



Section I--Violation Data

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|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/06/2011 | 2. Time (24 Hr. Clock) 0800 | 3. Citation/ Order Number 4900594 |
| 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 Operator made a ventilation change in the air current ventilating the North area of the mine with miners working underground who were not making the changes. These ventilation changes altered the air in different splits that could materially affect the health or safety of persons in the mine:

(1) On 03.12.2010 an air change was made on the Barrier section (#4), during the 3rd shift. Maintenance records provided following an explosion on 04.05.2010 indicate miners worked inby on HG22, TG 22 and the Longwall while this ventilation change was being made.

The Operator received similar citations in the months prior to the mine explosion.

This citation is being issued to the following entities as a unitary

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 75.324(b)(2) |
|--------------|--|-------------------|---|

Section II--Inspector's Evaluation

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|---|---|--|---|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input type="checkbox"/> | Reasonably Likely <input checked="" type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input checked="" type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | D. Number of Persons Affected: 020 | | |
| 11. Negligence (check one) | | | | | |
| A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input checked="" type="checkbox"/> | D. High <input type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> | |
| 12. Type of Action 104(a) | | 13. Type of Issuance (check one) | | | |
| | | Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/> | | | |
| 14. Initial Action | | | E. Citation/ Order Number | | F. Dated Mo Da Yr |
| A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/> | | | | | |
| 15. Area or Equipment | | | | | |

| | | |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 01/05/2012 | B. Time (24 Hr. Clock) 0800 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

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|-------------------------|------------------|------------------------|
| 17. Action to Terminate | | |
| 18. Terminated | A. Date Mo Da Yr | B. Time (24 Hr. Clock) |
| | | |

Section IV--Automated System Data

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|---|-----------------------------|------------------------|
| 19. Type of Inspection (activity code) E16 | 20. Event Number 4440348 | 21. Primary or Mill |
| 22. Signature Patrick Alan Stanfield | | 23. AR Number 23908 |

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

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

| | | |
|---|---|---|
| 1. Subsequent Action 1a. Continuation <input type="checkbox"/> <input checked="" type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 12/06/2011 | 3. Citation/ Order Number 4900594 |
| 4. Served To Berman Cornett (Safety Director) | 5. Operator PERFORMANCE COAL COMPANY, et al | |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | 7. Mine ID (Contractor) 46-08436 | |

Section II--Justification for Action

Continuation of 8. Condition or Practice

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 |
|----------------|------------------|------------------------|-------------------------------------|--|--------------------------------------|

Section IV--Inspection Data

| | | | |
|---|-----------------------------|---------------------------------|---------------------------------|
| 9. Type of Inspection E16 | 10. Event Number 4440348 | | |
| 11. Signature Patrick Alan Stanfield | AR Number 23908 | 12. Date Mo Da Yr 12/06/2011 | 13. Time (24 Hr. Clock) 0800 |