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

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

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

Section II - Inspector’s Evaluation

8. Condition or Practice
6a. Written Notice (103g) ✔
9. Violation
A. Health Safety ✔ Other
B. Section of Act
C. Part/Section of Title 30 CFR 75.380(d)(7)(vii)(A)
10. Gravity:
A. Injury or Illness (has) (is): No Likelihood □ Unlikely ✔ Reasonably Likely □ Highly Likely □ Occurred □
B. Injury or Illness could reasonably be expected to be: No Lost Workdays ✔ Lost Workdays Or Restricted Duty □ Permanently Disabling □ Fatal □
C. Significant and Substantial: Yes □ No ✔
D. Number of Persons Affected: 006
11. Negligence (check one) A. None □ B. Low □ C. Moderate ✔ D. High □ E. Reckless Disregard □
12. Type of Action 104(a)
A. Citation □ B. Order □ C. Safeguard □ D. Written Notice □
13. Type of Issuance (check one) Citation ✔ Order □ Safeguard □ Written Notice □
14. Initial Action
A. Citation □ B. Order □ C. Safeguard □ D. Written Notice □
15. Area or Equipment

Section III - Termination Action

16. Termination Due
A. Date Mo Da Yr 02/19/2010
B. Time (24 Hr. Clock) 0800

Section IV - Automated System Data

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

MSHA Form 7000-3a (Aug 2013) 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.
The branch line is now provided with proper cones.
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.
The Sullair diesel compressor being used at the Bandy Town fan was not provided with a portable fire extinguisher.
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
8. Condition or Practice 8a. Written Notice (103g) [ ]

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.

Section II - Inspector's Evaluation

9. Violation A. Health ✗ Safety ✓ Other [ ]
B. Section of Act
C. Part/Section of Title 30 CFR 75.515

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely ✗ Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]
B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays Or Restricted Duty ✗ Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial: Yes [ ] No ✗ D. Number of Persons Affected: 001

11. Negligence (check one) A. None [ ] B. Low [ ] C. Moderate ✗ D. High [ ] E. Reckless Disregard [ ]

12. Type of Action 104(a)
13. Type of Issuance (check one) Citation ✗ Order [ ] Safeguard [ ] Written Notice [ ]
E. Citation/Order Number
F. Dated Mo Da Yr

14. Initial Action A. Citation [ ] B. Order [ ] C. Safeguard [ ] D. Written Notice [ ]

15. Area or Equipment

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

Section III - Termination Action

17. Action to Terminate The cable is now entering through a proper fitting.

18. Terminated
A. Date Mo Da Yr 02/24/2010
B. Time (24 Hr. Clock) 1315

Section IV - Automated System Data

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

22. Signature

MSHA Form 7000-3a (Rev. 03-10-99) To maintain compliance 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.
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.
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

8. Condition or Practice
   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.

Section II--Inspector's Evaluation
9. Violation
   A. Health Safety
   B. Section of Act
   C. Part/Section of Title 30 CFR
      75.202(a)

10. Gravity:
    A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely Highly Likely Occurred
    B. Injury or Illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal
    C. Significant and Substantial: Yes No
    D. Number of Persons Affected: 002

11. Negligence (check one) A. None Low B. Low Moderate C. Moderate High D. High E. Reckless Disregard

12. Type of Action
    104(a)

13. Type of Issuance (check one)
    Citation Order Safeguard Written Notice

14. Initial Action
    A. Citation B. Order C. Safeguard D. Written Notice

15. Area or Equipment

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

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
The operator has installed additional support in the area.
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.
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 065/067) 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.
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.
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.
## Section I—Subsequent Action/Continuation Data

<table>
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### 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.

## Section III—Subsequent Action Taken

<table>
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<th>8. Extended To</th>
<th>A. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
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## Section IV—Inspection Data

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<td>6286108</td>
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<th>12. Date</th>
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<td>1015</td>
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MSHA Form 7000-38, Mar 88 (Revised)
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.
Jacks were installed to reduce the width of the turn to 26 feet.
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.
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.
A rigid spiraled coil has been installed on the branch line leading to the refuge alternative.
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.
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.
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.

The splice was reinsulated and sealed to exclude moisture.
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.
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.
The high voltage cable has been guarded to minimize contact and protect from damage.
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.
The operator has set cribs and jacks to reduce the width of places to the maximum width specified in the plan.
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.
The Forklift has been cleaned.
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).
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.
### Section I - Subsequent Action/Continuation Data

1. **Subsequent Action 1a. Continuation**: ✔
2. **Dated** (Original Issue): 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

### Section II - Justification for Action

A guard has been placed over the tail roller.
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.
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.
<table>
<thead>
<tr>
<th>Section I - Subsequent Action/Continuation Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subsequent Action 1a. Continuation</td>
</tr>
<tr>
<td>[ ]</td>
</tr>
</tbody>
</table>

| 4. Served To |
| Wayne Persinger, Mine Manager |

| 5. Operator |
| PERFORMANCE COAL COMPANY |

| 6. Mine |
| UPPER BIG BRANCH MINE-SOUTH |

| 7. Mine ID |
| 46-08436 |

| 8. Extended To |
| A. Date | Mo Da Yr |
| B. Time (24 Hr. Clock) | C. Vacated | D. Terminated | E. Modified |

| 9. Change From |
| 75.370(a)(1) |

| 10. Change To |
| 70.220(a) |

| Reason |
| Cited wrong section. |

<table>
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<tr>
<th>Section III - Subsequent Action Taken</th>
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| 8. Extended To |
| A. Date | Mo Da Yr | B. Time (24 Hr. Clock) | C. Vacated | D. Terminated | E. Modified |

| 9. Type of Inspection |
| E01 |

| 10. Event Number |
| 6286108 |

| 11. Signature |
| [redacted] |

| 12. Date | Mo Da Yr |
| 03/17/2010 |

| 13. Time (24 Hr. Clock) |
| 2109 |

See Continuation Form [ ]
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.
Up to date and accurate maps are posted at the portals.
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.
The operator has provided a written record of the equipment.
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.

A regulator was adjusted at the belt drive to correct air flow.
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.
No apparent effort was made by the operator to remove accumulations located at the Longwall Mother Drive Belt.
### Mine Citation/Order Continuation

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>☑</th>
<th>2. Dated (Original Issue)</th>
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<th>Da</th>
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<td>8087763-01</td>
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<td>4. Served To</td>
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<td>5. Operator</td>
<td></td>
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<td>PERFORMANCE COAL COMPANY</td>
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<tr>
<td>David Taraczkozy, Chief Electrician</td>
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<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
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### Section II—Justification for Action

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

### Section III—Subsequent Action Taken

8. Extended To

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>☐</th>
<th>G. Vacated</th>
<th>☑</th>
<th>D. Terminated</th>
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### Section IV—Inspection Data

<table>
<thead>
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<th>9. Type of Inspection</th>
<th>E01</th>
<th>10. Event Number</th>
<th>6286108</th>
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<tr>
<td>11. Signature</td>
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<td>12. Date</td>
<td>Mo Da Yr</td>
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<tr>
<td>AR Number</td>
<td></td>
<td>13. Time (24 Hr. Clock)</td>
<td>03/24/2010</td>
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MSHA Form 7.00-09, May 49 (Revised)
When checked the off-side outby end sanding device, on the #13 mantrip, was inoperative. The device would not deliver sand to the rail.
The operator failed to provide a fire extinguisher for the Stancor pump, located in the #1 return entry across from spad number 24306.
The lifeline coming off of #3 unit did not have two securely attached cones indicating a branch line locating the SCSR cache.
The operator has now installed the proper indicators on the #3 section SCSR cache.
There was no tether cord provided with the additional rescuers located on the #2 mantrip.

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<th>5. Operator</th>
<th>PERFORMANCE COAL COMPANY</th>
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<tr>
<td>6. Mine</td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
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<tr>
<td>7. Mine ID</td>
<td>46-08436 (Contractor)</td>
</tr>
</tbody>
</table>

There was no tether cord provided with the additional rescuers located on the #2 mantrip.
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 combustible material measuring from 1 to 6 inches.
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.

The operator immediately took the belt out of service and aligned the belt to prevent the belt from rubbing the stands.
**Section I—Subsequent Action/Continuation Data**

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>✔</th>
<th>2. Dated (Original Issue)</th>
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<th>4. Served To</th>
<th>5. Operator</th>
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</thead>
<tbody>
<tr>
<td>Gary May, Superintendent</td>
<td>PERFORMANCE COAL COMPANY</td>
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<th>12. Date Mo Da Yr</th>
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**Reason** After further consideration it was determined to modify the negligence.

**Section III—Subsequent Action Taken**

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**Section IV—Inspection Data**

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</table>

MSHA Form 7000-3a, Mar 85 (revised)
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.

### Section II-Inspector's Evaluation

<table>
<thead>
<tr>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
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#### Violation

- **A. Health Safety**
- **B. Section of Act**: 75.1731(b)
- **C. Part/Section of Title 30 CFR**: 75.1731(b)

#### Condition or Practice

- **8a. Written Notice (103g)**

#### Negligence (check one)

- **A. None**
- **B. Low**
- **C. Moderate**
- **D. High**
- **E. Reckless Disregard**

#### Initial Action

- **A. Citation**
- **B. Order**
- **C. Safeguard**
- **D. Written Notice**

#### Number of Persons Affected

- **D. Number of Persons Affected: 002**

#### Action to Terminate

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

#### Action to Terminate

- **A. Date**: 01/11/2010
- **B. Time (24 Hr. Clock)**: 1200

#### Action to Terminate

- **A. Date**: 01/11/2010
- **B. Time (24 Hr. Clock)**: 1155

#### Type of Inspection (activity code)

- **E01**

#### Event Number

- **6286108**

#### Primary or Mill

- **23. AR Number**
Reason - After further consideration it was determined to modify the negligence.
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. (Fire Boss) said that (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.
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.
The bolt has been replaced and the lid is now secure.
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.
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.
The battery plug and the conduit was replaced.
Section I—Violation Data

1. Date
2. Time (24 Hr. Clock)
3. Citation/Order Number
   ——— Mo Da Yr ——— ——— 01/20/2010 1330 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
   The fire hose outlet spacing was wrong at the second outlet outbye 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.

Section II—Inspector’s Evaluation

9. Violation
   A. Health [] Safety ✓ Other []

10. Gravity:
    A. Injury or Illness (has) (is): No Likelihood [] Unlikely ✓ Reasonably Likely []
        B. Injury or Illness could reasonably be expected to:
            No Lost Workdays [] Lost Workdays Or Restricted Duty ✓ Permanently Disabling []
            C. Significant and Substantial: Yes [] No ✓
        D. Number of Persons Affected: 002

11. Negligence (check one)
    A. None [] B. Low [] C. Moderate ✓ D. High [] E. Reckless Disregard []

12. Type of Action
    104(a)

13. Type of Issuance (check one)
    A. Citation ✓ B. Order [] C. Safeguard [] D. Written Notice []

14. Initial Action
    A. Citation [] B. Order [] C. Safeguard [] D. Written Notice []

15. Area or Equipment

16. Termination Due
    A. Date ——— Mo Da Yr ——— 01/21/2010
    B. Time (24 Hr. Clock) ——— 0800

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 01 [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 complaints 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.
**A fire hose outlet was installed at the proper spacing.**
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.
The door gaskets and the filters have been replaced, and no dust was found on the clean side of the filters.
Plan Review

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<th>1. MSHA Office</th>
<th>0401 - Mt. Hope, WV</th>
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<tr>
<td>4. Company Name</td>
<td>PERFORMANCE COAL COMPANY</td>
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**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.

**MSHA Form 2000-204, Feb. 89 (Revised Jan. 90)**
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.
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.
The violations shown below have been contested by the mine operator:

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<th>VIOL #</th>
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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.
## Citations

**Selection Criteria:**

4608436

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## Citations

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4608436

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| 4608436 | U    | 0401      | 02 | 0401    | 02 |     | 8080116 | 12/15/2009 | C           | N           | 104-A       | 75.507-1A   | E01          | 62886552     |
| 4608436 | U    | 0401      | 02 | 0401    | 02 |     | 8080115 | 12/15/2009 | C           | N           | 104-A       | 75.516      | E01          | 62886552     |
| 4608436 | U    | 0401      | 02 | 0401    | 02 |     | 8080114 | 12/15/2009 | C           | N           | 104-A       | 75.380D4IV  | E01          | 62886552     |
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3/9/2010

### Record Count:

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DATE: 3/9/10

MESSAGE FOR: FIELD OFFICE SECRETARY

FROM: 

# PAGES (INCLUDING COVER): 4

SUBJECT: CONTESTED VIOLATION DATA AT ID NO. 8436

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

<table>
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<tr>
<th>VIOL #</th>
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<th>VIOL#</th>
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<tbody>
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<td>See attached</td>
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</tbody>
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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.
### Citations

**Selection Criteria:**
4608436

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**Report Date:** 3/9/2010

**Record Count:** 1
## Citations

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**Mine Information Form**

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

**Mine ID Number:**  
H-6108436

**Operating Company Name:**  
Performance Coal Co.

---

1. **MSHA Mine ID Number:**
   - H-6108436

2. **Operating Company Name:**
   - Performance Coal Co.

3. **Mine or Mill Name:**
   - Upper Big Branch

---

4. **Type of Operation:**
   - Coal

5. **Primary Mine Type:**
   - Underground

6. **Portable Operation:**
   - No

---

7. **MSHA Office Code:**
   - 20401

8a. **Work Group:**
   - 02

8b. **Travel Area:**
   - Whittsville

---

9. **County Name Where Mine is Located:**
   - Raleigh

10. **State Abbreviation:**
    - NC

11. **Cong. Dist. (Coal Only):**
    - 0

12. **Mileage from Field Office:**
    - 0

---

13. **Total Employees:**
    - 210

14. **Schedule of Operation:**
    - a. Hours per Production Shift: 9
    - b. Production Shifts per Day: 2
    - c. Maint. Shifts per Day: 1
    - d. Work Days per Week: 7

---

15. **Longitude and Latitude:**
    - a. Longitude: Degrees:  
      - 82
    - b. Latitude: Degrees:  
      - 35

16. **Mine Status:**
    - New
    - Active
    - Intermittent
    - Non-Producing
    - Abandoned
    - Temporarily Idle
    - Abandoned & Sealed

17. **Mine Status Date (mm/dd/yyyy):**
    - 03/01/2003

---

18. **Types of Minerals being Extracted or Processed:**
    - a. Primary Commodity
    - b. Secondary Commodity
    - c. Other Commodities (Optional)

19. **Mine Characteristics:**
    - a. Applicable to ALL Mines (check all that apply)
      - Auger
      - Dragline
      - Laboratory
      - Mill/Prep Plant
      - Loading Dock
      - Open Pit/Strip
      - Shop or Yard
      - Remining
      - Calm Bank/Refuse Pile/Tailings
    - b. Applicable to Coal Mines Only
      - Highwall Miner
      - Adit
      - Work Carving
      - Cut and Fill
      - Dimension
      - Quarry
      - Longwall
    - c. Applicable to Metal and Non-metal Mines Only
      - Room & Pillar
      - Shaft
      - Stopes
      - Hoop Leaching
      - In-situ Leaching

20. **Other Mine Information:**
    - a. Applicable to ALL Mines (check all that apply)
      - 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
      - Date Entered: 103 Status: (mm/dd/yyyy)
      - Ignition
      - Hazard
      - 5 Day
      - 10 Day
      - 15 Day
      - Removed
      - Average Daily Coal Production
      - Surface Mines: CH/02
      - Tests Required
      - Associated Cement Mill
      - Klin
      - Electroizing as a Product
      - Produces Ground Silica as Fuel
      - Mechanical Ventilation for Underground Mine
      - Natural Ventilation for Underground Mine
      - Wire Sawing

---

**Additional Notes:**

- [Handwritten notes at the bottom of the form]

---

**MSHA Form 2000-209 (1 of 2), April 2002**
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. ___________
DOL Code ___________

27. Submitted By
AR Number ___________________________ Date ______ / ____ / _____
AR Name ___________________________