



Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/06/2011 | 2. Time (24 Hr. Clock) 0800 | 3. Citation/ Order Number 4900589 |
| 4. Served To Jim Gump (safety director) | | 5. Operator DAVID STANLEY CONSULTANTS LLC |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | | 7. Mine ID 46-08436 YBV (Contractor) |
| 8. Condition or Practice | | 8a. Written Notice (103g) <input type="checkbox"/> |

The Operator has failed to develop, implement, and train select supervisory employees, to assure they have received the required first-aid training, for all sections, on all shifts. Many of Performance Coal Company's select supervisor's were EMT's (emergency medical technicians). This has been long accepted as a substitute for the required first-aid training. Most of the Supervisor's that are EMT's were on the day shift. The Operator did not provide the first-aid training to any of the select supervisor's.

This is a large mine, with miners working miles from the surface. All miners must be provided with trained first-aid persons, within close proximity to possible injured miners to assure the response time is adequate.

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 75.1713-3 |
|--------------|--|-------------------|--|

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: 001 |

| | | | | | |
|----------------------------|----------------------------------|---------------------------------|---|----------------------------------|--|
| 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 | 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 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.



Section I--Subsequent Action/Continuation Data

| | | |
|---|---|-------------------------------------|
| 1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 12/06/2011 | 3. Citation/Order Number 4900589 |
| 4. Served To Jim Gump (safety director) | 5. Operator DAVID STANLEY CONSULTANTS LLC | |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | 7. Mine ID 46-08436 | (Contractor) YBV |

Section II--Justification for Action

Continuation of 8. Condition or Practice

David Stanley Consultants, LLC employee, [REDACTED] has not received the required first-aid training [REDACTED] EMT certification expired December of 2009. [REDACTED] conducted numerous preshift/onshift examinations of belts in the North Area of the mine in the months prior to an explosion on 04.05.2010. [REDACTED] supervised two miners on 12.24 and 25.2009, to pump water near the Bandytown fan.

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 |
|----------------|------------------|------------------------|-------------------------------------|--|--------------------------------------|

Section IV--Inspection Data

| | | | |
|---|-----------------------------|---------------------------------|---------------------------------|
| 9. Type of Inspection E16 | 10. Event Number 4440348 | | |
| 11. Signature Patrick Alan Stanfield | AR Number 23908 | 12. Date Mo Da Yr 12/06/2011 | 13. Time (24 Hr. Clock) 0800 |