



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900574
4. Served To Berman Cornett (Safety Director)		5. Operator PERFORMANCE COAL COMPANY, et al
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g)

The Operator failed to obtain a permit prior to mining under a body of water that constitutes a hazard to miners working in the underground area of the mine. A roof fall occurred on 11.24.2009 and the Longwall and HG 22 were inundated. The reservoir of water was stored in overlaying abandoned mine workings. Production reports reflect that the Longwall and HG 22 were idled for over a week pumping the water.

Citation #4900573 is issued for failure to report the inundation of water, citing Part 50.10(d).

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 <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1716
--------------	--	-------------------	--

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  
01/05/2012

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) E16

20. Event Number 4440348

21. Primary or Mill

22. Signature Patrick Alan Stanfield

23. AR Number 23908

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.