

Mine Activity Data



1. Action: a. New Entry b. Update 2. Activity Code: E22 3. Event Number: 4113418

4. Date Event Started: 4/3/2006 5. Date Event Finished: 4/18/2006 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment): 20401 b. Work Group Identifier: 02 9. Company Name: PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment): 20401 b. Work Group Identifier: 02 10. Mine Name: UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check one) a. First b. Interim c. Last d. Not Applicable 12. Area of Inspections a. Active Sections: 1 b. Idle Sections: 0

c. Outby Areas d. Shafts/Slopes e. Surface Areas (UG) f. Surface Workings g. Company Records h. ATF i. Impoundments j. Refuse Piles

k. Major Construction (1) Shaft/Slope Sinking: 0 (2) Impoundment Construction: 0 (3) Buildings: 0 (4) Dragline/Shovel: 0 (5) Other: 0 l. Miscellaneous

m. MMU/Pit Number: 0310

13. Number of Samples Collected a. Air Samples: 0 b. Rock Dust Spot: 0 c. Rock Dust Survey: 0 d. Respirable Dust: 0 e. Noise: 0 f. Other: 0

14. Impoundments/Refuse Piles: a. Number b. FHC c. Configuration	15. Prime Independent Contractor Codes (Major Construction)							
	16. Inspection Results							
	Citations		Orders		Safeguards		Other	
a. This Inspection	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
(1) New Issuances	12	0	3	0	0	0	0	0
(2) Terminations/Vacations	9/0	0/0	1/0	0/0	0/0	0/0	0/0	0/0
(3) Modifications/Extensions	0/1	0/0	0/0	0/0	0/0	0/0	0/0	0/0
(4) Left Pending	2	0	2	0	0	0	0	0
b. Previously Issued								
(1) Modifications/Extensions	2/2	0/0	0/0	0/0	0/0	0/0	0/0	0/0
(2) Terminations/Vacations	1/0	0/0	0/0	0/0	0/0	0/0	0/0	0/0

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

a.  Card Number: 24024

b. _____

c. _____

d. _____

19. Key Entered By _____ Date _____

17. Remarks:

Shift	Sun			Mon			Tue			Wed			Thur			Fri			Sat		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3
Week 1 4/2/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>									
Week 2 4/9/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>								

Mine Activity Data

RR
 4-5-06
 MTD

1. Action: a. New Entry b. Update 2. Activity Code: E22 3. Event Number: 4113418

4. Date Event Started: 4/3/2006 5. Date Event Finished: 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 02 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group Identifier 02 10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check one) a. First b. Interim c. Last d. Not Applicable 12. Area of Inspections a. Active Sections b. Idle Sections

c. Outby Areas d. Shafts/Slopes e. Surface Areas (UG) f. Surface Workings g. Company Records h. ATF i. Impoundments j. Refuse Piles

k. Major Construction (1) Shaft/Slope Sinking (2) Impoundment Construction (3) Buildings (4) Dragline/Shovel (5) Other I. Miscellaneous

m. MMU/Pit Number

13. Number of Samples Collected a. Air Samples b. Rock Dust Spot c. Rock Dust Survey d. Respirable Dust e. Noise f. Other

14. Impoundments/Refuse Piles:
 a. Number b. FHC c. Configuration

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results

	Citations		Orders		Safeguards		Other	
	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
a. This Inspection								
(1) New Issuances								
(2) Terminations/Vacations								
(3) Modifications/Extensions								
(4) Left Pending								
b. Previously Issued								
(1) Modifications/Extensions								
(2) Terminations/Vacations								

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

a.  Card Number 24024

b. _____

c. _____

d. _____

17. Remarks:

19. Key Entered By _____ Date _____

Shift	Sun			Mon			Tue			Wed			Thur			Fri			Sat		
	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3	1	2	3

4/20/06

Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 0830	3. Citation/ Order Number 7168153
4. Served To JACK ROLES		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE MINE ROOF ALONG THE TRACK ENTRY ON THE 16 HEADGATE (031-0) LONGWALL SECTION WAS NOT BEING PROPERLY CONTROLLED IN THAT, NUMEROUS CRIBS THAT HAD BEEN INSTALLED ALONG THIS ENTRY WERE NOT INSTALLED TIGHT AGAINST THE MINE ROOF. THE CRIBS APPEARED TO HAVE DRIED OUT RESULTING IN THEM NOT BEING INSTALLED TIGHT AGAINST MINE ROOF. THESE CRIBS WERE INSTALLED IN THE CONNECTING CROSSCUTS.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.202(a)
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Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood 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

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 04/04/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 20083

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

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4-7-06

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/03/2006 Mo Da Yr	3. Citation/ Order Number 7168153 - 01
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The cribs along the Longwall Track Entry have now been properly installed.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Sign	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 2000

Mine Citation/Order

U.S. Department of Labor
Mine Safety and Health Administration22
4-4-06


Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 1020	3. Citation/ Order Number 7168154
4. Served To JACK ROLES		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

LOOSE COAL AND COAL DUST MIXED WITH ROCK WAS ALLOWED TO ACCUMULATE FROM 1 TO 8 INCHES ALONG AND UNDER THE 16 HEADGATE (031-0) LONGWALL SECTION BELT CONVEYOR STARTING AT BREAK 14 AND EXTENDING OUTBY TO THE STORAGE UNIT A DISTANCE OF ABOUT 1500 FEET. SOME LOCATIONS ALONG THIS BELT ENTRY HAD FLOAT DUST ACCUMULATED OVER THE ROCK DUSTED MINE FLOOR AND COAL RIBS RESULTING IN AREAS BEING DARK IN COLOR.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.400
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input type="checkbox"/>	Reasonably Likely <input checked="" type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>
B. Injury or illness could reasonably be expected to be:	No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 005		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 04/05/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature	23. AR Number 20083	

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/03/2006	Mo Da Yr	3. Citation/ Order Number 7168154 - 01
4. Served To Bevis Griswold, Mine Foreman			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The loose coal and coal dust has now been removed from along the Longwall Belt Conveyor and the affected area has been rockdusted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1805

5/3/06

RR
4-4-06


Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 1045	3. Citation/ Order Number 7168155
4. Served To JACK ROLES	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE APPROVED VENTILATION PLAN WAS NOT BEING COMPLIED WITH ALONG THE 16 HEADGATE LONGWALL BELT CONVEYOR IN THAT, THE PLAN REQUIRES THE AIR CURRENT ALONG THIS ENTRY TO BE FROM THE DRIVE UNIT TO TAIL AND AT BREAK 10 TO 11 THE AIR IS REVERSED AND THE AIR CURRENTS TRAVEL FROM THE TAIL TO THE DRIVE UNIT. THIS DETERMINATION WAS MADE WITH THE USE OF A CHEMICAL SMOKE TUBE.

See Continuation Form (MSHA Form 7000-3a)

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

10. Gravity:						
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input type="checkbox"/>	Reasonably Likely <input checked="" type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>	
B. Injury or illness could reasonably be expected to be:	No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>		
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 005			
11. Negligence (check one)						
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>		
12. Type of Action	104(a)	13. Type of Issuance (check one)		Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr	
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>			

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/04/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 20083

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/03/2006	Mo Da Yr	3. Citation/ Order Number 7168155 - 01
4. Served To Bevis Griswold, Mine Foreman			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The Operator is in process of submitting a revision to the Approved Ventilation Plan and more time is need for the approval process, therefore more time is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 04/14/2006	B. Time (24 Hr. Clock) 0700	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signatur	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1810

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/03/2006	Mo Da Yr	3. Citation/ Order Number 7168155 - 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 (Contractor)	

Section II--Justification for Action

The airflow along the No. 16 Headgate Longwall is now flowing in the proper direction, from the belt drive towards the tail.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/19/2006	13. Time (24 Hr. Clock) 1225

4/20/06

Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 1050	3. Citation/ Order Number 7168156
4. Served To JACK ROLES		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE AIR VELOCITIES ALONG THE 16 HEADGATE LONGWALL BELT CONVEYOR WERE FROM 12 TO 42 FEET PER MINUTE FROM BREAK 10 TO 11 EXTENDING OUTBY TO THE OUTBY END OF THE STORAGE UNIT AND THE CO SENSORS WERE OVER 350 FEET SPACING. AT BREAK 11 HAD CO SENSOR BUT DID NOT PROVIDE COVERAGE DUE TO AIR TRAVELED INBY TO THE TAILPIECE AT THIS LOCATION SO FROM BREAK 11 OUTBY NO SENSOR WAS PROVIDE UNTIL STORAGE UNIT A DISTANCE OF ABOUT 1000 FEET. THIS DETERMINATION WAS MADE WITH THE USE OF A CHEMICAL SMOKE TUBE.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.351(e)(3)
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Section II--Inspector's Evaluation

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: 000

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 04/04/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 20083

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

RR
4-7-06

Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 04/06/2006	2. Time (24 Hr. Clock) 1740	3. Citation/ Order Number 7251660
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contract)
8. Condition or Practice		8a. Written Notice (103g)

No apparent effort was made by the Operator to place the additional Carbon Monoxide Sensors at 350 feet intervals along the 031-0 Longwall Belt Conveyor.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.351(e)(3)
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
	B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected:	
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action 104(b)	13. Type of issuance (check one)		Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard
14. Initial Action	E. Citation/ Order Number 7168156			F. Dated	Mo Da Yr 04/03/20
A. Citation <input checked="" type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>	
D. Written Notice <input type="checkbox"/>		15. Area or Equipment The 031-0 Longwall Belt Conveyor System.			

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

17. Action to Terminate The required CO Sensors have now been installed along the belt.

18. Terminated	A. Date Mo Da Yr 04/06/2006	B. Time (24 Hr. Clock) 1930
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Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) in accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

4/20/06

RR
4-4-06


Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 1100	3. Citation/ Order Number 7168157
4. Served To JACK ROLES		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE 16 HEADGATE LONGWALL BELT CONVEYOR BELT TAKE-UP WAS NOT BEING PROPERLY MONITORED WITH A CO SENSOR IN THAT, THE AIR CURRENTS WERE NOT TRAVELING INBY FROM DRIVE UNIT TO TAILPIECE AS REQUIRED WHICH RESULTED IN THE CO SENSOR NOT BEING DOWNWIND OF THE TAKE-UP BUT WAS ACTUALLY UPWIND. THIS DETERMINATION WAS MADE WITH THE USE OF A CHEMICAL SMOKE TUBE.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.351(e)(4)
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Section II--Inspector's Evaluation

10. Gravity:						
A. Injury or illness (has) (is):		No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>
B. Injury or illness could reasonably be expected to be:		No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 000	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input checked="" type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/04/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 20083

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

RR
4-7-06

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/03/2006 Mo Da Yr	3. Citation/ Order Number 7168157 - 01
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The Headgate Longwall Belt Conveyor Take-up is now being properly monitored with a CO Sensor.

See Continuation Form

Section III--Subsequent Action Taken

3. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1715

4/20/06

RR
4-4-06


Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 1120	3. Citation/ Order Number 7168158
4. Served To JACK ROLES	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE TRANSFORMER STATION LOCATED AT BREAK 66 NORTH MAINS WHICH WAS VENTILATE WITH INTAKE AIR WAS NOT BEING MONITORED WITH CO SENSOR IN THAT, THE AIR CURRENTS TRAVELED FROM THE TRACK ENTRY TO BELT ENTRY AND THE NEAREST SENSOR WAS 120 FEET IN THE NORTH MAINS BELT ENTRY. THIS LOCATION REQUIRES SENSOR NO GREATER THAN 50 FEET DOWNWIND OF INSTALLATION. THIS DETERMINATION WAS MADE WITH A CHEMICAL SMOKE TUBE.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.351(h)
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Section II--Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>				
	B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>				
	C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 000	
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action 104(a)	13. Type of issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>				
14. Initial Action A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number			F. Dated Mo Da Yr	

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/04/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature	23. AR Number 20083	

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

RR
4-7-06

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/03/2006	3. Citation/ Order Number 7168158 - 01
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

A Carbon Monoxide Sensor has now been installed within 50 feet of the electrical installation.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signatu	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1700

Mine Citation/Order

4/20/06

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



Section I--Violation Data			
1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 0800	3. Citation/ Order Number	7251657
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)	
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>

Proper action is not being taken when hazardous conditions were recorded in the Pre-shift/On-shift examination record book for the Longwall 031-0 MMU Section. The required air velocity air readings for the evening shift on 4/1/2006 and the day and owl shifts on 4/2/2006 on the tail of the Longwall Section were not being maintained as required in the approved ventilation plan and no corrective action was taken.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.363(b)
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Section II--Inspector's Evaluation

10. Gravity:						
A. Injury or illness (has) (is):		No Likelihood <input type="checkbox"/>	Unlikely <input checked="" type="checkbox"/>	Reasonably Likely <input type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>
B. Injury or illness could reasonably be expected to be:		No Lost Workdays <input checked="" type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:			Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	D. Number of Persons Affected: 004	
11. Negligence (check one)						
A. None <input type="checkbox"/>		B. Low <input type="checkbox"/>		C. Moderate <input checked="" type="checkbox"/>		D. High <input type="checkbox"/>
E. Reckless Disregard <input type="checkbox"/>						
12. Type of Action 104(a)			13. Type of Issuance (check one)			
			Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action				E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>		B. Order <input type="checkbox"/>		C. Safeguard <input type="checkbox"/>		D. Written Notice <input type="checkbox"/>

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 04/06/2006	B. Time (24 Hr. Clock) 1600
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/03/2006	3. Citation/ Order Number 7251657 - 01
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The corrections have now been recorded in the On-shift examination record book for the recorded hazards and a record has been recorded verifying that all the certified persons have been instructed on the proper procedure in recording and correcting hazards.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signatu	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1545

U. S. Department of Labor

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



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, District 4

cc: Files/pab

*Being
Conferenced*

** Conf. &
Sustained*

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4/10/06

Sent To: *Bill Potter, Performance*
Street, Apt. No., or PO Box No.: *POB 69*
City, State, ZIP+4: *Naoma, WV 25140*

**Special Assessment
Review Form**

JUN 08 2006

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



1. MSHA District Office 4 - Mt. Hope, WV		2. Field Office 0406 - Madison, WV	
3. Mine ID/Contractor ID 46-08436		4. Mine Name UPPER BIG BRANCH MINE-SOUTH	
5. Operator Name PERFORMANCE COAL COMPANY		6. Citation/Order Number 7251658	7. Citation/Order Issue Date 4/3/06

8. Accident Related Violation? Yes No If yes, all violations must be submitted together with any accident report or memorandum.

9. A. Operator Notified of Special Assessment? Yes No B. Health and Safety Conference Held on Special Assessment? Yes No

10. Inspector's Recommendation

Special Assessment? Yes No If yes, explain below the serious or aggravating circumstances involved.

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 respirable dust parameters and face conveyor velocity (Citation #7251656 and #7251654) on the Longwall Section on 03/30/2006. Therefore this citation is requested to be reviewed for special assessment.

See Continuation Sheet

Signature 4-3-06
Date

11. Supervisor's Review

Special Assessment? Yes No

Comments:

Signature 4-5-06
Date

12. Subdistrict Manager's/Assistant District Manager's Review

Special Assessment? Yes No

Comments:

Signature 4/5/06
Date

13. District Manager's Review (Mandatory for Metal/Nonmetal, Optional for Coal)

Special Assessment? Yes No

Comments:

Signature Date

RR
4-4-06

Mine Citation/Order

JUN 08 2006

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



Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 0850	3. Citation/ Order Number 7251658
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)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. There is only 47,260 CFM of air being delivered to the last open crosscut when measured with a properly calibrated anemometer. This low reading thus resulted in low air velocities at Shield No. 17 (306 FPM) and Shield No. 160 (162 FPM). This section is currently out of compliance of respirable dust, is on a reduced (1.7) respirable dust standard, 103 (i) 10 day methane spot status and has history of methane ignitions.

See Continuation Form (MSHA Form 7000-3a)

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

10. Gravity:

A. Injury or illness (has) (is): No Likelihood 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: 004

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 04/03/2006	B. Time (24 Hr. Clock) 1100
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Section III--Termination Action

17. Action to Terminate Adjustments to the ventilation were made and there is now 60,873 CFM in the last open crosscut, Shield No. 17 (450 FPM) and Shield No. 160 (270 FPM).

18. Terminated	A. Date Mo Da Yr 04/03/2006	B. Time (24 Hr. Clock) 1040
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Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signature		23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order

4/20/06

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



Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number 7251659
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)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The Approved Ventilation Plan is not being complied with on the Longwall Belt Conveyor entry of the 031-0 MMU Section. The air velocity is flowing outby at the section tailpiece when checked with chemical smoke. The approved plan requires that the air velocity flow inby toward the section.

See Continuation Form (MSHA Form 7000-3a)

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

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

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 04/03/2006	B. Time (24 Hr. Clock) 1200
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Section III--Termination Action

17. Action to Terminate Adjustments were made to the ventilation and the air is now flowing in the proper direction.

18. Terminated	A. Date Mo Da Yr 04/03/2006	B. Time (24 Hr. Clock) 1050
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Section IV--Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113418	21. Primary or Mill
22. Signatu		23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

RR
4-7-06

Mine Citation/Order

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



Section I-Violation Data

1. Date Mo Da Yr 04/06/2006	2. Time (24 Hr. Clock) 1740	3. Citation/ Order Number 7251660
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g)

No apparent effort was made by the Operator to place the additional Carbon Monoxide Sensors at 350 feet intervals along the 031-0 Longwall Belt Conveyor.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.351(e)(3)
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Section II-Inspector's Evaluation

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:

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

12. Type of Action 104(b) 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 7168156 F. Dated Mo Da Yr 04/03/2006

15. Area or Equipment The 031-0 Longwall Belt Conveyor System.

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

Section III-Termination Action

17. Action to Terminate The required CO Sensors have now been installed along the belt.

18. Terminated A. Date Mo Da Yr 04/06/2006 B. Time (24 Hr. Clock) 1930

Section IV-Automated System Data

19. Type of Inspection (activity code) E22 20. Event Number 4113418 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Violation Data			
1. Date Mo Da Yr 04/14/2006	2. Time (24 Hr. Clock) 0900	3. Citation/ Order Number	7251661
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)
8. Condition or Practice			8a. Written Notice (103g) <input type="checkbox"/>

The Operator was cited for failure to comply with their respirable dust standard for a survey collected by MSHA on 1/18/2006. The average concentration was 4.2 mg/m3 and the applicable standard was 1.7 mg/m3. The Operator failed to achieve compliance with samples submitted February 13-23, 2006. The average concentration was 3.887 mg/m3. The Operator again failed to achieve compliance on samples submitted April 3-6, 2006. The average concentration was 5.780 mg/m3, which exceeds the applicable standard of 1.7 mg/m3.

Due to the hazards associated with respirable coal dust and respirable silica dust, additional time will not be granted under existing ventilation and dust control parameters.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 70.101
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Section II--Inspector's Evaluation

10. Gravity:			
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input type="checkbox"/>	Reasonably Likely <input type="checkbox"/>
	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>	
B. Injury or illness could reasonably be expected to be:	No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input type="checkbox"/>
	Fatal <input type="checkbox"/>		
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected:

11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action	104(b)	13. Type of Issuance (check one)	Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>
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14. Initial Action	A. Citation <input checked="" type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number	7250705	F. Dated	Mo Da Yr	02/06/2006
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15. Area or Equipment	Halts Production on the 031-0 MMU Section.								
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16. Termination Due	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)
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Section III--Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code)	E22	20. Event Number	4113418	21. Primary or Mill	
22. Signatur				23. AR Number	24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/14/2006 Mo Da Yr	3. Citation/ Order Number 7251661 - 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	(Contractor)

Section II--Justification for Action

Change	From	To
15. Area or Equipment		
Reason		

Changes and adjustments to the current Ventilation Plan was submitted to MSHA and approved. This 104 (b) Order is hereby being modified to allow production to resume so as to evaluate the ventilation changes and the effects of the respirable dust parameters.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signatu	AR Number 24024	12. Date Mo Da Yr 04/19/2006	13. Time (24 Hr. Clock) 1715

Mine Citation/Order
Continuation

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

PR 5-12-06
MTO



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/14/2006	Mo Da Yr	3. Citation/ Order Number 7251661 - 02
4. Served To Wendell Wills, Supt.		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change	From	To
8. Condition Or Practice		
Reason		

After three (3) revisions to the current Ventilation, Methane, Dust Control Plan, the Operator is unable to maintain compliance of the 1.7 mg/m³ respirable dust standard on the Longwall 031-0 MMU Section. The Operator again failed to achieve compliance on their samples being collected since April 20, 2006. The results of an MSHA survey conducted on 05/02/2006 the average respirable dust concentration is 4.190 mg/m³, which exceeds the applicable standard of 1.7 mg/m³, therefore this 104 (b) Order is being reinstated as to the original issuance.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 05/08/2006	13. Time (24 Hr. Clock) 1445



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/14/2006	3. Citation/ Order Number 7251661 - 03
4. Served To Wendell Wills, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change	From	To
8. Condition Or Practice		
Reason		

An addendum to the current Ventilation, Methane, Dust Control Plan parameters was submitted to MSHA and approved. This 104 (b) Order is hereby being modified to allow production to resume so as to evaluate the effects of ventilation and respirable dust parameters.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 05/10/2006	13. Time (24 Hr. Clock) 1421

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/14/2006	3. Citation/ Order Number	7251661 - 04
4. Served To Wendell Wills, Supt.			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Change	From	To
8. Condition Or Practice		
Reason		

Based on an MSHA survey on 05/15/2006 of the Longwall 031-0 MMU Section, the respirable dust concentration of the designated occupation (DO) is 2.212 mg/m3 which exceeds the 1.7 mg/m3 standard, therefore this 104 (b) Order is hereby being reinstated back to the original issuance.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date	Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4111118
11. Sign	[Redacted]	AR Number	24024
12. Date	Mo Da Yr	13. Time (24 Hr. Clock)	
	05/17/2006	1515	

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/14/2006	3. Citation/ Order Number 7251661 - 05
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4. Served To Wendell Wills, Supt.	5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)

Section II--Justification for Action

Change	From	To
8. Condition Or Practice		
Reason		

Changes and adjustments to the current Ventilation Plan was submitted to MSHA and approved. This 104 (b) order is hereby being modified to allow production to resume so as to evaluate the ventilation changes and the effects of the added respirable dust parameters.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4111118
11. Sig	[Redacted]	AR Number	24024
		12. Date Mo Da Yr	05/18/2006
		13. Time (24 Hr. Clock)	1810

Mine Citation/Order
Continuation

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

AP for MSH



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/14/2006	3. Citation/ Order Number 7251661 - 05
4. Served To Wendell Wills, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Change	From	To
8. Condition Or Practice		
Reason		

Changes and adjustments to the current Ventilation Plan was submitted to MSHA and approved. This 104 (b) order is hereby being modified to allow production to resume so as to evaluate the ventilation changes and the effects of the added respirable dust parameters.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 05/18/2006	13. Time (24 Hr. Clock) 1810

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 04/14/2006	3. Citation/Order Number 7251661 - 06
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

BASED ON THE RESULTS OF A FULL SHIFT RESPIRABLE DUST SURVEY TAKEN BY MSHA ON 5/23/06 AND THE RESULTS OF SAMPLES TAKEN BY THE OPERATOR EACH PRODUCTION SHIFT SINCE THE UP DATED PLAN WAS APPROVED ON 5/18/06 AND ALL PARAMETERS WERE IN PLACE SHOWS THAT THE LONGWALL SECTION 031-0 HAS ACHIEVED COMPLIANCE AND THIS ORDER IS HEREBY TERMINATED.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection T02	10. Event Number 9832268		
11. Signature [Redacted]	AR Number 20083	12. Date Mo Da Yr 05/26/2006	13. Time (24 Hr. Clock) 1030



Section I--Violation Data

1. Date Mo Da Yr 04/14/2006	2. Time (24 Hr. Clock) 0905	3. Citation/ Order Number 7251662
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)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The Operator was cited for failure to comply with their respirable standard on the 831-0 Intaking Belt DA based on five operator samples. The average concentration was 3.887 mg/m3 on a 1.0 mg/m3 standard. A subsequent set of samples failed to achieve compliance with an average concentration of 2.2 mg/m3. During the abatement time, the Operator was cited for air reversals at the DA location. Both the DA and the associated Mechanized Mining Unit are under violation for excessive respirable dust.

Due to the hazards associated with respirable coal dust and respirable silica dust, additional time will not be granted under the existing ventilation and dust control parameters.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 70.101
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Section II--Inspector's Evaluation

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:

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

12. Type of Action 104(b) 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 9967672 F. Dated Mo Da Yr 03/07/2006

15. Area or Equipment Halts production with the 031-0 Longwall Belt Conveyor.

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

Section III--Termination Action

17. Action to Terminate

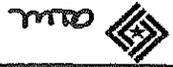
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E22 20. Event Number 4113418 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 24024

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/14/2006 Mo Da Yr	3. Citation/ Order Number 7251662 - 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	(Contractor)

Section II--Justification for Action

Change	From	To
15. Area or Equipment		
Reason		

Changes and adjustments to the current Ventilation Plan was submitted to MSHA and approved. This 104 (b)Order is hereby being modified to allow production to resume, so as to evaluate the ventilation change and the effects of the respirable dust parameters.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/19/2006	13. Time (24 Hr. Clock) 1720

Mine Citation/Order
Continuation

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

RA
5-12-06
MID



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 04/14/2006 Mo Da Yr	3. Citation/ Order Number 7251662 - 02
4. Served To Wendell Wills, Supt.	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Based on the results of an MSHA respirable dust survey conducted on 05/02/2006 the Designated Area (DA) 831-0 is now in compliance.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111118		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 05/08/2006	13. Time (24 Hr. Clock) 1530

Mine Citation/Order

030306

U. S. Department of Labor

Mine Safety and Health Administration



Section I - Violation Data

1. Date 2. Time (24 Hr. Clock) 3. Citation/Order Number

4. Served To 5. Operator

6. Mine 7. Mine ID (contractor)

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

Based on the results of five valid respirable dust samples collected by the operator, the average concentration of respirable dust in the working environment of the Designated Area **831-0** was **4.9** which exceeded the applicable limit of **1.0** mg/m³. Management shall take corrective actions to lower the respirable dust and then sample each production shift until five valid samples are submitted and received by the Pittsburgh Respirable Dust Laboratory.

See Continuation Form (MSHA Form 7000-3a)

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

Section II - Inspector's Evaluation

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 (See Reverse): Yes No D. Number of Persons Affected

11. Negligence (check one)

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

12. Type of Action 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

15. Area or Equipment

16. Termination Due A. Date B. Time

Section III - Termination Action

17. Action to Terminate

18. Terminated A. Date B. Time

Section IV - Automated System Data

19. Type of Inspection (Activity Code) T02 20. Event Number 21. Primary or Mill

22. Signature 23. AR Number

**0401-002

---ADVISORY OF EXCESSIVE DUST---
(DESIGNATED AREA SAMPLING POINT)
ADVISORY NO 0169

9967672
70.101

FEB 28, 2006

PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH

MINE I.D.46-08436
DESIGNATED AREA SAMPLING POINT I.D. B310
BELT DA ON MMU 031-0

CURRENT BIMONTHLY SAMPLING CYCLE DEC-JAN 2006

IN ACCORDANCE WITH 30 CFR 70, THE FOLLOWING SAMPLING RESULTS ARE RELATIVE TO DUST SAMPLES RECEIVED FOR THE DESIGNATED AREA SAMPLING POINT IDENTIFIED ABOVE. THE AVERAGE CONCENTRATION OF RESPIRABLE DUST IN THE MINE ATMOSPHERE EXCEEDS THE ALLOWABLE LIMIT PRESCRIBED IN 30 CFR 70.

CASSETTE NO.	DATE	SAMPLING START TIME (24-HR CLOCK)	MRE EQUIV CONCENTRATION
50832351	02-13-2006	06	5.852
50832376	02-13-2006	16	2.778
50832415	02-14-2006	06	4.518
50832387	02-14-2006	16	5.095
50832363	02-15-2006	06	6.302

AVG. CONC. 4.909

APPLICABLE STANDARD 1.0

---0401---081---46-08436---U ---A
PERFORMANCE COAL COMPANY
UPPER BIG BRANCH MINE-SOUTH
ATTN: BILL POTTER
POB 69
NACMA WV 25140

Mine Citation/Order
Continuation

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



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 02/06/2006	Mo Da Yr	3. Citation/ Order Number 7250705 - 06
4. Served To Bevis Griswold, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)	

Section II-Justification for Action

The Operator has collected the five (5) samples on the 031-0 MMU Section but stated that one (1) was damaged and one (1) had low tons and additional samples had to be collected. More time is needed to collect and process the samples, therefore more time is granted.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 04/14/2006	B. Time (24 Hr. Clock) 0700	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/06/2006	13. Time (24 Hr. Clock) 1600

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	3. Citation/ Order Number 7251654 - 03
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4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY
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6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
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Section II--Justification for Action

Change	From	To
10. A. Injury or Illness	Reasonably Likely	Highly Likely
Reason	Original checked in error.	

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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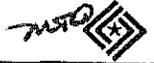
Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418
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11. Signature	AR Number 24024	12. Date Mo Da Yr 04/03/2006	13. Time (24 Hr. Clock) 0500
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Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>		2. Dated (Original Issue) Mo Da Yr 03/30/2006		3. Citation/ Order Number 7251655 - 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		(Contractor)

Section II--Justification for Action

The Carbon Monoxide Sensor located at the 031-0 Longwall Belt Conveyor Tailpiece has now been repaired.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input checked="" type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection	E22	10. Event Number	4113418				
11. Signature	[Redacted]	AR Number	24024	12. Date Mo Da Yr	04/03/2006	13. Time (24 Hr. Clock)	0840

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	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 (Contractor)	

Section II--Justification for Action

Change	From	To
10. A. Injury or Illness	Reasonably Likely	Highly Likely
Reason	Original marked in error.	

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input checked="" type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E22	10. Event Number 4113418		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 04/03/2006	13. Time (24 Hr. Clock) 0505