

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 02/18/2010	3. Citation/ Order Number 8087734 - 0102
4. Served To Berman Cornett, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Timbers have been set in the locations indicated by the citation and according to the approved Roof Control Plan on page 12, drawing 2.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Sign [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 02/19/2010	13. Time (24 Hr. Clock) 1045



Section I--Violation Data

1. Date Mo Da Yr 02/18/2010	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 8087735
4. Served To Berman Cornett, Safety	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input checked="" type="checkbox"/>

The branch line leading to the SCSR cache located on the North Mains Track, at break 60, was not provided with the proper directional cones forming two diamond shapes.

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 75.380(d)(7)(vii)(A)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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: 006	
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 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				

16. Termination Due	A. Date Mo Da Yr 02/19/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 06 (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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 02/18/2010	3. Citation/ Order Number 8087735 - 01
4. Served To Berman Cornett, Safety	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The branch line is now provided with proper cones .

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 02/22/2010	13. Time (24 Hr. Clock) 1105



Section I--Violation Data

1. Date Mo Da Yr 02/23/2010	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 8087736
4. Served To Wayne Persinger, Mine Manager	5. Operator PERFORMANCE COAL COMPANY	
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 could not produce a record for the daily mine fan examination for the Bandy Town mine fan for 2/22/2010. The last recorded date was 2/21/2010. By the end of the shift on which the examination is made, person shall record examination.

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 75.312(g)(1)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 checked="" type="checkbox"/> C. Moderate <input 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 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				

16. Termination Due	A. Date Mo Da Yr 02/23/2010	B. Time (24 Hr. Clock) 0910
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Section III--Termination Action

17. Action to Terminate The examination was recorded in the designated book.

18. Terminated	A. Date Mo Da Yr 02/23/2010	B. Time (24 Hr. Clock) 0910
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3 (Rev. 10-2009) 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 20418. 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--Violation Data

1. Date Mo Da Yr 02/23/2010	2. Time (24 Hr. Clock) 1100	3. Citation/ Order Number 8087737
4. Served To Paul Thompson, Maint. Chief, Rt.3	5. Operator PERFORMANCE COAL COMPANY	
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 Sullair diesel compressor being used at the Bandy Town fan was not provided with a portable fire extinguisher.

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 77.1109(a)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 02/23/2010	B. Time (24 Hr. Clock) 1105
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Section III--Termination Action

17. Action to Terminate A fire extinguisher was provided for the compressor.

18. Terminated	A. Date Mo Da Yr 02/23/2010	B. Time (24 Hr. Clock) 1105
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3 (Rev. 1-01) 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

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

Section I--Violation Data

1. Date Mo Da Yr 02/24/2010	2. Time (24 Hr. Clock) 0910	3. Citation/ Order Number 8087738
4. Served To Mike Kiblinger, Outby		5. Operator PERFORMANCE COAL COMPANY
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 480 volt cable for the No.2 charger located at the Ellis No.5 belt drive is not entering the metal frame through a proper fitting, allowing movement of the cable inside the charger.

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 75.515
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Section II--Inspector's Evaluation

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 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 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				

16. Termination Due	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1315
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Section III--Termination Action

17. Action to Terminate	The cable is now entering through a proper fitting.
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18. Terminated	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1315
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 03-01-00) 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

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

Section I--Violation Data

1. Date Mo Da Yr 02/24/2010	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8087739
4. Served To Mike Kiblinger, Outby		5. Operator PERFORMANCE COAL COMPANY
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 person conducting the preshift examination on the AEI belt starter S/N 27480-500-1008 at old 3 head for section 2, did not certify by Date, Time and Initials that the examination had been made. The last recorded date found was 2/23/10 at 1:44 P.M.

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 75.360(f)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1133
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Section III--Termination Action

17. Action to Terminate An examination was made and power was removed from the box.

18. Terminated	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1133
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 00 (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

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

Section I--Violation Data

1. Date Mo Da Yr 02/24/2010	2. Time (24 Hr. Clock) 1220	3. Citation/ Order Number 8087740
4. Served To Mike Kiblinger, Outby	5. Operator PERFORMANCE COAL COMPANY	
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 roof and ribs of areas where persons are required to work or travel is not supported or otherwise controlled to protect persons from hazards related to falls of roof and ribs. Located between 50 and 51 break of north mains on 5 north belt at the SCSR cache. The right rib looking outby has a separation from the roof with a visible gap, also several vertical cracks are visible in the rib. The rib when measured is 36 feet in length, overall height in area is 6 1/2 feet with 22 inches of rock and 56 inches of coal.

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 75.202(a)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 002	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/01/2010	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

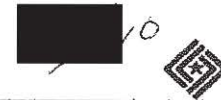
Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 02/24/2010 Mo Da Yr	3. Citation/ Order Number 8087740 - 01
4. Served To Everett Hager, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The operator has installed additional support in the area.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E02	10. Event Number 6288674	
11. Signature [Redacted] AR Number [Redacted]	12. Date Mo Da Yr 02/26/2010	13. Time (24 Hr. Clock) 0915



Section I--Violation Data

1. Date Mo Da Yr 02/24/2010	2. Time (24 Hr. Clock) 1252	3. Citation/ Order Number 8087741
4. Served To Mike Kiblinger, Outby	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

8. Condition or Practice	8a. Written Notice (103g) <input type="checkbox"/>
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The branch line leading from the secondary lifeline to an SCSR cache at #10 break on 4 north belt track entry is not marked with four cones with the base sections in contact to form 2 diamond shapes.

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 75.380(d)(7)(vii)(A)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1300
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Section III--Termination Action

17. Action to Terminate The branch line with 2 diamond shapes was installed from the lifeline to the SCSR cache.

18. Terminated	A. Date Mo Da Yr 02/24/2010	B. Time (24 Hr. Clock) 1300
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-1 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--Violation Data

1. Date Mo Da Yr 03/01/2010	2. Time (24 Hr. Clock) 0230	3. Citation/ Order Number 8087742
4. Served To Jody Price, 3rd Shift Chief		5. Operator PERFORMANCE COAL COMPANY
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 480 volt cable that supplies power to the Joy 10 S/C Shuttle Car S/N ET16084, being used on the No.3 section (MMU's 066/067) is not protected from damage. Located 2 crosscuts outby the face the cable has been ran over for approximately 100 feet by another piece of equipment. Tire tracks are visible on the cable.

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 75.517
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/01/2010	B. Time (24 Hr. Clock) 0240
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Section III--Termination Action

17. Action to Terminate The damaged cable was removed from the machine.

18. Terminated	A. Date Mo Da Yr 03/01/2010	B. Time (24 Hr. Clock) 0240
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-0, April 00 (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--Violation Data

1. Date Mo Da Yr 03/01/2010	2. Time (24 Hr. Clock) 0700	3. Citation/ Order Number 8087743
4. Served To Wayne Persinger, Mine Manager	5. Operator PERFORMANCE COAL COMPANY	
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 person/persons doing the pre-shift examination for the No.3 section (MMU's 066/067) has failed to report in the designated pre-shift book a record of hazardous conditions and their locations found by the examiner. The results of the air and methane measurements, and the action taken to correct hazardous conditions found during the preshift examination have not been recorded.

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 75.360(g)
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Section II--Inspector's Evaluation

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: 006	
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				

16. Termination Due	A. Date Mo Da Yr 03/01/2010	B. Time (24 Hr. Clock) 0745
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Section III--Termination Action

17. Action to Terminate Hazards, air, and methane have now been recorded

18. Terminated	A. Date Mo Da Yr 03/01/2010	B. Time (24 Hr. Clock) 0745
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3 (Rev. 10-2006) 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--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0110	3. Citation/ Order Number 8087744
4. Served To Kyle Anderson, Section Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 is not following the Ventilation Plan as approved by the District Manager on the No.1 section (MMU 029-0) under the Methane Dust Control, in that, the minimum amount of air in the last open crosscut is not maintained at 15,000 CFM. When checked with an anemometer only 7,448 CFM was found in the last open crosscut, 2 to 3 entry.

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 75.370(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 005	
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(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
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

15. Area or Equipment The No.1 section in the last open line of crosscuts to the face area of all entries and crosscuts.

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)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-37, April 2004 (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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/02/2010 Mo Da Yr	3. Citation/ Order Number 8087744 - 01
4. Served To Everett Hager, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Ventilation controls were checked and replaced. An air reading of 20,613 CFM was obtained in the last open crosscut.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 03/02/2010	13. Time (24 Hr. Clock) 1015



Section I--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0130	3. Citation/ Order Number 8087745
4. Served To Kyle Anderson, Section Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 is not following the Roof Control Plan as approved by the District Manager on the No.1 section (MMU 029-0) on Pg.12, drawing No.2, the maximum width of turns on crosscuts is 26 feet from corner to corner. Located in the 2 to 3 crosscut at SS# 24493 in the No.2 entry, the width is 30 feet corner to corner when measured.

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 75.220(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 002	
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				

16. Termination Due	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 1300
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 2003 (rev. 10/03) 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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/02/2010	3. Citation/ Order Number 8087745 - 01
4. Served To Everett Hager, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Jacks were installed to reduce the width of the turn to 26 feet.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 03/02/2010	13. Time (24 Hr. Clock) 1017



Section I--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0540	3. Citation/ Order Number 8087746
4. Served To Kyle Anderson, Section Foreman		5. Operator PERFORMANCE COAL COMPANY
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 is not following the Roof Control Plan as approved by the District Manager on the No.1 section (MMU 029-0). Located in the No.3 entry, the crosscut from No.2 entry had been holed through to No.3 entry and no reflective material was hung to indicate the location of unsupported roof.

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 75.220(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 002	
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				

16. Termination Due	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 0544
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Section III--Termination Action

17. Action to Terminate Reflectors were hung in No.3 entry to indicate the location of unsupported roof.

18. Terminated	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 0544
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a 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--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0555	3. Citation/ Order Number 8087747
4. Served To Andrew Lucas, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 branch line leading from the lifeline to the refuge alternative in the primary escapeway on the No.1 section (MMU 029-0) is not marked with a rigid spiraled coil at least eight inches in length.

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 75.380(d)(7)(vii)(B)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/03/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 10-2009) 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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/02/2010 Mo Da Yr	3. Citation/ Order Number 8087747 - 01
4. Served To Everett Hager, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

A rigid spiraled coil has been installed on the branch line leading to the refuge alternative.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/08/2010	13. Time (24 Hr. Clock) 0910

Section I--Violation Data

1. Date Mo Da Yr 03/02/2010	2. Time (24 Hr. Clock) 0600	3. Citation/ Order Number 8087748
4. Served To Andrew Lucas	5. Operator PERFORMANCE COAL COMPANY	
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 primary escapeway lifeline on the No.1 section (MMU 029-0) is not located in such a manner for miners to use to effectively escape. The old secondary escapeway lifeline was hung and tied together with the primary escapeway lifeline for three breaks at the mouth of the active section.

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 75.380(d)(7)(iv)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 1040
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Section III--Termination Action

17. Action to Terminate The old secondary lifeline was removed.

18. Terminated	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 1040
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 10-2008) is a part 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

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

Section I--Violation Data

1. Date Mo Da Yr 03/01/2010	2. Time (24 Hr. Clock) 2300	3. Citation/ Order Number 8087749
4. Served To Andrew Lucas, Chief Electrician		5. Operator PERFORMANCE COAL COMPANY
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 could not produce a written record of the weekly electrical examination being conducted on the No.1 section (MMU 029-0) for the following equipment: 1) Joy Miner S/N JM5811, 2) Joy Miner S/N JM4918, 3) Fletcher Bolter S/N 2004328, 4) Joy Shuttle Car S/N ET17504, 5) DBT Feeder S/N DBT54-2147, 6) AEI Section Power Center S/N 27011-2500-206 for the week ending 2/27/2010. The last recorded date was 2/20/2010.

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

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 1210
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Section III--Termination Action

17. Action to Terminate The equipment listed has been recorded in the designated book.

18. Terminated	A. Date Mo Da Yr 03/02/2010	B. Time (24 Hr. Clock) 1210
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3 provides 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--Violation Data

1. Date Mo Da Yr 03/08/2010	2. Time (24 Hr. Clock) 1149	3. Citation/ Order Number 8087750
4. Served To Everett Hager, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input checked="" type="checkbox"/>

The Joy continuous miner S/N JM5811 being used on the No.1 section (MMU 029-0) has a splice approximately 100 feet from the machine that is not effectively insulated and sealed so as to exclude moisture. On one end of the splice the tape and wrap has rolled up and is exposing the shielding on the conductors. The cable was laying in standing water and .20% methane was detected on a handheld Solaris at the location of the splice.

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 75.604(b)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 002	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/08/2010	B. Time (24 Hr. Clock) 1215
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Section III--Termination Action

17. Action to Terminate The splice was reinsulated and sealed to exclude moisture.

18. Terminated	A. Date Mo Da Yr 03/08/2010	B. Time (24 Hr. Clock) 1215
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a is required by 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--Violation Data

1. Date Mo Da Yr 03/09/2010	2. Time (24 Hr. Clock) 1056	3. Citation/ Order Number 8087751
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 person/persons conducting the preshift examination on the electrical distribution box S/N 10525-497 located at the Glory Hole did not certify by date, time and initials to show that an examination has been made. The last date found was 3/8/10 at 12:04 PM by SH.

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 75.360(f)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/09/2010	B. Time (24 Hr. Clock) 1100
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Section III--Termination Action

17. Action to Terminate An examination was made and certified by date, time, and initials.

18. Terminated	A. Date Mo Da Yr 03/09/2010	B. Time (24 Hr. Clock) 1100
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 2003 (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--Violation Data

1. Date Mo Da Yr 03/09/2010	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8087752
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 12,470 high voltage cable supplying power to the No.1 and No.2 section is not guarded to minimize the possibility of miners contacting the cables and protect the cable from damage. Located at the air lock doors, at the mouth of No.1 section, when opening the outby set of doors, the door comes in contact with the high voltage cable and pushes the cable against the block used in the doors.

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 75.816(b)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/10/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a, April 2003 (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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/09/2010 Mo Da Yr	3. Citation/ Order Number 8087752 - 01
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The high voltage cable has been guarded to minimize contact and protect from damage.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 03/15/2010	13. Time (24 Hr. Clock) 0715



Section I--Violation Data

1. Date Mo Da Yr 03/09/2010	2. Time (24 Hr. Clock) 1155	3. Citation/ Order Number 8087753
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 is not following the Roof Control Plan as approved by the District Manager. Located at SS# 24125 in No.2 entry in the primary escapeway, the 2 to 1 crosscut when measured is, 36 feet wide corner to corner at the start of the turn and does not reduce to 20 feet wide until 16 feet into the crosscut. Page 12, drawing 2 shows a maximum of 26 feet in width corner to corner at the start of turned crosscuts and shall be reduced to 20 feet wide within 6 feet of the turn.

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 75.220(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/10/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/09/2010 Mo Da Yr	3. Citation/ Order Number 8087753 - 01
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The operator has set cribs and jacks to reduce the width of places to the maximum width specified in the plan.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/15/2010	13. Time (24 Hr. Clock) 0720



Section I--Violation Data

1. Date Mo Da Yr 03/09/2010	2. Time (24 Hr. Clock) 1204	3. Citation/ Order Number 8087754
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 CLA Forklift S/N 153, being used for supplying the No.1 section has accumulations of combustible material on the machine. Hydraulic oil has accumulated on top of the pump compartment on the surface and down the sides of the machine.

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 75.400
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/10/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 10/2009) 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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/09/2010 Mo Da Yr	3. Citation/ Order Number 8087754 - 01
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action



The Forklift has been cleaned.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signat 	AR Number 	12. Date Mo Da Yr 03/15/2010	13. Time (24 Hr. Clock) 0723

Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 03/15/2010	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 8087755
4. Served To Dean Jones, Section Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 No.1 section (MMU 029-0) belt tailpiece has accumulations of loose coal and float coal dust under the tail roller. When measured, the accumulations are up to 6 inches deep and the width of the tailpiece (8 feet).

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 75.400
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Section II--Inspector's Evaluation

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: 001	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/15/2010	B. Time (24 Hr. Clock) 0950
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Section III--Termination Action

17. Action to Terminate	The accumulations were cleaned up.
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18. Terminated	A. Date Mo Da Yr 03/15/2010	B. Time (24 Hr. Clock) 0950
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 10-2009) 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 20418. 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--Violation Data

1. Date Mo Da Yr 03/15/2010	2. Time (24 Hr. Clock) 0935	3. Citation/ Order Number 8087756
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 tail roller for the No.1 section tailpiece is not guarded to protect persons from contacting the exposed moving parts. The exposed roller when measured is, 8 feet wide and 24 inches high.

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 75.1722(a)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/16/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 03/01/00) 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 checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/15/2010	3. Citation/ Order Number 8087756 - 01
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

A guard has been placed over the tail roller.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature 	AR Number 	12. Date Mo Da Yr 03/22/2010	13. Time (24 Hr. Clock) 1040



Section I--Violation Data

1. Date Mo Da Yr 03/15/2010	2. Time (24 Hr. Clock) 1300	3. Citation/ Order Number 8087757
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 secondary lifeline for the No.1 section (MMU 029-0) located at the Glory Hole, is not located in a manner for miners to use effectively to escape. The lifeline is separated for 3 breaks, 130 to 127 break.

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 75.380(d)(7)(iv)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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				

16. Termination Due	A. Date Mo Da Yr 03/15/2010	B. Time (24 Hr. Clock) 1324
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Section III--Termination Action

17. Action to Terminate	The lifeline was connected.
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18. Terminated	A. Date Mo Da Yr 03/15/2010	B. Time (24 Hr. Clock) 1324
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a, April 06 (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--Violation Data

1. Date Mo Da Yr 03/16/2010	2. Time (24 Hr. Clock) 0620	3. Citation/ Order Number 8087758
4. Served To Wayne Persinger, Mine Manager		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g) ☐

The operator has failed to notify the District Manager within three days that the No.2 section (MMU 040-0) was placed in producing status. The MMU has been producing coal since 03/08/2010.

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 75.370(a)(1)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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: 000
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 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				

16. Termination Due	A. Date Mo Da Yr 03/16/2010	B. Time (24 Hr. Clock) 0915
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Section III--Termination Action

17. Action to Terminate The operator has sent a letter to the District Manager activating the MMU 040-0 section.

18. Terminated	A. Date Mo Da Yr 03/16/2010	B. Time (24 Hr. Clock) 0915
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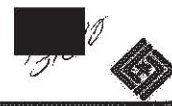
Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/16/2010	3. Citation/ Order Number 8087758 - 01
4. Served To Wayne Persinger, Mine Manager	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Change	From	To
9. C. Part/Section	75.370(a)(1)	70.220(a)
Reason Cited wrong section.		

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 checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/17/2010	13. Time (24 Hr. Clock) 2109



Section I--Violation Data

1. Date Mo Da Yr 03/16/2010	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 8087759
4. Served To Berman Cornett, Safety	5. Operator PERFORMANCE COAL COMPANY	
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 does not have an accurate and up to date mine map at either portal locations. The map does not show the ventilation changes that were made on 03/11/2010 and 3/15/2010.

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 75.1202
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/16/2010 Mo Da Yr	3. Citation/ Order Number 8087759 - 01
4. Served To Berman Cornett, Safety	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Up to date and accurate maps are posted at the portals.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 03/22/2010	13. Time (24 Hr. Clock) 0530



Section I--Violation Data

1. Date Mo Da Yr 03/17/2010	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 8087760
4. Served To David Taraczkozy, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 could not produce a written record of the weekly electrical examination being done on the No.2 section (MMU 040-0) for the following equipment: (2) Joy miners S/N JM6053 and JM6044, Maintenance Scoop, Feeder, Splitter Box. The last recorded date was 3/5/10.

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

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/18/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 2003 (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 checked="" type="checkbox"/>	2. Dated (Original Issue) 03/17/2010	3. Citation/ Order Number 8087760 - 01
4. Served To David Taraczkozy, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The operator has provided a written record of the equipment.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signatu [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/24/2010	13. Time (24 Hr. Clock) 0800



Section I--Violation Data

1. Date Mo Da Yr 03/17/2010	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 8087761
4. Served To Terry Moore, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 is not following the Ventilation Plan as approved by the District Manager on the No.2 section (MMU 040-0). Belt air was flowing in the wrong direction from the section belt drive to the feeder (2 breaks). When checked with an anemometer, 12,285 CFM was found at the section dumping point.

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 75.370(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 010	
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				

16. Termination Due	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 1120
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Section III--Termination Action

17. Action to Terminate A regulator was adjusted at the belt drive to correct air flow.

18. Terminated	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 1120
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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--Violation Data

1. Date Mo Da Yr 03/17/2010	2. Time (24 Hr. Clock) 1350	3. Citation/ Order Number 8087762
4. Served To Rick Nicolau, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
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 cable supplying power to the Joy Shuttle Car S/N 17651 was not properly clamped to the reel to prevent damage and strain on the electrical connections.

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 75.605
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 1400
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Section III--Termination Action

17. Action to Terminate	The cable was clamped to the machine to prevent damage and strain.
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18. Terminated	A. Date Mo Da Yr 03/17/2010	B. Time (24 Hr. Clock) 1400
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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

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

Section I--Violation Data

1. Date Mo Da Yr 03/24/2010	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 8087763
4. Served To David Taraczkozy, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

No apparent effort was made by the operator to remove accumulations located at the Longwall Mother Drive Belt.

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 75.400
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input 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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:	
11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>				
12. Type of Action 104(b)		13. Type of issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
14. Initial Action A. Citation <input checked="" type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 8085073		F. Dated Mo Da Yr 03/15/2010
15. Area or Equipment The Longwall Mother Drive Belt.				

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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, April 06 (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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 03/24/2010 Mo Da Yr	3. Citation/ Order Number 8087763 - 01
4. Served To David Taraczkozy, Chief Electrician	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The 104(b) Order, No.8087763 is now terminated.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 03/24/2010	13. Time (24 Hr. Clock) 1520



Section I--Violation Data

1. Date Mo Da Yr 01/07/2010	2. Time (24 Hr. Clock) 0645	3. Citation/ Order Number 8090249
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

When checked the off-side outby end sanding device, on the #13 mantrip, was inoperative. The device would not deliver sand to the rail.

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 75.1403
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Section II--Inspector's Evaluation

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: 010	
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 A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input checked="" type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number 7192708		F. Dated Mo Da Yr 05/20/2001
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 01/07/2010	B. Time (24 Hr. Clock) 0700
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Section III--Termination Action

17. Action to Terminate The sand was clean and is now working properly.

18. Terminated	A. Date Mo Da Yr 01/07/2010	B. Time (24 Hr. Clock) 0655
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000 (Rev. 10-2000) contains 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--Violation Data

1. Date Mo Da Yr 01/07/2010	2. Time (24 Hr. Clock) 0840	3. Citation/ Order Number 8090250
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 failed to provide a fire extinguisher for the Stancor pump, located in the #1 return entry across from spad number 24306.

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 75.1100-2(e)
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Section II--Inspector's Evaluation

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 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 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				

16. Termination Due	A. Date Mo Da Yr 01/07/2010	B. Time (24 Hr. Clock) 0930
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Section III--Termination Action

17. Action to Terminate A fire extinguisher was placed at the pump.

18. Terminated	A. Date Mo Da Yr 01/07/2010	B. Time (24 Hr. Clock) 0930
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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--Violation Data

1. Date Mo Da Yr 01/07/2010	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 8090251
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 lifeline coming off of #3 unit did not have two securely attached cones indicating a branch line locating the SCSR cache.

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 75.380(d)(7)(vii)
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Section II--Inspector's Evaluation

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: 010	
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 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				

16. Termination Due	A. Date Mo Da Yr 01/10/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, Apr 06 (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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 01/07/2010 Mo Da Yr	3. Citation/ Order Number 8090251 - 01
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The operator has now installed the proper indicators on the #3 section SCSR cache.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 01/12/2010	13. Time (24 Hr. Clock) 0920

Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8090252
4. Served To Gary May, Superintendent		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

There was no tether cord provided with the additional rescuers located on the #2 mantrip.

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 75.1714-6
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Section II--Inspector's Evaluation

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: 013	
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 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				

16. Termination Due	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1100
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Section III--Termination Action

17. Action to Terminate The operator provided a tether line for the #2 mantrip.

18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1035
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3, (Rev. 6-99) 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--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1110	3. Citation/ Order Number 8090253
4. Served To Gary May, Superintendent		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

One break outby the #3 unit section belt drive on the #1 south belt a hanger for a bottom roller is broken. The roller has fallen down and is turning in combustibile material measuring from 1 to 6 inches.

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 75.1731(a)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 002	
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 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				

16. Termination Due	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1130
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Section III--Termination Action

17. Action to Terminate The belt was immediately taken out of service and the roller was removed.

18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1120
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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

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

1/14/2010

Section I--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1125	3. Citation/ Order Number 8090254
4. Served To Gary May, Superintendent		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g)

The #1 south belt was not properly aligned to prevent the moving belt from rubbing against the structure. The bottom belt was cutting into structure from one to three inches and smoke was observed coming off of the belt. This condition started at break 25 and continued for a distance of 70 feet outby.

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 75.1731(b)
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Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input checked="" 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: 002
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				

16. Termination Due	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1130
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Section III--Termination Action

17. Action to Terminate The operator immediately took the belt out of service and aligned the belt to prevent the belt from rubbing the stands.

18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1140
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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, 400 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

1/14/2010

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/11/2010	3. Citation/ Order Number 8090254 - 01
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Change	From	To
11. Negligence	High	Moderate
Reason After further consideration it was determined to modify the negligence.		

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 checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 01/12/2010	13. Time (24 Hr. Clock) 1639

Mine Citation/Order

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

1/14/2010

Section I--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1150	3. Citation/ Order Number 8090255
4. Served To Gary May, Superintendent		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g) ☐

The #1 south belt was cutting into cinderblocks for a depth of 2 inches. As a result a mixture of nylon strings and dry coal dust had accumulated 8 inches in depth in two locations. These two locations are 20 and 60 feet inby break #5.

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 75.1731(b)
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Section II--Inspector's Evaluation

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: 002	
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				

16. Termination Due	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1200
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Section III--Termination Action

17. Action to Terminate The operator immediately shut the belt down and aligned the belt to prevent it from rubbing the cinder blocks.

18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1155
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Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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

1/24/2010

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/11/2010	3. Citation/ Order Number 8090255 - 01
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Change	From	To
11. Negligence	High	Moderate

Reason - After further consideration it was determined to modify the negligence.

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 checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 01/12/2010	13. Time (24 Hr. Clock) 1631

4/14/2010

Section I--Violation Data

1. Date Mo Da Yr 01/11/2010	2. Time (24 Hr. Clock) 1205	3. Citation/ Order Number 8090256
4. Served To Gary May, Superintendent		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g) ☐

One bottom roller was running in accumulation of combustible materials, cross over bar was rubbing top of the bottom belt, and a 2nd bottom roller was stuck and the belt had rubbed a flat groove, one quarter inch deep into the roller, located on the #1 south belt, thirty feet outby break #5 and extended for a distance of thirty feet. [REDACTED] (Fire Boss) said that [REDACTED] (Fire Boss) had found this problem on Saturday January 09, 2010 and that the section crew had been working on it. At the time of this inspection no one was working on this section of belt. The operator engage in aggravated conduct by his failure to correct the known hazard before running the belt. This violation is an unwarrantable failure to comply with a mandatory standard.

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 75.1731(a)
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Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				D. Number of Persons Affected: 002
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(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
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
15. Area or Equipment #1 South Belt				

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 Accumulation has now been cleaned up, the cross bar has now been lifted off of the top of the bottom belt, and the stuck roller has now been freed up, on the #1 South Belt		
18. Terminated	A. Date Mo Da Yr 01/11/2010	B. Time (24 Hr. Clock) 1305

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature [REDACTED]		23. AR Number [REDACTED]

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--Violation Data

1. Date Mo Da Yr 01/13/2010	2. Time (24 Hr. Clock) 1300	3. Citation/ Order Number 8090257
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
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 transformer for the #1 four unit belt drive has a bolt missing from one of the lids. This is not consistent with the grounding methods approved by the authorized representative.

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 75.701
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" 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 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 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				

16. Termination Due	A. Date Mo Da Yr 01/14/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 01/13/2010	3. Citation/ Order Number 8090257 - 01
4. Served To Rick Foster, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The bolt has been replaced and the lid is now secure.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 01/20/2010	13. Time (24 Hr. Clock) 1522



Section I--Violation Data

1. Date Mo Da Yr 01/20/2010	2. Time (24 Hr. Clock) 1115	3. Citation/ Order Number 8090258
4. Served To Rick Foster, Mine Foreman		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g) ☐

The #2 cable providing 480vac to the #2 shuttle car being operated on the #3 section has a splice that is not effectively sealed and insulated as to exclude moisture. Insulated wires and MSHA approved tape could be seen through the outer jacket.

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 75.604(b)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 01/20/2010	B. Time (24 Hr. Clock) 1330
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Section III--Termination Action

17. Action to Terminate The splice was cut out and a new splice made.

18. Terminated	A. Date Mo Da Yr 01/20/2010	B. Time (24 Hr. Clock) 1315
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Section IV--Automated System Data

19. Type of Inspection (activity code)	E01	20. Event Number 6286108	21. Primary or Mill
22. Signature			23. AR Number

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Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 01/20/2010	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 8090259
4. Served To Rick Foster, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 #2 Fairchild scoop, serial #T339-145-R, being operated on the #3 section was not being maintained in that the battery plug on the operators side was not properly assembled, also the conduit was that was protecting the leads from the battery to the breaker box had been cut and the cable was visible.

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

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 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 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				

16. Termination Due	A. Date Mo Da Yr 01/21/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature	23. AR Number	

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/20/2010	3. Citation/ Order Number 8090259 - 01
4. Served To Rick Foster, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action



The battery plug and the conduit was replaced.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature 	AR Number 	12. Date Mo Da Yr 01/21/2010	13. Time (24 Hr. Clock) 1005

Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 01/20/2010	2. Time (24 Hr. Clock) 1330	3. Citation/ Order Number 8090260
4. Served To Rick Foster, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
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 fire hose outlet spacing was wrong at the second outlet outby the tailpiece of the #3 unit section belt. Fire hose outlets shall be installed at intervals of 300 feet. The second fire valve was at 440 feet.

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 75.1100-2(b)
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Section II--Inspector's Evaluation

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: 002	
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 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				

16. Termination Due	A. Date Mo Da Yr 01/21/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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 checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 01/20/2010	3. Citation/ Order Number 8090260 - 01
4. Served To Rick Foster, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

A fire hose outlet was installed at the proper spacing.

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 checked="" type="checkbox"/> D. Terminated <input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108		
11. Signature	AR Number	12. Date Mo Da Yr 01/21/2010	13. Time (24 Hr. Clock) 1015



Section I--Violation Data

1. Date Mo Da Yr 03/30/2010	2. Time (24 Hr. Clock) 0935	3. Citation/ Order Number 8098204
4. Served To Terry Moore, Mine Foreman		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice The Methane and Dust Control Plan is not being followed on 040-0 MMU, Tailgate #22 Section, in that JM6044 continuous miner is in operation and is not on the approved Methane and Dust Control Plan. JM5186 is the continuous miner that is supposed to be on this section.		

8a. Written Notice (103g) ☐See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.370(a)(1)
--------------	--	----------------------	--

Section II--Inspector's Evaluation

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 checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input 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 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 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				

16. Termination Due	A. Date Mo Da Yr 04/01/2010	B. Time (24 Hr. Clock) 0800
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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) E01	20. Event Number 6286108	21. Primary or Mill
22. Signature		23. AR Number

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

Previously issued

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) 03/25/2010	3. Citation/ Order Number 8085078 - 01
4. Served To Gary May, Superintendent	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The door gaskets and the filters have been replaced, and no dust was found on the clean side of the filters.

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 checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 6286108
11. Signature [Redacted]	12. Date Mo Da Yr 03/30/2010
13. Time (24 Hr. Clock) 1030	

Plan Review

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



1. MSHA Office 0401 - Mt. Hope, WV

2. Mine ID 46-08436

3. Mine Name

UPPER BIG BRANCH MINE-SOUTH

4. Company Name

PERFORMANCE COAL COMPANY

Roof Control



☒ Adequate ☐ Deficiencies in Plan (Briefly Describe)

Reviewed the Roof Control Plan with management and miners. If followed, the plan appears adequate for current mining conditions.

Ventilation



☒ Adequate ☐ Deficiencies in Plan (Briefly Describe)

Reviewed the Ventilation Plan with management and miners. If followed, the plan appears adequate for current mining conditions.

[Redacted Signature]

Inspector Signature

3/31/10

Date

[Redacted Signature]

Supervisor Signature

4-7-2010

Date

VACATED



Section I--Violation Data

1. Date Mo Da Yr 02/19/2010	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 8100179
4. Served To Berman Cornett, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Each area where mechanized mining equipment is being installed or removed shall be ventilated by a separate split of intake air. The mechanized mining equipment, continuous miner, roof bolter and shuttle car, being used in the rehabilitation area for the new Barrier Section is being ventilated by return air.

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 75.332(a)(1)
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Section II--Inspector's Evaluation

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 type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 004	
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(d)(2)		13. Type of Issuance (check one) Citation <input type="checkbox"/> Order <input checked="" type="checkbox"/> Safeguard <input type="checkbox"/> Written Notice <input type="checkbox"/>		
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

15. Area or Equipment The airway used in ventilating the rehabilitation area for the New Barrier Section, where mechanized equipment is being used.

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)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 6286108	21. Primary or Mill
22. Signat		23. AR Number

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 checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 02/19/2010	3. Citation/ Order Number 8100179 - 01
4. Served To Berman Cornett, Safety Director	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Mechanized mining equipment was not being set-up, nor was the equipment engaged in cutting, mining, or loading coal or rock from working places in the area known as the "New Barrier Section". The New Barrier Section was in the process of being set-up by rehabilitation of the return aircourse in order to install a set of overcasts. Subsequent to the 1992 Ventilation Questions and Answers, page 60, Section 75.332, a separate intake split was not required.

The mine operator provided evidence, collaborated by the on-site inspector, which substantiates the area did not require a separate intake split of air.

A ventilation revision was previously approved for the installation of the overcasts and to reroute a primary intake escapeway and aircourse.

See Continuation Form ☐

Section III--Subsequent Action Taken

8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input checked="" 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 E01	10. Event Number 6286108		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 02/19/2010	13. Time (24 Hr. Clock) 1359

U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000

2010-729



DATE:

3/9/10

MESSAGE FOR: FIELD OFFICE SECRETARY -

FROM:

PAGES (INCLUDING COVER):

10

SUBJECT: CONTESTED VIOLATION DATA AT ID NO.

8436

The violations shown below have been contested by the mine operator:

<u>VIOL #</u>	<u>ISSUED</u>	<u>VIOL#</u>	<u>ISSUED</u>
	See attached		

These documents go before lawyers and judges. It is important that all copies be clean and clearly legible.

Please provide a copy of each violation and all subsequent actions for that violation.

I also need a copy of the inspector's notes (including the Daily Cover Sheet) for each violation, as well as any special assessment forms and a copy of appropriate plans related to those violations.

If there are any related violations, such as 107(a) Orders, I need a copy of them too.

Please fax your response back to me today or tomorrow - I have a very short turn-around time to get this material in to the Solicitor's Office in Arlington.

If you have any questions, call me on extension 148. Thank you for your help.



3/23/10

Citations

Record Count: 1

Selection Criteria:

4608436

8072761

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8072761	1/7/2010	C	Y	104-A	75.1403	E02	6288660

Citations

Record Count: 10

Selection Criteria:

4608436

808011

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8080110	12/8/2009	C	Y	104-A	75.604B	E01	6288652
4608436	U	0401	02	0401	02			8080111	12/9/2009	C	N	104-A	77.11110	E01	6288652
4608436	U	0401	02	0401	02			8080116	12/15/2009	C	N	104-A	75.507-1A	E01	6288652
4608436	U	0401	02	0401	02			8080115	12/15/2009	C	N	104-A	75.516	E01	6288652
4608436	U	0401	02	0401	02			8080114	12/15/2009	C	N	104-A	75.380D4IV	E01	6288652
4608436	U	0401	02	0401	02			8080113	12/15/2009	C	N	104-A	75.400	E01	6288652
4608436	U	0401	02	0401	02			8080112	12/15/2009	C	N	104-A	75.360G	E01	6288652
4608436	U	0401	02	0401	02			8080117	12/16/2009	C	N	104-A	75.512	E01	6288652
4608436	U	0401	02	0401	02			8080118	12/28/2009	C	Y	104-A	75.1403	E01	6288652
4608436	U	0401	02	0401	02			8080119	12/30/2009	C	Y	104-A	75.400	E01	6288652

Citations

Record Count: 1

Selection Criteria:

4608436

8085240

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8085240	12/14/2009	C	Y	104-A	75.364B2	E01	6288652

Citations

Record Count: 1

Selection Criteria:

4608436

8087534

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8087534	12/22/2009	C	N	104-A	75.503	E01	6288652

Citations

Record Count: 1

Selection Criteria:

4608436

8087711

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8087711	1/11/2010	C	N	104-A	75.1505A	E01	6286108

Citations

Record Count: 1

Selection Criteria:

4608436

8090249

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8090249	1/7/2010	C	N	104-A	75.1403	E01	6286108

*need
notes*

Citations

Record Count: 10

Selection Criteria:

4608436

809025

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issurance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8090251	1/7/2010	C	N	104-A	75.380D7VII	E01	6286108
4608436	U	0401	02	0401	02			8090250	1/7/2010	C	N	104-A	75.1100-2E	E01	6286108
4608436	U	0401	02	0401	02			8090256	1/11/2010	O	Y	104-D-2	75.1731A	E01	6286108
4608436	U	0401	02	0401	02			8090255	1/11/2010	C	Y	104-A	75.1731B	E01	6286108
4608436	U	0401	02	0401	02			8090254	1/11/2010	C	Y	104-A	75.1731B	E01	6286108
4608436	U	0401	02	0401	02			8090253	1/11/2010	C	Y	104-A	75.1731A	E01	6286108
4608436	U	0401	02	0401	02			8090252	1/11/2010	C	N	104-A	75.1714-6	E01	6286108
4608436	U	0401	02	0401	02			8090257	1/13/2010	C	N	104-A	75.701	E01	6286108
4608436	U	0401	02	0401	02			8090259	1/20/2010	C	N	104-A	75.512	E01	6286108
4608436	U	0401	02	0401	02			8090258	1/20/2010	C	Y	104-A	75.604B	E01	6286108

*Neel
Hester*

Citations

Record Count: 1

Selection Criteria:

4608436

8100143

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8100143	12/22/2009	C	N	104-A	75.517	E01	6288652



Citations

Record Count: 6

Selection Criteria:

4608436

81033

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8103323	12/16/2009	C	Y	104-A	75.606	E01	6288652
4608436	U	0401	02	0401	02			8103322	12/16/2009	C	N	104-A	75.333C1	E01	6288652
4608436	U	0401	02	0401	02			8103321	12/16/2009	C	N	104-A	75.364A1	E01	6288652
4608436	U	0401	02	0401	02			8103324	12/17/2009	O	N	104-D-2	75.364A1	E01	6288652
4608436	U	0401	02	0401	02			8103331	12/22/2009	C	Y	104-A	75.604B	E01	6288652
4608436	U	0401	02	0401	02			8103330	12/22/2009	C	N	104-A	75.512	E01	6288652

U. S. Department of Labor

Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880-1000

2010-728



DATE:

3/9/10

MESSAGE FOR:

FIELD OFFICE SECRETARY -

FROM:

PAGES (INCLUDING COVER):

14

SUBJECT: CONTESTED VIOLATION DATA AT ID NO.

8436

The violations shown below have been contested by the mine operator:

VIOL #	ISSUED	VIOL#	ISSUED
	See attached		

These documents go before lawyers and judges. It is important that all copies be clean and clearly legible.

Please provide a copy of each violation and all subsequent actions for that violation.

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If there are any related violations, such as 107(a) Orders, I need a copy of them too.

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If you have any questions, call me on extension 148.
Thank you for your help.



3/23/10

Citations

Record Count: 1

Selection Criteria:

4608436

8087709

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8087709	1/7/2010	O	Y	104-D-2	75.370A1	E01	6286108

Citations

Record Count: 1

Selection Criteria:

4608436

8087710

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8087710	1/7/2010	O	Y	104-D-2	75.370A1	E01	6286108

Citations

Record Count: 1

Selection Criteria:

4608436

8090256

MineID	Type	Mine Off.	WG	Mg Off.	WG	AR #	Cont ID	C/O #	Issue Date	Issuance	SS	Type Action	30 CFR Std	Activity Code	Event Number
4608436	U	0401	02	0401	02			8090256	1/11/2010	O	Y	104-D-2	75.1731A	E01	6286108



New		All fields are required	
Change		The Mine ID Number is required, otherwise fill out only those fields that have changed.	

1. MSHA Mine ID Number: 46-08436

2. Operating Company Name: PERFORMANCE Coal Co

3. Mine or Mill Name: Upper Big Branch

3a. Mine Emergency Phone No. <u>304-8548560</u>		4. Type of Operation Coal <input checked="" type="checkbox"/> Metal / Non-Metal <input type="checkbox"/>		5. Portable Operation <input type="checkbox"/>		6. Primary Mine Type Underground <input checked="" type="checkbox"/> Surface <input type="checkbox"/> Facility <input type="checkbox"/>		
7. MSHA Office Code: <u>20401</u>		8a. Work Group: <u>02</u>		8b. Travel Area: <u>WHITESVILLE</u>		9. Nearest Town, Landmark, or Postoffice:		
10. County Name Where Mine is Located: <u>RALIGH</u>			11. State Abbreviation: <u>WV</u>		12. Cong. Dist. (Coal Only)		13. Mileage from Field Office:	

14. Directions to Operation from Field Inspection Office: Take 19 S to 77 S. Take Exit 44 Maple Road Turn Rt. onto Rt 3. Follow Rt. 3 to Red Light at Gusm Daniel. Turn Rt at Light. Follow Rt. 3 to Strickland Main Office on Lt. Go thru Guard Shack. Follow Signs to Mine

15. Total Employees: <u>210</u>		16. Schedule of Operation:	
a. Hours per Production Shift <u>9</u>		b. Production Shifts per Day <u>2</u> c. Maint. Shifts per Day <u>1</u> d. Work Days per Week <u>7</u>	

17. Longitude and Latitude: (Coal Only)

a. Longitude: Degrees <u> </u> Minutes <u> </u> Seconds <u> </u>		b. Latitude: Degrees <u> </u> Minutes <u> </u> Seconds <u> </u>	
---	--	--	--

18. Mine Status: New Mine ☐ Active ☐ Intermittent ☐ Non-Producing ☐ Abandoned ☐ Temporarily Idle (Coal Only) ☐ Abandoned & Sealed (Coal Only) ☐

19. Status Date (mm/dd/yyyy): / /

20. Types of Minerals being Extracted or Processed:

a. Primary Commodity b. Secondary Commodity (Optional)

c. Other Commodities (Optional)

21. Mine Characteristics:

a. Applicable to ALL Mines (check all that apply)

Auger ☐ Dredge ☐ Laboratory ☐ Mill / Prep Plant / Loading Dock ☐ Open Pit / Strip ☐ Shop or Yard ☐ Remining Culm Bank / Refuse Pile / Tailings ☐

b. Applicable to Coal Mines Only

Highwall Miner ☐

c. Applicable to Metal and Non-metal Mines Only

Adit ☐ Block Caving ☐ Cut and Fill ☐ Dimension ☐ Quarry ☐ Longwall ☐

Room & Pillar ☐ Shaft ☐ Slope ☐ Heap Leaching ☐ In-situ Leaching ☐

22. Other Mine Information:

a. Applicable to ALL Mines (check all that apply)

103(l) Status: Ignition ☐ Hazard ☐ 5 Day ☐ 10 Day ☐ 15 Day ☐ Removed ☐ Date Entered 103(l) Status: (mm/dd/yyyy) / /

Explosives Used ☐ Explosives Stored on Surface ☐ Explosives Stored Underground ☐ Treasury Permit/License ☐

Government Owned ☐ Government Operated ☐ Mine Rescue Station at Mine ☐ Safety Committee at Mine ☐ Methane Liberation: cubic ft. / 24 hrs.

b. Applicable to Coal Mines Only

No. of Producing Pits No. of Non-Producing Pits No. of Drift Openings No. of Slope Openings No. of Shaft Openings Average Daily Coal Production tons

Primary Coal Bed Name: Avg. Mine Height (Inches): Surface Mines: CH4/O2 Tests Required ☐

c. Applicable to Metal and Nonmetal Mines Only

Mine Gas Category: No. of Impoundments: No. of Escapeways to Surface: No. of Hoists: No. of Refuge Chambers:

Associated Cement Mill: ☐ Kilns: ☐ Electrowinning as Part of Milling: ☐ Produces Ground Silica as a Product: ☐ Hazardous Waste Burned as Fuel: ☐ Channel Burners: ☐ Wire Saws: ☐

Metal Refinery as Part of Milling: ☐ Retort ☐ Roaster ☐ Mechanical Ventilation for Underground Mine: ☐ Natural Ventilation for Underground Mine: ☐

Entered in MSHS

Mine Information Form

Page 2

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



Mine-ID: -

23. Quarterly Report Mailing Address

First Name Middle Initial Last Name
Street Address
P.O.Box
City
State
Zip Code Phone No. Fax No.

24. Mailing Address for Respirable Dust Materials (Coal Only)

First Name Middle Initial Last Name
Street Address
P.O.Box
City
State
Zip Code Phone No. Fax No.

25. Miner's Representative Information (for transmittal of documents)

(Use separate paper for more than one Miner's Representative)

First Name Middle Initial Last Name
Street Address
P.O.Box
City
State
Zip Code Phone No. Fax No.

26. Union Information

(Use separate paper for more than one Union Local Information)

Union Name Union District Union Local Number
Street Address
P.O.Box
City
State
Zip Code Phone No. Fax No.
DOI Code

27. Submitted By

AR Number Date 03 / 31 / 2010
AR Name: