## Mine Activity Data

<table>
<thead>
<tr>
<th>Activity</th>
<th>Event Code</th>
<th>Date Event Started</th>
<th>Date Event Finished</th>
<th>Mine ID</th>
<th>Company Name</th>
<th>Mine Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>E01</td>
<td></td>
<td>10/2/2009</td>
<td>12/30/2009</td>
<td>46-08436</td>
<td>PERFORMANCE COAL COMPANY</td>
<td>UPPER BIG BRANCH MINING-SOUTH</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. New Entry</td>
<td>☐</td>
<td>a. First ☐</td>
<td>a. Active Sections 5</td>
<td>a. Air Samples 24</td>
<td>a. Number 24</td>
<td>a. This Inspection (1) New Issuances 5 8 Coal Opr 58</td>
<td>b. Surface Workings ☐</td>
</tr>
<tr>
<td>b. Update</td>
<td>☑</td>
<td>b. Interim ☐</td>
<td>b. Idle Sections ☐</td>
<td>b. Rock Dust Survey 4</td>
<td>b. FHC 4</td>
<td>b. Terminations/Vacations (2) Terminations/Vacations 54/1 Coal Opr 54</td>
<td>c. Rock Dust Spot 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>d. Not Applicable ☑</td>
<td>d. Shales/Slopes ☐</td>
<td>d. Respirable Dust 3</td>
<td>f. Other 0</td>
<td>d. Left Pending ☐</td>
<td>f. Other 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>e. Surface Areas (UG) ☑</td>
<td>e. Noise 18</td>
<td></td>
<td>e. Respirable Dust 3</td>
<td>f. Other 0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>f. Respirable Dust 3</td>
<td>f. Other 0</td>
</tr>
</tbody>
</table>

| 17. Remarks: |

| 18. Signature and Card Number of Authorized Representative/Right of Entry Person(s) Responsible for Activity |

| 19. Key Entered By | Date |

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
### Activity Calendar

**Event Number:** 6288652  
**Mine ID:** 4608436

<table>
<thead>
<tr>
<th>Shift</th>
<th>Sun</th>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thur</th>
<th>Fri</th>
<th>Sat</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Week 1</strong> 10/4/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 2 10/11/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 3 10/18/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 4 10/25/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 5 11/1/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 6 11/8/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 7 11/15/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 8 11/22/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 9 11/29/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 10 12/6/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 11 12/13/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 12 12/20/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Week 13 12/27/2009</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Key Codes:
- 1- Owl Shift
- 2- Day Shift
- 3- Evening Shift
- Mark "X" in appropriate block to indicate shift.
The #4 North belt is rubbing two bottom belt hangers at #37 and #38 break. The belt hangers are hot to the touch and smoking.
The #5 Ellis beltline has a damaged bottom belt roller one break inby the #5 Ellis belt head.

**Section I—Violation Date**

<table>
<thead>
<tr>
<th>1. Date</th>
<th>Mo Da Yr</th>
<th>2. Time (24 Hr. Clock)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/15/2009</td>
<td>1235</td>
<td></td>
<td>8080090</td>
</tr>
</tbody>
</table>

**4. Served To**

Everett Hager, Superintendent

**5. Operator**

PERFORMANCE COAL COMPANY

**6. Mine**

UPPER BIG BRANCH MINE-SOUTH

**8. Condition or Practice**

The #5 Ellis beltline has a damaged bottom belt roller one break inby the #5 Ellis belt head.

**Section II—Inspector’s Evaluation**

**9. Violation**

<table>
<thead>
<tr>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td>75.1731(a)</td>
</tr>
</tbody>
</table>

**10. Gravity:**

- A. Injury or illness (has) (is): No Likelihood
- B. Injury or illness could reasonably be expected to be: Unlikely
- C. Significant and Substantial: Yes
- D. Number of Persons Affected: 010

**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

**14. Initial Action**

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

**15. Area or Equipment**

**16. Termination Due**

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/15/2009</td>
<td>1240</td>
<td></td>
</tr>
</tbody>
</table>

**Section III—Termination Action**

**17. Action to Terminate**

The damaged bottom belt roller was immediately removed from service.

**18. Terminated**

<table>
<thead>
<tr>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/15/2009</td>
<td>1240</td>
<td></td>
</tr>
</tbody>
</table>

**Section IV—Automated System Data**

**19. Type of Inspection (activity code)**

E01

**20. Event Number**

6288652

**21. Primary or Mill**

**22. Signature**

MSHA Form 7000-3a, Rev. 5/15/99. 

*Notices under the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration established a Small Business and Agriculture Regulatory Ombudsman and 19 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, 406 3rd Street SW, MC 2120, Washington, DC 20415. 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 longwall belt storage unit has a belt roller that is stuck due to an accumulations of belt string wrap around the belt roller and hanger. At break #44 on the longwall belt another belt roller is damaged and worn flat due to belt string wrap around the belt roller and hanger.
The Fairchild scoop Serial No. 339-230 being used on the 065-0 MMU, No. 3 Section located in the No. 2 entry in/by the last open break that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entry that the scoop was located measured with a standard rule 82 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.
The operator is failing to follow the approved ventilation plan. On Section #2, MMU 040, in #4 entry the right side roof bolter was bolting the roof with 2200 CFM of air behind the line curtain. Dust was visible around the roof bolter operators and roof bolter from a distance of at least 50 feet. The operator has engaged in aggravated conduct constituting more than ordinary negligence. This violation is an unwarrantable failure to follow a mandatory standard.

<table>
<thead>
<tr>
<th>Violation</th>
<th>A. Health Safety</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>75.370(a)(1)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gravity:</th>
<th>A. None</th>
<th>B. Low</th>
<th>C. Moderate</th>
<th>D. High</th>
<th>E. Reckless Disregard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Negligence (check one)</th>
<th>A. None</th>
<th>B. Low</th>
<th>C. Moderate</th>
<th>D. High</th>
<th>E. Reckless Disregard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type of Action</th>
<th>A. Citation</th>
<th>B. Order</th>
<th>C. Safeguard</th>
<th>D. Written Notice</th>
<th>E. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>104(d)(2)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8082692</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Area or Equipment</th>
<th>The right side roof bolter in the #4 entry.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Termination Due</th>
<th>A. Date Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Action to Terminate</th>
<th>The line curtain and box check was tighten to get 5,100 CFM of air behind the line curtain.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Terminated</th>
<th>A. Date Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Type of Inspection (activity code)</th>
<th>E01</th>
<th>Event Number</th>
<th>6288652</th>
<th>Primary or Mill</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>E01</th>
<th>6288652</th>
<th>23. AR Number</th>
</tr>
</thead>
</table>

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 20410. 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

1. Date: Mo Da Yr 10/21/2009
2. Time (24 Hr. Clock): 1415
3. Citation/Order Number: 8080095

4. Served To:
   Everett Hager, Superintendent

5. Operator:
   PERFORMANCE COAL COMPANY

6. Mine:
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID:
   46-08436

Condition or Practice:
The #1 beltline for the #2 Section is not properly aligned. The moving belt is rubbing the bottom belt structures in several location along the beltline.

9. Violation:
   A. Health ☑
   B. Section of Act:
   C. Part/Section of Title 30 CFR:
   75.1731(b)

10. Gravity:
    A. Injury or Illness (has) (is): Unlikely ☑
    B. Injury or Illness could reasonably be expected to be:
       Unlikely ☑
    C. Significant and Substantial:
       Yes ☑
    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):
    A. Citation ☑
    B. Order ☐
    C. Safeguard ☐
    D. Written Notice ☐

14. Initial Action:
    E. Citation/Order Number:
    F. Dated Mo Da Yr:

15. Area or Equipment:

16. Termination Due:
    A. Date: Mo Da Yr 10/21/2009
    B. Time (24 Hr. Clock): 1505

17. Action to Terminate:
The belt was realigned and not rubbing structures.

18. Terminated:
    A. Date: Mo Da Yr 10/21/2009
    B. Time (24 Hr. Clock): 1505

19. Type of Inspection (activity code):
    20. Event Number: 6288652

22. Signature:

MSHA Form 7000-3a (April 2004) - 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 20410. 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 Fairchild scoop Serial No. 339-230 being used on the 065-0 MMU, No. 3 Section located in the No. 2 entry in/by the last open break that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entry that the scoop was located measured with a standard rule 82 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

The Fairchild scoop Serial No. 339-230 located on the 065 MMU.
A canopy was provided for the Fairchild scoop Serial No. 339-230.
The Joy shuttle car Serial No. PM 0163 being used on the 065-0 MMU, No. 3 Section located in the No. 3 to 2 cross-cut in the last open break that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entry that the shuttle car was located measured with a standard rule to be 77 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.
A canopy was provided for the Joy shuttle car Serial No. PM 0163.
The Joy shuttle car Serial No. PM 0158 being used on the 065-0 MMU, No. 3 Section located at the section dumping point in the last open break that measured with a standard rule to be an average of 52 inches was not provided with a cab or canopy. The entry that the shuttle car was located measured with a standard rule to be 46 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.

The Joy shuttle car, Serial No. PM 0158, located on the 065 MMU.
A canopy was provided for the Joy shuttle car Serial No. PM 0158.
The Fairchild scoop Serial No. 337-196 being used on the 064-0 MMU, No. 3 Section located in the last open break 6 to 7 that measured with a standard rule to be an average of 66 inches was not provided with a cab or canopy. The entries located to the working faces on the 064 MMU average measured with a standard rule to be 51 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.
A canopy was provided for the Fairchild scoop serial No. 337-196.
The Joy shuttle car Serial No. 16851A being used on the 064-0 MMU, No. 3 Section located at the section dumping point that measured with a standard rule to be an average of 60 inches was not provided with a cab or canopy. The entries located to the working faces on the 064 MMU average measured with a standard rule to be 51 inches. This section was moved from a low seam on 10/16/2009 and began production on 10/19/2009.

Management engaged in aggravated conduct constituting more than ordinary negligence, this violation is unwarrantable failure to comply with a mandatory standard.
A canopy was provided for the Joy shuttle car Serial NO. 16851A.
The #5 Ellis beltline is black in color from the tailpiece to the belt head. The #5 Ellis beltline has float coal dust deposited on rock-dusted surface.
The #5 Ellis beltline has been rock dusted from the tailpiece to the belt head.
The stopping located at spad# 21216 has an opening of 75 inches by 80 inches in the right return for LBB. All ventilation controls, including seals, shall be maintained to serve the purpose for which they were built.
The stopping has been repaired.
The Fletcher roof drill Serial No. 92042-2003318, available for use to support the roof on the 064-0 MMU, No. 3 Section, is not being maintained in permissible and proper working condition. The dust collection system is compromise with dust behind the left and right filter, wing nut to secured the filters are missing, the right filter is go out with dust, evident of dust at the exhaust outlet. No visible dust was present in the mine atmosphere during operation.
The dust collection system for the Fletcher roof drill, Serial No. 92042-2003318 that is being used on the 064 MMU is being maintained in permissible and proper working condition. The system was cleaned and new filters with wing nuts were provided, using a pressure gage at the drill pots -15 Hg on the right side and -12 Hg on the left pot.
The Fletcher roof drill Serial No. 940901-2008322, available for use to support the roof on the 065-0 MMU, No. 3 Section, is not being maintained in permissible and proper working condition. The dust collection system is compromise with dust behind the left and right filter. The door gasket to the left door is not secured at the bottom to seal the enclosure. The left door strap is missing at the bottom. No visible dust was present in the mine atmosphere during operation.
The dust collection system for the Fletcher roof drill, Serial No. 94091-2008322 that being used on the 065 MMU is being maintained in permissible and proper working condition. The door gasket to the left collector box was resealed, strap replace and system cleaned. The vacuum pressure measured at the drill pot was -20 Hg on the left pot and -18 Hg on the right drill pot.
The Approved Methane and Dust Ventilation Plan is not being complied with on the 064-0 MMU, No. 3 Section. The approved plan requires 75 PSI of water pressure at the spray block, using a water gage at the right spray block at the ripper 55 PSI was observed on the Joy 14-10 A continuous miner, Serial No. JM 5519 A that was available for use.
The Approved Methane and Dust Ventilation Plan is not being complied with on the 065-0 MMU, No. 3 Section. The approved plan requires 3,000 CFM an 45 MEAV were the roof drill is operating. Using an approved calibrated anemometer at the end of the line curtain in the No. 2 working face were the roof drill was operating 1,937 CFM with a 16 MEAV was recorded. No visible air born dust or methane was present.
The airlock located on the track outby the Ellis switch is open on both sides. When an airlock is used, one side of the airlock shall remain closed. When not in use, both sides shall be closed.
Management had a meeting with the employees about the opening and closing of airlock doors.

---

### Section I - Subsequent Action/Continuation Data

1. **Subsequent Action 1a. Continuation**: ✔


3. **Citation/Order Number**: 8080099 - 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

---

### Section III - Subsequent Action Taken

8. **Extended To**: Mo Da Yr

9. **Event Number**: 6288652

---

### Section IV - Inspection Data

10. **Type of Inspection**: E01

11. **AR Number**: [Redacted]

12. **Date**: 11/02/2009

13. **Time (24 Hr. Clock)**: 1132

---

MSHA Form 7000-3a, Mar 95 (revised)
The Approved Roof Control Plan at this mine is not being complied with on the No. 3 Section, 064 MMU in the No. 4 working face. The plan requires permanent support (bolts) shall be within 4 foot of the coal face, using a standard rule the permanent support (bolts) measured 6 foot from the coal face. A damage bolt was located in the first row of bolts in the 4 Left cross-cut. A shuttle car was being operated by the affected area to run to the continuous miner located in the 3 right cross-cut. No loose unconsolidated material was present in the affected area.
Added statement to the body of this citation. The statement of the approved plan not being complied with is incorrect concerning the permanent support (bolts) that measured 6 foot from the #4 working face.

The body of the citation #8086914, shall reflect that the damage roof bolt (permanent support) located on the 064 MMU, 3 Left cross-cut measured 6 foot from the coal rib. The approved plan requires permanent support (bolts) shall be 4 foot from the coal rib. The coal face of the #4 working face was provided with reflectors. This statement shall reflect in the body of this citation.
The #2 Section (MMU 040-0) has started mining on 10-08-2009 in a new area of the mine, prior approval from the District Manager. Management has engaged in aggravated conduct by failure to submit for a revision and approval of the ventilation plan before mining. This violation is an unwarrantable failure to comply with a mandatory standard.
The #2 Section (MMU 040-0) has submitted an revision to ventilation plan in a new area of the mine, it has been approved by the District Manager.
After further investigation the operator was not required to submit a revision to the ventilation plan. The operator was following the base ventilation plan.
Mine Citation/Order

VACATED

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

Section I—Violation Date

1. Date: 10/28/2009
2. Time (24 Hr. Clock): 0535

3. Citation/Order Number: 8080098

4. Served To:
   Everett Hager, Superintendent
   PERFORMANCE COAL COMPANY

5. Operator:
   UPPER BIG BRANCH MINE-SOUTH

6. Mine ID: 46-08436

7. Mine ID:
   (Contractor)

8. Condition or Practice:
   Written Notice (103g)

The #2 Section (MMU 040-0) has started mining on 10-08-2009 in a new area of the mine, prior approval from the District Manager. Management has engaged in aggravated conduct by failure to submit for a revision and approval of the ventilation plan before mining. This violation is an unwarrantable failure to comply with a mandatory standard.

9. Violation:
   A. Health
   Safety
   Other

   B. Section of Act:

   C. Part/Section of Title 30 CFR:
   75.370(a)(1)

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:
   No Lost Workdays
   Lost Workdays Or Restricted Duty
   Permanently Disabling
   Fatal

   C. Significant and Substantial:
   Yes
   No

   D. Number of Persons Affected:
   008

11. Negligence (check one):

   A. None
   Low
   Moderate
   High
   Reckless Disregard

12. Type of Action:

   104(d)(2)

13. Type of Issuance (check one):

   Citation
   Order
   Safeguard
   Written Notice

14. Initial Action:

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

15. Area or Equipment:

   The #2 Section (MMU 040-0)

16. Termination Due:

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

Section III—Termination Action

17. Action to Terminate

Section IV—Automated System Data

18. Terminated:

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

19. Type of inspection:

   (activity code)
   E01

20. Event Number:

   6288652

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 09 (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 19 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 20410. 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 #2 Section (MMU 040-0) has submitted an revision to ventilation plan in a new area of the mine, it has been approved by the District Manager.
After further investigation the operator was not required to submit a revision to the ventilation plan. The operator was following the base ventilation plan.
The stopping located at spad# 23349 between #2 and #3 entry has an opening measured 55 inches wide by 30 inches high in the outby end of the stopping.
The operator asked for more time to repair the stopping, more time is granted.
The stopping has been repaired.
The operator has not submitted an up to date Designated Area (DA) plan since 02/29/2008. The locations where samples for DA will be collected, including the specific location of each sampling device, and the respirable dust control measures used at the dust generating sources for these locations.
The operator has submitted a up to date Designated Area plan, now waiting on approval from District Manager.
The operator has submitted a designated plan to MSHA and is waiting on approval from the District Manager. Additional time has been granted.
Mine Citation/Order
Continuation

1. Subsequent Action 1a. Continuation [✓] [ ]

2. Dated (Original Issue) Mo Da Yr 11/18/2009

3. Citation/Order Number 8080101 - 03

4. Served To
Gary May, Superintendent

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

Mine ID (Contractor)

---

Section II—Justification for Action

The operator has submitted a plan, and was approved by the District Manager 01/22/2010.

---

Section III—Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>A. Date</th>
<th>Mo Da Yr</th>
<th>B. Time (24 Hr. Clock)</th>
<th>C. Vacated</th>
<th>D. Terminated</th>
<th>E. Modified</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Section IV—Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>E01</th>
</tr>
</thead>
</table>

| 10. Event Number | 6286108 |

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>[Redacted]</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>12. Date</th>
<th>Mo Da Yr</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td>02/11/2010</td>
<td></td>
<td>1743</td>
</tr>
</tbody>
</table>

MSHA Form 7000-3a, Mar 05 (revised)
The permanent stoppings in Break #55 and Break #56 between the No. 2 Heading and No. 3 Heading of Headgate 1 North are not being maintained in the intent which they were built due to adverse roof conditions pushing parts of the stoppings out. The return from No. 1 Section is not isolated from the return air from the working longwall panel old works at Break #55 and #56.
The stoppings were repaired.
The return air course from the No. 1 Section could not be traveled in its entirety due to a pool of accumulated water that was rib to rib, approximately 300 feet in length, and at least 12 inches to 15 inches and above from Break #55 to Break #58. The pool of water was black and murky in color, and presented a slip/trip hazard to the miners.
The water has been pumped down.
The operator submitted a revision of the current approved plan to the District Manager and was approved on 10/27/2009. The operator again failed to come into compliance on samples taken and submitted on 10/27/2009 thru 10/31/2009. Based on the results of three valid respirable dust samples collected by the operator, the average concentration, when divided by five, of the respirable dust in the working environment of the designated occupation on the Mechanized Mining Unit (MMU) 064-0 was 0.726 mg/m³, which exceeded the applicable limit of 0.7 mg/m³ standard. Due to the hazards of respirable silica dust and coal dust additional time will not be granted under the current dust control parameters.

---

### Section II - Inspector's Evaluation

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety ✔</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>70.100(a)</td>
</tr>
</tbody>
</table>

### Section III - Termination Action

| 15. Area or Equipment | Stops production on the Mechanized Mining Unit (MMU) 064-0, Joy 14-10-AA continuous miner Serial Number JM 5519A. |

---

MSHA Form 7000-3a (Rev 08/01) - 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 14-10-AA Joy continuous miner serial# JM5519A has been taken out of service and brought to the surface.
At 63 break in the left return of number 3 section, across from the double doors to Portal Mains, rubbish has been allowed to be dumped in the return entry. This consist of paper, wood, half a scoop bucket of coal, oil buckets and 20 boxes of 4 foot glue. Combustible materials shall not be allowed to accumulate in returns and active work areas.
The trash has been cleaned up.
The double doors built at 63 break in the left return of the number 3 section were not built of sufficient strength to allow them to be un-damaged while equipment and materials were moved thru them. The doors of the 63 break side will not close and are preventing the double doors from doing the job which they were built for. The support post has been damaged and the doors have been hit causing them to be deformed.
The double doors has been repaired.
Mine Citation/Order

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

Section I—Violation Data

1. Date Mo Da Yr 11/23/2009
2. Time (24 Hr. Clock) 1145
3. Citation/Order Number 8085027

4. Served To
Lacy Stewart; Fireboss

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436 (Contractor)

8. Condition or Practice
The double doors located between the cut-thru at Portal Mains and the left return of the number 3 section were not kept closed when not in use. Both sets of doors were left open allowing the return to short circuit from 3 section at 63 break to Portal Mains at 19 break.

Section II—Inspector's Evaluation

9. Violation

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

10. Gravity:
A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [X] Reasonably Likely [ ] Highly Likely [ ] Occurred [ ]
B. Injury or illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays Or Restricted Duty [X] Permanently Disabling [ ] Fatal [ ]
C. Significant and Substantial: Yes [ ] No [X] D. Number of Persons Affected: 003

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

12. Type of Action 104(a)

13. Type of Issuance (check one)
A. Citation [X] 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 11/23/2009
B. Time (24 Hr. Clock) 1200

17. Action to Terminate
One set of the double doors were closed but the other set has been damaged and needs repaired.

18. Terminated
A. Date Mo Da Yr 11/23/2009
B. Time (24 Hr. Clock) 1145

Section IV—Automated System Data

19. Type of Inspection (activity code) E01
20. Event Number 6288652
21. Primary or Mill

22. Signature [ ]

23. AR Number [ ]

See Continuation Form (MSHA Form 7000-3a)

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, NC 2120, Washington, DC 20410. 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 fire extinguisher for the #3 Mantrip is discharged. All firefighting equipment shall be maintained in a usable and operative condition.
The #4 double door frame between #84 and #85 break has two holes in it. One of the hole measured 10 inches high by 40 inches wide. The other hole is 10 inches high by 32 inches wide. Took an air reading across the door had 24,700 CFM of air coming through the door. All ventilation controls, including seals, shall be maintained to serve the purpose for which they were built.
The permanent stoppings in break #54, #55, #56, #57, #58, #59, #60, #61, #62, #63, #64, #65, #66, #67, and #68 between the #2 and #3 entry of Headgate 1 North are not being maintained in the intent which they were built due to adverse roof conditions pushing the stoppings out. The return from #1 Section is not isolated from the return air from the working longwall panel old works at breaks #54, #55, #56, #57, #58, #59, #60, #61, #62, #63, #64, #65, #66, #67, and #68.
The operator has asked for additional time to finish the stoppings. More time is granted.
The return air course for the No.1 section has been re-routed so that the section has a travelable return.
4. Served To
Terry Moore, Mine Foreman

6. Mine
UPPER BIG BRANCH MINE-SOUTH

4. Served To
Terry Moore

Reason  Served to wrong person.
The return air course from the #1 Section could not be traveled in its entirety due to a roof fall between #68 and #69 break. The fall is approximately 15 feet long and 16 feet wide and 3 feet high. The return air course also has water up to 15 inches in various location from #60 break to #69 break. The water is black in in color presented a slip/trip hazard to the miner due to uneven mine floor and rocks under the water.
The water has been pumped and roof fall was cleaned up and additional roof support in the area.
The roof and ribs in the #1 Section return between #68 and #69 is not being supported or otherwise controlled to protect persons from hazards related to falls of the roof, face or ribs and coal or rock bursts. The area has approximately 15 feet long by 16 feet wide with no roof support.
Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation [✓] □

2. Dated (Original Issue) 12/01/2009

3. Citation/Order Number 8080108 - 01

4. Served To
Gary May, Superintendent

5. Operator
PERFORMANCE COAL COMPANY (Contractor)

6. Mine
UPPER BIG BRANCH MINE-SOUTH

Section II--Justification for Action

Timbers has been set in the area.

Section III--Subsequent Action Taken

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 6288652

11. Signature

12. Date Mo Da Yr 12/09/2009
13. Time (24 Hr. Clock) 1300

MSHA Form 7000-3a, Mar 86 (revised)
**Mine Citation/Order**

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

1. Date  
**Mo Da Yr** 12/04/2009

2. Time (24 Hr. Clock)  
1015

3. Citation/Order Number  
8080109

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  
The roof between #78 and #79 break mains intake has nine roof bolts hanging maximum of two feet from the immediate roof. The roof where persons work or travel shall be supported or otherwise controlled to protect persons from hazards related to falls of the roof.

---

**Section II—Inspector’s Evaluation**

9. Violation  
A. Health Safety

10. Gravity:

   A. Injury or Illness (has) (is): No Likelihood Unlikely Reasonably Likely

   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

   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)

   E. Citation/Order

14. Initial Action

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

15. Area or Equipment

---

16. Termination Due

   A. Date **Mo Da Yr** 12/10/2009

   B. Time (24 Hr. Clock) 0700

---

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  
6288652

21. Primary or Mill  

22. Signature

23. AR Number

---

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.
The operator has installed additional roof support in the area.
The No. 12 personnel carrier was not equipped with well maintained sanding devices. The offside, outby end sander reservoir was broke off and the actuator was damaged.
The sander was repaired.
The manual brake release in the operator's compartment of the 35C Maintenance Scoop (SN: T339-550) would not reengage the brakes without energizing the equipment.
The manual brake release was replaced so that it released and reengaged the brakes without energizing the equipment.
The trailing cable for the Joy continuous miner serial# JM4598B being operated on the #3 Section (MMU 066-0) has a permanent splice that’s not effectively insulated and sealed so as to exclude moisture. The splice has an 1/4 inch opening exposing the leads.

The permanent splice was reinsulated and sealed.
The fire extinguisher provided at the emulsion oil #12 tank on the surface is discharged. Firefighting equipment shall be continuously maintained in a usable and operative condition.
The discharged fire extinguisher was taken out of service and a new one was provided.
The top branch line for the water sprinkler system provided for the 3 Section No. 1 belt drive was located above the top surface of the belt. The sprinklers were in a horizontal position approximately 5 feet from the center of the belt.
The operator had to order parts to complete the repairs. Therefore, additional time is granted.

<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>
<tr>
<td>☐</td>
</tr>
<tr>
<td>2. Dated (Original Issue) Mo Da Yr</td>
</tr>
<tr>
<td>☑ 12/09/2009</td>
</tr>
<tr>
<td>3. Citation/Order Number</td>
</tr>
<tr>
<td>☑ 8085234 - 01</td>
</tr>
<tr>
<td>4. Served To</td>
</tr>
<tr>
<td>Rick Foster; Mine Foreman</td>
</tr>
<tr>
<td>5. Operator</td>
</tr>
<tr>
<td>PERFORMANCE COAL COMPANY</td>
</tr>
<tr>
<td>(Contractor)</td>
</tr>
<tr>
<td>6. Mine</td>
</tr>
<tr>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
<tr>
<td>7. Mine ID</td>
</tr>
<tr>
<td>☑ 46-08436</td>
</tr>
</tbody>
</table>

| Section II - Justification for Action         |

| 8. Extended To A. Date Mo Da Yr               |
| ☑ 12/23/2009                                  |
| B. Time (24 Hr. Clock)                       |
| ☑ 0800                                        |
| ☑ ☐ ☐ ☐ ☐                                    |
| 9. Type of Inspection                        |
| ☑ ☑ ☑ ☑                                      |
| 10. Event Number                             |
| ☑ 6288652                                     |

| Section IV - Inspection Data                 |

| 11. Signature                                |
| ☑                                           |
| AR Number                                    |
| ☑                                           |
| 12. Date Mo Da Yr                            |
| ☑ 12/16/2009                                  |
| 13. Time (24 Hr. Clock)                      |
| ☑ 1540                                        |

See Continuation Form ☑
The operator is waiting for parts to come in, and has asked for additional time, additional time is granted.
Extensions have been installed to give the proper coverage over the conveyor belt.
When tested, the control valve failed to activate and cause water to flow into the branch lines and discharge from the nozzles of the No. 1 North Belt.
The methane monitor for the Left Joy Miner operating on the No. 4 Section (0620 MMU) was not maintained in proper working condition. When tested with known air-methane mixture (2.5%) the methane monitor went to 3.9% methane.


B. Section of Act

C. Part/Section of Title 30 CFR

75.342(a)(4)

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

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

15. Area or Equipment

16. Termination Due A. Date 12/10/2009 B. Time (24 Hr. Clock) 1350

17. Action to Terminate The methane monitor was calibrated.

MSHA Form 7000-3a (revised) According to 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 businesses. 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 20415. 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 personnel doors in the entries adjacent to the escapeway were not clearly marked so that the doors could be easily identified by a person traveling in left and right return entries from Plumley Mains to the No. 4 section.
The personnel doors were clearly marked.
The No. 1 North belt was not properly aligned to prevent the moving belt from rubbing the offside of the tail piece frame and bearing block of the hold-up roller. There was visible smoke from the belt rubbing.
Miner's have been required to work and travel in dark-murky water from levels measuring 12 inches up to 48 inches. The mine floor under the water contains slipping and tripping hazards that cannot be seen due unlevelled bottom from heaving of the mine floor in the area, extraneous materials and slick rocks. This condition poses hazards related to tripping and falling in water up to 48 inches that could result in drowning. Citation No. 8085240 is being issued in conjunction with this order.
The operator submitted a revision to the District Manager, which was approved. The 107(a) order No. 8085239 is now terminated.
The No. 1 Section return cannot be safely traveled in its entirety due to dark-murky water measuring from 12 inches and up to 48 inches in depth from break 73 to break 134. The mine floor in this area contains slipping and tripping hazards due to unleveled bottom due to heaving of the mine floor, extraneous materials and slick rocks. This condition poses hazards related to tripping and falling hazards in water in depths up to 48 inches that could result in drowning. This citation is being issued in conjunction with a 107(a) order citation number 8085239.

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 be:
       No Lost Workdays ☐ Lost Workdays Or Restricted Duty ☐
       Permanently Disabling ☐ Fatal ☒
    C. Significant and Substantial: Yes ☒ No ☐

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 ☐

14. Initial Action
   A. Citation ☐ B. Order ☐ C. Safeguard ☐ D. Written Notice ☐
   E. Citation/Order Number
   F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due
   A. Date Mo Da Yr 12/21/2009
   B. Time (24 Hr. Clock) 0800

17. Action to Terminate

18. Terminated
   A. Date Mo Da Yr
   B. Time (24 Hr. Clock)

19. Type of Inspection (activity code) E01

20. Event Number 6288652

21. Primary or Mill

22. Signature

23. AR Number
Section I—Subsequent Action/Continuation Data

1. Subsequent Action Ta. Continuation: ☑️

2. Dated (Original Issue): 12/14/2009

3. Citation/Order Number: 8085240 - 01

4. Served To:
   Jim Walker; Safety Director

5. Operator:
   PERFORMANCE COAL COMPANY

6. Mine:
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID (Contractor): 46-08436

Section II—Justification for Action

Change: From 07:31 To 19:31

Reason: The wrong time was entered.

Section III—Subsequent Action Taken

8. Extended To:
   A. Date: Mo Da Yr
   B. Time (24 Hr. Clock): 07:31

   C. Vacated: ☐
   D. Terminated: ☐
   E. Modified: ☑️

9. Type of Inspection: E01

10. Event Number: 6288652

11. Signature: [Redacted]

12. Date: 12/15/2009

13. Time (24 Hr. Clock): 1338

MSHA Form 7000-3a, Mar 86 (revised)
The operator has complied with the approved ventilation revision for the #1 Section Return. Travel way in return has been rerouted around water and slip trip hazards per the new revision.
Mine Citation/Order

1. Date 12/15/2009
2. Time (24 Hr. Clock) 0830
3. Citation/Order Number 8080112

4. Served To

Everett Hager, Superintendent

5. Operator PERFORMANCE COAL COMPANY

6. Mine UPPER BIG BRANCH MINE-SOUTH

7. Mine ID 46-08436

8. Condition or Practice

The preshift & onshift book for the Headgate #22 section does not have the air measurement of each location.
The air measurement for each location are in the preshift & onshift book.
The #2 entry for the Longwall section (MMU 050-0) has combustible materials (papers, used oil cans, boxes) from the end of the track to the last open break.
The operator has asked for additional time due to the longwall being down, additional time is granted.
The trash has been cleaned up.
The alternate escapeway for the Longwall section (MMU 050-0) does not have sufficient width to enable miners, including disabled persons, to escape quickly in an emergency. The area between the belt and monorail is measured 18 inches wide between #46 and #47 break.
The operator has asked for additional time due to the longwall being down, additional time is granted.
The alternate escapeway has been routed around the 18 inches area.
The power wires for the permissible pumps in the #1 section return are laying on cribs in various locations in the return. All power wires shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.
The operator has ask for additional time due to the longwall being down, additional time is granted.
The area could not be traveled due to water, the water is being pumped, additional time is granted to allow the operator to pump the water down.
The pumps are now longer in service. Catheads have now been removed from the cables.
The non permissible 1010 hauler charger is operating between double doors, the double doors are between the intake and return. When a person open the return side door, the charger is operating in the return.
The operator has asked for additional time due to the longwall being down, additional time is granted.
The charger has been removed from the area.
The weekly electrical examination book for Headgate #22 ( #1 Section ) has not been recorded since 12-4-2009 for the following equipment JM5811 continuous miner, JM4918 continuous miner, ET17504 shuttle car, 488-1253 service scoop.
The weekly electrical examination book for Headgate #22 has been recorded for the following equipment JM5811, JM4918, ET17504 and 488-1253.
Mine Citation/Order

4. Served
To
Rick Foster; Mine Foreman

6. Mine
UPPER BIG BRANCH MINE-SOUTH

8. Condition or Practice
An examination by a certified person cannot be conducted by traveling to the deepest point of penetration of the Old No. 3 Section left side 1,2, and 3 interior panels off of Plumley Mains. There was accumulations of water exceeding 18 inches in depth.

9. Violation
A. Health ☑ Safety ☐ Other ☐
B. Section of Act
C. Part/Section of Title 30 CFR

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

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 12/23/2009
B. Time (24 Hr. Clock) 0800

18. Terminated
A. Date Mo Da Yr
B. Time (24 Hr. Clock)

MSHA Form 7000-3a

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 operator had to ordered the water hose and is suppose to be delivered tonight.
The water has been pumped and the weekly examinations can now be made.
There were no personnel doors within 600 feet of each other in the first left panel of the old No. 3 section interior panel off of Plumley Mains. The distance between personnel doors was 740 feet.
The operator has put in the man door on the left side of the first left panel of the Old No. 3 Section but has not put in the right side man door.
The operator has installed both doors.
The trailing cable for the Right Roof Bolter being operated on the No. 4 section was protected to prevent damage from mobile equipment. The cable was run over by a piece of mobile equipment as evidenced by a set of tire tracks.
The citation is hereby modified to insert the word "not" in the first sentence and should read, "The trailing cable for the right roof bolter operated on the No. 4 section was "not" protected to prevent damage from mobile equipment."

Section IV--Inspection Data

9. Type of Inspection  E01
10. Event Number  6288652

11. Signature

AR Number

12. Date  Mo Da Yr  12/17/2009
13. Time (24 Hr. Clock)  0615
An examination by a certified person has not been conducted for the third panel (non pillar panel) off of the right return for the No. 3 section. Also, an examination at evaluation points 60 and 61, as designated on the ventilation map, have not been conducted. The last dates found were 4/15/2009 and these areas have not been recorded in the designated weekly examination book for the last six months.
The operator failed to follow the roof control plan approved by the District Manager in that the roof bolt spacing was 5 to 7 feet from the left inby corner of the last intersection in No. 5 Heading on the No. 3 Section.
The operator has installed a roof bolt in the corner in the #5 entry.
The No. 2 Joy continuous miner s/n JM6053 used on the No.2 section MMU 040-0 is not being maintained in a permissible condition. An opening of greater than .015 inches is present between the panel lid and the panel box of the main junction box. This section is idle and the power is off at the present time. There is no methane present on the section.
The opening in the panel lid of the No. 2 continuous miner has been sealed.
The operator is failing to maintain the trailing cable to the #2007060 roof bolter on the #2 section 040-0 MMU. The roof bolter trailing cable has a 2.5 inch cut exposing the insulated lead inside, which 2 of the lead are damage exposing bare leads.

This is an idle section and there is no methane detected at this time.
There was no record in the designated weekly electrical examination book verifying that a weekly examination of the right roof bolter and the right shuttle car was conducted for the week ending 12/19/2009.
Examination was made on 12/28/2009 on the Right Roof bolter for the #3 Section.
A permanent splice in the trailing cable for the Joy Center Shuttle Car (ET16084) operating on the No. 3 section was not effectively insulated and sealed as to exclude moisture. The splice had the outer wrap and inner insulating tape pulled apart three inches exposing the inner power leads.
The Longwall section intake phone is not making contact with the surface phone.
Mine Citation/Order

Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation
   ✔

2. Dated (Original Issue)
   10/19/2009

3. Citation/Order Number 8080091-02

4. Served To
   Jack Roles, Longwall Coordinator

5. Operator
   PERFORMANCE COAL COMPANY

6. Mine
   UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
   46-08436

Section II-Justification for Action

Change From To
17. Action To Terminate

Reason Typing error: I typed the word not after the word is and before making and it should read is now making.

Typing error

Section III-Subsequent Action Taken

6. Extended To
   A. Date Mo Da Yr
   B. Time (24 Hr. Clock)
   ■ C. Vacated □ D. Terminated ✔ E. Modified

Section IV-Inspection Data

9. Type of Inspection E01
10. Event Number 6288652

11. Signature
    [Redacted]
    [Redacted]
12. Date Mo Da Yr
    10/21/2009
13. Time (24 Hr. Clock)
    0605
The operator has installed additional roof support in various locations along the track entry from the Ellis switch to the portal on the north side.
Roof Control

☑ Adequate  ☐ Deficiencies in Plan (Briefly Describe)

I spoke to mine management and employee about the roof control plan. If the plan is followed the plan is adequate.

Ventilation

☐ Adequate  ☐ Deficiencies in Plan (Briefly Describe)

I spoke to mine management and employee about the ventilation plan. If the plan is followed the plan is adequate.
The operator has allowed water to accumulate over the top track one break outby and one break inby the #5 Ellis tailpiece.
The water has been pumped below the top of the track.
Mine Citation/Order

Section I-Violation Data


5. Operator: PERFORMANCE COAL COMPANY

6. Mine: UPPER BIG BRANCH MINE-SOUTH

8. Condition or Practice:

A. Health
B. Section of Act
C. Part/Section of Title 30 CFR

9. Violation:

A. Health [ ] Safety [x] Other [ ]

B. Section of Act: 70.1106-3(a)(2)

C. Part/Section of Title 30 CFR: 75.1106-3(a)(2)

10. Gravity:

A. Injury or Illness (has is):
   No Likelihood [ ] Unlikely [ ] Reasonably Likely [x] Highly Likely [ ] Occurred [ ]

B. Injury or illness could reasonably be expected to be:
   No Lost Workdays [ ] Lost Workdays Or Restricted Duty [x] Permanently Disabling [ ] Fatal [ ]

C. Significant and Substantial:
   Yes [ ] No [x]

D. Number of Persons Affected: 001

11. Negligence (check one)

A. None [ ] B. Low [ ] C. Moderate [x] D. High [ ] E. Reckless Disregard [ ]

12. Type of Action

104(a)

13. Type of Issuance (check one)

E. Citation/Order [x] D. Written Notice [ ] F. Safeguard [ ]

14. Initial Action

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

15. Area or Equipment

16. Termination Due

A. Date: 12/29/2009  B. Time (24 Hr. Clock): 1140

17. Action to Terminate

The compressed oxygen tank was secured.

18. Terminated

A. Date: 12/29/2009  B. Time (24 Hr. Clock): 1135

19. Type of Inspection (activity code): E01

20. Event Number: 6288652

21. Primary or Mill

22. [Blank]

23. AR Number: [Blank]

For questions about this notice, you may call 1-888-734-3247 (toll-free), or write the Ombudsman at the Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2129, Washington, DC 20416. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-5247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2129, 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 stationary take-up roller on the #1 Belt head for the #3 Section is found turning in loose coal and coal dust. The depth of loose coal and coal dust is from 6 inches to 12 inches covering the entire length of roller.

9. Violation
   A. Health
      Safety
   No Violation

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

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
    B. Time (24 Hr. Clock)

17. Action to Terminate

18. Terminated
    A. Date
    B. Time (24 Hr. Clock)

19. Type of Inspection (activity code) E01

20. Event Number 6288652

21. Primary or Mill

22. Signature

23. AR Number
The combustible material around the stationary roller at the take up at #3 section belt drive has been cleaned up.
The fire extinguisher located at the #2 Battery charger for Track locomotives in the #3 portal is found not in useable condition in that the gage on the extinguisher indicated the unit had been discharged.

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health _ ☐</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Safety ☑</td>
<td></td>
<td>75.1100-3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>10. Gravity:</th>
<th>A. Injury or Illness (has) (is):</th>
<th>No Likelihood ☐</th>
<th>Unlikely ☑</th>
<th>Reasonably Likely ☐</th>
<th>Highly Likely ☐</th>
<th>Occurred ☐</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Injury or illness could reasonably be expected to be:</td>
<td>No Lost Workdays ☐</td>
<td>Lost Workdays Or Restricted Duty ☑</td>
<td>Permanently Disabling ☐</td>
<td>Fatal ☐</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Significant and Substantial:</td>
<td>Yes ☐</td>
<td>No ☑</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. Number of Persons Affected:</td>
<td>001</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 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 ☐ |

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

| 15. Area or Equipment | |

| 16. Termination Due | A. Date | Mo Da Yr | 12/30/2009 | B. Time (24 Hr. Clock) | 1230 |

| 17. Action to Terminate | The fire extinguisher had been removed from service and replaced with a operable one |

| 18. Terminated | A. Date | Mo Da Yr | 12/30/2009 | B. Time (24 Hr. Clock) | 1245 |

| 19. Type of Inspection (activity code) | E01 | 20. Event Number | 6288652 | 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 16 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually assesses enforcement actions 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 1210, 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.
**U.S. Department of Labor**  
**Mine Safety and Health Administration**

### Section I - Violation Data

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Date</strong></td>
<td>Mo Da Yr</td>
<td>12/30/2009</td>
</tr>
<tr>
<td><strong>2. Time (24 Hr. Clock)</strong></td>
<td></td>
<td>1130</td>
</tr>
<tr>
<td><strong>3. Citation/Order Number</strong></td>
<td></td>
<td>8096963</td>
</tr>
<tr>
<td><strong>4. Served To</strong></td>
<td></td>
<td>Gary May, Mine Foreman</td>
</tr>
<tr>
<td><strong>5. Operator</strong></td>
<td></td>
<td>PERFORMANCE COAL COMPANY (Contractor)</td>
</tr>
<tr>
<td><strong>6. Mine</strong></td>
<td></td>
<td>UPPER BIG BRANCH MINE-SOUTH</td>
</tr>
<tr>
<td><strong>7. Mine ID</strong></td>
<td></td>
<td>46-08436</td>
</tr>
</tbody>
</table>

**The operator is failing to keep the cap magazine and powder magazine located on the surface marked with suitable danger signs visible from all directions.**

### Section II - Inspector's Evaluation

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>9. Violation</strong></td>
<td>A. Health Safety</td>
<td>☑</td>
</tr>
<tr>
<td><strong>B. Section of Act</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C. Part/Section of Title 30 CFR</strong></td>
<td></td>
<td>77.1301(c)(9)</td>
</tr>
</tbody>
</table>

#### 10. Gravity:

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Injury or Illness (has) (is):</strong></td>
<td>No Likelihood ☐</td>
<td>Unlikely ☑</td>
</tr>
<tr>
<td><strong>B. Injury or Illness could reasonably be expected to be:</strong></td>
<td>No Lost Workdays ☐</td>
<td>Lost Workdays Or Restricted Duty ☐</td>
</tr>
<tr>
<td><strong>C. Significant and Substantial:</strong></td>
<td>Yes ☐</td>
<td>No ☑</td>
</tr>
<tr>
<td><strong>D. Number of Persons Affected:</strong></td>
<td></td>
<td>001</td>
</tr>
</tbody>
</table>

#### 11. Negligence (check one):

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. None ☐</strong></td>
<td><strong>B. Low ☑</strong></td>
<td><strong>C. Moderate ☐</strong></td>
</tr>
</tbody>
</table>

### Section III - Termination Action

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>12. Type of Action</strong></td>
<td>104(a)</td>
<td></td>
</tr>
<tr>
<td><strong>13. Type of Issuance (check one):</strong></td>
<td>Citation ☑</td>
<td>Order ☐</td>
</tr>
</tbody>
</table>

#### 14. Initial Action:

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Citation ☐</strong></td>
<td><strong>B. Order ☐</strong></td>
<td><strong>C. Safeguard ☐</strong></td>
<td><strong>D. Written Notice ☐</strong></td>
</tr>
<tr>
<td><strong>E. Citation/Order Number</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 15. Area or Equipment

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>16. Termination Due</strong></td>
<td>A. Date Mo Da Yr</td>
<td>01/05/2010</td>
</tr>
<tr>
<td><strong>B. Time (24 Hr. Clock)</strong></td>
<td></td>
<td>0800</td>
</tr>
</tbody>
</table>

### Section IV - Automated System Data

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>19. Type of Inspection</strong></td>
<td>(activity code)</td>
<td>E01</td>
</tr>
<tr>
<td><strong>20. Event Number</strong></td>
<td></td>
<td>6288652</td>
</tr>
<tr>
<td><strong>21. Primary or Mill</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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 businesses. 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.
The operator provided a purchase order for signs, therefore, additional time is granted.

The operator provided a purchase order for signs, therefore, additional time is granted.

## Section I--Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action 1a. Continuation</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔</td>
<td>12/30/2009</td>
<td>8096963-01</td>
</tr>
</tbody>
</table>

## Section II--Justification for Action

**Mine Citation/Order**

**Continuation**

**Mine and Health**

**U.S. Department of Labor**

**Mine Safety and Health Administration**

**46-08436**

**Gary May, Superintendent**

**Performance Coal Company**

**Upper Big Branch Mine-South**

**Mine ID**

**46-08436**

---

**Section III--Subsequent Action Taken**

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Date</td>
<td>E01</td>
<td>6286108</td>
</tr>
<tr>
<td>Mo Da Yr</td>
<td>01/19/2010</td>
<td></td>
</tr>
</tbody>
</table>

**B. Time (24 Hr. Clock)**

<table>
<thead>
<tr>
<th>11. Signature</th>
<th>12. Date</th>
<th>13. Time (24 Hr. Clock)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>01/14/2010</td>
<td>0830</td>
</tr>
</tbody>
</table>

**MSHA Form 7004-A (7/02/14)**
Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation [✓]  
2. Dated (Original Issue) 12/30/2009  
3. Citation/Order Number 8096963 - 02

4. Served To  
   Rick Foster, Mine Foreman  

5. Operator  
   PERFORMANCE COAL COMPANY  

6. Mine  
   UPPER BIG BRANCH MINE-SOUTH  

7. Mine ID 46-08436

Section II--Justification for Action

The powder and cap magazines are now marked with suitable signs.
The 1000 gallon diesel storage tank located on the surface near the Bandytown ventilation fan is not equipped with any fire extinguishers.
The Sullair 1600H air compressor (S/N 20080328017) located on the surface near the Bandy town ventilation fan is not equipped with any fire extinguishers.
The Turbine water pump located on the surface near the Bandy town ventilation fan is not equipped with any fire extinguishers.
Mine Citation/Order

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

1. Date: Mo Da Yr 12/30/2009
2. Time (24 Hr. Clock): 1230
3. Citation/Order Number: 8100144
4. Served To: Everett Hagar, Superintendent
5. Operator: PERFORMANCE COAL COMPANY
6. Mine: UPPER BIG BRANCH MINE-SOUTH
7. Mine ID: 46-08436 (Contractor)
8. Condition or Practice: Written Notice (103g)

The operator is failing to maintain the correct direction of air flow in first right panel in the Old No. 3 Section. The air flow through the regulator at MP#11 is going in the reverse direction.

9. Violation:
   A. Health Safety
   B. Section of Act
   C. Part/Section of Title 30 CFR 75.333(h)

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):
    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 12/31/2009
    B. Time (24 Hr. Clock): 0800

17. Action to Terminate

18. Terminated:
    A. Date: Mo Da Yr
    B. Time (24 Hr. Clock)

19. Type of Inspection (activity code): E01
20. Event Number: 6288652
21. Primary or Mill

22. Signature

MSHA Form 7000-3a (Page 1 of 3)

For additional information about 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 2128, Washington, DC 20416. Please note, however, that your right to file a complaint 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 air is now flowing in the proper direction.