	Q/7-
U.S. Department of Labor	
ne Safety and Health Administration	

1. Action: a. New Entry	b. Update	2. A	activity le: E08			3. E	vent Nu	mber: 4	1100	76			
4. Date Event Started:		5. E	Date Event ished:		4/13/2006	6. N	fine ID:	46-0	8436				
7a. Organization Code (Mine Assignment)	20401	b. Wo Ident	ork Group ifier 01		9. Company	/ Name	P	ERFORM	IANCE C	OAL CO	MPANY		
8a. Organization Code (AR Assignment)	20401	b. We Ident	ork Group 01 ifier		10. Mine N	ame	U	PPER BI	G BRAN	CH MINI	-SOUT	Н	
11. Report Type (check one) a.	First 🗌	b. Interim	c. Last	d. Not Appl	icable 💆		2. Area Ispectio		a. Active			Idle ections	······
	d. Shafts/	e. Surface Areas (UG)	f. Surface Workings		g. Company Records	<b>✓</b>	h. AT	F 🗌	i, Impou			j. Refu Piles	se 🗌
Construction	(1) Shaft/ Slope Sinking	(2) Impoundment Construction	(3) E	Buildings	(4) I Shov	Dragline/ rel:		(5) Ot	her	l. M	scellane	ous 🗌	
m. MMU/Pit Number					*	•		·······					
(1) 008 (2) 009	<b>3) 015</b>	(4) <b>030</b> (5) <b>031</b>											
13. Number of Samples Collected a	. Air Samples	b. Rock Dust Spot		Rock Dust Survey		d. Respi Dust	rable		e. Noise	;	f C	ther	
14. Impoundments/Ref	fuse Piles:			ependent Contr									
a. Number	b. FHC	c. Configuration		ajor Constructi	on) 								
			16. Inspection	Results		Citation	ne	Orde	rg	Safegu	ards	Oth	er
			a. This In:	spection		Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
			(1) Nev	Issuances	<del></del>	1		1		· · · · · ·			
			(2) Ten	ninations/Vaca	itions	1/0							
			(3) Moo	lifications/Exte	ensions	2/0							
	•		(4) Left	Pending									
,				isly Issued									
				lifications/Extensions/Vacations/Vacations/									
	•		(2) 101	imianous/ vaca	itions								
18. Signature and Car	d Number of A	Authorized Danssontoti		17. Remark	rs:								
Night of Entry Fea	mantal Bassan	sible for Activity	ive/										
	rson(s) Respons	sible for Activity											
a. (	rson(s) Respons	sunonzed Representant	Card Number	į									
a. (b.	rson(s) Respons	sible for Activity	Card Number										
b. c.	son(s) Respon	sible for Activity	Card Number 23675										
<u>b.</u>	son(s) Respon	sible for Activity	Card Number 23675 23764										
b. c.	son(s) Respon	sible for Activity	Card Number 23675 23764										

Activity	Calendar

Event Number: 4110076

Mine ID: 4608436

• "	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 3/12/2006							
Week 2 3/19/2006					·		
Week 3 3/26/2006							

#### Mine Citation/Order

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

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Section IVi	olation Data	og gagtinggegn nige en ungemint den medlich (AAP) i meng gegen medle hinde die der de blieben og at gegen om en de spesiel og det gegen og at gegen og	CONTROL OF THE CONTRO	ACCOUNTY TO THE PROPERTY OF TH
1. Date	Mo Da Yr 03/13/2006	2. Time (24 Hr. Clock) 0300	3. Citation/ Order Number	7250744
4. Served T	0		5. Operator	
Wendell	Wills, supt.		PERFORMANCE COAL COMPANY	
6. Mine		<del>den bereit, de 19 se de comes que constitut que la presenta de la comesta de constitut de constitut de la comesta del la comesta de la comest</del>	7. Mine ID 46-08436	
UPPER :	BIG BRANCH N	MINE-SOUTH	40-00430	(Contractor)
8. Condition	n or Practice		8	a. Written Notice (103g)

There was an inundation of water that occurred at this mine on March 12, 2006, when water inundated through a 18 inch bore hole from an above mine. The water entered the mine at the area of the Glory hole and flooded the inby North Mains working section. This order is issued to assure the safety of all persons at this operation. It prohibits all activity other than pumping of water at the Glory hole and inby to the North Mains section until the source of the water has been determined and stopped.

					See Conti	nuation Form (MS	HA Form 7000-3a)
9. Violation A. Health Safety Other	B. Section of Act		Part/Section of Fitle 30 CFR		gagamanan ayamada yamada yang dan kalabada da kalabada ak	<del>a tagana da da ayasta da da</del>	
Section II-Inspector's Evaluation		-California de territoria mais parte per atribat se seguin materia maria materia escriptula de territoria de p Antical de la materia materia material de territoria de materia de materia de la materia de la materia de materia de la materia del la materia del la materia	enterface de contrate a marine de la contrate de c La contrate de la co				
10. Gravity: A. Injury or Illness (has) (is):	No Likelihood	Unlikely	Reasonably Like	ly 🗌	Highly Likely	Occ	urred
B. Injury or illness could rea- sonably be expected to be:	. No Lost Work	days Lost Worl	days Or Restricted	Duty 🗌	Permanent	y Disabling 🔲	Fatal
C. Significant and Substantial	Yes 🗌	No 🗌			D. Number of F	ersons Affected	<b>i:</b>
11. Negligence (check one)	A. None	B. Low C. I	Aoderate 🗌	D. High	E	. Reckless Disre	gard 🗌
12. Type of Action 103	(k)	13. Type of Issu	ance (check one)	С	itation 🗌	Order ✔	Safeguard 🗌
14. Initial Action A. Citation B. Order	C. Safeguard	D. Written Notice	E. Citation/ Order Number			F. Dated	Mo Da Yr
		d inby to th		TIID D	eccion.	, , , , , , , , , , , , , , , , , , ,	мінутун аттутатальні аттут
16. Termination Due A. Date	Mo Da Yr ∍	B. Time (24 Hr. Clock)					
Section III-Termination Action							
17. Action to Terminate							
18. Terminated A. Date	Da Yr B. Time	e (24 Hr. Clock)	- State Control of the Control of th	pedigeocos maj har otrokum			<del>ngan katalan an menantah kangan pengapah ngal</del>
Section IVAutomated System Data	and proceedings of the control of th	<u> Antonio antonio premerimo mentropo fina pelantri o mentro que de la colorida de la colorida de la colorida de</u>	ter terretest en renget terretes en terretes en		agan ppanghitishka girichadapin da Antonio Marantin M	Paration (mark) no averable real care research	of pays were constructed and the second of t
19. Type of Inspection (activity code) E07	20. Event Number	4110076	21, Primar	y or Mill		<del></del>	The state of the s
22. Signature		about and a ferror assumpti		and the second s	23. AR N	Number 2	23675

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

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Section L-Subsequent Action/C									
1. Subsequent Action 1a. C	ontinuation :	2. Dated (Original Issue)	Mo D 03/13/		3. Citation/ Order Number	7250744 - 01			
4. Served To		,		5. Opera					
Wendell Wills, supt.				PERF	ORMANCE CO	AL COMPANY			
6. Mine				7. Mine	7. Mine ID (Contractor)				
UPPER BIG BRANC	H MINE-SOU	TH			46-0843	0			
Section II-Justification for Action	on								
Change	Fron	1			То				
8. Condition Or Practice									

Reason pumping of water.

Order No. 7250744 is hereby modified to allow the operator to advance pumps to the line of crosscuts 146 at survey station #20498 on the North Mains section to pump water.

Section IIISubsec	went Action	Taken	olenja aratotoreno (o	elissa messakensensi mes		nogawayyan hiyakan kanana akina kirin kirin ana kanana kirin kirin kirin ana kanana kirin kirin kirin kirin ki	kinnervenikaturen dasatula upasetakin	in proportional description and		der state in sing de sieder it som get for om de som sieder som sieder state sieder de som sieder de som siede	See Continuation Form
8. Extended To			a Yr	B. Tir	ne (24 Hr	. Clock)		□ c. v	acated	D. Terminated	E. Modified
Section IVInspec	tion Data		CONTRACTOR			napaskalapaskapassijinkovaplokolaklarian popu		THE REPORT OF THE PARTY OF THE	PRODUCTION PROGRAMMENT		
9. Type of Inspe	ction E(	)7	10.	Event N	umber	4110076		Parameter Constitution Constitu		aguinn ga sankanguampa sagul yiti qilinoo si kang aga qilili qaray qay qa qa	
11. Signature					A	R Number	12. Date	No Da	Ϋ́r	13. Time (24 Hr. Clo	ock)
					2	3675		03/14/	2006	0454	WOODS HIS AND

MSHA Form 7000-3a, Mar 85 (revised)

## Mine Citation/Order Continuation

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

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Section ISubsequent Ac	ion/Continuation Data						
1. Subsequent Action	1a. Continuation	Dated     (Original Issue)	Mo Da 03/13/20	.,	3, Citation/ Order Number	7250744 - 02	
4. Served To				<ol><li>Operate</li></ol>	or		
Wendell Wills, su	ot.			PERFO	RMANCE CO	AL COMPANY	
6. Mine				7. Mine IC	16.00.43	<i>C</i>	(Contractor)
UPPER BIG BRA	NCH MINE-SO	JTH			46-0843		VIII STERNING TO THE TOTAL PROPERTY OF THE T
Section ItJustification for	r Action						
Change	Fro	m			To		
19. Type of Inspection	E07	-Non-Fatal Accide	ent Investiga	tion	E08-Non-Inju	ry Accident Investigat	ion
Reason wrong co	đe						

Order No. 7250744 is hereby modified to permit the operator to conduct the following work on the North Mains section: pump water, work on equipment and ventilation in preparation to resume production.

Section IIISubsequent Action Taken	nter namen et er kennen verken for de kennen kenne med de samme forskelselselselselselselselselselselselselse	a a marifirm (A. d. agrippy) and an arm in its cast darker (A. d.		endalah mekupun mekapun permenan melapi permenintapan yapak meli dalah pisah ka		See Continuation Form
8. Extended To A. Date Mo Da	Yr B. Time (24	Hr, Clock)		C. Vacated	D. Terminated	E. Modified
Section IV-Inspection Data						
9. Type of Inspection E07	10. Event Number	4110076	and an address of the state of		kiningan kalangga kada ang pangan ang pangan kada ang pangan ang kalanga kada ang ang pangan ang	ского под се на се на виделения в под под образования по под образования в под образования в под образования п Сертипи
11. Signature		AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clo	ck)
		23675		03/20/2006	1047	

MSHA Form 7000-3a, Mar 85 (revised)

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### Mine Citation/Order Continuation

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

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Section ISubsequent Action/Continuation Data		
1. Subsequent Action 1a. Continuation 2. Dated Mo Da (Original Issue) 03/13/20	Yr 3. Citation/ 006 Order Number 7250744 - 03	
,	5. Operator	
Wendell Wills, supt.	PERFORMANCE COAL COMPANY	
6. Mine	7. Mine ID	(Contractor)
UPPER BIG BRANCH MINE-SOUTH	46-08436	
Section IIJustification for Action		

Order No. 7250744 is hereby terminated. The pilot hole drilled from the Black King I Mine (Lower Cedar Grove Seam) into the Castle Mine Powellton Seam has been grouted off above the Castle Mine.

		n nga maganang sa na kangang makan sa naga kangang sa kangan				See Continuation Form
Section IIISubsequent Action Taken						·
8. Extended To A. Date Mo Da	Yr B. Time (24	Hr. Clock)	•	C. Vacated	D. Terminated	E. Modified
Section IVInspection Data				a de spilled op pe kenings i de liegtis fan en jint het de sling oarden hjitte somet in tea		a kera unun mendam di dikakan persempian permanan sebana belaja sepanja antisya dia
9. Type of Inspection E02	10. Event Number	4110067				
11. Signatu		AR Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clo	nandatanasatanatanahuntanpolympionumpootompionumpionu yanguvelelebu BCK)
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#### U.S. Department of Labor Mine Safety and Health Administration

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Section I-Subsequent Action/Continuation Data			- State of S				
1. Subsequent Action 1a. Continuation	Dated     (Original Issue)	Mo Da 03/13/20	**	Citation/ Order Number	7250744 - 03		
4. Served To			5. Operat	)F	<del>()                                      </del>		
Wendell Wills, supt.			PERFO	RMANCE CO	AL COMPANY		
6. Mine			7. Mine ID	1		(Contractor)	-
<b>UPPER BIG BRANCH MINE-SOU</b>	JTH			46-0843	5		
Section IIJustification for Action	ware a beneficiary was first of the benefit of participants and the benefit of the second of the participants and the second of	TOTAL PROPERTY OF THE PERSON NAMED IN COLUMN	eliment francisco i di propinsi alla in pro-		energia e propinsi na propinsi na propinsi na propinsi na propinsi propinsi na	aktorinin planjulin tu animarakani ili syayunga pengangan pengangan in	

Order No. 7250744 is hereby terminated. The pilot hole drilled from the Black King I Mine (Lower Cedar Grove Seam) into the Castle Mine Powellton Seam has been grouted off above the Castle Mine.

		**************************************				See Continuation Form
Section IIISubsequent Action Taken						
8. Extended To A. Date Mo Da	Yr B. Time (24	Hr. Clock)	TO COMPANY AND A STATE OF THE S	C. Vacated	✓ D. Terminated	☐ E. Modified
Section IVInspection Data						
9. Type of Inspection E02	10. Event Number	4110067	and the state of t	<del>demoka their samin week it kurskis siktaan</del> dan i uusansi kasamasa	The Control of Control of the Control of Con	извите селинот Потито в селино
11. Signatu		AR Number 23675	12. Date	Mo Da Yr 03/22/2006	13. Time (24 Hr. Cloo 0537	:k)
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## Mine Citation/Order Continuation

4110076.

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

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Section ISubsequent Actio	on/Continuation Data						
1. Subsequent Action 1a	a, Continuation	Dated     (Original Issue)	Mo D 03/13/	•	3. Citation/ Order Number	7250744 - 04	
4. Served To				5. Opera	ог		
Wendell Wills, supt	t.			PERFO	RMANCE CO	AL COMPANY	
6. Mine UPPER BIG BRAN	NCH MINE-SOU	JTH		7. Mine II	46-0843	6	(Contractor)
Section IIJustification for A	Action						
Change	Fro	m			То		
19. Type of Inspection	E07	-Non-Fatal Accid	lent Investi	gation	E08-Non-Inju	ıry Accident Investigat	tion
Reason							
		_				following chargement of the following charge	_

See Continuation Form. Section III--Subsequent Action Taken 8. Extended To A. Date B. Time (24 Hr. Clock) C. Vacated D. Terminated ✓ E. Modified Section IV--Inspection Data 9. Type of Inspection 10. Event Number E08 4110076 11. Signat 13. Time (24 Hr. Clock) AR Number 12. Date Mo Da Υr 03/27/2006 23675 0841

MSHA Form 7000-3a, Mar 85 (revised)

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O: FIELD OFFIC	E SECRETARY PUS	0.426
Action	X File	Note and Return
Approval	For Clearance	Per Conversation
_ As Requested	For Correction	Prepare Reply
_ Circulate	For Information	See Me
_ Comment	Investigate	Signature
	Instify,	
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### 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.

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

Coal Mine Safety and Health, District 4

Mr. Jim Bowman, Conference Officer

Files

U.S. Postal Sarvice.  CERTIFIED MAIL RECEIP  (Bomestic Mail Only: No Instrume Covera  For delivery information visit our website at www.  Postage \$  Certified Fee (Endorsement Required)  Restricted Delivery Fee (Endorsement Required)  Tr  Ser  PERFORMANCE COAL CO.  Sin POBOX 69  City NAOMA WV 25140  ES Guarson Court P. O. BOX 69  City NAOMA WV 25140	GE Provided Alsps cond  5/1/4  5/3/06  Postmark Here
6-/334/43 8436 SENDER: COMPLETE THIS SECTION  ■ Complete items 1, 2, and 3. Also complete	COMPLETE THIS SECTION ON DELIVERY  A. Signature
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.	B. Received by (Printed Name) C. Date of Delivery G-06  D. Is delivery address different from item 1?   Capter 17
1. Article Addressed to:  Mike Vaught PERFORMANCE COAL CO.	If YES, enter delivery address below: No
P O BOX 69 NAOMA WV 25140	3. Service Type  Certified Mail
2. Article Number 7005 10	4. Restricted Delivery? (Extra Fee)
PS Form 3811. February 2004 Domestic Ret	turn Receipt 102595-02-M-1540



## PERFORMANCE SAFETY DEPARTMENT

DATE: 04/07/06 TO: Lincoln Selfe FROM: Mike Vaught

RE: Request for Conference

I respectfully request to conference the following violation/violations.

Citation # 7250745

OPERATION: Upper Big Branch Mine

ID#: 46-08436

INSPECTOR:

Brief description for reason of requested conference:

Gravity
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6-133

RECEIVED

APR 10 2006

MSHA CLR DISTRICT 4 U, S. Department of Labor

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



April 3, 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

7250745

03/22/06

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,

Syncola XX

Lincoln L. Selfe, Jr.

Assistant District Manager

Coal Mine Safety & Health, District 4

cc: Files/pab

### Mine Citation/Order

## U.S. Department of Labor Mine Safety and Head Administration

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Section I-Violation Data	
1. £ Mo Da Yr 2. Time (24 Hr. Clock) 03/22/2006 0530	3. Citation/ 7250745 Order Number 7250745
4. Served To	5. Operator
Timothy W. Tyree, mine engineer	PERFORMANCE COAL COMPANY
6. Mine	7. Mine ID 46.09426
UPPER BIG BRANCH MINE-SOUTH	Contractor)
8. Condition of Practice	8a. Written Notice (103g)
On March 12, 2006, an inundation of wat	er occurred at the Performance Coal
Company, Upper Big Branch Mine-South, I	D No. 46-08436. The water entered the
mine through a borehole (known as the	lory hole) from a mine or mines above.
After further investigation it was dete	rmined that the water came from the
minely wine I Mine (Torrer Coder Crove Co	am). The operator failed to follow the
Black King I wille (Hower cedar drove be	that a packer will be installed and the
approved ventilation plan which states	a Charle Mine The grouting part of
pilot hole will be grouted off above th	e castle mine, the grouting part of
the plan was not completed and a tempor	ary packer was installed which was the
contriving factor of the inundation of	water in the Upper Big Branch Mine-
South. There was an estimation of 4,83	8,849.40 gallons of water that flooded
the North Mains Section of Upper Big Br	anch Mine. The last reported work on
the pilot hole was 12/10/2005.	•
	See Continuation Form (MSHA Form 7000-3s)
	art/Section of
	le 30 CFR 75.370(a)(1)
Other Section II-Inspector's Evaluation	
10. Gravity:	
A hary or Illness (has) (is): No Likelihood [] Unlikely []	Reasonably Likely Highly Likely Occurred
Sonebly he expected to be: No Lost Workdays. Lost Workd	ays Or Restricted Duty Permanently Disabling [ ] Fatal 📝
C. Significant and Substantial: Yes 🗸 No 🗌	D. Number of Persons Affected: 004
11. Negligance (check one) A. None 🔲 B. Low 🔲 C. Mo	derate D. High 🗹 E. Reckless Disregard 🗍
12. Type of Action 104(d)(1) 13. Type of Issuen	ce (check one) Citation 🗹 Order 🗌 Safeguard 📋
14. Initial Action A. Citation B. Order C. Safeguard D. Written Notice	E. Citation/ F. Dated Mo Da Yr Order Number
15. Area or Equipment	
16. Termination Due Ma Da Yr	
A. Date 03/22/2006 E. Time (24 Hr. Clock)	0700
Section III-Termination Action	
	the pilot hole was grouted above the
Castle Mine.	the birot note was grouted above the
O#96+G 11PH6:	
1 03/22/2006	30
Section IV—Automated System Dafa	
19. Type of Inspection (activity code) 20, Event Number 4110076	21. Primary or Mill
22. Signature	23. AR Number 23675

In Secondance with the provisions of the Small Business Regulatory Enforcement Epimess Act of 1998, the Small Business Administration has confident and the Small Business and Agriculture Regulatory Ombudsman and 10 Regional Falmess Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually avaluates 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 1-868-FEG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 and Street, SW MiC 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 hefore the Faderal Mine Safety and Health Review Commission.

# Performance Coal Safety

P. O. Box 69 Naoma WV 25140

Phone: 304-854-1762 Fax: 304-854-3530

## <u>Fax</u>

To: Lincoln Selfe	From: Mike Vaught
Fax: 877-3927	Pages: 04
<b>Phone:</b> 877-3900	Date: 04/07/06
Re: Request for citation	CC:
conference	

Comments:

### U. S. Department of Labor

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



April 3, 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

7250745

03/22/06

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.

Lencola & Sife &

Assistant District Manager

Coal Mine Safety & Health, District 4

cc: Files/pab

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	B. Received by (Printed Name) C. Date of C. Hwell 4-0	Agent Addressee of Delivery (-)6
1. Article Addressed to: 4-6-08436	D. Is delivery address different from item 1?	
Mr. Bill Potter, Pres. Performance Cool Co.	If YES, enter delivery address below:	VO
DAB 60		
Naona, MV 25140	3. Service Type  If Certified Mail	rchandise
E08-4110076/7250745 (PAB)	4. Restricted Delivery? (Extra Fee)	res
2. Article Number 7002 31.	50 0005 2902 7542	
PS Form 3811, February 2004 Domestic Ret	turn Receipt 102595	5-02-M-1540
U.S. Postal Service CERTIFIED MAIL, (Domestic Mail Only: No Ins.)  For delivery information visitors  For delivery information visitors  Postage \$ E08  U.S. Postal Service To Mail (Domestic Mail Only: No Ins.)  For delivery information visitors  Postage \$ E08  U.S. Form Recipt Fee (Endorsement Required)  Restricted Delivery Fee (Endorsement Required)  Total Postage & Fees \$  Sent To Sitreet, 200 Mail Pottlers  Or Po Bol Malanance Concing Sitreet, 200 Malanance	RECEIPT urance Coverage Provided)	

Review Form	Special Assessment	U.S. Department of Labor	
3. Mine to Continuation Sheet  5. Operators Name  4. Nine Name  5. Ostation/Order Name  6. Ostation/Order Name  7. Ostation/Order Name  8. Accident Federated Violation or Technology  8. Accident Federated Violation or Technology  8. Accident Federated Violation or Technology  9. A J Operator Notified of Special Assessment of Yes.  10. Inspector's Recommendation:  10. Inspector's Recommendation:  10. Special Assessment of Yes.  10. Inspector's Recommendation:  10. Special Assessment of Yes.  11. Outs of Special Assessment of New Yes, explain below this actions or aggravating circumstances involved.  11. Outs of Special Assessment of New Yes.  12. Subdistrict Manager Massistant District Manager's Review:  12. Subdistrict Manager of Review Obstack of Signature  13. Outs of New Yes.  14. Outs of Special Assessment of New Yes.  15. Outs of New Yes.  16. Octobroadion Sheet  17. Outs of New Yes.  18. Outs of New Yes.  18. Outs of New Yes.  19. Outs of New Yes.	Review Form JUN 0 8 2006	Mine Safety and Health Administr	ation
See Continuation Sheet   Signature   Date   Signa	1. MSHA District Office	2. Field Office	
See Continuation Sheet   Signature   Date   Signa	2.04-10/8-7-2-2-2-10	Mr. Hope	
S. Continuation Sheet   See Continuation She			a - Bruffe
B. Accident Fedated Violution			
B. Accident Fedated Violution	Per la monos Coa Compaja	17750745	3-22-06
Special Assessment?   Yes   No   If yes, explain ballow the serious or approvating circumstances involved.   Special Assessment?   Yes   No   If yes, explain ballow the serious or approvating circumstances involved.   Special Assessment?   Assessment?   Assessment?   Assessment?   Yes   No	f /	yes, all violations must be submitted together wit	h any accident report or memorandum.
Special Assessment?   Yes   No   If yes, explain below the serious or aggressiting circumstances involved.    If	9. A.) Operator Notified of Special Assessment? Yes \\ \] No	B.) Health and Safety Conference Held on Spec	ial Assessment?   Yes   I-No
The Standard	10. Inspector's Recommendation:		
See Continuation Sheet   Signature   Signature   Signature   See Continuation Sheet   Signature   Signature   Signature   Signature   See Continuation Sheet   Signature   S	Special Assessment? Ves See No If yes, explain be	low the serious or aggravating circumstances involved	ved.લ તેવેલ પ્લાપ્ટલ વર્ગકાન્ય માન લાગ કર્યું મુક્ક વર્ષ કનો છે.
See Continuation Sheet   Signature   Signature   Signature   See Continuation Sheet   Signature   Signature   Signature   Signature   See Continuation Sheet   Signature   S	Mr. Simothy 10 Septer, Orine Long	iner, was very knowle	Specific of the
See Continuation Sheet   Signature   Sig	approved vistilation plan and	All rouis com the hours	must contoning
See Continuation Sheet   Signature   Sig	The Completion of the Pilot hele	e and The of ine (installing)	e fa firmanist
See Continuation Sheet   Signature   Date	Parket and grouting of ollow 7	he forthe mine. My Sy	une Att Tel Mary
See Continuation Sheet  11. Supervisor's Review: Special Assessment?	a temperary parker was inst	Net. The fast uported	expik on The
See Continuation Sheet   Signature   Date	Pelot hole was 12-10-205.		
Special Assessment?   Yes   No  Comments:    See Continuation Sheet   Signature   Date	See Continuation Sheet	Signature	3-27-06 Date
Comments:    See Continuation Sheet   Signature   Date	11. Supervisor's Review:		
See Continuation Sheet    See Continuation Sheet   Signature   Date	Special Assessment? Yes No		
12. Subdistrict Manager's /Assistant District Manager's Review:  Special Assessment?	Comments:	•	
12. Subdistrict Manager's /Assistant District Manager's Review:  Special Assessment?		•	
12. Subdistrict Manager's /Assistant District Manager's Review:  Special Assessment?		1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	
12. Subdistrict Manager's /Assistant District Manager's Review:  Special Assessment?		Koza D. Kiekmod	3029060
Special Assessment?		Signatúre	Date
See Continuation Sheet    See Continuation Sheet   Signature   Date			
See Continuation Sheet    See Continuation Sheet   Signature   Signature   Signature   See Continuation Sheet   Signature   Signature   See Continuation Sheet   Signature   S	- Small	•	er en en er en er en
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	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			
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	,	× 2800	
13. District Manager's Review (Mandatory for Metal/Nonmetal, Optional for Coal):  Special Assessment? Yes No  Comments:  See Continuation Sheet Signature Date	See Continuation Sheet		<u> </u>
Special Assessment? Yes No Comments:  See Continuation Sheet Signature Date			Date
Comments:  See Continuation Sheet Signature Date	6000) <u> </u>	for Coal):	
See Continuation Sheet Signature Date			
	Comments:		2. 
	See Continuation Sheet	Signature	Date

JUN 0 8 2006

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

KK	٠.
3-23	-06

Section I-Violation Data				· · · ·	·		
1. Date Mo Da Yr 03/22/2006	2. Time (24 Hr. Clock) 0530				Citation/ Order Number	725074	5
4. Served To	<u>n de la composition della com</u>		5. Operator	- Control of the Cont	<del>, , , , , , , , , , , , , , , , , , , </del>	- Company of the Comp	
Timothy W.Tyree, mine er	ngineer	[]	PERFOR	MANCE COA	L COMPAN	<u>Y</u>	
6. Mine UPPER BIG BRANCH M	INE-SOUTH	-	7. Mine ID	46-08436			(Contractor)
8. Condition or Practice						8a. Written N	lotice (103g)
On March 12, 200	6, an inundation	of wate	er occi	urred at	the Perfo	ormance	Coal
Company, Upper B	ig Branch Mine-S	outh, II	No.	46-08436.	The wat	er ente	ered the
mine through a b	orehole (known a	s the G]	lory he	ole) from	a mine o	or mines	above.
After further in	vestigation it w	as deter	rmined	that the	water ca	ame from	n the
Black King I Min	_						
approved ventila							
pilot hole will							
the plan was not	•				<del>-</del>		
contriving facto							
<del>-</del>	s an estimation						
the North Mains				_	last re		
the pilot hole w						. •	
ţ					See Continuati	on Form (MSHA	Form 7000-3a)
9. Violation A. Health ☐ Safety ✔	B. Section of Act	1	nt/Section of e 30 CFR	·	75.370(a)	(1)	mayermatelly promy following regions of the state of the
Other 🗌	W1 - 100	1 ''''	J 55 5, ((		75.570(4)	,1 <i>)</i>	
Section II-Inspector's Evaluation	anne de la proprie a persona de la primera proprie antendemente de la place de la proprie de la proprie de la p La proprie de la proprieda de la proprie de la proprieda de la proprie de la proprieda de la proprie de la proprieda de la proprie de la proprieda de la proprieda de la proprieda de la proprieda del la proprieda de la proprieda del la proprieda de la proprieda del				ediliko programina kantantantantantantantantantantantantanta		
10. Gravity:	_				_		
A. Injury or Illness (has) (is):	No Likelihood 🗌 Unlik	ely 🗌	Reasonably	Likely 🕢	Highly Llkely	Occurre	ed 🗌
B. Injury or illness could rea- sonably be expected to be: No Lost Workdays ☐ Lost Workdays Or Restricted Duty ☐ Permanently Disabling ☐ Fatal ✔							
C. Significant and Substantial:	Yes 🗸 No 🗌	·		1	). Number of Pers	ons Affected:	004
11. Negligence (check one)	A. None B. Low	C. Mod	derate 🗌	D. High	E.Re	ckless Disrega	rd
12. Type of Action 104(	d)(1) 13.	Type of Issuance	ce (check on	e) Cit	ation 🗹 Or	der 🗌	Safeguard 🗌
14. Initial Action A. Citation B. Order	C. Safeguard D. Written I		E. Citation/ Order Nun	nber		F. Dated	Mo Da Yr
15. Area or Equipment					-		
	•						
16. Termination Due A. Date	Mo Da Yr B. Time (24	LHr Clock)	0700		erenadskirusen der som kalankrissen er en som en en en einbed		первинентином уницентинова фонульнорористралууларудалыкдык.
	03/22/2006		V/VV	**************************************	galamaya daka daka da da aya galah mbada da da bala da gamaya da	majothiera area l'adamenta area area area area area area area ar	Construction of the cons
Section IIITermination Action		·	a per cianza e acestra a constitue de cons				Conference of the Conference o
	acker was instal	led and	the p	ilot hole	e was gro	uted ab	ove the
Castle Mine.							
	antipalanyan manapanan inga malayan napan pangan manapanan napan-mana manapanan napan-manapan papa pangan pang	2-7-7-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-				aaybis oo aranda sheyee kaa saankoo oo aaa	мини политер о основни менени на продела уменера о основно на
I A Date	Da Yr 22/2006 B. Time (24 Hr. Clor	ck) 05	530				
Section IVAutomated System Data							
19. Type of Inspection (activity code) // E08	20. Event Number 41	10076	21. Pi	rimary or Mill	ALL DESCRIPTION OF THE PROPERTY OF THE PROPERT		EPTPPERPRENOEPTCOOPERINGENERATION (LEISMANNICHTERENERATION)
22. Signal	er crantisservosszás	<del>1-77-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-</del>		alandiscalationis and transfer of the land and transfer of the	23. AR Num	ber 23	675
					I.	الباط	~, ·

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.

KK

Mine	Citation/Order
Conti	nuation

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

3	~ 2	3	-06
-			
			<b>~~</b>

Section I-Subsequent	Action/Continuation Data						
1. Subsequent Actio  ✓	n 1a. Continuation	2. Dated (Original Issue)	Mo Da 03/22/20	Yr 06	3. Citation/ Order Number	7250745 - 01	
<ol><li>Served To</li></ol>				<ol><li>Opera</li></ol>	itor		
Timothy W.Tyr	ee, mine engineer			PERF	DRMANCE CO	AL COMPANY	
6. Mine				7. Mine	D		(Contractor)
UPPER BIG BI	RANCH MINE-SO	UTH			46-0843	6	
Section IIJustification	for Action						
Change	Fro	m			То		
8. Condition Or Prac	tice						
Reason wrong	word.						

Citation No. 7250745 is hereby modified to show the following change: Section I, item 8. The word "contriving" is to be deleted and the word "contributing" is to be added.

										See Continuation Form
Section IIISubse	equent Action Take	n								
8. Extended To	A. Date Mo	Da	Yr	B. Time (2	24 Hr. Clock)	)	☐ c. v	acated	D. Terminated	E. Modified
Section IVInspe	ction Data		emisyemieseene							
9. Type of Inspe	ection E08		10. E	vent Numb	<sup>er</sup> 4110076					
11. Signatur				,	AR Number 23675	12. Date	Mo Da 03/22/	Yr /2006	13. Time (24 Hr. Clo	•
MSHA Form 700	0-3a, Mar 85 (revis	ed) (								

Accident Investigation Data  Event Number: 4   1   1   0   0   7   6	a a	U.S. Department of Labor Mine Safety and Health Administration					
A.Mine Information		wine Salety and Health Administration 7					
1. Mine ID Number: 2. Mine Name	9:	3. Operating Company Name:					
4   6   -   0   8   4   3   6   Upper Big Bra	Performance Coal Company						
	aran managah						
4. Mine Location: (Town, County, and State)		b. Union Affiliation:					
NAOMA, Raleigh, WV 25140	On Manual Minad (Dansan)	9999 None (No Union Affiliation)					
5. Mine Type:	6a. Material Mined/Processed:  122200 Bituminous Coal Underground	b. Part 48? X 7. Name Of Seam: (Coal Only)					
U Underground		Edyle					
8. Mining Data: a. Mining Method: 0 4 Room/F	1 - 1 - 1	ion Method: 0 4 Continuous Miner (Deep Cut, Coal Or					
c. Haulage Method(s): 0 6 Shuttle Car	0 1 Conveyor E	Belt					
	res No X 10. Production:(Coal						
9. Employment: At Time of Accident: a. Underground:	only) 11. Hours of Operation: a. Hours per Shift: 9						
Avg Mine Employment: a. Underground:		20000 b. Shifts per Day: 3 c.Days per Week: 7					
12. Number of Active MMU's:(Coal Only)		14. Average Mining Height:					
a. Development 0 2 b. Retreat: 0 1	Cubic Feet in 24 hours: 651646	Feet: 7 Inches: 0 0					
15. Management/Labor Officials:	Mana	A Juliana					
Title President	Name Bill Potter POE	Address OB 69, Naoma, WV 25140					
Superintendent	Wendell Wills POE	OB 69, Naoma, WV 25140					
Mine Foreman	Dempsey Petry POE	3 69, Naoma, WV 25140					
B. Accident Information							
16. Date(MM/DD/YY)/Time(24Hr.) of Accident:	17. Type of Investigation:	18. Accident Classification: 19.Number of					
a. Date: 03/12/2006 b. Time: 8:55	Fatal Non-Fatal Non-injury X	1 6 Inundation of Water Deg. 1-5 Injuries: 0					
20. Location of Accident/Injury/III. a. Surface Location:		21.Number of Independent Contractor					
b. Underground Location:	: 1 0 Glory Hole - North Mains	Companies Involved in Accident: 0					
22. Equipment Involved: a Type:	b, Manufact	turer:					

23. Description of the Accident:

a.Type:

c. Model No:

c. Model No:

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory Hole) from a mine or mines above. was examining the Glory Hole area when he noticed water coming into the mine at 8:55 p.m. The North Mains six entry section was flooded with an estimated 4.8 million gallons of water.

b. Manufacturer:

d. Serial Number:

d. Serial Number:

e. Controls:

0.4	Conc	I <b></b> ! <b></b> .

The operator failed to follow the approved ventilation plan which states that after the raise bore drill string has been removed above the Castle Mine an inflatable packer would be installed and the pilot hole would be grouted off above the Castle Mine Powellton seam. A temporary packer was installed and the grouting part of the plan was not completed which was the contributing factor of the inundation of water.

Violation 7				ion Number		olation, C for condition typ	Section of the Act		
C				7250744					
Citation		Order	X	Type/Action:	103(k)	Summary of Violation:	To assure the safety o	of all p	ersons entering the mine.
	_				<u>.</u>				IC:
С	Ī		;	7250745			75.370(a)(1)		
Citation	X	Order		Type/Action:	104(d)(1)	Summary of Violation:	Operator failed to fol	llow app.	roved ventilation plan and did not grout
ore hol	.e.								IC:
Citation		Order		Type/Action:		Summary of Violation:			
<del></del>								<del></del>	IC:
Citation		Order		Type/Action:		Summary of Violation:			
	··········					•			IC:
								·	
Citation		Order		Type/Action:		Summary of Violation:			
									IC:
Citation		Order		Type/Action:		Summary of Violation	:		
								-	IC:
C. MSHA									
Industry:	uarte	This Mi		cidence Rate (P Contract	·	27. Did Technical Supp Yes	ort participate in this investigation $  N_0   X  $	n ? 28.	Part 50 Document Control Number:(Form 7000-1):
5.02	Dietr	6.55 ict Office:				30. MSHA Field Office	<del></del>		31. Date Last Regular Inspection Completed:
Mt. Hope	Disa	ici Office.				Mt. Hope, WV	•		12/29/2005
	\ccide	ent Investig	ator:	Name; AR No;	Date :	AR No.: 23675	33. Date On-site Investigation S	Started:	34. Formal Report: 35. Report Release Date:
Name:						Date: 03/14/2006	03/12/2006		Yes No X
MSH	A Ear	m 7000-50	a Da						Printed 04/20/2006 1:44:07 PM

PR001 17-Apr-06

### **Preliminary Report of Accident**

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

		_									
1. Accident Type: 2. Accident Classification:					3. Date/Time o	4. Date/Tim	. Date/Fime of Death:			No.:	
No Injuries	- 1	Inundation			03/12/200	6 11:30 PM	, ]				
6. Mine Information	on:				<u></u>						
a) Mining Compa	any Name		b) Mi	ne Name			c)	Parent of M	lining Co	mpany	
Performa	nce Coal (	Company	Upper E	Big Branch M	line-South	÷					
7. Mine Location :		a) City	b) C	ounty	c) State		8. Mine ID Nu	mber:	9.	. Union:	
	NAC	MA	Raleigh	wv		46-08436					
10. Primary Miner	al Mined:		11. Number of Mine	b) Underground	c) Open Pi	t/Quarry	d) Mill/Pre	p Plant	e) Other	r	
			Employees:	181	172			***			9
12. Contractor Na	me:		<u>-</u>			13. U	nion:	14. (	Contracto	or ID Number:	:
15. Contractor Ad	dress:	a) City			b) County	· · · · · · · · · · · · · · · · · · ·	c) State		d) Zip	Code	•
16. Number of Cor	ntractor Em	ployees:	a) Total b)	Underground	с) Оре	n Pit/Quarry	d) M	ill/Prep Plai	nt	e) Other	***************************************
17. Number of Per	eans in Mine	at Time of Accid	lent:		18 Number	of Persons Una	ecounted For:				
a) Mine Employees		^4	b) Contractor Employee	oe•	a) Mine Er		0	b) Contract	or Frank	MAGE!	
19) Location of Ac		<u> </u>	o) Contractor Emproyee		a) White Es	прюусса		b) Contract	or Emple	20. Mining	Height:
X 01-Underg		□ 0	3-Open Pit	07-Advan	ce Mining [	30-Mill/Pre	p Plant	Other (spe	cify)	1	iches
02-Surface	at Undergre	ound 0	6-Dredge Mining	08-Retrea	t Mining	99-Office F	acility			7	0
21. Nonfatal Injuri	ies:	22. Fat	tal Injuries:								
23. Victim Informa	ation :		a) Name	<u></u>	) Age			· · · · · · · · · · · · · · · · · · ·			
		ims Reporte	d for this Accide	ent Investi	gation						
c) Regular Job Tit	le:	<u> </u>	d) Activity	at Time of Ac	cident:				Min	ne Employee	;
								-		ntractor Em	
24. Experience :	Years We	eks Days	Years Wee	eks Days		Years We	eks Days		. <b>Y</b>	ears Weeks D	ays
a) Total:		b)	at the mine:	c) 2	at activity (23d)		<b>d</b> )	with Contra	actor		
25. Autopsy Perfor	rmed;	If Yes, Location	I				26. Mine Te	dephone No.: (304) 854			
27. Description of	Accident (in	clude equipment	involved, the exact loca	tion in the min	e, and status of re	scue and recov		`	1400		
On March 12. 2	006. an in	undation of wa	ter occurred at the I	Performance	Coal Compan	v. Upper Bia	Branch Mine	-South, ID	No. 46	-08436. Th	e wate
entered the min-	e through	a borehole (kn	own as Glory hole)	from a mine	or mines abov	e.		was	examir	ning the Glo	
area when he ne	oticed wate	er coming into	the mine through th	e Glory hole	at 8:55 PM. T	he North Ma	ains six entry	section wa	s flood	ed.	
	rovided in ti		on preliminary data O	NLY and does	not represent fins	ıl determinatio	ns regarding th	e nature of t	he incide	nt or conclusio	ıns
regarding the caus	o of the acci				····						
28. Equipment Ma	se of the acci mufacturer:					29. Model:					
30. District:	nufacturer:		32. Field Offi			29, Model:	33	3. Event Nun	aber:		
			32. Field Offi		ppe, WV	29. Model:	33	3. Event Nun	aber:		
30. District:	Mt. Ho		32. Field Offi	Mt. Ho	ppe, WV	29. Model:	33	3. Event Nun Date	······	Time	
30. District: C0400	Mt. Ho		32. Field Offi	Mt. Ho	·	29, Model:			······	Time 11:40 A	
30. District: C0400	Mt. Ho	ppe	32. Field Offi	Mt. Ho 35. MSHA Po Jesse	erson Notified: P. Cole	29. Model:		Date 3/12/2006	Date	11:40 A	
30. District: CO400 34. Accident Invest	Mt. Hotigator: t:	ppe		Mt. Ho 35. MSHA Po Jesse	erson Notified: P. Cole	29. Model:		Date 3/12/2006		11:40 A	

#### PR001 14-Mar-06

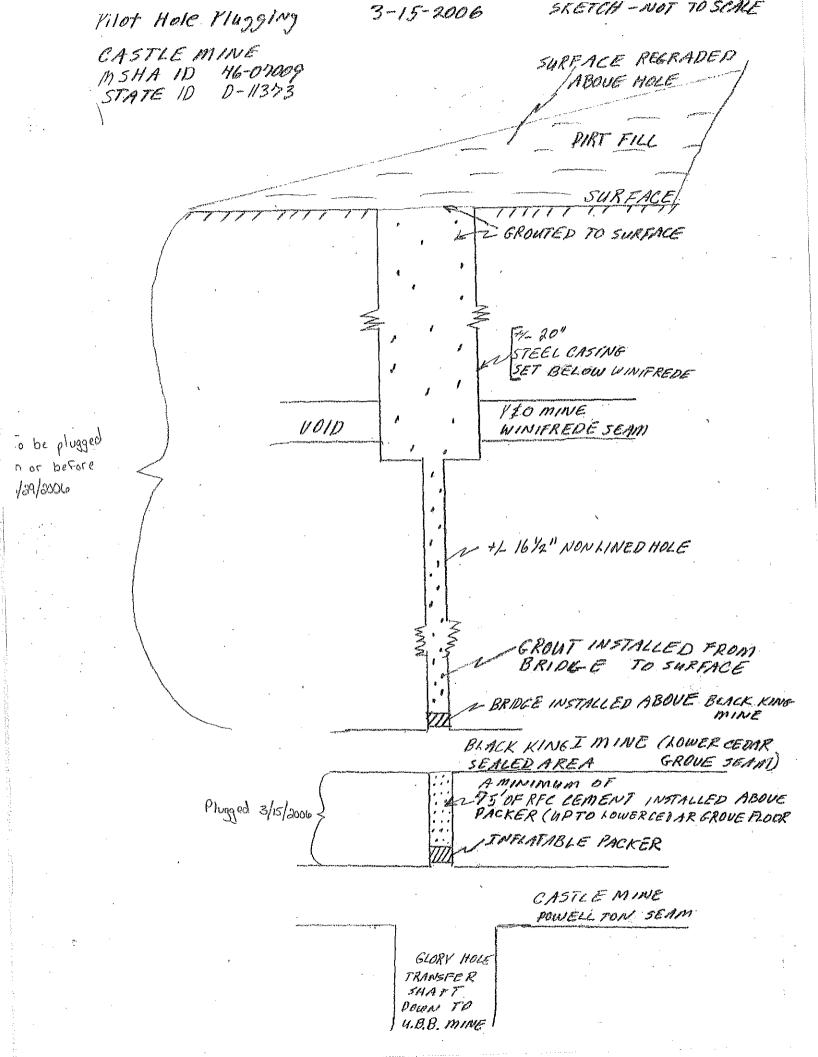
### **Preliminary Report of Accident**

### U.S. Department of Labor

Mine Safety and Health Administration

7//

14 11141-00						_					
1. Accident Type:	. Accident Type: 2. Accident Classification:					3. Date/Time of Accident:					5. Fatal Case No.:
No Injuries	Inundation				03/12/2	006_11	1:30 PM	∐			L
6. Mine Information:	····										
a) Mining Company Name				ne Name		_			c) Pare	nt of Mining	Company
Performance Coa	l Company	· · · · · · · · · · · · · · · · · · ·			Mine-South		<del></del>				
7. Mine Location :	a) City AOMA	F	b) Co Raleigh	ounty	c) Stat WV	te	\		1D Number: 46-08436	:	9. Union:
10. Primary Mineral Mined:		11. Number		a) Total	b) Undergroun	d c)	Open Pi	t/Quarry	d) M	ill/Prep Plan	it e) Other
		Emplo	yees:	181	172						9
12. Contractor Name:				,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,			13. Ui	nion:		14. Contra	ector ID Number:
15. Contractor Address:	a) City				b) County		<u> </u>	e) :	State	d) 2	Lip Code
16. Number of Contractor F	Employees:	a) Total	b)	Underground	d c) 0	pen Pit/C	Quarry	***************************************	d) Mill/Pro	ep Plant	e) Other
17. Number of Persons in M	ine at Time of Acc	ident:	······································	<u> </u>	18. Numb	er of Pers	sons Una	ccounted	For:		**************************************
a) Mine Employees:	34	b) Contractor	Employee	es:	a) Mine	Employe	ees:	0	b) Co	ontractor Em	ployees:
19) Location of Accident:											20. Mining Heigh
X 01-Underground	Ļ	03-Open Pit	_	=	nce Mining		-Mill/Pre	-	Oth	er (specify)	Feet Inches
02-Surface at Under		06-Dredge Min	ing	08-Retr	eat Mining	99-	Office F	acility			7 0
21. Nonfatal Injuries:	22. F	atal Injuries:							•		
23. Victim Information :	ctims Repor	a) Name	Accide	ent invest	b) Age			-N <sub></sub>			
c) Regular Job Title:	Cums repor			at Time of A		-				<b>1</b>	Mine Employee
, •											Contractor Employe
24. Experience: Years	Weeks Days	7	ears Wee	eks Days		Y	ears Wee	ks Days			Years Weeks Days
a) Total:	ł	) at the mine:		e e	) at activity (23d	)			d) with	Contractor	
25. Autopsy Performed:	If Yes, Locati	on						26. M	line Telepho (304	ne No.: ) 854-1456	;
27. Description of Accident	(include equipmen	t involved, the c	xact loca	tion in the mi	ne, and status of	rescue a	nd recov	ery opera	tions):		
On March 12, 2006, an entered the mine throug area when he noticed w	ih a borehole (k	nown as Glo	ry hole)	from a min-	e or mines ab	ove.				was exai	mining the Glory hol
											·
	•										
The information provided is regarding the cause of the a		ed on prelimina	ry data O	NLY and doe	s not represent i	final deter	rminatio	ns regard	ling the natu	re of the inci	dent or conclusions
28. Equipment Manufacture			<u> </u>			29. M	lodel:		·		
30. District: C0400 Mt.	Hope	32.1	Field Offic		lope, WV	1			33. Eve	nt Number:	
34, Accident Investigator:	rohe				Person Notified:				Da	fo	Time
or, morning investigation				ĺ	rerson Nonneu: se P. Cole				03/12/		11:40 A
36. Type of Report:	oitial	37. Name of I	reparer a					- 1	- COI (£1)	Date	3
29 Daggan For Amandment	nitial	<u> </u>							·····	03/13/20	IUO



<u> </u>		U.S. Department of Labor
Event Number: 4 / 1 0 0 6 7		Mine Safety and Health Administration
A. Mine Information		
1. Mine ID Number: 2. Mine Name:	)	Operating Company Name:
46-08436 Elppen 15	ing Branch Mine South Pa	formula Confany desse.
4. Mine Location: (Town, County, and State)		Union Affiliation:
	6a. Material Mined/Processed: 122200	No
5. Mine Type: 2 2 Underground - Coal	Beturning Coal Undayon  / Fellor  b. Extraction N	9 Mining Part 46? Engle
8. Mining Data: a Mining Method 4 Room c. Haulage Method(s): 6 Little Co	b. Extraction W	
d. Are explosives used in the extraction of material? Ye	1 . <b>.</b>	
_	134 b. Surface: / 10. Production: (Coal only)	
		o b. Shifts per Day: 3 c. Days per Week: 7 verage Mining Height:
a. Development: 2 b. Retreat: 1		Feet:     17   Inches:   0   0
15.Management/Labor Officials:	Cubic Feet in 24 hours 651,646	1 det.
A Title	Name	Address
Prisident	Bill Potter	P.O. Box 69 Rooma W.V. 2514
S. serinter lant	Wendell Wille	
Min : Foreman	Camping DA	, .
Muni foremen	Canada elly	
B. Accident Information		London Control
		Accident Classification: 19. Number of Deg. 1-5 Injuries:
a. Date: 3-/2-0 6 b. Time: 8:55  20. Location of Accident/Injury/III. a. Surface Location	Fatal Non-Fatal Non-injury	21, Number of Independent Contractor
b. Underground Locati		D Maria Companies Involved in Accident:
2. 2		
22. Equipment Involved: a. Type:	b, Manufacturer:	
22. Equipment Involved: a. Type: #1 c. Model No:		e.Controls:
	b. Manufacturer:	
#1 c. Model No:	b, Manufacturer: d. Serial Number:	e.Controls:
#1 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:
#1 c. Model No: a.Type: #2 c. Model No:	b, Manufacturer: d. Serial Number: b, Manufacturer:	e.Controls:  e.Controls:

	24, Conclusion:		
	:		-
		Continued on attach	nment
25. Enforcement Actions: Indicate P for procedure type	riolation, C for condition type, or T for training type.		
Violation Type Citation Number	Regulation Cited		Section of the Act
PCT7250744			103 1
Citation Order Type/Action:	Summary of Violation:		
To assure the safety	of all persons entering the		
		IC:	
P (\$ T 7 2 5 0 7 4 5	75.37	0 (9) (1)	1 0 4 9
Citation Order Type/Action:	Summary of Violation:		
Operator failed to fol	low approved tentilation plan	u and did not	i grout the
hove hole.	•	IC:	
PCT			
Citation Order Type/Action:	Summary of Violation:		
Older Type/Addoil.	Juninary of Violands.		
		IC:	
PCT			
Citation Order Type/Action:	Summary of Violation:		
	·		
		IC:	
PCT			
Citation Order Type/Action:	Summary of Violation:		
			<u> </u>
		IC:	
PCT			
Citation Order Type/Action:	Summary of Violation:		
		IC:	
C. MSHA Information			
	27. Did Technical Support Participate in this Investigation ?   28.	. Part 50 Document Control Nu	umber: (Form 7000-1)
Industry: This Mine: Contractor:	Yes   No		
5.02 6.55 29. MSHA District Office:		. Date Last Regular Inspection	Completed:
MH. Hope	1	Date: /2-29-	
32. Lead Aggidant Investigator: Namo: AP. No; Date	Mt. Hope  AR No.: 23764 33, Date On-site Investigation Started:	34. Formal Report:	35. Report Release Date:
Name:	Date: 3-14-06 Date: 3-12-06	Yes   No 🔀	Date:

Accident Investi	gation	Data -	Victim	Information
Event Number:				

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



Victim Information: 1																_
1. Name of Injured/III Employee:	2, Sex:	3. Victim's	Age 	4.1	Last Fo	ur Digi 	ts Of	SSN:	5. D	egree o	f Injury:					<del></del>
6. Date(MM/DD/YY) and Time(24 Hr.) C	)f Death:	II				7. Dat	e and	Time Starte	d;	ll.						
a. Date:		k	. Time:					a. Date:				b.Tim	ie:			
8. Regular Job Title:			9. Work A	ctivity	when I	injured:	:	.,			10.\	/Vas th	is work act	ivity part	of regular jo	b?
													Yes	No		
11. Experience Years Weeks	Days		Years	We	eks	Days	3	Years	V	Veeks	Days		i	Years	Weeks	Days
a. This		b. Regula						This			-		d. Total			1 1
Work Activity:  12. What Directly Inflicted Injury or Illness	2	Job Title:						line: Nature of Inju	DI OT	Illnoee:			Mining:		<u> </u>	
	· F						10.		sy Oi	11111000.						
14. Training Deficiencies:																
Hazard: New/Newly-	-Employed	Experience	ed Miner:					Annual:			Task:					
15. Company of Employment: (If different	from produ	otion opera	ator)													
-							- 1	independent C	Contra	actor ID	: (if applic	able)				
16. On-site Emergency Medical Treatmen	nt:		1	1			ı				1		I I			
Not Applicable: First-Aid:		CPI	₹:		EMT:			Medical Profe				ne;				
17. Part 50 Document Control Number: (f	orm /000-	1) - [						18. Union	Affili	ation of	Victim:					
Victim Information: 2									_							
Name of injured/III Employee:	2. Sex:	3. Victim's	Age:	4.1	Last Fo	ur Digi	ts Of	SSN:	5. E	egree (	of Injury:					
	l	<u></u>				,.L				<u>l</u> .l.						
6. Date(MM/DD/YY) and Time(24 Hr.) C	of Death:					7. Dat	e and	Time Starte	d;							
a. Date;		<u> </u>	o, Time:					a. Date:				b.Tim				
8. Regular Job Title:			9. Work A	ctivity	when I	Injured:	:				10.1	/Vas th	1	1 .	of regular jo	b?
		-											Yes	No		
11. Experience Years Weeks	Days	h Danul	Years	We	eks	Days		Years This:	: V	Veeks	Days	i	d. Total	Years	Weeks	Days
a. This Work Activity:		b. Regula Job Title						/line:					Mining:			
12. What Directly Inflicted Injury or Illness	?				. 1		13.1	Vature of Injur	y or I	liness:	. <u> </u>				•	
14. Training Deficiencies:													<del></del>			<del></del>
Hazard: New/Newly	-Employed	Experience	ed Miner:					Annual:			Task;					
15. Company of Employment: (If different	from produ	ction opera	ator)					Indene	ndent	Contra	ctor ID: (i	f annli	rable) İ	1 1	1 1 1	1 1
16. On-site Emergency Medical Treatme	nt <sup>*</sup>							пиоро	- Cont	Oditia	0101 10. (1	арріі	<del></del>	11		
Not Applicable: First-Aid:		CP	R:		EMT:	ı	Med	dical Profession	onal:		l No	ne:				
17. Part 50 Document Control Number: (1	form 7000-			 I	1 1		<u>1,555                                 </u>	j 18. Union		ation of	Victim:		11			
Victim Information: 3								1								
1. Name of Injured/III Employee:	2, Sex	3. Victim's	. Age	4.	Last Fo	our Dia	its Of	SSN:	5 [	Degree	of Injury:					
The state of management and state of the sta	1								"		5. mg ; .					
6. Date(MWDD/YY) and Time(24 Hr.) C	of Death:	_l				7. Dat	e and	Time Starte	d;	i						
a. Date:		1	o. Time:					a. Date:				b.Tin	ne:			
8. Regular Job Title:			9. Work A	ctivity	when l	Injured	:		**		10.	Was tl	nis work ac	tivity part	of regular jo	b?
1 1 1				-									Yes	No	ļ	
11.Experience: Years Weeks	Days		Years	We	eeks	Days	s	Years	s \	Veeks	Day	s		Years	Weeks	Days
a. This		b. Regul						: This	ļ			-	d. Total			
Work Activity:		Job Title	);					Viine: Nature of Inju	Di or !	llnoce			Mining:			
12. What Directly Inflicted Injury or Illness	i?						15.			micss						<del></del>
14. Training Deficiencies:	. Emplayad	Cumpulana	ad Minari	!	1			Anguali	ŧ	1	Task	,	1 1			
Hazard: New/Newly  15. Company of Employment:(If different								Annual:		l			<u> </u>		† † 1	
		on opera						Independer	nt Cor	ntractor	ID: (if ap	olicabl	e)	<u> </u>	i i l	_
16. On-site Emergency Medical Treatme	nt:	_	_ '	1	<b></b>	ı	ì	M 21 1 5 1					1 1			
Not Applicable: First-Aid:	, 7257	CP	K:	<u> </u>	EMT:		<u> </u>	Medical Prof			Ll—	one:	1			
17. Part 50 Document Control Number: (	iorm /UUQ	-1)						18. Unio	n Affil	iation o	f Victim:					_
									_							

Accident Investig	gatio	on i	Data	a -	Inde	ере	nde	nt Contracto	r Information
Event Number:									

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



Independent Contractor Information:	1		
1. Company Name:	2. MSHA	AID Number:	3. Type of Independent Contractor:
AN1 (0 ) W			
4. Nature of Contract Work:		5. Number of Independer  a. Underground:	ent Contractor employees On-Site at Time of Accident:
6. Independent Contractor Officials:		u. ondorground	
On-Site/Other: Title	Name		Address
			· · · · · · · · · · · · · · · · · · ·
			· .
Independent Contractor Information:	2		
1. Company Name:	2. MSHA	AID Number:	Type of Independent Contractor:
4. Nature of Contract Work:			int Contractor employees On-Site at Time of Accident:
6. Independent Contractor Officials:		a. Underground:	b. Surface:
On-Site/Other: Title	Name		Address
	-		
enderske i doktisk dom en			
Independent Contractor Information:	3		
1. Company Name:	2. MSHA	A ID Number:	Type of Independent Contractor;
4. Nature of Contract Work:		Number of Independer     a. Underground:	ont Contractor employees On-Site at Time of Accident:
6. Independent Contractor Officials:			<u> </u>
On-Site/Other: Title	Name		Address
	-		
·		·	· .

Accident Investigation Data - Continuation Form Event Number:	U.S. Department of Labor  Mine Safety and Health Administration	<b>(%)</b>
Continuation of Item		
		, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
·		
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Printed 01/10/2006 1:37:04 PM

MSHA Form 7000-50e, Dec 94

	U.C. Danastonant of Lobor
Accident Investigation Data - Methane Ignition/Explosion Information Event Number:	U.S. Department of Labor  Mine Safety and Health Administration
A. Section Information	Walle Octoby and Flourit / Kallimondator
1. Ignition or Explosion:  2. Location of Ignition/Explosion:	
a. Ignition   b. Explosion   a. Description:	b. MMU Number;
a. Description.	D. WING HUMBEL
3. Type of Mining: 4. Extended Cut Approved in: (Coal only)	
Development Retreat Ventilation Plan	Roof Control Plan No Approval
5. Extended cut used at time of accident?  Yes   No   6. Depth extended cut approved(in feet):	7. Depth of extended cut at time of accident (in feet):
B. Dust Suppression Information	
8. Water Spray Parameters:	
c. Water pressure required in ventilation plan (in PSI):  e. Water flow rate required in ventilation plan (in GPM):  f. Water f	er of water sprays operable at time of ignition: pressure measured during investigation (in PSI): flow rate measured during investigation (in GPM): st system velocity (in FPM):
C. Face Ventilation Information	
9. Ventilation Configuration: a. Exhaust   Blowing	Combination
10. Ventilation control devices at time of accident:	Compiliation
a. Auxiliary Fan/Tubing b. Curtain	c. Diffuser
Other ventilation controls (describe):	
11. Distance from inby end of ventilation control to face;  a. Required in Ventilation Plan (ft.)  b. At ti	ime of accident (ft.)
c. Air quantity required at face or reaching longwall:  d. Air quantity	ity measured at LOC or pillar line: ity measured at face or longwall: d scrubber quantity:
13. Methane Liberation a. On Section (cubic feet each 24 hrs):	
b, Category (Metal and Nonmetal only):	
14. Source of Methane Accumulation: a. Normal Liberation b. Feede	c. Other(Describe):
d. Description of feeder location (if applicable):	
15. Was methane monitor functioning properly? Yes No N/A 16. Equipment invo	olved maintained in permissible condition? Yes No N/A
17, Location of methane monitor sensing head:  a. Right side b. Left Side	c. Center d. Distance From Face (in inches)
18, Barometric Pressure;	
a. Measurement (in/hg)	Falling   Steady
E. Bit Information	
19. Bit Type:	
20. Bit Configuration:	
21: Condition of Bits:	
F. Other Information	
22. Energy Source:	
a. Frictional b. Electrical c. Cutting/Welding d. Smoking e. Undeterm	mined f. Other (describe):
23. Coke samples taken:  Yes   No	
24 Other Technical Data:	

Accident Investigati	ion Dat	a - Un	intenti	ona	l Fa	ll of R	oof/B	ack, Rib, d	or Fac						4	<b>%</b>	
Event Number:						<del></del>				M	line	Safety and Health A	Admin	ıstrati	on	·//	
A. General Information  1. Type of Fall:							··						B #/B 1B	40-14			
••	of/Back			b. R	ib			c. Face	and the same of th		-	d. Outburst		d Only ckburst			
2. Dimension of Fall:	Feet		Feet						Feet	Incl	hes	3. Width of Entry, Roor	n, etc:	c:   Feet   Inches			
a. Length			b. Widi	h			c. Thickness				End of the control of						
4. Immediate Roof/Back In		ckness	Feet	lnch	ies 	b. Strat	a Com	position:									
5. Main Roof/Back Informa					 		<sub> </sub>										
a. ī	Thickness		Feet	ı		b, Strat	a Comp	position:									
6. Was the fall above the a	ınchorage	horizon o	of the bo	ts?	ļ			7, Did the fa	ll affect	ventila	ition r	resulting in less than require	d quantit	y or qua	lity?	-	
		Yes		No		N/A								Yes	1	No	
8. Did the fall affect the pas	ssage of w	orkers?	(entrapm	ent)	I I		I I								I		
		Yes		No													
9. Did miners have indication	on of the p	ending fa	all?														
		Yes		No												•	
10. If indication was given,	what type'	?															
B. Fall on Working Section	n/Active	Face Are	a														
11. Type of Roof Support:																	
12. Type of ATRS (Coal o	nly):																
13. Type of Original Suppo	ort in Fall	Area:															
14. Distance Between Fall	l and Face	ï	Fe	et I I		Inches											
C. Fall Outby Working S	ection/Pr	eviously	Develo	ped A	\rea												
15. Location and Type of I	Entry ( inta	ike, retur	n, main l	naula	ge, et	tc. ):				,							
16. Approximate Date of D	Developme	nt (MM/	DD/YYY	Y):	a. Da	ite:	_/				•						
17. Type of Original Suppo	ort in Fall ,	<b>∆</b> геа:															
D. Operator's Investigat	ion						• • •										
18. Did the operator inves	stigate the	fall?	Yes	-		N	o	 									
19. What did the operator	r determin	e to be th	ne cause	of the	e fall?	>											
20. What steps did the op	erator take	to preve	ent a sim	ilar o	CCUTT	ence?											
	-																
												•					
E. Plan Revisions																	
21. Are plan revisions antic	cipated (C	oal only)	?	Yes		-	٨	No		_	·-						
						<del></del>		, , , , , , , , , , , , , , , , , , , ,									
-								1.0 <b>4</b> -0-									
MSHA Form 7000-50f,	Sept. 96											Printed 01/10/	2006 1:3	37:09 PN	1		

From:

Sent:

Friday, April 07, 2006 9:49 AM

To:

Brooks, Patricia A - MSHA

Subject: FW: 8436 Inundation Description of Accident

### Subject: 8436 Inundation Description of Accident

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory hole) from a mine or mines above. was examining the Glory hole area when he noticed water coming into the mine at 8:55 p.m. The North Mains six entry section was flooded with an estimated 4.8 million gallons of water.

#### Conclusion:

The operator failed to follow the approved ventilation plan which states that after the raise bore drill string has been removed above the Castle Mine an inflatable packer would be installed and the pilot hole would be grouted off above the Castle Mine Powellton seam. A temporary packer was installed and the grouting part of the plan was not completed which was the contributing factor of the inundation of water.

### U. S. Department of Labor

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



OCT 05 2005

Mr. Bill Potter President Performance Coal Company P. O. Box 69 Naoma, WV 25140

Dear Mr. Potter:

Subject:

Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper

Big Branch Mine-South, I.D. No. 46-08436, Performance Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, which includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8½ inch diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. No. 46-07009) and into Upper Big Branch Mine. Additionally, a 14 inch diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

The revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact William L. Ross at (304) 877-3900/Ext. 142.

Sincerely,

15/ William Ross

Jesse P. Cole District Manager Coal Mine Safety and Health, District 4

cc: Mt. Hope Field Office (3 encl.) Files/dac 60 10-5-05 Date

### U. S. Department of Labor

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



OCT 05 2005

Mr. Bill Potter
President
Performance Coal Company
P. O. Box 69
Naoma, WV 25140

Dear Mr. Potter:

Subject:

Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper

Big Branch Mine-South, I.D. No. 46-08436, Performance Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, which includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8½ inch diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. No. 46-07009) and into Upper Big Branch Mine. Additionally, a 14 inch diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

The revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact William L. Ross at (304) 877-3900/Ext. 142.

Sincerely,

M Jesse P. Cole

. District Manager

Coal Mine Safety and Health, District 4

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Mr. Bill Potter President Performance Coal Company P. O. Box 69 Naoma, WV 25140

Dear Mr. Potter:

Subject:

Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper Big Branch Mine - South, I.D. No. 46-08436, Performance Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, that includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8½ "diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. 46-07009) and into Upper Big Branch Mine. Additionally, a 14" diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

This revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact the Ventilation Department at (304) 877-3900/Ext. 142.

Sincerely,

Jesse P. Cole District Manager Coal Mine Safety and Health, District 4 October 4, 2005

Mr. Jesse Cole
District Manager
Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880

RE: Upper Big Branch Mine State ID – U-3042-92 M.S.H.A. ID 46-08436

Revised Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Cole,

Enclosed please find a revised page 1 of a ventilation supplement. Our current approved plan states that the pilot hole will be cased off from all voids as it is drilled. We have cased the 1<sup>st</sup> 500 feet of the hole down through the abandoned Y&O mine in the Winifrede seam. When we drilled below the casing the pilot hole deviated from the required course. We then used a directional drilling company to steer an 8.5" hole back on course down into the floor of a sealed portion of our Black King I mine. When we attempted to ream this hole to 18" (which would allow casing to be run) the hole deviated off course in the same direction as the first. The drilling contractor believes that further attempts would result in similar deviations.

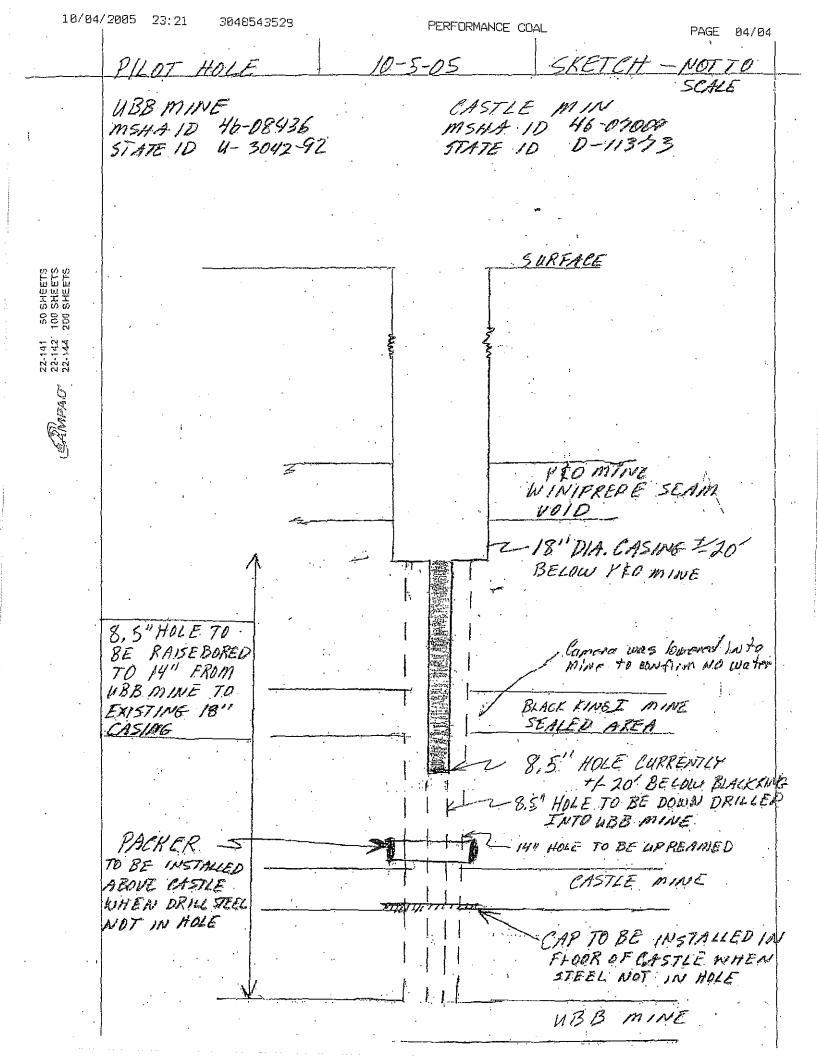
The attached plan shows directional drilling of an 8.5" hole on into the Upper Big Branch Mine. There the bit will be changed to 14". This will allow the pilot hole to be raise bored to the usable diameter. The attached plan shows that the Lower Cedar Grove seam was verified by camera for water and how air seperation between the seams will be accomplished.

If you should need any additional information or have any further question please feel free to contact me at the above referenced phone number.

Sincerely,

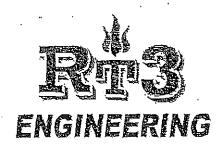
Upper Big Branch Mine MSHA ID 46-08436 STATE ID U-3042-92 Coal Transfer Shaft Ventilation Supplement Revised Page (10/4/2005) Pilot Hole

- 1. The first 500 feet of the pilot hole will be steel cased.
- 2. An 8.5" directionally steered hole was drilled into the floor of the Black King I mine. A camera was lowered into the hole. The video verified that no impounded water exists at the location of the hole.
- 3. The pilot hole will drill into the Castle mine where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Castle mine preshift examinations will begin and continue through out the process.
- 4. The pilot hole will drill into the Eagle seam where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Upper Big Branch mine preshift examinations will begin and continue through out the process.
- 5. The 8.5" bit on the drill steel will be changed to a 14" reaming bit. This bit will be used to raisebore the 14" pilot hole up to the 18" steel casing (500 foot from the surface).
- 6. During all times either drill steel or a packer will exist in the hole between the Castle mine and the sealed area of the Black King I mine above. When it is necessary to install or remove a packer the area will be constantly monitored for direction and quality (methane and oxygen).
- 7. After reaming the pilot hole to 14" between the UBB mine and the Castle mine a cap with a valve for sampling will be installed over the pilot hole in the floor of the Castle mine. The 14" hole will proceed to be enlarged above the Castle mine. The hole can be enlarged untill it is 5 feet below the Black King mine floor. A packer will then be installed in the roof of the Castle mine. Then the hole can be enlarged the remainder of the distance.
- 8. The raise bore drill rig will be installed on the surface. Before the drill string for the raise bore is lowered through the Castle mine roof the packer will be removed. Checks will be made for direction and quality before the packer is removed. Before the drill string can be lowered below the Castle mine floor the cap seperating the Castle and UBB mines will be removed. The air will be sampled before the cap is removed. Then the drill string will be extended down into the Upper Big Branch Mine. Air ventilating the area will be directed into the return.
- 9. The raise bore will then excavate the shaft between the 2 seams. See page 2 for raise bore details.
- 10. After the raise bore drill string has been removed above the Castle mine, but still extends down below the Lower Cedar Grove seam, a packer will be installed. The hole will then be grouted off above the Castle Mine.





Marfork Coal Company
Elk Run Coal Company
Performance Coal Company



P.O. Box 69 Naoma, WV 25140 Ph. 854-1761

Mining Dept. Fax: 854-3529
Permitting Dept. Fax: 854-3528

# FAX

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March 17, 2006

Mr. Harry Linville
Office of Miners' Health, Safety, and Training
Region -3 Danville
Lick Creek Professional Building
Danville, WV 25053-7823

RE: Castle Mine

State ID - D-11373

M.S.H.A ID - 46-07009

Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Linville,

Attached please find our plan for the grouting off of the pilot hole, which was used to drill the Coal Transfer Shaft between Elk Run Coal Company's Castle Mine and Performance Coal Company's Upper Big Branch Mine.

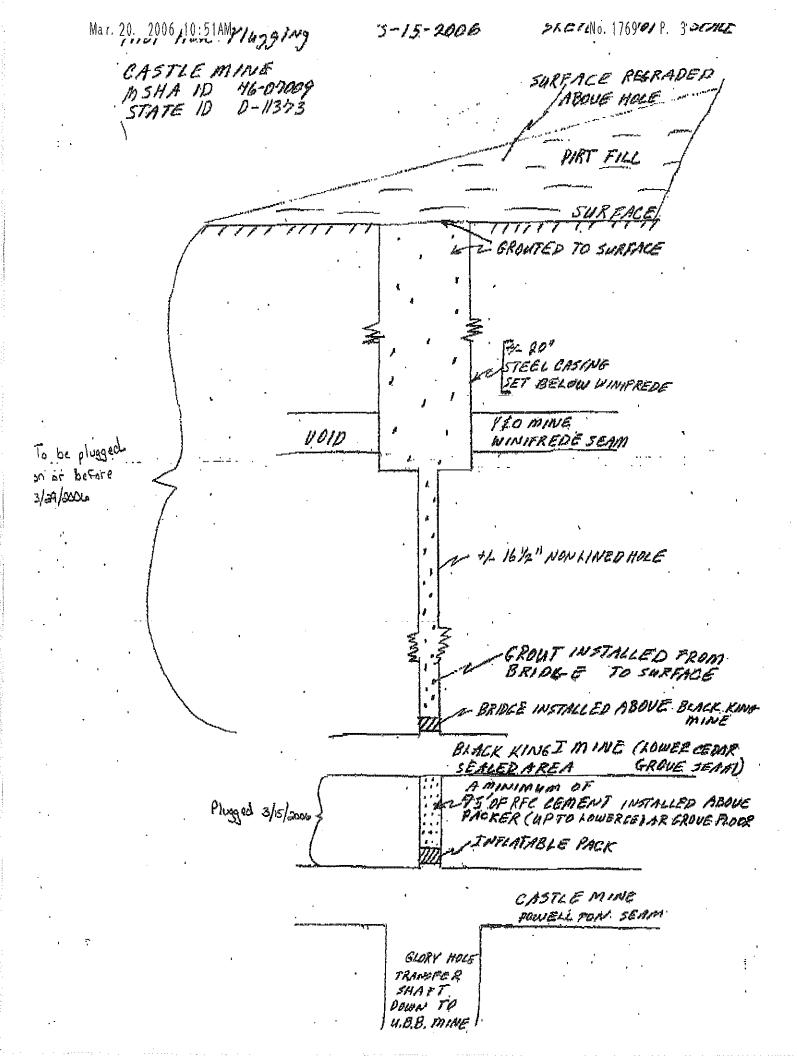
If you should need any additional information or have any further questions please feel free to contact me.

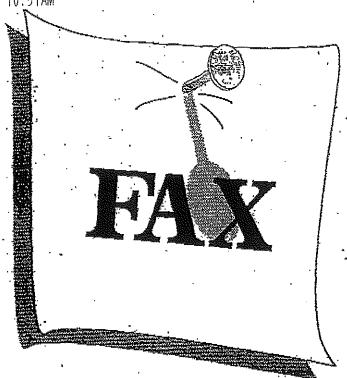
Sincerely,



APPROVED MAR 2 0 2006

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#### MINERS' HEALTH, SAFETY AND TRAINING 137 PEACH COURT, SUITE 2 DANVILLE, WEST VIRGINIA 25053

PHONE:	(304)	369-	7823
T 44 ( 44)*	7227	707-	7000

FAX: (304) 369-7826

FROM Hany Liville	•
TO:	
MESSAGE: approval Request	

PAGES: \_\_\_\_PLUS COVER



Oll & Gas Engineering, Geological and Evaluation Services

March 21, 2005

Elk Run Coal Company, Inc. P. O. Box 497 Slyvester, WV 25193

Re: UBB Glory Hole – Integrity of Cement Plug Castle Mine – MSHS ID 46-07009 – State ID D-11373

Dean

In response to your request we have reviewed the information provided, see enclosures, in addition to other pertinent data to ascertain the integrity of the 128' cement plug and Baker packer in the well.

It is our understanding from review of the information provided that a Baker inflatable packer was set 128' below the pavement of the Cedar Grove coal seam in a 16 3/4" hole at an elevation of 1065'. Then the 128' interval, (elevation 1065' to 1193'), from the Baker packer to the Cedar Grove pavement was filled with "RFC" (expanding) cement.

In the following discussion in which we will elaborate on the capabilities of the Baker packer and cement to resist inflow of water from the mine works. It will be obvious from the data presented the capabilities of the coment and packer exceed that necessary to provide a seal restricting water inflow.

If you have any questions, please give us a call.

Sincerely,

W. Thomas White Patroleum Geologist

CPG#5016

WTW:/wtw

Enclosures:

904.944.0885 • Fax: 304,344.0806 • website: northstarenergy.net

#### **UBB** Glory Hole

#### MSHA ID 46-07709 State ID D-11373

#### General Comments

As described in the earlier paragraphs cement plugs are typically utilized to isolate and prevent future migration of gas from the reservoir formations. Our remarks and computations therefore are focused on the cement plugs which have been tested in laboratory conditions for compressive and shear bond strength,

#### Cement Plug - Compressive Strength

Cement, as it sets up, develops a certain compressive strength depending upon the specific constituents added to the cament blend used and the amount of time pumping has ceased. The cement blend RFC as provided by Schlumberger Fields Services has a compressive strength of 1,200 psi after 24 hours or additionally 2,200 psi after 72 hours, (data provided by Schlumberger Field Services).

#### Coment Plug - Shear Bond Strength

Performance of shear bond strength specifications were documented in two publications, "Well Camenting", by Erik Nelson, DS Schlumberger Field Services, 1990 and an SPE Monograph Series, "Cementing" by Dwight K. Smith, Halliburton Services, 1976. In "Cementing" laboratory tests of reain coated steel pipe had 2,400 psi cement shear bond strength. In "Well Cementing" testing determined shear bond strengths between pipe and cement ranged from 1,000 psi for standard cement to 1,800 psi for cement with bond-enhancing agents. Although these tests were conducted between cement and pipe, similar or greater shear bond strength is expected between cement and formation primarily due to the textured surface of the rock providing better bond adhesion.

Without actual shear strength data for cement to formation bond, calculations will be based on the lower standard cement specifications of 1000 psi. For this comparison the total bond shear pressure is equal to surface area of the plug in contact with the formation wall times 1000 psi. This figure must exceed the total force capable of being exerted against the plug's exposed surface area by the reservoir pressure.

The 128' plug in the 17.5" hole would have bond shear strength equal to 84,446,000 pounds of force,  $(17.5" \times 3.14 \times 1,536" \times 1,000 \text{ psi})$ .

#### Baker "Inflatable" Packer - Shear Bond Strength

Performance of shear bond strength specifications of the Baker "Inflatable" Packer were provided by Baker Oil Tool, Inc. The particular packer installed in the UBB Glory Hole is a 10 3/8"OD tool with a rated differential pressure of 2000 psi in a 16 3/4" hole. With a surface area or 220 cu. inches this equates to 440,000 psi of shear strength.

#### Summary

A Baker "Inflatable" Packer was set in the UBB Glory Hole and then cernented with 128' of fill-up on top of the packer in a16.75" to 17.50" hole. A downhole video camera was ran verifying 128' of fill-up to the pavement of the Cedar Grove coal seam. Computations based upon documented cement strength data and specifications of the Baker "Inflatable" Packer provide sufficient support to indicate the cement and packer capable of isolating fluid inflow.

# Service Contract Recaign

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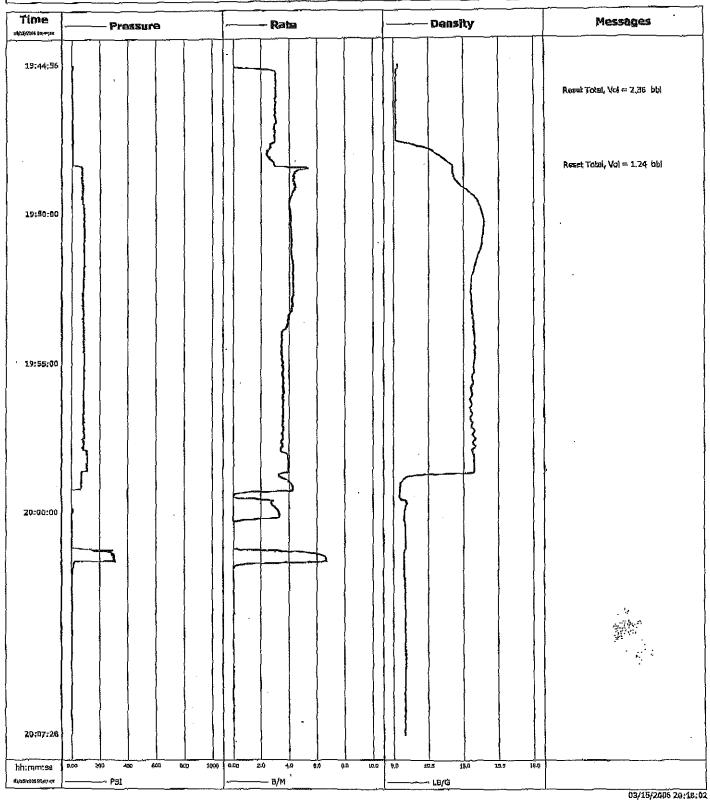
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Schlumberger

### **Cementing Job Report**

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Field WHITESVILLE
SIR No. 2200243876
Lob Type PLUG
Country United States
Country United States
Country United States



Mr. Jesse Cole District Manager Mine Safety and Health Administration 100 Bluestone Road Mount Hope, WV 25880

RE: Castle Mine
State ID D-11373
M.S.H.A. ID 46-07009
Revised Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Cole,

Enclosed please find a revised page 1 of a ventilation supplement. Our current approved plan states that the pilot hole will be cased off from all voids as it is drilled. We have cased the 1<sup>st</sup> 500 feet of the hole down through the abandoned Y&O mine in the Winifrede seam. When we drilled below the casing the pilot hole deviated from the required course. We then used a directional drilling company to steer an 8.5" hole back on course down into the floor of a sealed portion of our Black King I mine. When we attempted to ream this hole to 18" (which would allow casing to be run) the hole deviated off course in the same direction as the first. The drilling contractor believes that further attempts would result in similar deviations.

The attached plan shows directional drilling of an 8.5" hole on into the Upper Big Branch Mine. There the bit will be changed to 14". This will allow the pilot hole to be raise bored to the usable diameter. The attached plan shows that the Lower Cedar Grove seam was verified by camera for water and how air seperation between the seams will be accomplished.

If you should need any additional information or have any further question please feel free to contact me at the above referenced phone number.

Sincerely,

Castle Mine
MSHA ID 46-07009
STATE ID D-11373
Coal Transfer Shaft
Ventilation Supplement
Revised Page (10/4/2005)
Pilot Hole

- 1. The first 500 feet of the pilot hole will be steel cased.
- 2. An 8.5" directionally steered hole was drilled into the floor of the Black King I mine. A camera was lowered into the hole. The video verified that no impounded water exists at the location of the hole.
- 3. The pilot hole will drill into the Castle mine where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Castle mine preshift examinations will begin and continue through out the process.
- 4. The pilot hole will drill into the Eagle seam where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Upper Big Branch mine preshift examinations will begin and continue through out the process.
- 5. The 8.5" bit on the drill steel will be changed to a 14" reaming bit. This bit will be used to raisebore the 14" pilot hole up to the 18" steel casing (500 foot from the surface).
- 6. During all times either drill steel or a packer will exist in the hole between the Castle mine and the sealed area of the Black King I mine above. When it is necessary to install or remove a packer the area will be constantly monitored for direction and quality (methane and oxygen).
- 7. After reaming the pilot hole to 14" between the UBB mine and the Castle mine a cap with a valve for sampling will be installed over the pilot hole in the floor of the Castle mine. The 14" hole will proceed to be enlarged above the Castle mine. The hole can be enlarged untill it is 5 feet below the Black King mine floor. A packer will then be installed in the roof of the Castle mine. Then the hole can be enlarged the remainder of the distance.
- 8. The raise bore drill rig will be installed on the surface. Before the drill string for the raise bore is lowered through the Castle mine roof the packer will be removed. Checks will be made for direction and quality before the packer is removed. Before the drill string can be lowered below the Castle mine floor the cap seperating the Castle and UBB mines will be removed. The air will be sampled before the cap is removed. Then the drill string will be extended down into the Upper Big Branch Mine. Air ventilating the area will be directed into the return.
- 9. The raise bore will then excavate the shaft between the 2 seams. See page 2 for raise bore details.
- 10. After the raise bore drill string has been removed above the Castle mine, but still extends down below the Lower Cedar Grove seam, a packer will be installed. The hole will then be grouted off above the Castle Mine.

## CASTLE MINE (MSHA ID 46-07009) VENTILATION SUPPLEMENT COAL TRANSFER SHAFT (GLORY HOLE)

The shaft will be drilled between the Glory Hole Mains section of the Castle Mine (MSHA ID 46-07009, State ID D-11373) and the North Mains section of the Upper Big Branch Mine (MSHA ID 46-08436, STATE ID U-3042-92). The Upper Big Branch Mine is +/-180 feet below the Castle Mine.

Shaft Construction will be performed by Frontier Kemper who will submit their required plans to your office.

The cuttings from the shaft will be removed by Performance Coal Company personnel and approved contractors. The cuttings will be removed by underground equipment and placed in crosscuts and/or transported to the surface by conveyor belt. The attached map shows the proposed ventilation for the area. Below are safety precautions that will be followed.

- 1. Permanent roof at the top of the shaft will be supported in accordance with the approved roof control plan. During no time will employees be subjected to unsupported roof or to hazards of falling material (rocks). During drilling access to the area where the drilling will occur will be dangered off.
- 2. During the boring operation ventilation in the shaft will be provided by Frontier Kemper. The Raise Drill machine will draw air up the shaft and through the drill pipe with a vacuum blower.
- Communications between the surface and the top of the shaft will comprise of utilizing mine
  phones to communicate to the responsible person on the surface of the mine who will
  communicate with the drill operator by 2 way radio.
- 4. Drill cuttings will not be allowed to accumulate at the bottom of the shaft to the extent that air is blocked coming up the shaft.
- 5. Prior to drilling the shaft through into the Castle Mine controls will be built boxing in the area at the top of the shaft. Doors and regulators will be installed for access and ventilation. Ventilation will then be checked for direction, quantity, and quality before any other work is performed.
- 6. The remainder of the shaft will then be drilled through to the Castle mine. Ventilation will then be checked for direction, quantity, and quality before any other work is performed. The top of the shaft will then be capped in the Castle. The cap will be equipped with openings to ventilate the shaft. Air will flow from the Castle mine down the shaft and directly into the return in the Upper Big Branch mine. An auxiliary fan will be installed if necessary to ventilate the shaft. The fan will run continuously until completion of the project. 9,000 cfm will be maintained down the shaft, if not work will cease. Work toward correcting the problem will begin immediately and continue until 9,000 cfm has been restored. The cap will be examined on 20 minute intervals for the Upper Big Branch mine when construction is being performed in the Upper Big Branch mine. The cap will be kept in place until coal has filled the bin high enough to prevent air exchange. The bin will be kept at a level that will prevent airflow between the 2 mines.

#### REPORT OF HEALTH & SAFETY CONFERENCE

**Held:** May 16, 2006

**ID:** 46-08436

Time: 1:00 p.m.

Company: Performance Coal Company

Type: in Person

Mine: Upper Big Branch Mine - South

Attending for MSHA: Dana Hosch, Conference Officer

Attending for Operator: Greg Fernett, Asst. Safety Director

Attending for Miners' Rep.: None

All parties have been advised of their H&S Conference Right.

104(d)(1) Citation No. 7250745-S&S-75.370(a)(1) - Special Assessment Requested - The operator contested the validity and gravity of this citation. Fernett stated that he believed proper procedures were followed during the drilling of the pilot hole for the raised bore shaft. Frontier-Kemper, the contracting company that drilled the holes, did scope the hole and concluded that no danger from outburst of water existed. Engineers from Performance used this information to establish priorities as to when they would install the packer.

MSHA Inspector Moore's notes indicate that information gathered during a mine inundation of water accident revealed that proper procedures were not followed during the drilling of a pilot hole for a raised bore shaft. Afterwards, an incident occurred and approximately 5 million gallons of water inundated the mine. It was determined that the water came from an abandoned mine above.

The plan clearly calls for the installation of a packer above the Castle mine. Only a make-shift packer was ever installed. The mine had been cited previously by MSHA during construction for failing to install a packer above the Black King I Mine. Contemporaneous statements by management indicated that they just failed to get around to installing the packer. This indicated that the violation was known by management for several months prior to issuance and prior to the inundation.

The Conference Officer finds that this citation is sustained as issued. High Negligence and Special Assessment are warranted because little care was exercised by management towards installing the required packer. In addition, management was involved in the existence of the violation, knew of the plan requirement and had been cited previously for the exact violation.

\*Note: The violation of 77.1900-1 on 12/07/2005 issued by Inspector Fink 7244340 was cited during shaft construction. The ventilation plan approved

- # Citations/Orders Discussed: 1 # S & S: 1 # Special Assessment: 1
- # Modified: 0

Gravity: 0 Negligence: 0 S & S: 0 Special Assessment: 0

- # Vacated: 0
  - \*\*\* MSHA INTERNAL WORK PRODUCT NOT TO BE RELEASED BY FOIA \*\*\*

May 16, 2006 Performance Coal Company Upper Big Branch Mine - South 46-08436

on 10/05/2005 incorporated the shaft sinking plan and is the correct regulation  $75.370\,(a)\,(1)$  to cite this violation.