



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900601
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"/>

Non-permissible equipment was used to travel inby the Longwall on tailgate 1 North and returns, prior to a mine explosion on 04.05.2010. Testimonies received from miners after the explosion, revealed that it was common to take the non-permissible battery rail mantrips to the track- end of Tailgate 1 North. David Farley, general labor and member of a pumping crew, testified the first time he saw the Longwall was when the passed by and looked over and saw it cutting.

Third shift mine foreman Kenny Farmer testified that rail equipment (non-permissible) was used on the Longwall tail to crosscut 100, which is inby the Longwall.

Michael Ferrell, outby construction foreman testified the CLA forklift (non-permissible) was used in the return outby HG 22.

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 75.507-1(a)
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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 type="checkbox"/> Highly Likely <input checked="" 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: 009

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"/>
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12. Type of Action 104(d)(2)	13. Type of Issuance (check one)	Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>	Written Notice <input type="checkbox"/>
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14. Initial Action	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
A. Citation <input type="checkbox"/>	B. Order <input checked="" type="checkbox"/>	C. Safeguard <input type="checkbox"/>
D. Written Notice <input type="checkbox"/>		

15. Area or Equipment North Area of mine affected by the explosion

16. Termination Due	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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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.

Mine Citation/Order
Continuation

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



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 4900601
4. Served To Berman Cornett (Safety Director)	5. Operator PERFORMANCE COAL COMPANY, et al	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID (Contractor) 46-08436	

Section II--Justification for Action

Continuation of 8. Condition or Practice

This mine is on a 103 (I) spot for methane liberation. The mine had a methane explosion in 1997. The mine experienced methane/natural gas outbursts in 2003 and 2004.

The Operator has engaged in conduct constituting more than ordinary negligence. This is an unwarrantable failure to comply with a mandatory standard.

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

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 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