



Section I--Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900502
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"/>

Information gathered during the investigation of the explosion that occurred on April 5, 2010, indicates that the Joy continuous mining machine, S/N JM6053, located on the Tailgate 22 section had been operated with the methane monitor rendered inoperative at some time prior to April 5th 2010. During the examination of this machine, the methane monitor readout unit was removed, exposing the wiring and terminal strip behind the readout. The insulated wires attached to terminals 4 and 8 of the terminal strip had sections of the insulation removed. The insulation had been replaced with plastic tape. The purpose of removing the insulation is to expose the bare copper conductors in the wires to allow a jumper to be installed between the two wires. Information gathered during the investigation also indicates that the Joy continuous miner (S# JM 4918B),

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 75.342(a)(4)
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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: 003

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 Joy miner S/N JM6053 located on the TG22 section, H.G 22 section continuous miner, and the Barrier section continuous miner.

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 4900502
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

used on the Headgate #22 (MMU 029-0) had been operated with the methane monitor inoperative. During the examination of this machine, the methane monitor readout unit was removed, exposing the wiring and terminal strip behind the readout. The wires leading to terminals #4 and #8 of the terminal strip had been stripped and re-taped. Also there are remnant pieces of wire left in terminals #4 and #8 showing that this monitor had been bypassed on more than one occasion. Placing a connection between terminals #4 and #8 will render the methane monitor system inoperative and will allow the continuous miner to operate without a properly working unit or in methane concentrations above 2%. Testimony also revealed that the methane monitor for the Joy continuous miner cutting rock for ventilation controls on the Barrier section was defeated on 2/13/2010 and remained in that condition until 2/15/2010. The operator has established a practice of operating continuous miners with defeated methane monitors. Testimony from several miners stated they thought it was legal to operate a miner for 24 hours with the monitor defeated. This mine is on a 103 (i) spot for methane liberation. 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