



Section I—Violation Data

1. Date Mo Da Yr 12/06/2011	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number 4900691
4. Served To BERMAN CORNET (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"/>

Entries of excessive widths are present at various locations throughout the accident zone of this mine. Post 4/05/2010 inspections have revealed entry widths of up to 29 feet and 3 inches for distances greater than 5 feet in length. All measurements were obtained using a standard rule. The cited conditions were observed from 54 break and inby into the accident area. Excessive entry widths were measured in more than sixty locations.

Hundreds of examinations including, weekly examinations, preshift examinations, and onshift examinations have been conducted throughout these affected areas, yet the obvious conditions have not been identified or corrected. Examinations were conducted by various section foremen as well as multiple mine examiners. Mine management of all levels have traveled and

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 75.203(e)(2)
--------------	--	----------------------	--

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: 001

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 B. Order C. Safeguard D. Written Notice E. Citation/
Order Number 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment Aircourses, belt and track entries inby 54 break of the North Mains.

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 Mo Da Yr B. Time (24 Hr. Clock)

Section IV—Automated System Data

19. Type of Inspection (activity code) E16 20. Event Number 4440348 21. Primary or Mill

22. Signature Jeffery A. Miles 23. AR Number 24457

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 4900691
4. Served To BERMAN CORNET (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

worked in many of these areas where excessive entry widths are very obvious to even the casual observer.

Many of the excessive entry widths are the result of wide cuts taken during initial mining that have been left uncorrected. This is obvious by the presence of undisturbed ribs as well as the absence of supplemental support. Rib sloughage throughout this area has created many additional excessive entry widths and are very identifiable by the distinctive undercutting of the rib left by the sloughing process.

The operator has demonstrated an indifference to make corrective actions in areas where the excessive widths were caused by rib sloughage. This fact is obvious in that thousands of sandjacks have been installed as supplemental support in areas outside of the accident zone since 4/5/10.

Excessive entry widths create undue stress on the mine roof and rib causing accelerated deterioration of the roof strata and the load bearing coal pillars.

Falls of roof and rib are a major source of injury and death in the mining industry. The operator has established a practice of cutting wide entries and a failing to provide the needed supplemental support to correct these conditions.

Any prudent mine management employee should have identified these hazardous conditions and taken appropriate corrective actions. This is an unwarrantable failure to comply with a mandatory standard and to provide the safest possible work environment to its employees.

The operator has engaged in aggravated conduct constituting more than ordinary negligence.

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
----------------	------------------	------------------------	-------------------------------------	--	--------------------------------------

Section IV—Inspection Data

9. Type of Inspection E16	10. Event Number 4440348		
11. Signature Jeffery A. Miles	AR Number 24457	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800

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 4900691
4. Served To BERMAN CORNET (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

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 Jeffery A. Miles	AR Number 24457	12. Date Mo Da Yr 12/06/2011	13. Time (24 Hr. Clock) 0800