Action ¹	104(a)	104(d)(2)
Reason	After further review of the situation and a discussion with my supervisor, I feel the modification is justified.	

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 B02 E01	10. Event Number 4123487- 4119293		
11. 	AR Number	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 0650

Mine Citation/Order
Continuation

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

7/27/09  

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 09/15/2009	3. Citation/Order Number 8086180 - 03
4. Served To Everette Hagar, Mine Supt.	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
13. Type of Issuance	Citation	Order
Reason	Citation changed to an order	
14. Initial Action		Citation
Reason		
14. E. Citation/Order Number		8074834
Reason	Additional information is needed for this order.	
14. F. Initial Action Dated		03/17/2009
Reason	Additional information needed	
15. Area or Equipment		
Reason	The No.1, No.2, and Longwall sections, as well as all belts and outby areas ventilated by the Bandy Town fan are affected.	
16. A. Termination Due Date	09/15/2009	
Reason		
16. B. Termination Due Time	09:00	
Reason		

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	B02 EO1	10. Event Number	4123487-4119293
11. S	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
		09/23/2009	1340

Mine Citation/Order
Continuation

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

10/1/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/15/2009	3. Citation/ Order Number 8086180 - 04
4. Served To Everette Hagar, Mine Supt.	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
14. Initial Action		Order
Reason	Corrected information needed	
14. E. Citation/Order Number		8082692
Reason		

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 T02	10. Event Number 9832268	11. AR Number 	12. Date Mo Da Yr 10/01/2009	13. Time (24 Hr. Clock) 1230
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9/16/09 

Section I--Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1216	3. Citation/ Order Number 8094598
4. Served To EVERETT HAGER (SUPER)	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 OPERATOR HAS FAILED TO CONDUCT PRE-SHIFT EXAMINATIONS FOR THE ROOM LOCATED ON THE ELLIS INTAKE SPLIT. THIS ROOM IS DROVE APPROXIMATELY 21 FT. INBY THE CORNER OF THE SOLID RIB LOCATED ONE CROSS CUT INBY SPAD #21272 AND ONE BREAK TO THE RIGHT.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.360(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: 035		
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"/> Written Notice <input type="checkbox"/>				
14. Initial Action	A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number
					F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1225
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Section III--Termination Action

17. Action to Terminate CURTAIN WAS INSTALLED AND A PRE-SHIFT EXAM WAS CONDUCTED.

18. Terminated	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1225
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

9/15/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/Order Number 8094598 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID (Contractor) 46-08436	

Section II--Justification for Action

Change	From	To
11. Negligence Reason	Moderate	High
12. Type of Action1 Reason	104(a)	104(d)(2)
13. Type of Issuance Reason	Citation	Order
14. Initial Action Reason		Order
14. E. Citation/Order Number Reason		8082692
14. F. Initial Action Dated Reason		03/17/2009
15. Area or Equipment Reason	ENTIRE MINE.	

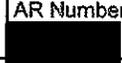
AFTER REVIEWING THE VENTILATION VIOLATIONS AT THIS MINE THE OPERATOR HAS SHOWN A DEGREE OF NEGLIGENCE WITH THIS CONDITION PRESENT.

See Continuation Form

Section III--Subsequent Action Taken

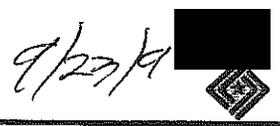
8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4119293
11. Citation/Order Number		AR Number	
12. Date	Mo Da Yr	13. Time (24 Hr. Clock)	
	09/17/2009	0807	

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/ Order Number 8094598 - 02
4. Served To EVERETT HAGER (SUPER)	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
16. B. Termination Due Time	12:25	
Reason MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.		
18. A. Terminated Date	09/16/2009	
Reason MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.		

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 4119293	
AR Number	12. Date Mo Da Yr 09/22/2009	13. Time (24 Hr. Clock) 0626

9/25/09 

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1930	3. Citation/ Order Number 8094603
4. Served To STEVE COLO (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 OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-064 SECTION.

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 75.362(a)(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: 004

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE MMU-064 SECTION.

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR FINISHED THE EXAMINATION OF THE CONTINUOUS MINING MACHINE.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) 2145

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signature  23. AR Number 

MSHA Form 7000-3, April 06 (revise) 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.

9/28/09 

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 09/23/2009	3. Citation/ Order Number 8094603 - 01
4. Served To EVERETT HAGER (SUPER)	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

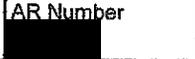
Reason THE OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-064 SECTION. MANAGEMENT ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE IN THAT PRODUCTION WAS DEEMED MORE IMPORTANT THAN CONDUCTING PARAMETER CHECKS ON THE CONTINUOUS MINING MACHINE. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119293		
11. 	AR Number 	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0700

9/25/09 

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1935	3. Citation/ Order Number 8094604
4. Served To STEVE COLO (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 OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-065 SECTION.

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 75.362(a)(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: 004

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment THE MMU-065 SECTION.

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR FINISHED THE EXAMINATION OF THE CONTINUOUS MINING MACHINE.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock) 2145
09/23/2009

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signature _____ 23. AR Number _____

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

9/28/09

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 09/23/2009	3. Citation/ Order Number 8094604 - 01
4. Served To EVERETT HAGER (SUPER)	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 OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-065 SECTION. MANAGEMENT ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE IN THAT PRODUCTION WAS DEEMED MORE IMPORTANT THAN CONDUCTING PARAMETER CHECKS ON THE CONTINUOUS MINING MACHINE. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119293	
AR Number	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0715

9/25/09

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1855	3. Citation/ Order Number 8094607
4. Served To STEVE COLO (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 OPERATOR HAS FAILED TO CERTIFY BY DATE, TIME, AND INITIALS THAT THE EXAMINATION (DUST PARAMETERS) FOR 9/23/09 EVENING SHIFT WAS MADE.

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 75.362(g)(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: 000

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

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

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment THE #3 SECTION.

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

17. Action to Terminate THE OPERATOR IS NOW CERTIFYING THE EXAMS.

18. Terminated	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2230
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 2003 (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.

9/28/09 

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 09/23/2009	3. Citation/ Order Number 8094607 - 01
4. Served To EVERETT HAGER (SUPER)	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

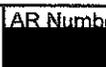
Reason THE OPERATOR HAS FAILED TO CERTIFY BY DATE, TIME, AND INITIALS THAT THE EXAMINATION (DUST PARAMETERS) FOR 9/23/09 EVENING SHIFT WAS MADE. THE OPERATOR ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE BY NOT CERTIFYING THAT HE HAD CONDUCTED THE PARAMETER CHECKS. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.

See Continuation Form

Section III--Subsequent Action Taken

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

9. Type of Inspection E01	10. Event Number 4119293		
	AR Number 	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0710

9/25/09 

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 0935	3. Citation/ Order Number 8090958
4. Served To David Taraczkozy, 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 operator is failing to adequately protect miners from falls of the roof and rib in the area of the #37 seal. The mine roof has fallen out from between the majority of the roof bolts for a break each inby and outby the seal. The mine roof has also fallen completely away from at least 8 roof bolts, leaving them hanging 2' from the mine roof.

This condition has been reported in the weekly exam for hazardous conditions for the weeks of 8/27/09/, 9/2/09, 9/12/09 and 9/19/09. These reports had all been countersigned by the mine foreman. The operator engaged in aggravated conduct by knowing about these conditions and failing to take action on a known hazard. This violation is unwarrantable failure to comply with a mandatory standard.

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(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The entry for 1 break on each side of the #37 seal.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

9/20/09 

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 09/23/2009	3. Citation/ Order Number 8090958 - 01
4. Served To David Taraczkozy, 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

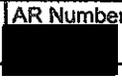
The area, inby and outby, seal 37 has been timbered.

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 4119293		
11. Signature 	AR Number 	12. Date Mo Da Yr 09/24/2009	13. Time (24 Hr. Clock) 1202

9/26/09

Section I--Violation Data

1. Date Mo Da Yr 09/24/2009	2. Time (24 Hr. Clock) 0938	3. Citation/ Order Number 8090961
4. Served To Everette Hagar, Supt.	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 operator is failing to maintain an approved plan of training for the current mining practices. The operator has started a longwall section that uses belt air in the face and uses an AMS system to monitor the atmospheric conditions in and around the longwall. The current approved training plan does not address the AMS system training in any way.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input checked="" type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 48.3
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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: 040

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The longwall inby the belt tailpiece.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number: 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

9/25/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/24/2009	3. Citation/ Order Number 8090961 - 01
4. Served To Everette Hagar, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

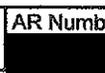
A training plan concerning the AMS system has been approved by MSHA.

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 4119293		
11. Signatu 	AR Number 	12. Date Mo Da Yr 09/24/2009	13. Time (24 Hr. Clock) 1322



Section I--Violation Data

1. Date Mo Da Yr 10/19/2009	2. Time (24 Hr. Clock) 1035	3. Citation/ Order Number 8080092
4. Served To Jack Roles, Longwall Coordinator	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 primary escapeway for the Longwall Section MMU 050 is not being maintained 6 feet wide. A rib roll of 8.5 feet long X 3.5 feet height X 3 feet thick fell between the rib and the stage loader, causing the escapeway to be less than 6 feet wide.

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 75.380(d)(4)
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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: 004	
11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(d)(2)	13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>				
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692		F. Dated Mo Da Yr 03/17/2009		
15. Area or Equipment The Longwall					

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

17. Action to Terminate The rib roll was cleaned up.

18. Terminated	A. Date Mo Da Yr 10/19/2009	B. Time (24 Hr. Clock) 1125
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Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 6288656	21. Primary or Mill <input type="checkbox"/>
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/19/2009	3. Citation/ Order Number 8080092 - 01
4. Served To Jack Roles, Longwall Coordinator	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 To read (This violation is an unwarrantable failure to comply with a mandatory standard.)

Need to add a sentence after the last sentence in the body of the citation.

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 6288652		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 10/26/2009	13. Time (24 Hr. Clock) 1737



Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 1220	3. Citation/ Order Number 8080094
4. Served To Everett Hager, 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 operator is failing to follow the approved ventilation plan. On Section #2, MMU 040, in #4 entry the right side roof bolter was bolting the roof with 2200 CFM of air behind the line curtain. Dust was visible around the roof bolter operators and roof bolter from a distance of at least 50 feet. The operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to follow a mandatory standard.

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 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(d)(2)

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The right side roof bolter in the #4 entry.

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

17. Action to Terminate The line curtain and box check was tighten to get 5,100 CFM of air behind the line curtain.

18. Terminated	A. Date Mo Da Yr 10/21/2009	B. Time (24 Hr. Clock) 1230
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6288652	21. Primary or Mill
22. Signature		23. AR Number

10/26/09 10-26-9



Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0830	3. Citation/ Order Number 8086905
4. Served To Tim Williams (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 Fairchild scoop Serial No. 339-230 being used on the 065-0 MMU, No. 3 Section located in the No. 2 entry in/by the last open break that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entry that the scoop was located measured with a standard rule 82 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

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 75.1710-1
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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: 001	
11. Negligence (check one)		A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action 104(d)(2)		13. Type of Issuance (check one)				
		Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>	Written Notice <input type="checkbox"/>	
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			8082692		03/17/2009	

15. Area or Equipment
The Fairchild scoop Serial No. 339-230 located on the 065 MMU.

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6288652	21. Primary or Mill
22. Signatu		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



10/21/09

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 10/21/2009	3. Citation/ Order Number 8086905 - 01
4. Served To Rick Foster (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

A canopy was provided for the Fairchild scoop Serial No. 339-230.

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 6288652		
11. Sig [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 10/21/2009	13. Time (24 Hr. Clock) 1314

10/26/09



Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0835	3. Citation/ Order Number 8086906
4. Served To Tim Williams (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 Joy shuttle car Serial No. PM 0163 being used on the 065-0 MMU, No. 3 Section located in the No. 3 to 2 cross-cut in the last open break that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entry that the shuttle car was located measured with a standard rule to be 77 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

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 75.1710-1
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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(d)(2)

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The Joy shuttle car, Serial No. PM 0163, located on the 065 MMU.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 6288652

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

10/26/09

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/21/2009	3. Citation/Order Number 8086906 - 01
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4. Served To Rick Foster (Mine Foreman)	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

A canopy was provided for the Joy shuttle car Serial No. PM 0163.

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 6288652
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11. Sig	AR Number	12. Date Mo Da Yr 10/21/2009	13. Time (24 Hr. Clock) 1310
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10/26/09

10265



Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0855	3. Citation/ Order Number 8086907
4. Served To Tim Williams (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 Joy shuttle car Serial No. PM 0158 being used on the 065-0 MMU, No. 3 Section located at the section dumping point in the last open break that measured with a standard rule to be an average of 52 inches was not provided with a cab or canopy. The entry that the shuttle car was located measured with a standard rule to be 46 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

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 75.1710-1
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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(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

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

E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The Joy shuttle car, Serial No. PM 0158, located on the 065 MMU.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 6288652 21. Primary or Mill

22. Signal 23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Citation/Order
Continuation

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

10/26/09

10-26-09



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/21/2009	3. Citation/Order Number 8086907 - 01
4. Served To Rick Foster (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

A canopy was provided for the Joy shuttle car Serial No. PM 0158.

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 6288652		
11. Sig [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 10/21/2009	13. Time (24 Hr. Clock) 1312

10/26/09



Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0910	3. Citation/ Order Number 8086908
4. Served To Tim Williams (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 Fairchild scoop Serial No. 337-196 being used on the 064-0 MMU, No. 3 Section located in the last open break 6 to 7 that measured with a standard rule to be an average of 66 inches was not provided with a cab or canopy. The entries located to the working faces on the 064 MMU average measured with a standard rule to be 51 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

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 75.1710-1
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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(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The Fairchild scoop, Serial No. 337-196, located on the 064 MMU.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 6288652 21. Primary or Mill

22. Signal 23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

10/26/09
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Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/21/2009	3. Citation/ Order Number 8086908 - 01
4. Served To Rick Foster (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

A canopy was provided for the Fairchild scoop serial No. 337-196.

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 6288652		
11. Signer	AR Number	12. Date Mo Da Yr 10/21/2009	13. Time (24 Hr. Clock) 1340

10/26/09

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Section I--Violation Data

1. Date Mo Da Yr 10/21/2009	2. Time (24 Hr. Clock) 0925	3. Citation/ Order Number 8086909
4. Served To Tim Williams (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 Joy shuttle car Serial No. 16851A being used on the 064-0 MMU, No. 3 Section located at the section dumping point that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entries located to the working faces on the 064 MMU average measured with a standard rule to be 51 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

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 75.1710-1
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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: 001		

11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(d)(2)	13. Type of Issuance (check one)	Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>	Written Notice <input type="checkbox"/>
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14. Initial Action	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
A. Citation <input type="checkbox"/>	B. Order <input checked="" type="checkbox"/>	C. Safeguard <input type="checkbox"/>
D. Written Notice <input type="checkbox"/>		

15. Area or Equipment
The Joy shuttle car, Serial No. 16851A, located on the 064 MMU.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 6288652	21. Primary or Mill
22. Signal		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

10/26/09

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Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 10/21/2009 Mo Da Yr	3. Citation/ Order Number 8086909 - 01
4. Served To Rick Foster (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

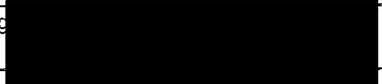
A canopy was provided for the Joy shuttle car Serial NO. 16851A.

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 6288652	
11. Sig 	12. Date 10/21/2009 Mo Da Yr	13. Time (24 Hr. Clock) 1315



Section I--Violation Data

1. Date Mo Da Yr 06/18/2009	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 9968698
4. Served To CHRIS BLANCHARD		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"/>

Based on the results of five valid respirable dust samples collected by the operator, the average concentration of respirable dust in the working environment of the designated occupation in the 064-0 mechanized mining unit was 3.733 mg/m³, which exceeded the applicable limit of 2.0 mg/m³. Management shall take corrective actions to lower the respirable dust concentration and submit these changes in writing to the District Manager in the form of an updated Methane and Dust Control plan. After the plan is approved by the District Manager, abatement sampling may begin.

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 70.100(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: 005

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 Written Notice

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 07/21/2009 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) T02 20. Event Number 9832268 21. Primary or Mill

22. Signat [REDACTED] 23. AR Number [REDACTED]

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/18/2009	3. Citation/ Order Number 9968698 - 01
4. Served To Chris Blanchard	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The required plan for 064-0 MMU has been received; therefore, time is granted for the approval process.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 08/17/2009	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 T02	10. Event Number 9832268	
AR Number	12. Date Mo Da Yr 07/24/2009	13. Time (24 Hr. Clock) 1551



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 06/18/2009	3. Citation/ Order Number 9968698 - 02
4. Served To Chris Blanchard	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 plan for the 064-0 has been received by the District Manager; Additional time will be granted to allow the approval process.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 09/10/2009	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 T02	10. Event Number 9832268		
11. Sig [REDACTED]	AR Number [REDACTED]	12. Date Mo Da Yr 08/20/2009	13. Time (24 Hr. Clock) 1100



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 06/18/2009	3. Citation/ Order Number	9968698 - 03
4. Served To Chris Blanchard	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 will be granted for the approval process for the mechanized mining unit 064-0 (MMU) 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)	0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
	09/24/2009						

Section IV--Inspection Data

9. Type of Inspection	T02	10. Event Number	9832268			
11. Site	[REDACTED]	AR Number	[REDACTED]	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
				09/10/2009		0830

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 06/18/2009	3. Citation/ Order Number 9968698 - 04
4. Served To Chris Blanchard	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 will be granted for the approval process on the 064-0 mechanized mining unit (MMU).

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date 10/15/2009	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 T02	10. Event Number 9832268		
11. Site [REDACTED]	AR Number [REDACTED]	12. Date 09/24/2009	13. Time (24 Hr. Clock) 1100



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 06/18/2009	3. Citation/ Order Number 9968698 - 05
4. Served To Chris Blanchard	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 granted for the approval process to the revision to the mechanized mining unit 064-0 MMU. Additional information requested from the operator was received today 10/15/2009.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 11/05/2009	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 T02	10. Event Number 9832268		
11. Sig [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 10/15/2009	13. Time (24 Hr. Clock) 1300



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 06/18/2009	Mo Da Yr	3. Citation/ Order Number 9968698 - 06
4. Served To Chris Blanchard			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The Operator has submitted a revision to the current approved plan for the Mechanized Mining Unit (MMU) 064-0 to the District Manager and has been approved. Additional time is granted to collect compliance samples.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 11/18/2009	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 T02	10. Event Number 9832268		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 11/04/2009	13. Time (24 Hr. Clock) 1721

Mine Citation/Order

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

11/20/09
12-97



Section I--Violation Data

1. Date Mo Da Yr 11/19/2009	2. Time (24 Hr. Clock) 1120	3. Citation/ Order Number 8078369
4. Served To Chris Blanchard	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 operator submitted a revision of the current approved plan to the District Manager and was approved on 10/27/2009. The operator again failed to come in to compliance on samples taken and submitted on 10/27/2009 thru 10/31/2009. Based on the results of three valid respirable dust samples collected by the operator, the average concentration, when divided by five, of the respirable dust in the working environment of the designated occupation on the Mechanized Mining Unit (MMU) 064-0 was 0.726 mg/m3, which exceeded the applicable limit of 0.7 mg/m3 standard. Due to the hazards of respirable silica dust and coal dust additional time will not be granted under the current dust control parameters.

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 70.100(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:

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

12. Type of Action 104(b)

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

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

E. Citation/
Order Number 9968698

F. Dated Mo Da Yr
06/18/2009

15. Area or Equipment Stops production on the Mechanized Mining Unit (MMU) 064-0, Joy 14-10-AA continuous miner Serial Number JM 5519A.

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

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 6288652

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 11/19/2009	3. Citation/ Order Number 8078369 - 01
4. Served To Everett Hager, 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 14-10-AA Joy continuous miner serial# JM5519A has been taken out of service and brought to the surface.

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 6288652		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 12/04/2009	13. Time (24 Hr. Clock) 0900

12/14/09

Section I--Violation Data

1. Date Mo Da Yr 12/14/2009	2. Time (24 Hr. Clock) 1930	3. Citation/ Order Number 8085239
4. Served To Jim Walker; 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) <input type="checkbox"/>

Miner's have been required to work and travel in dark-murky water from levels measuring 12 inches up to 48 inches. The mine floor under the water contains slipping and tripping hazards that cannot be seen due unlevelled bottom from heaving of the mine floor in the area, extraneous materials and slick rocks. This condition poses hazards related to tripping and falling in water up to 48 inches that could result in drowning. Citation No. 8085240 is being issued in conjunction with this order.

See Continuation Form (MSHA Form 7000-3a)

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

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

12. Type of Action 107(a) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

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

15. Area or Equipment The No. 1 section return from break 73 to 134 and anywhere in the work and travelway where the mine floor can not be seen due to deep dark-murky water.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 6288652	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/14/2009	3. Citation/ Order Number 8085239 - 01
4. Served To Everett Hager, 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 operator submitted a revision to the District Manager, which was approved. The 107(a) order No.8085239 is now 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 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 02/02/2010	13. Time (24 Hr. Clock) 1237

12/18/09



Section I--Violation Data		
1. Date Mo Da Yr 12/17/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8103324
4. Served To Gary May; 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 examination by a certified persons has not been conducted for the third panel (non pillar panel) off of the right return for the No. 3 section. Also, an examination at evaluation points 60 and 61, as designated on the ventilation map, have not been conducted. The last dates found were 4/15/2009 and these areas have not been recorded in the designated weekly examination book for the last six months.

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(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: 008

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The right return off of the No. 3 section.

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

17. Action to Terminate An examination has been conducted by a certified person.

18. Terminated	A. Date Mo Da Yr 12/17/2009	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 6288652	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Violation Data

1. Date Mo Da Yr 01/07/2010	2. Time (24 Hr. Clock) 0940	3. Citation/ Order Number 8087709
4. Served To Terry Moore, 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 operator is not following the Ventilation Plan as approved by the District Manager on the No.1 section (MMU's 029-0), air flow is not in the direction as shown on the approved map. The intake air split for the No.1 section which is used as the primary escapeway, with the lifeline miners are to use to escape in fresh air in emergency situations, the air flow has reversed with air flow going outby. In case of an emergency the men on this section would not have fresh air in the primary escapeway. Terry Moore, mine foreman, stated he was aware of this condition and that it has existed for approximately 3 weeks. Mr. Moore engaged in aggravated conduct constituting more than ordinary negligence in that he was aware of the condition. This violation is an unwarrantable failure to comply with a mandatory standard.

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)	See Continuation Form (MSHA Form 7000-3a) <input type="checkbox"/>
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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: 015

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

12. Type of Action 104(d)(2)	13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The No.1 section and outby areas using this primary escapeway.

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

17. Action to Terminate The operator opened regulators to put air flow as shown on the approved map.

18. Terminated	A. Date Mo Da Yr 01/07/2010	B. Time (24 Hr. Clock) 1230
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/07/2010	3. Citation/ Order Number 8087709 - 01
4. Served To Terry Moore, 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

Change	From	To
10. D. Persons Affected	15	10

Reason Only 10 people on section.

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 6286108		
11. Signal [REDACTED]	AR Number [REDACTED]	12. Date Mo Da Yr 01/11/2010	13. Time (24 Hr. Clock) 0733



Section I--Violation Data

1. Date Mo Da Yr 01/07/2010	2. Time (24 Hr. Clock) 1310	3. Citation/ Order Number 8087710
4. Served To Terry Moore, 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 operator is not following the Ventilation Plan as approved by the District Manager. The return air course from the No.1 section at the overcast on the longwall belt, located 1 1/2 breaks outby survey spad No.22626 at break 11 was entering the secondary escapeway used by the men on the longwall section. This air is used to ventilate the face of the active longwall section (MMU 050-0). When checked with a Solaris gas detector, the detector showed 0.10% methane and 20.8% oxygen in the air going to the longwall face.

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 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(d)(2)

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

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

E. Citation/
Order Number 8082692

F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment The secondary escapeway for the longwall section from break 11 on the longwall belt extending inby

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

Section III--Termination Action

17. Action to Terminate A door was shut on the No.2 section and air returned to direction as shown on the approved map.

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

01/07/2010 1314

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 6286108

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

1/14/2010

Section I--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1205	3. Citation/ Order Number 8090256
4. Served To Gary May, 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"/>

One bottom roller was running in accumulation of combustible materials, cross over bar was rubbing top of the bottom belt, and a 2nd bottom roller was stuck and the belt had rubbed a flat groove, one quarter inch deep into the roller, located on the #1 south belt, thirty feet outby break #5 and extended for a distance of thirty feet. (Fire Boss) said that (Fire Boss) had found this problem on Saturday January 09, 2010 and that the section crew had been working on it. At the time of this inspection no one was working on this section of belt. The operator engage in aggravated conduct by his failure to correct the known hazard before running the belt. This violation is an unwarrantable failure to comply with a mandatory standard.

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 75.1731(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: 002

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

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

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

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

E. Citation/Order Number 8082692

F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment #1 South Belt

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

17. Action to Terminate Accumulation has now been cleaned up, the cross bar has now been lifted off of the top of the bottom belt, and the stuck roller has now been freed up, on the #1 South Belt

18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1305
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Violation Data

1. Date Mo Da Yr 02/18/2010	2. Time (24 Hr. Clock) 1125	3. Citation/ Order Number 8087734
4. Served To Berman Cornett, Safety	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 operator is not following the Roof Control Plan as approved by the District Manager. Located at the rehabilitation area for the new Barrier section, entries and crosscuts are from 20 1/2 feet to 24 feet in width. Survey spads could not be found in the area but according to the location of the North Mains track it would be 60,61, and 62 break. Three entries are being rehabbed in this area. Crosscut No.1 to No.2 is 20 1/2 feet to 23 1/2 feet wide for a distance of 82 feet. Crosscut No.2 to No.3 is 20 1/2 feet to 23 1/2 feet wide for a distance of 75 feet. The No.2 entry is 21 feet to 24 feet wide for a distance of 72 feet.

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: 003

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

12. Type of Action 104(d)(2)	13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>	
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment The 3 entries and crosscuts on the rehabilitation area for the new Barrier section.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signatu	23. AR Number	

MSHA Form 7000-3, April 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 02/18/2010	3. Citation/ Order Number 8087734 - 01
4. Served To Berman Cornett, Safety	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 To add: Page 12, Drawing 2 shows a maximum of 20 feet in width in crosscuts and entries.

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 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 02/18/2010	13. Time (24 Hr. Clock) 1744

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 02/18/2010 Mo Da Yr	3. Citation/ Order Number 8087734 - 0102
4. Served To Berman Cornett, 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

Timbers have been set in the locations indicated by the citation and according to the approved Roof Control Plan on page 12, drawing 2.

Section III--Subsequent Action Taken

See Continuation Form

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 6286108		
11. Sign [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 02/19/2010	13. Time (24 Hr. Clock) 1045



Section I--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0110	3. Citation/ Order Number 8087744
4. Served To Kyle Anderson, Section 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 operator is not following the Ventilation Plan as approved by the District Manager on the No.1 section (MMU 029-0) under the Methane Dust Control, in that, the minimum amount of air in the last open crosscut is not maintained at 15,000 CFM. When checked with an anemometer only 7,448 CFM was found in the last open crosscut, 2 to 3 entry.

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 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: 005		

11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(d)(2)	13. Type of Issuance (check one)	Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>	Written Notice <input type="checkbox"/>
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14. Initial Action	A. Citation <input type="checkbox"/>	B. Order <input checked="" type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
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15. Area or Equipment The No.1 section in the last open line of crosscuts to the face area of all entries and crosscuts.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
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22. Signature	23. AR Number
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MSHA Form 7000-3/Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/02/2010	3. Citation/ Order Number 8087744 - 01
4. Served To Everett Hager, 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 controls were checked and replaced. An air reading of 20,613 CFM was obtained in the last open crosscut.

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 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/02/2010	13. Time (24 Hr. Clock) 1015



Section I--Violation Data

1. Date Mo Da Yr 03/09/2010	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8103337
4. Served To Harold Lilly; Assistant Longwall Cordinator		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 mine ventilation plan, approved 8/09/09 and re-approved 1/22/10 was not being followed in the tailgate entries of the longwall panel. The air was going outby in the No. 5-7 entries from the longwall face (return air) to the mouth of the section instead of intake air going inby from the mouth of the section to the longwall tail. The regulator at survey station 22412 was not present and instead was a permanent stopping blocking intake air from ventilating the tailgate entries.

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 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: 005	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>			E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
15. Area or Equipment The longwall.				

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

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/09/2010	3. Citation/ Order Number 8103337 - 01
4. Served To Wayne Persinger, Mine Manager	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The air flow is going in the direction as shown on the revision that was approved on 03/11/2010. The 104(d)(2) order No. 8103337 is now 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 6286108		
11. Signature [Redacted]	11. AR Number [Redacted]	12. Date Mo Da Yr 03/11/2010	13. Time (24 Hr. Clock) 1400



Section I--Violation Data

1. Date Mo Da Yr 03/15/2010	2. Time (24 Hr. Clock) 0400	3. Citation/ Order Number 8085073
4. Served To Shannon Dickens; Maintance Forman		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"/>

At the drive unit of the long wall belt line located behind the drive is an accumulation of mud and slop that is up to 10 inches deep and extends from rib-to-rib and is 30 feet long. The slop is runny and has spread to the belt starter box and track where it has covered the electrical mats at the starter. Accumulations of coal and coal dust shall not be permitted to accumulate in active workings.

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 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: 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"/>	Written Notice <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 03/17/2010	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 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Violation Data

1. Date Mo Da Yr 03/24/2010	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 8087763
4. Served To David Taraczkozy, 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"/>

No apparent effort was made by the operator to remove accumulations located at the Longwall Mother Drive 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:

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

12. Type of Action 104(b) 13. Type of Issuance (check one) Citation Order Safeguard Written Notice

14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8085073 F. Dated Mo Da Yr
03/15/2010

15. Area or Equipment The Longwall Mother Drive Belt.

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

17. Action to Terminate

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

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/24/2010	3. Citation/ Order Number 8087763 - 01
4. Served To David Taraczkozy, 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 104(b) Order, No.8087763 is now 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 6286108	
11. Signature [Redacted]	12. Date Mo Da Yr 03/24/2010	13. Time (24 Hr. Clock) 1520