**Mine Activity Date**

<table>
<thead>
<tr>
<th>1. Action:</th>
</tr>
</thead>
</table>
a. New Entry ✓
b. Update  ❌

<table>
<thead>
<tr>
<th>2. Activity Code:</th>
</tr>
</thead>
</table>
E22

<table>
<thead>
<tr>
<th>3. Event Number:</th>
</tr>
</thead>
</table>
4113417

<table>
<thead>
<tr>
<th>4. Date Event Started:</th>
</tr>
</thead>
</table>
3/30/2006

- **Organization Code** (Mine Assignment): 20401
- **Organization Code** (AR Assignment): 20401
- **Work Group Identifier** (Mine Assignment): 02
- **Work Group Identifier** (AR Assignment): 02
- **Report Type** (check one)
  - a. First
  - d. Shafts/Slopes
  - e. Surface Areas (UC)
  - f. Surface Workings
  - g. Company Records
  - h. ATV
  - i. Impoundments
  - j. Refuse Piles
- **Major Construction**:
  - (1) Shaft/Slope Sinking
  - (2) Impoundment Construction
  - (3) Buildings
  - (4) Dragline/Shovel
  - (5) Other
  - l. Miscellaneous

<table>
<thead>
<tr>
<th>12. Area of Inspections</th>
</tr>
</thead>
</table>
a. Active Sections: 1
b. Idle Sections: 0

<table>
<thead>
<tr>
<th>13. Number of Samples Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Air Samples: 0</td>
</tr>
<tr>
<td>b. Rock Dust Spot: 0</td>
</tr>
<tr>
<td>c. Rock Dust Survey: 0</td>
</tr>
<tr>
<td>d. Respirable Dust: 0</td>
</tr>
<tr>
<td>e. Noise: 0</td>
</tr>
<tr>
<td>f. Other: 0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>14. Impoundments/Refuse Piles:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Number</td>
</tr>
<tr>
<td>b. FHC</td>
</tr>
<tr>
<td>c. Configuration</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>15. Prime Independent Contractor Codes (Major Construction)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>16. Inspection Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. This Inspection</td>
</tr>
<tr>
<td>(1) New Issuances: 1</td>
</tr>
<tr>
<td>(2) Terminations/Vacations: 1/0</td>
</tr>
<tr>
<td>(3) Modifications/Extensions: 0/0</td>
</tr>
<tr>
<td>(4) Left Pending: 0/0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>b. Previously Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Modifications/Extensions: 0/0</td>
</tr>
<tr>
<td>(2) Terminations/Vacations: 0/0</td>
</tr>
</tbody>
</table>

- **Citations**
  - Coal Opr: 1
  - Ind Con: 0
  - Coal Opr: 0
  - Ind Con: 0

- **Orders**
  - Coal Opr: 0
  - Ind Con: 0

- **Safeguards**
  - Ind Con: 0

- **Other**
  - Ind Con: 0

<table>
<thead>
<tr>
<th>17. Remarks:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>18. Signature and Card Number of Authorized Representative/Right of Entry Person(s) Responsible for Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Card Number</td>
</tr>
<tr>
<td>----------------</td>
</tr>
<tr>
<td>24024</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>19. Key Entered By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date</td>
</tr>
</tbody>
</table>

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
<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>Week 1</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
<td>☐ ☐ ☐</td>
</tr>
</tbody>
</table>

3/26/2006

Reverse, MSHA Form 2000-22, Oct 85 (Revised)  
Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark “X” in appropriate Block to Indicate Shift)
May 3, 2006

Mr. Mike Vaught  
Performance Coal Company  
ID No. 46-08436  
Box 69  
Naoma, West Virginia 25140

Dear Mr. Vaught:

In accordance with Part 100, Title 30 CFR, this is to advise you that a Health and Safety Conference concerning the Citation(s) and/or Order(s) listed below has been scheduled at  a.m., 1:00 p.m. on May 16, 2006 as per your request dated April 7 & 17, 2006. The conference will be held in the Mt. Hope MSHA office located at Mt. Hope, WV. Failure to appear as scheduled will negate your right to a conference at a future date. However, you should be aware that participation in this conference does not waive your right to a formal hearing with the Federal Mine Safety and Health Review Commission concerning these Citations and/or Orders.

This conference has been assigned to Dana Hosch. Should you find that you are unable to attend this conference at the time scheduled or have any questions or comments, please call Mr. Hosch at (304) 877-3900 Ext. 103 as soon as possible. We appreciate your cooperation.

Sincerely,

Dana Hosch  
Conference Officer  
Coal Mine Safety and Health, District 4

cc: Mr. Jim Bowman, Conference Officer  
Files
April 10, 2006

Mr. Bill Potter
President
Performance Coal Company, Inc.
POB 69
Naoma, WV 25140

Dear Mr. Potter:

In accordance with Part 100, Title 30, a review of the following Citation(s)/Order(s) issued at Upper Big Branch Mine - South, ID No. 46-08436, Performance Coal Company, is being made to determine whether the regular assessment formula should be waived and a special assessment proposed.

CITATION/ORDER NO.     DATE ISSUED

7251654            03/30/06
7251656            03/30/06
7251658            04/03/06

You have the right to request a safety and health conference regarding this action. To exercise this right, you must submit your request for a conference to this office within 10 calendar days of the date of receipt of this letter. If you do not wish to conference this action, a response is not required.

Sincerely,

Lincoln L. Selfe, Jr.
Assistant District Manager
Coal Mine Safety & Health

cc: Files/pab
A special assessment is warranted due to gravity. This MMU is currently under continuing non compliance citation for excessive respirable dust. The dust levels have been 4.23 mg per cubic meter and 3.98 mg per cubic meter since 02/06/2006. This section is cutting approximately 30 inches of rock and was also cited for low air velocity (Citation #7251654) on the Longwall face conveyor on this same date. Therefore this citation is requested to be reviewed for special assessment.
The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. The following conditions exist:
1. The required sprays located at Crusher and the Stageloader were not operating (water turned off)
2. The required sprays located at the Stageloader were damaged and not operating affectively.
3. The four (4) spray blocks on the Shear at location C, D, E and F of the plan were either inoperative or the sprays were out.
4. The four (4) spray block on the headgate end of the Shear near the ranging arm was not installed.
5. There is zero (0) water pressure to the required sprays when checked.

This section is currently out of compliance of respirable dust, is on a

<table>
<thead>
<tr>
<th>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></td>
<td></td>
<td>75.370(a)(1)</td>
</tr>
</tbody>
</table>

Section II - Inspector's Evaluation

10. Gravity:
A. Injury or illness (has) (is): No Likelihood ✓ Unlikely Unreasonably Likely Unreasonably Likely Occurred
B. Injury or illness could reasonably be expected to be: No Lost Workdays ✓ Lost Workdays Or Restricted Duty Permanent Disability ✓ Fatal
C. Significant and Substantial: Yes ✓ No
D. Number of Persons Affected: 003

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

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 03/30/2006 B. Time (24 Hr. Clock) 1230

17. Action to Terminate All the sprays blocks and sprays have now been repaired and spraying as required. There is now 120 psi water pressure to the required sprays.

18. Terminated A. Date Mo Da Yr 03/30/2006 B. Time (24 Hr. Clock) 1345

19. Type of Inspection (activity code) E22
20. Event Number 4113417
21. Primary or Mill
22. Signature
23. AR Number 24024
Mine Citation/Order

Continuation

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

Section I-Subsequent Action/Continuation Data

<table>
<thead>
<tr>
<th>1. Subsequent Action</th>
<th>2. Dated (Original Issue)</th>
<th>3. Citation/Order Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>03/30/2006</td>
<td>7251656</td>
</tr>
</tbody>
</table>

4. Served To
Jack Roles, Longwall Coordinator

5. Operator
PERFORMANCE COAL COMPANY

6. Mine
UPPER BIG BRANCH MINE-SOUTH

7. Mine ID
46-08436 (Contractor)

Section II-Justification for Action

Continuation of 8. Condition or Practice

reduced respirable dust standard and is cutting approximately 30 inches of rock.

Section III-Subsequent Action Taken

<table>
<thead>
<tr>
<th>8. Extended To</th>
<th>A. Date</th>
<th>Mo</th>
<th>Da</th>
<th>Yr</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<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>
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</tr>
</tbody>
</table>

Section IV-Inspection Data

<table>
<thead>
<tr>
<th>9. Type of Inspection</th>
<th>10. Event Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>E22</td>
<td>4113417</td>
</tr>
</tbody>
</table>

11. Signature

AR Number
24024

12. Date | Mo | Da | Yr |
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
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</tr>
</tbody>
</table>

13. Time (24 Hr. Clock)
0830

MSHA Form 7000-3a, Mar 85 (revised)
## Mine Citation/Order Continuation

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

### Section I—Subsequent Action/Continuation Data

1. **Subsequent Action**  
   - Ta. Continuation: **✓**

2. **Dated**  
   - (Original Issue): 03/30/2006

3. **Citation/Order Number**: 7251656 - 01

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

<table>
<thead>
<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. A. Injury or Illness</td>
<td>Reasonably Likely</td>
<td>Highly Likely</td>
</tr>
</tbody>
</table>

**Reason**: Original marked in error.

---

### Section III—Subsequent Action Taken

- **Extended To**:  
  - A. Date:  
  - Mo Da Yr:  
  - B. Time (24 Hr. Clock):  
  - C. Vacated: **☐**  
  - D. Terminated: **☐**  
  - E. Modified: **✓**

### Section IV—Inspection Data

- **Type of Inspection**: E22
- **Event Number**: 4113418

- **Signatures**
  - AR Number: 24024
  - 12. Date: 04/03/2006

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