1. Action: a. New Entry		ate 🗌	2. Ac Code	etivity : E22	2		3. E	vent Nun	nber: 4	1134	17			
4. Date Event Started:		3/30/2006	5. Da Finis	ate Event hed:		3/30/20	06 6. M	line ID:	46-08	8436				
7a. Organization Co (Mine Assignment)	de 20401		b. Wor Identif	rk Group ier 02		9. Comp	any Name	PE	RFORM	ANCE C	OAL CON	MPANY		
8a. Organization Co (AR Assignment)	de 20401	-	b. Wor Identif	rk Group 02 Ter		10. Min	Name	UP	PER BIO	BRANG	CH MINE	-SOUTH	[
11. Report Type (check one)	ı. First	b. Interir	n 🗌 c	. Last	d. Not Ap	plicable	_	2. Area o		a. Active Sections	1		idle ctions 0	
c. Outby 🔽	d. Shafts/ Slopes		turface as (UG)	f. Surface Workings		g. Comp Records	any 🗸	h. ATF		i. Impou	ndments		j. Refuse Piles	
k. Major Construction	(1) Shaft/ Slope Sinking		npoundment truction	(3)	Buildings) Dragline/ hovel:		(5) Oth	er	l. Mi	scellaneo	us 🗍	
m. MMU/Pit Number												· · · · · · · · · · · · · · · · · · ·		
13. Number of					,····	.								
Samples Collected	a. Air Samples	0 b	. Rock Dust Spot	0	c, Rock Dust Survey	0	d. Respir Dust	rable ()	e. Noise	0	f. Ot	her 0	
14. Impoundments/R	tefuse Piles:		<u>- </u>	15. Prime In	ndependent Co	ntractor						-		
a. Number	b. F	HC c. Con	figuration	Codes (1	Major Constru	ction)	- · · · · · · · · · · · · · · · · · · ·							
				16. Inspecti	on Results		e							
							Citation	10	Order	a	Sotomi	nedo	Otha	
				a. This l	nspection		Citation Coal	Ind	Orden Coal	Ind	Safegu: Coal	Ind	Other Coal	Ind
				}	inspection ew Issuances		Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
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Activity Calendar

Event Number: 4113417

Mine ID: 4608436

Wed Thur Fri Sun Mon Shift 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3 1 2 3 Week 1 3/26/2006

U. S. Department of Labor

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



Cont. I Sustained

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.

Viol. Number	<u> Viol. Number</u>	Viol. Number	Viol. Number
*7250745	*7251654	*7 251656	*7251658

This conference has been assigned to <u>Dana Hosch</u>. 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

cc:

Conference Officer

Dana Hoschkas

Coal Mine Safety and Health, District 4

Mr. Jim Bowman, Conference Officer

Files

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, COMPLETE THIS SECTION ON DELIVERY SENDER: COMPLETE THIS SECTION Sincola XX Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Agent Print your name and address on the reverse □ Address so that we can return the card to you. Date of Delive Attach this card to the back of the mailpiece. Lincoln L. Selfe, Jr. or on the front if space permits. Assistant District Manager 1. Article Addressed to: 46-08436 D. Is delivery address different from item 1? If YES, enter delivery address below: Coal Mine Safety & Health Mr. Bill Potter, Phes. Performance Coal Co., Anc. POB 69 Naoma, NV 25140 cc: Files/pab Service Type Certified Mall ☐ Express Mall ☐ Registered ☐ Return Receipt for Merchandis Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes PAB

2. Article Number

3150 0005 2902 7559

Special Assessment Review Form

JUN 08 2006

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



	nikinniwinniyye-jamakiyiniyejeiniy							
1. MSHA District Office		2. Field Office						
4 - Mt. Hope, WV		0406 - Madison, WV						
3. Mine IB/Contractor IB	**************************************	4. Mine Name						
46-08436		UPPER BIG BRANCH MINE-	SOUTH					
5. Operator Name		6. Citation/Order Number	7. Citation/Order Issue Date					
PERFORMANCE COAL COMPANY		7251656	3/30/06					
8. Accident Related Violation? Yes V No If you	es, all violations n	nust be submitted together with any acci	dent report or memorandum.					
9. A. Operator Notified of Special Assessment?	☐ No B. Hea	lith and Safety Conference Held on Spec	cial Assessment? Ves No					
10. Inspector's Recommendation								
Special Assessment?	n below the seriou	us or aggravating circumstances involved	3 .					
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.								
•			•					
			3-34-46					
See Continuation Sheet	Signature		Date					
Special Assessment?	Mio	hart. ackno	4-5-06					
See Continuation Sheet	Signature		Date					
12. Subdistrict Manager's/Assistant District Manager's Review	V	कुर प्रमुख के के प्राचित के प्रमुख के के प्राचन कर के किए प्राचन के प्रमुख के प्रमुख के किए के प्रमुख के किए क स	printer and the state of the st					
Special Assessment? , Ves No								
Comments:								
See Continuation Sheet	Signature	chard I Cline	<u>4/5/06</u>					
13. District Manager's Review (Mandatory for Metal/Nonmetal								
	, Opaonanio C0	A1)						
Special Assessment?								
•								
See Continuation Sheet	Signature		Date					

Mine Citation/Order

JUN 08 2006

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



Section IViolati	on Data				<u>nio martino Pamino para proporto de Autorio de Autorio</u>	<u>*************************************</u>			
1. Date	Mo Da Yr 03/30/2006	2. Time (24 Hr. Clo 083					3. Citation/ Order Number	7251656)
4. Served To	03/30/2000		<u> </u>	5. C	perator		L		
Jack Roles	Longwall Coc	rdinator		PERFORMANCE COAL COMPANY					
6. Mine	Dong (all ove	1 4111444	······································	7. 1	line ID 4	00427			
	G BRANCH M	INE-SOUTH			40	5-08436)		(Contractor)
8. Condition or			······································					8a. Written No	
		ition, Meth					_	***	with on
		O MMU Sec							
		sprays loc		usher	and th	e Stac	geloader	were not	
operati	ng (wate:	turned of	f)						•
2. The	required	sprays loc	ated at th	e Sta	geloade	d were	e damaged	and not	
operati	ng affect	cively.							
		spray bloc					C, D, E	and F of	the
plan we	re either	noperati	ve or the	spray	s were	out.			
4. The	four (4)	spray bloc	k on the h	eadga	te end	of the	Shear n	ear the :	ranging
arm was	not inst	alled.							
5. Ther	e is zero	o (o) water	pressure	to th	e requi	red sp	orays whe	n checked	d.
Thi	s section	n is curren	itly out of	comp	liance	of res	spirable :	dust, is	on a
				-			See Continuat	ion Form (MSHA F	orm 7000-3a) 📝
9. Violation	A. Health 🗸 Safety 🗸	B. Section of Act		C. Part/S Title 3	ection of 0 CFR		75.370(a)	(1)	
Section II Insu	Other ector's Evaluation					·			de la production de la
10. Gravity:	Jordi o Evandadosi	<u> </u>	<u>, , , , , , , , , , , , , , , , , , , </u>					-	
A. Injury o	Iliness (has) (is):	No Likelihood	Unlikely [Re	asonably Likel	y 🗸	Highly Likely	Occurred	
	illness could rea- be expected to be	No Lost Work	days 🗌. Lost	Workdays	Or Restricted i	Outy 🗌	Permanently D	isabling 🗸	Fatal
C. Signific	ant and Substantia	l: Yes 🗸	No 🗌				D. Number of Pers	ions Affected:	003
11. Negligeno	e (check one)	A. None	B. Low	C. Moder	ate 🔽	D. High	E. Re	ckless Disregard	
12. Type of A	ction 104	(a)	13. Type of	Issuance	(check one)	Cit	ation 🗸 Or	der 🗌	Safeguard
14. Initial Acti A. Citation		C. Safeguard	D. Written Notice [Citation/ Order Number			F. Dated	Mo Da Yr
15. Area or E	quipment								
16. Termination	on Due A. Da	Mo Da Yr 10 03/30/2006	B. Time (24 Hr. Clo	ck)	1230		klama androgija		
Section IIITer	mination Action						**************************************		
17. Action to	Terminate	All the s	sprays bloc	ks ar	d spray	s have	now bee	n repaire	ed and
sprayi:		uired. Ther							
18. Terminate	d A Date M	o Da Yr /30/2006 B. Time	e (24 Hr. Clock)	1345	;				
Section IVAut	omated System Data	and the same of th			***************************************				<u> </u>
19. Type of Ir (activity c		20. Event Number	r 411341′	7	21. Primary	or Mill			
22. Signature				TO ANTI-COLOR			23. AR Num	ber 2402	4

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 actions of MSHA, you may call 1-898-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 D	ata	one of the second second second second	makema gan kabaga sa panakapa sa pinga mambahan kabamah kara kara manakarah kabaga sa manak	anno ma molas di alguna lassa di mandi				
1. Subsequent Action 1a. Continuation	2. Dated (Original Issue)	Mo Da 03/30/2006	Yr 3. Citation/ Order Number	7251656				
4. Served To		5.	Operator					
Jack Roles, Longwall Coordina	tor	P	ERFORMANCE CO	DAL COMPANY				
6. Mine		7.	Mine ID	(Contractor)				
UPPER BIG BRANCH MINE	SOUTH	1	46-08436					
Section II-Justification for Action		The second of the last of the	syddidddiddiaddidd f diddiglydd o Clanin den nyfell dio diddig eiling ag ar gan y gan eilin beg allydd	andere de Sandage des Paris de la Alexande de Sandage de Sandage de La Alexande de Sandage de La Alexande de S La Carlos de Sandage d	uli kanana 143 kinini di kamini 200 kinini 200 kinini hidaya magamiya ili qabiya 1992 1994 1995			
Continuation of 8. Condition or Practice		Summer to Commission of Commission Commission Commission						
reduced respirable rock.	dust standard	and is	cutting appro	oximately 30	inches of			

Warranton Company of the Company of	alita etalista ili lautoneja ja alitaria arta arta da la	a namen kin milital kila masan dika	- new Alexandrique de		нфункуун катениан казуча каукаги каринги илимпан ка	i (ky čedných kodom je propovo propovo propovo do námeno.	economic menusca de la companya del companya de la companya del companya de la co	PRECENTARIA DE SERVICIO DE LA COMPANSIONA DE COMPANSIONA DE COMPANSIONA DE COMPANSIONA DE COMPANSIONA DE COMPA	See Continuation Form
Section III-Subse	quent Action Ta						yetti ja ottovation on tallista tiin tallista tallista tallista tallista tallista tallista tallista tallista t		
8. Extended To	A. Date Mo	Da	Yr	B. Time (24 l	łr. Clock)		C. Vacated	D. Terminated	E. Modified
Section IVInspec	tion Data	terror Andrew Management	raiblisis-miles (1	nggag tina (d. Arminya (d. Arm					rov William (Albania of Archaella) (Herbita) Archaella orani (Albania) (Archaella) (Archae
9. Type of Inspe	ction E22		10. Ev	ent Number	4113417		asserant Lead on the Section of Administrative Conference on Section Conference On Secti	HO P DE PLONTE PROPERTY DE L'ARTINITATION DE L'A	
11. Signatu					AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Cloc	ck)
					24024		03/30/2006	0830	

Mine Citation/Order Continuation					U.S. Department of Labor Mine Safety and Health Administration					
Section ISubsequent Ac	tion/Continuation Data									
1. Subsequent Action	1a. Continuation	2. Dated (Original Issue)	. Мо 03/.	Da 30/200	Yr 6	3.	Citation/ Order Number	7251656 - 01		Name and Select Williams of the
4. Served To				1	5. Operat	tor				****
Jack Roles, Longy	vall Coordinator	2.4.2.0404.34]]	PERFO	R	MANCE CO	AL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH					7. Mine II	D	46-0843	(Contractor)		
Section II-Justification fo	r Action					positivité a pri				Michigan in the Company of the Compa
Change	Fro	m					To			
10. A. Injury or Illness	Rea	sonably Likely					Highly Likely	,		

Original marked in error.

Section IIISubsequent Action Taken						See Continuation Form
8. Extended To A. Date Mo Da	Yr B. Time (24	Hr. Clock)	kipe matemate na new a Marching Majorija je poveznice zani	C. Vacated	D. Terminated	✓ E. Modified
Section IV-Inspection Data						
9. Type of Inspection E22	10. Event Number	4113418			ann an	180 (Д в Тогоро 4 для на посрощения высоколого под дофина на Аданта Баста Тогоро постоя по постоя по постоя по
11. Signa		AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clo	ck)
		24024		04/03/2006	0505	