



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900490
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 maintenance scoop, Simmons Rand Model 488, S/N 488-2238, on the TG22 section was not being maintained in approved condition. The following conditions were observed on the scoop:

- 1) Both battery leads are in excess of 36 inches in length. Both leads are 45 inches long.
- 2) a bracket to hold the main circuit breaker reset cable has been attached to the breaker enclosure using the panel lid mounting bolts.
- 3) four packing gland nuts on the main panel enclosure are not secured against loosening.
- 4) a plug in an unused entrance on the pump motor is not spot-welded.
- 5) the main circuit breaker panel has a plug in an unused entrance that is not spot-welded.

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 75.503
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Section II--Inspector's Evaluation

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No

D. Number of Persons Affected: 010

11. Negligence (check one) A. None  B. Low  C. Moderate  D. High  E. Reckless Disregard

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 8082692	F. Dated Mo Da Yr 03/17/2009
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15. Area or Equipment The Simmons Rand scoop serial # 488-2238.

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

17. Action to Terminate

18. Terminated A. Date Mo Da Yr	B. Time (24 Hr. Clock)
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Section IV--Automated System Data

19. Type of Inspection (activity code) E16	20. Event Number 4440348	21. Primary or Mill
22. Signature Keith McElroy		23. AR Number 24153

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 12/06/2011	3. Citation/Order Number 4900490
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

- 6) four packing gland nuts on the main circuit breaker panel are not secured against loosening.
- 7) the 16/2 cable for the panic switches is not properly entered into the main controller.
- 8) the bolts securing the lid on the main controller are not uniform. One mounting bolt is two inches long. The rest are 1 1/2 inches long.
- 9) three packing gland nuts in the master station in the operator's compartment are not secured against loosening.
- 10) an improperly sized plug is installed in the unused entrance on the master station.
- 11) both batteries have splices in the positive leads.
- 12) the battery leads have no MSHA approval markings indicating they are fire resistant.
- 13) two MCI headlights are installed on the battery end of the scoop and two Cenci headlights are installed on the bucket end of the scoop.
- 14) one Ocenco headlight and one MCI headlight have plugs in unused entrance glands that are not spot-welded.
- 15) an unapproved field modification has been performed on the scoop. The controller listed in the approval of the scoop has been replaced with a Saminco controller.

These conditions were observed during the investigation of a fatal accident that occurred on April 5, 2010. The operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to comply with a mandatory standard.

This citation is being issued to the following entities as a unitary operator: Performance Coal Company, Massey Coal Services, Inc., A.T. Massey Coal Company, Inc., and Massey Energy Company.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E16	10. Event Number 4440348		
11. Signature Keith McElroy	AR Number 24153	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800