



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 8244551
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"/>

The mine operator failed to submit a roof control plan that addresses the ground conditions that would be encountered during the retreat of Headgate 1 North longwall. Headgate 1 North commenced longwall mining beneath overlying multi-seam mining including worked out areas in the Powellton seam. There is approximately 170 feet of interburden between the two seams consisting of completed longwall panels and remnant coal pillars that directly affects the coal pillar stability in the Eagle seam. The Tailgate 1 North panel that was originally designed for room and pillar mining was not sufficient for longwall mining due to the amount of overburden and multi-seam mining.

Historical data was not considered or was ignored concerning the methane/natural gas releases in 2003 and 2004 and the methane explosion in

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 75.220(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"/>	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: 020		
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) 1600
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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 Norman G. Page 23304 John F. Godsey		23. AR Number 23127

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) 12/06/2011 Mo Da Yr			3. Citation/ Order Number 8244551	
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)		

Section II--Justification for Action

Continuation of 8. Condition or Practice

1997 while mining under deep cover. The operator also appears to not have taken into consideration ground control issues created during advance mining in the Tailgate 1 North entries that resulted in unplanned roof falls and floor heave. The Powellton Seam overlay depicts previously mined longwall panels directly above Headgate 1 North panel that were mined perpendicular to Headgate 1 North which would be obvious to any prudent mine design personnel.

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 Norman G. Page 23304 John F. Godsey		AR Number 23127	12. Date Mo Da Yr 12/06/2011		13. Time (24 Hr. Clock) 0800