



Section I--Violation Data

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| 1. Date Mo Da Yr 12/06/2011 | 2. Time (24 Hr. Clock) 0835 | 3. Citation/ Order Number 8405544 |
| 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)

There has not been a weekly electrical examination conducted on the Trickle Rock Duster for the week ending 4/3/2010. The records indicate there was no examination conducted. This machine is located in the area affected by the explosion on 4/5/2010 at crosscut 104 (Left Side of Track) on the North Glory Mains.

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

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 75.512 |
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Section II--Inspector's Evaluation

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| 10. Gravity: | | | | |
| A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input 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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/> | | | | |
| C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | | | | D. Number of Persons Affected: 001 |
| 11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input checked="" 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 A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/> | | | E. Citation/ Order Number | F. Dated Mo Da Yr |
| 15. Area or Equipment | | | | |

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|---------------------|-----------------------------------|--------------------------------|
| 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 Randall Lewis | | 23. AR Number 24262 |

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.