



Section I--Violation Data

|  |                                |  |
|--|--------------------------------|--|
| 1. Date<br>Mo Da Yr<br>12/06/2011                | 2. Time (24 Hr. Clock)<br>0800 | 3. Citation/<br>Order Number<br>4900561            |
| 4. Served To<br>Berman Cornett (Safety Director) |                                | 5. Operator<br>Performance Coal Company, et al.    |
| 6. Mine<br>UPPER BIG BRANCH MINE-SOUTH           |                                | 7. Mine ID<br>46-08436<br>(Contractor)             |
| 8. Condition or Practice                         |                                | 8a. Written Notice (103g) <input type="checkbox"/> |

The operator failed to provide a water spraying system at the belt transfer point where the Headgate 22 conveyor belt dumps onto the 7 North Conveyor belt. This transfer point is located inby cross-cut 130. The Headgate 22 belt drive is approximately 700 feet inby this transfer point. Water sprays at transfer points are required to control respirable dust that can cause lung diseases.

This citation is being issued to the following entities as a unitary operator: Performance Coal Company, Massey Coal Services, Inc., A.T. Massey Coal Company, Inc., and Massey Energy Company.

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<br>75.370(a)(1) |
|--------------|---|-------------------|---|

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               |  |
| A. Citation <input type="checkbox"/>                     |  | B. Order <input type="checkbox"/>         |   | C. Safeguard <input type="checkbox"/>                     |  | D. Written Notice <input type="checkbox"/> |
| F. Dated Mo Da Yr  |  |   |   |   |  |  |
| 15. Area or Equipment                                    |  |   |   |   |  |  |

|                     |                                |                                |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr<br>01/05/2012 | B. Time (24 Hr. Clock)<br>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)<br>E16 | 20. Event Number<br>4440348 | 21. Primary or Mill    |
| 22. Signature<br>Keith McElroy                |                             | 23. AR Number<br>24153 |

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