



Section I--Violation Data

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| 1. Date Mo Da Yr 12/06/2011 | 2. Time (24 Hr. Clock) 0950 | 3. Citation/ Order Number 8405570 |
| 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) <input type="checkbox"/> |

AMS operator, Gregory Clay, has not been properly trained to perform his duties. Mr. Clay is listed as a person that most frequently operates and monitors the AMS system for the Upper Big Branch Mine. Mr. Clay has not traveled to any production sections in approximately 3 years. The AMS operators are required to travel to all working sections at least once every six month. The operator should have known that Mr. Clay has not been going underground as required.

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

See Continuation Form (MSHA Form 7000-3a)

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| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.351(q)(2) |
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Section II--Inspector's Evaluation

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| 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: 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(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 | |
| 14. F. Dated Mo Da Yr | | | | |
| 15. Area or Equipment | | | | |

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| 16. Termination Due | A. Date Mo Da Yr 01/05/2012 | B. Time (24 Hr. Clock) 0800 |
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Section III--Termination Action

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

Section IV--Automated System Data

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| 19. Type of Inspection (activity code) E16 | 20. Event Number 4440348 | 21. Primary or Mill |
| 22. Signature Randall Lewis | | 23. AR Number 24262 |

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.