

Mine Activity Data

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



1. Action: a. New Entry ☒ b. Update ☐ 2. Activity Code: E22 3. Event Number: 4113417

4. Date Event Started: 3/30/2006 5. Date Event Finished: 3/30/2006 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 02 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group Identifier 02 10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check one) a. First ☐ b. Interim ☐ c. Last ☐ d. Not Applicable ☒ 12. Area of Inspections a. Active Sections 1 b. Idle Sections 0

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

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

m. MMU/Pit Number (0) 0310

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


14. Impoundments/Refuse Piles: a. Number b. FHC c. Configuration

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results

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

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

a.  Card Number 24024

b. _____

c. _____

d. _____

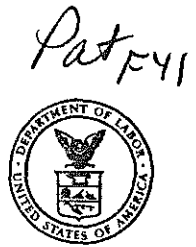
19. Key Entered By _____ Date _____

17. Remarks:

	Sun			Mon			Tue			Wed			Thur			Fri			Sat		
Shift	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
Week 1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3/26/2006																					

U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000



MAY 3 2006

Mr. Mike Vaught
Performance Coal Company
ID No. 46-08436
Box 69
Naoma, West Virginia 25140

Dear Mr. Vaught:

In accordance with Part 100, Title 30 CFR, this is to advise you that a Health and Safety Conference concerning the Citation(s) and/or Order(s) listed below has been scheduled at a.m., 1:00 p.m., on May 16, 2006 as per your request dated April 7 & 17, 2006. The conference will be held in the Mt. Hope MSHA office located at Mt. Hope, WV. Failure to appear as scheduled will negate your right to a conference at a future date. However, you should be aware that participation in this conference does not waive your right to a formal hearing with the Federal Mine Safety and Health Review Commission concerning these Citations and/or Orders.

<u>Viol. Number</u>	<u>Viol. Number</u>	<u>Viol. Number</u>	<u>Viol. Number</u>
*7250745	*7251654	*7251656	*7251658

This conference has been assigned to Dana Hosch. Should you find that you are unable to attend this conference at the time scheduled or have any questions or comments, please call Mr. Hosch at (304) 877-3900 Ext. 103 as soon as possible. We appreciate your cooperation.

Sincerely,

Dana Hosch
Dana Hosch

Dana Hosch
Conference Officer
Coal Mine Safety and Health, District 4

cc: Mr. Jim Bowman, Conference Officer

Files

Conf. & Sustained

U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000



April 10, 2006

Mr. Bill Potter
President
Performance Coal Company, Inc.
POB 69
Naoma, WV 25140

Dear Mr. Potter:

In accordance with Part 100, Title 30, a review of the following Citation(s)/ Order(s) issued at Upper Big Branch Mine - South, ID No. 46-08436, Performance Coal Company, is being made to determine whether the regular assessment formula should be waived and a special assessment proposed.

CITATION/ORDER NO. DATE ISSUED

7251654	03/30/06
7251656	03/30/06
7251658	04/03/06

You have the right to request a safety and health conference regarding this action. To exercise this right, you must submit your request for a conference to this office within 10 calendar days of the date of receipt of this letter. If you do not wish to conference this action, a response is not required.

Sincerely,

Lincoln L. Selfe, Jr.
Assistant District Manager
Coal Mine Safety & Health

cc: Files/pab

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: *46-08436*

Mr. Bill Potter, Pres.
Performance Coal Co., Inc.
POB 69
Naoma, WV 25140

E02-E22-4113416/4113417

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X C. Hilly

- ☐ Agent
☐ Address

B. Received by (Printed Name)

C. Howell

C. Date of Delivery

4-11-06

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

PAB

7002 3150 0005 2902 7559

**Special Assessment
Review Form**

JUN 08 2006

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



1. MSHA District Office 4 - Mt. Hope, WV		2. Field Office 0406 - Madison, WV	
3. Mine ID/Contractor ID 46-08436		4. Mine Name UPPER BIG BRANCH MINE-SOUTH	
5. Operator Name PERFORMANCE COAL COMPANY		6. Citation/Order Number 7251656	7. Citation/Order Issue Date 3/30/06

8. Accident Related Violation? ☐ Yes ☒ No If yes, all violations must be submitted together with any accident report or memorandum.

9. A. Operator Notified of Special Assessment? ☒ Yes ☐ No B. Health and Safety Conference Held on Special Assessment? ☒ Yes ☐ No

10. Inspector's Recommendation

Special Assessment? ☒ Yes ☐ No If yes, explain below the serious or aggravating circumstances involved.

A special assessment is warranted due to gravity. This MMU is currently under continuing non compliance citation for excessive respirable dust. The dust levels have been 4.23 mg per cubic meter and 3.98 mg per cubic meter since 02/06/2006. This section is cutting approximately 30 inches of rock and was also cited for low air velocity (Citation #7251654) on the Longwall face conveyor on this same date. Therefore this citation is requested to be reviewed for special assessment.

☐ See Continuation Sheet

Signature

Date

11. Supervisor's Review

Special Assessment? ☒ Yes ☐ No

Comments:

☐ See Continuation Sheet

Signature

Date

12. Subdistrict Manager's/Assistant District Manager's Review

Special Assessment? ☒ Yes ☐ No

Comments:

☐ See Continuation Sheet

Signature

Date

13. District Manager's Review (Mandatory for Metal/Nonmetal, Optional for Coal)

Special Assessment? ☐ Yes ☐ No

Comments:

☐ See Continuation Sheet

Signature

Date

JUN 08 2006



Section I--Violation Data

1. Date Mo Da Yr 03/30/2006	2. Time (24 Hr. Clock) 0830	3. Citation/ Order Number 7251656
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 checked="" type="checkbox"/>

The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. The following conditions exist:

1. The required sprays located at Crusher and the Stageloader were not operating (water turned off)
2. The required sprays located at the Stageloaded were damaged and not operating affectively.
3. The four (4) spray blocks on the Shear at location C, D, E and F of the plan were either inoperative or the sprays were out.
4. The four (4) spray block on the headgate end of the Shear near the ranging arm was not installed.
5. There is zero (o) water pressure to the required sprays when checked.

This section is currently out of compliance of respirable dust, is on a

See Continuation Form (MSHA Form 7000-3a) ☒

9. Violation	A. Health <input checked="" 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"/>
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"/>		
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 03/30/2006	B. Time (24 Hr. Clock) 1230
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Section III--Termination Action

17. Action to Terminate All the sprays blocks and sprays have now been repaired and spraying as required. There is now 120 psi water pressure to the required sprays.

18. Terminated	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1345
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Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113417	21. Primary or Mill
22. Signature		23. AR Number 24024

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/>	1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 03/30/2006	Mo Da Yr	3. Citation/ Order Number 7251656
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

reduced respirable dust standard and is cutting approximately 30 inches of rock.

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 E22	10. Event Number 4113417		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 0830

Mine Citation/Order
ContinuationU.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 03/30/2006	3. Citation/ Order Number 7251656 - 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
10. A. Injury or Illness	Reasonably Likely	Highly Likely
Reason	Original marked in error.	

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 E22	10. Event Number 4113418		
11. Signa [REDACTED]	AR Number 24024	12. Date Mo Da Yr 04/03/2006	13. Time (24 Hr. Clock) 0505