

11-17-06

Mine Activity Data

I. Action: a. New Entry b. Update 2. Activity Code: E08 3. Event Number: 4110076

4. Date Event Started: 3/13/2006 5. Date Event Finished: 4/13/2006 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 01 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group Identifier 01 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 5 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 (1) 008 (2) 009 (3) 015 (4) 030 (5) 031

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

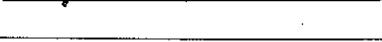
15. Prime Independent Contractor Codes (Major Construction)

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 | 1 | | 1 | | | | | |
| (2) Terminations/Vacations | 1 | 0 | | | | | | |
| (3) Modifications/Extensions | 2 | 0 | | | | | | |
| (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 23675

b.  23764

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 3/12/2006 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 2 3/19/2006 | <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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| Week 3 3/26/2006 | <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 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"/> |

Section I--Violation Data

| | | |
|--|---|---|
| 1. Date Mo Da Yr 03/13/2006 | 2. Time (24 Hr. Clock) 0300 | 3. Citation/ Order Number 7250744 |
| 4. Served To Wendell Wills, supt. | 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)

There was an inundation of water that occurred at this mine on March 12, 2006, when water inundated through a 18 inch bore hole from an above mine. The water entered the mine at the area of the Glory hole and flooded the inby North Mains working section. This order is issued to assure the safety of all persons at this operation. It prohibits all activity other than pumping of water at the Glory hole and inby to the North Mains section until the source of the water has been determined and stopped.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|---|----------------------|------------------------------------|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/> | 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: 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 103(k) 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 Glory hole and inby to the North Mains section.

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) E07 20. Event Number 4110076 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23675

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
3-15-06


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) 03/13/2006 Mo Da Yr | 3. Citation/ Order Number 7250744 - 01 |
| 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 pumping of water.

Order No. 7250744 is hereby modified to allow the operator to advance pumps to the line of crosscuts 146 at survey station #20498 on the North Mains section to pump water.

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 |
|----------------|---------------------|------------------------|-------------------------------------|--|---|

Section IV--Inspection Data

| | | | |
|---------------------------------|-----------------------------|------------------------------------|---------------------------------|
| 9. Type of Inspection E07 | 10. Event Number 4110076 | | |
| 11. Signature ([redacted]) | AR Number 23675 | 12. Date Mo Da Yr 03/14/2006 | 13. Time (24 Hr. Clock) 0454 |

Section I--Subsequent Action/Continuation Data

| | | |
|--|--|--|
| 1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/> | 2. Dated (Original Issue) 03/13/2006 Mo Da Yr | 3. Citation/ Order Number 7250744 - 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 |
|------------------------|--------------------------------------|---------------------------------------|
| 19. Type of Inspection | E07-Non-Fatal Accident Investigation | E08-Non-Injury Accident Investigation |
| Reason | wrong code | |

Order No. 7250744 is hereby modified to permit the operator to conduct the following work on the North Mains section: pump water, work on equipment and ventilation in preparation to resume production.

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 |
|----------------|---------------------|------------------------|-------------------------------------|--|---|

Section IV--Inspection Data

| | | | |
|--|-----------------------------|------------------------------------|---------------------------------|
| 9. Type of Inspection E07 | 10. Event Number 4110076 | | |
| 11. Signature  | AR Number 23675 | 12. Date Mo Da Yr 03/20/2006 | 13. Time (24 Hr. Clock) 1047 |

Mine Citation/Order
Continuation

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

RR
3-23-06


Section I--Subsequent Action/Continuation Data

| | | |
|--|--|--|
| 1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/> | 2. Dated (Original Issue) 03/13/2006 Mo Da Yr | 3. Citation/ Order Number 7250744 - 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

Order No. 7250744 is hereby terminated. The pilot hole drilled from the Black King I Mine (Lower Cedar Grove Seam) into the Castle Mine Powellton Seam has been grouted off above the Castle Mine.

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 |
|----------------|---------------------|------------------------|-------------------------------------|---|--------------------------------------|

Section IV--Inspection Data

| | | | |
|--|-----------------------------|------------------------------------|---------------------------------|
| 9. Type of Inspection E02 | 10. Event Number 4110067 | | |
| 11. Signature  | AR Number 23675 | 12. Date Mo Da Yr 03/22/2006 | 13. Time (24 Hr. Clock) 0537 |

Mine Citation/Order
Continuation

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

RK
3-23-06



Section I--Subsequent Action/Continuation Data

| | | | | |
|---|--|--|---|--|
| 1. Subsequent Action <input checked="" type="checkbox"/> | 1a. Continuation <input type="checkbox"/> | 2. Dated (Original Issue) 03/13/2006 | Mo Da Yr | 3. Citation/ Order Number 7250744 - 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

Order No. 7250744 is hereby terminated. The pilot hole drilled from the Black King I Mine (Lower Cedar Grove Seam) into the Castle Mine Powellton Seam has been grouted off above the Castle Mine.

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 |
|----------------|---------------------|------------------------|-------------------------------------|---|--------------------------------------|

Section IV--Inspection Data

| | | | |
|------------------------------|-----------------------------|------------------------------------|---------------------------------|
| 9. Type of Inspection E02 | 10. Event Number 4110067 | | |
| 11. Signature | AR Number 23675 | 12. Date Mo Da Yr 03/22/2006 | 13. Time (24 Hr. Clock) 0537 |

RR
3-27-06


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) 03/13/2006 Mo Da Yr | 3. Citation/ Order Number 7250744 - 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 |
|------------------------|--------------------------------------|---------------------------------------|
| 19. Type of Inspection | E07-Non-Fatal Accident Investigation | E08-Non-Injury Accident Investigation |

Reason

Order No. 7250744-03 is hereby modified to show the following change:
Section IV, --Inspection Date. Item 9.,10. To show item 9. E08, and item 10.
4110076.

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 |
|----------------|---------------------|------------------------|-------------------------------------|--|---|

Section IV--Inspection Data

| | | | |
|------------------------------|-----------------------------|------------------------------------|---------------------------------|
| 9. Type of Inspection E08 | 10. Event Number 4110076 | | |
| 11. Signat[redacted] | AR Number 23675 | 12. Date Mo Da Yr 03/27/2006 | 13. Time (24 Hr. Clock) 0841 |

ROUTING AND TRANSMITTAL SLIP

Date: 6/7

TO: FIELD OFFICE SECRETARY Pat 82436

- | | | |
|---------------------------------------|--|---|
| <input type="checkbox"/> Action | <input checked="" type="checkbox"/> File | <input type="checkbox"/> Note and Return |
| <input type="checkbox"/> Approval | <input type="checkbox"/> For Clearance | <input type="checkbox"/> Per Conversation |
| <input type="checkbox"/> As Requested | <input type="checkbox"/> For Correction | <input type="checkbox"/> Prepare Reply |
| <input type="checkbox"/> Circulate | <input type="checkbox"/> For Information | <input type="checkbox"/> See Me |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Investigate | <input type="checkbox"/> Signature |
| <input type="checkbox"/> Coordination | <input type="checkbox"/> Justify | |

SUBJECT: COMPLETED HEALTH AND SAFETY CONFERENCE

REMARKS: Attached are the results of a completed health and safety conference held for a mine in your office. The original or file copies should be placed in the appropriate mine inspection report file.

Thanks!

FROM:
Dana Hosch
(304) 877-3900-118

ROUTING AND TRANSMITTAL SLIP

Date: 6/7

TO: FIELD OFFICE SECRETARY Pat 8436

- | | | |
|---------------------------------------|--|---|
| <input type="checkbox"/> Action | <input checked="" type="checkbox"/> File | <input type="checkbox"/> Note and Return |
| <input type="checkbox"/> Approval | <input type="checkbox"/> For Clearance | <input type="checkbox"/> Per Conversation |
| <input type="checkbox"/> As Requested | <input type="checkbox"/> For Correction | <input type="checkbox"/> Prepare Reply |
| <input type="checkbox"/> Circulate | <input type="checkbox"/> For Information | <input type="checkbox"/> See Me |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Investigate | <input type="checkbox"/> Signature |
| <input type="checkbox"/> Coordination | <input type="checkbox"/> Justify | |

SUBJECT: COMPLETED HEALTH AND SAFETY CONFERENCE

REMARKS: Attached are the results of a completed health and safety conference held for a mine in your office. The original or file copies should be placed in the appropriate mine inspection report file.

Thanks!

FROM:
Dana Hosch
(304) 877-3900-118

U. S. Department of Labor

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



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.

| <u>Viol. Number</u> | <u>Viol. Number</u> | <u>Viol. Number</u> | <u>Viol. Number</u> |
|---------------------|---------------------|---------------------|---------------------|
| *7250745 | *7251654 | *7251656 | *7251658 |

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

7005 1820 0007 7844 7509

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

6-1334143/8436 U5/16

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| Postage | \$ |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |

5/3/06

Postmark
Here

To: *Mike Vaughn*
 Sir or Madam
 PERFORMANCE COAL CO.
 P O BOX 69
 NAOMA WV 25140

See Reverse for Instructions
 PS Form 3811, February 2004

6-1334143 8436 5/16

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mike Vaughn
 PERFORMANCE COAL CO.
 P O BOX 69
 NAOMA WV 25140

2. Article Number
(Transfer from service label)

7005 1820 0007 7844 7509

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
 X *CHull* Agent Addressee
- B. Received by (Printed Name) *C Howell* C. Date of Delivery *5-4-06*
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

401



PERFORMANCE SAFETY DEPARTMENT

DATE: 04/07/06

TO: Lincoln Selfe

FROM: Mike Vaught

RE: Request for Conference

I respectfully request to conference the following violation/violations.

Citation # 7250745

OPERATION: Upper Big Branch Mine

ID#: 46-08436

INSPECTOR: [REDACTED]

Brief description for reason of requested conference:

Gravity

6-133

RECEIVED

APR 10 2006

MSHA CLR
DISTRICT 4

U. S. Department of Labor

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



April 3, 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

7250745

03/22/06

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

Mine Citation/Order



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



Section I - Violation Data

| | | | |
|---|------------------------|---|---|
| 1. E | Mo Da Yr 03/22/2006 | 2. Time (24 Hr. Clock) 0530 | 3. Citation/ Order Number 7250745 |
| 4. Served To Timothy W. Tyree, mine engineer | | 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)

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as the Glory hole) from a mine or mines above. After further investigation it was determined that the water came from the Black King I Mine (Lower Cedar Grove Seam). The operator failed to follow the approved ventilation plan which states that a packer will be installed and the pilot hole will be grouted off above the Castle Mine. The grouting part of the plan was not completed and a temporary packer was installed which was the contriving factor of the inundation of water in the Upper Big Branch Mine-South. There was an estimation of 4,838,849.40 gallons of water that flooded the North Mains Section of Upper Big Branch Mine. The last reported work on the pilot hole was 12/10/2005.

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) |
|--------------|--|----------------------|--|

Section II - Inspector's Evaluation

10. Gravity:

Injury or illness (has) (is):
 No Likelihood Unlikely Reasonably Likely Highly Likely Occurred
 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(d)(1) 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 03/22/2006 B. Time (24 Hr. Clock) 0700

Section III - Termination Action

17. Action to Terminate A packer was installed and the pilot hole was grouted above the Castle Mine.

18. Terminated A. Date Mo Da Yr 03/22/2006 B. Time (24 Hr. Clock) 0530

Section IV - Automated System Data

19. Type of Inspection (activity code) E08 20. Event Number 4110076 21. Primary or Mill

22. Signature [Redacted] 23. AR Number 23675

MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1998, 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.

Performance Coal Safety

P. O. Box 69 Naoma WV 25140

Phone: 304-854-1762

Fax: 304-854-3530

Fax

| | |
|--|--------------------------|
| <i>To: Lincoln Selfe</i> | <i>From: Mike Vaught</i> |
| <i>Fax: 877-3927</i> | <i>Pages: 04</i> |
| <i>Phone: 877-3900</i> | <i>Date: 04/07/06</i> |
| <i>Re: Request for citation conference</i> | <i>CC:</i> |

Comments:

U. S. Department of Labor

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



April 3, 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

7250745

03/22/06

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,

A handwritten signature in cursive script, reading "Lincoln L. Selfe, Jr.", is written in dark ink.

Lincoln L. Selfe, Jr.
Assistant District Manager
Coal Mine Safety & Health, District 4

cc: Files/pab

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: 46-08436
 Mr. Bill Potter, Pres.
 Performance Coal Co.
 POB 69
 Naama, NV 25140

E08-4110076/7250745 (PAB)

2. Article Number
 (Transfer from service label) 7002 3150 0005 2902 7542

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 C Hull Agent
 Addressee

B. Received by (Printed Name) C Hull C. Date of Delivery 4-4-06

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7002 3150 0005 2902 7542

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

| | |
|---|---------------------|
| Postage | \$ <u>E08</u> |
| Certified Fee | <u>4110076 (ed)</u> |
| Return Receipt Fee (Endorsement Required) | <u>7250745</u> |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | \$ |

Postmark Here
4/3/06

Sent To Bill Potter, Pres.
 Street, Apt. No.,
 or PO Box Performance Coal Co.
 City, State, ZIP+4 POB 69, Naama, NV 25140

JUN 08 2006



| | | | |
|--|--|--|--|
| 1. MSHA District Office <i>Dist. 4</i> | | 2. Field Office <i>Mt. Hope</i> | |
| 3. Mine ID/Contractor ID <i>46084364</i> | | 4. Mine Name <i>Upper Big Branch Mine - South</i> | |
| 5. Operator Name <i>Performance Coal Company</i> | | 6. Citation/Order Number <i>1250745</i> | 7. Citation/Order Issue Date <i>3-22-06</i> |
| 8. Accident Related Violation? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, all violations must be submitted together with any accident report or memorandum. | | | |
| 9. A.) Operator Notified of Special Assessment? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No B.) Health and Safety Conference Held on Special Assessment? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | |

10. Inspector's Recommendation:
Special Assessment? Yes No If yes, explain below the serious or aggravating circumstances involved.

Mr. Timothy W. Tjorn, Mine Engineer, was very knowledgeable of the approved ventilation plan and all revisions that were made concerning the completion of the pilot hole and the final installing of a permanent Parker and grouting of above the 80th mine. Mr. Tjorn stated only a temporary parker was installed. The last reported work on the pilot hole was 12-10-2005.

See Continuation Sheet *[Redacted Signature]* 3-27-06
Signature Date

11. Supervisor's Review:
Special Assessment? Yes No
Comments:

See Continuation Sheet *Roger D. Richmond* 3-29-06
Signature Date

12. Subdistrict Manager's/Assistant District Manager's Review:
Special Assessment? Yes No
Comments:

See Continuation Sheet *[Redacted Signature]* 3-29-06
Signature Date

13. District Manager's Review (Mandatory for Metal/Nonmetal, Optional for Coal):
Special Assessment? Yes No
Comments:

See Continuation Sheet Signature Date

JUN 08 2006

Section I--Violation Data

| | | |
|---|--------------------------------|---|
| 1. Date Mo Da Yr 03/22/2006 | 2. Time (24 Hr. Clock) 0530 | 3. Citation/ Order Number 7250745 |
| 4. Served To Timothy W. Tyree, mine engineer | | 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)

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as the Glory hole) from a mine or mines above. After further investigation it was determined that the water came from the Black King I Mine (Lower Cedar Grove Seam). The operator failed to follow the approved ventilation plan which states that a packer will be installed and the pilot hole will be grouted off above the Castle Mine. The grouting part of the plan was not completed and a temporary packer was installed which was the contriving factor of the inundation of water in the Upper Big Branch Mine-South. There was an estimation of 4,838,849.40 gallons of water that flooded the North Mains Section of Upper Big Branch Mine. The last reported work on the pilot hole was 12/10/2005.

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) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | | |
|--|---|---|---|---|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input type="checkbox"/> | Reasonably Likely <input checked="" type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input checked="" type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | D. Number of Persons Affected: 004 | | |

| | | | | | |
|----------------------------|----------------------------------|---------------------------------|--------------------------------------|---|--|
| 11. Negligence (check one) | A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input type="checkbox"/> | D. High <input checked="" type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> |
|----------------------------|----------------------------------|---------------------------------|--------------------------------------|---|--|

| | | | | | |
|--------------------|-----------|----------------------------------|--|--------------------------------|------------------------------------|
| 12. Type of Action | 104(d)(1) | 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 03/22/2006 | B. Time (24 Hr. Clock) 0700 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A packer was installed and the pilot hole was grouted above the Castle Mine.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 03/22/2006 | B. Time (24 Hr. Clock) 0530 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | | |
|---|-----|-----------------------------|------------------------|
| 19. Type of Inspection (activity code) | E08 | 20. Event Number 4110076 | 21. Primary or Mill |
| 22. Signal | | | 23. AR Number 23675 |

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

RR
3-23-06


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 03/22/2006 | 3. Citation/ Order Number | 7250745 - 01 |
| 4. Served To Timothy W. Tyree, mine engineer | | | 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 | wrong word. | |

Citation No. 7250745 is hereby modified to show the following change:
Section I, item 8. The word "contriving" is to be deleted and the word
"contributing" is to be added.

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 |
|----------------|---------|----------|------------------------|-------------------------------------|--|---|

Section IV--Inspection Data

| | | | | | | | | |
|-----------------------|---|------------------|---------|----------|----------|------------|-------------------------|------|
| 9. Type of Inspection | E08 | 10. Event Number | 4110076 | | | | | |
| 11. Signature |  | AR Number | 23675 | 12. Date | Mo Da Yr | 03/22/2006 | 13. Time (24 Hr. Clock) | 1600 |

Accident Investigation Data



Event Number: 4 1 1 0 0 7 6

A. Mine Information

| | | | | | |
|---|--|--|--|---|---------------------------------------|
| 1. Mine ID Number: 4 6 - 0 8 4 3 6 | | 2. Mine Name: Upper Big Branch Mine-South | | 3. Operating Company Name: Performance Coal Company | |
| 4. Mine Location: (Town, County, and State) NAOMA, Raleigh, WV 25140 | | | | b. Union Affiliation: 9999 None (No Union Affiliation) | |
| 5. Mine Type: U Underground | | 6a. Material Mined/Processed: 122200 Bituminous Coal Underground Mining | | b. Part 48? <input checked="" type="checkbox"/> X Part 46? <input type="checkbox"/> | 7. Name Of Seam: (Coal Only) Eagle |
| 8. Mining Data: a. Mining Method: 0 4 Room/Pillar | | b. Extraction Method: 0 4 Continuous Miner (Deep Cut, Coal Only) | | | |
| c. Haulage Method(s): 0 6 Shuttle Car | | 0 1 Conveyor Belt | | | |
| d. Are explosives used in the extraction of material? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> X | | | | | |
| 9. Employment: At Time of Accident: a. Underground: 34 b. Surface: 1 | | 10. Production:(Coal only) Avg Tons per Day: 20000 | | 11. Hours of Operation: a. Hours per Shift: 9 b. Shifts per Day: 3 c. Days per Week: 7 | |
| Avg Mine Employment: a. Underground: 181 b. Surface: 9 | | | | | |
| 12. Number of Active MMU's:(Coal Only) a. Development 0 2 b. Retreat: 0 1 | | 13. Methane Liberation: Cubic Feet in 24 hours: 651646 | | 14. Average Mining Height: Feet: 7 Inches: 0 0 | |
| 15. Management/Labor Officials: | | | | | |
| Title | | Name | | Address | |
| President | | Bill Potter | | POB 69, Naoma, WV 25140 | |
| Superintendent | | Wendell Wills | | POB 69, Naoma, WV 25140 | |
| Mine Foreman | | Dempsey Petry | | POB 69, Naoma, WV 25140 | |

B. Accident Information

| | | | | | | | |
|--|--|--|--|---|---|--------------|---------------------------------------|
| 16. Date(MM/DD/YY)/Time(24Hr.) of Accident: a. Date: 03/12/2006 b. Time: 8:55 | | 17. Type of Investigation: Fatal <input type="checkbox"/> Non-Fatal <input type="checkbox"/> Non-Injury <input checked="" type="checkbox"/> X | | | 18. Accident Classification: 1 6 Inundation of Water | | 19. Number of Deg. 1-5 Injuries: 0 |
| 20. Location of Accident/Injury/Ill. a. Surface Location: | | | | 21. Number of Independent Contractor Companies Involved in Accident: 0 | | | |
| b. Underground Location: 1 0 Glory Hole - North Mains | | | | | | | |
| 22. Equipment Involved: #1 c. Model No: | | a. Type: | | b. Manufacturer: | | e. Controls: | |
| d. Serial Number: | | | | | | | |
| #2 c. Model No: | | a. Type: | | b. Manufacturer: | | e. Controls: | |
| d. Serial Number: | | | | | | | |

23. Description of the Accident:

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory Hole) from a mine or mines above. [REDACTED] was examining the Glory Hole area when he noticed water coming into the mine at 8:55 p.m. The North Mains six entry section was flooded with an estimated 4.8 million gallons of water.

24. Conclusion:

The operator failed to follow the approved ventilation plan which states that after the raise bore drill string has been removed above the Castle Mine an inflatable packer would be installed and the pilot hole would be grouted off above the Castle Mine Powellton seam. A temporary packer was installed and the grouting part of the plan was not completed which was the contributing factor of the inundation of water.

25. Enforcement Actions: Indicate P for procedure type violation, C for condition type, or T for training type.

| Violation Type | Citation Number | Regulation Cited | Section of the Act |
|----------------|-----------------|------------------|--------------------|
|----------------|-----------------|------------------|--------------------|

| | | | |
|----------|---------|-----------------------|--|
| C | 7250744 | | |
| Citation | Order | X Type/Action: 103(k) | Summary of Violation: To assure the safety of all persons entering the mine. |

IC:

| | | | |
|----------|---------|------------------------|--|
| C | 7250745 | 75.370(a)(1) | |
| Citation | X Order | Type/Action: 104(d)(1) | Summary of Violation: Operator failed to follow approved ventilation plan and did not grout t bore hole. |

IC:

| | | | |
|--|--|--------------|-----------------------|
| | | Type/Action: | Summary of Violation: |
|--|--|--------------|-----------------------|

IC:

| | | | |
|--|--|--------------|-----------------------|
| | | Type/Action: | Summary of Violation: |
|--|--|--------------|-----------------------|

IC:

| | | | |
|--|--|--------------|-----------------------|
| | | Type/Action: | Summary of Violation: |
|--|--|--------------|-----------------------|

IC:

| | | | |
|--|--|--------------|-----------------------|
| | | Type/Action: | Summary of Violation: |
|--|--|--------------|-----------------------|

IC:

C. MSHA Information

| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--------------------|---|---|--|--|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| 26. Last Quarter NFDL Injury Incidence Rate (PEIR) for: | | 27. Did Technical Support participate in this investigation ? | | 28. Part 50 Document Control Number:(Form 7000-1): | | | | | | | | | | | | | | | | | | | | | | | |
| Industry: 5.02 | This Mine: 6.55 | Contractor: | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <table border="1" style="width:100%; height:20px;"> <tr> <td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table> | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 29. MSHA District Office: Mt. Hope | | 30. MSHA Field Office: Mt. Hope, WV | | 31. Date Last Regular Inspection Completed: 12/29/2005 | | | | | | | | | | | | | | | | | | | | | | | |
| 32. Lead Accident Investigator: Name; AR No; Date : | | 33. Date On-site Investigation Started: | | 34. Formal Report: | | 35. Report Release Date: | | | | | | | | | | | | | | | | | | | | | |
| Name: XXXXXXXXXX | | AR No.: 23675 Date: 03/14/2006 | | 03/12/2006 | | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | |

Preliminary Report of Accident



| | | | | |
|----------------------------------|---|--|------------------------|--------------------|
| 1. Accident Type: No Injuries | 2. Accident Classification: Inundation | 3. Date/Time of Accident: 03/12/2006 11:30 PM | 4. Date/Time of Death: | 5. Fatal Case No.: |
|----------------------------------|---|--|------------------------|--------------------|

| | | |
|--|---|-----------------------------|
| 6. Mine Information: | | |
| a) Mining Company Name Performance Coal Company | b) Mine Name Upper Big Branch Mine-South | c) Parent of Mining Company |

| | | | | | |
|--------------------|------------------|----------------------|----------------|--------------------------------|-----------|
| 7. Mine Location : | a) City NAOMA | b) County Raleigh | c) State WV | 8. Mine ID Number: 46-08436 | 9. Union: |
|--------------------|------------------|----------------------|----------------|--------------------------------|-----------|

| | | | | | | |
|----------------------------|-------------------------------|-----------------|-----------------------|--------------------|--------------------|---------------|
| 10. Primary Mineral Mined: | 11. Number of Mine Employees: | a) Total 181 | b) Underground 172 | c) Open Pit/Quarry | d) Mill/Prep Plant | e) Other 9 |
|----------------------------|-------------------------------|-----------------|-----------------------|--------------------|--------------------|---------------|

| | | |
|----------------------|------------|---------------------------|
| 12. Contractor Name: | 13. Union: | 14. Contractor ID Number: |
|----------------------|------------|---------------------------|

| | | | | |
|-------------------------|---------|-----------|----------|-------------|
| 15. Contractor Address: | a) City | b) County | c) State | d) Zip Code |
|-------------------------|---------|-----------|----------|-------------|

| | | | | | |
|-------------------------------------|----------|----------------|--------------------|--------------------|----------|
| 16. Number of Contractor Employees: | a) Total | b) Underground | c) Open Pit/Quarry | d) Mill/Prep Plant | e) Other |
|-------------------------------------|----------|----------------|--------------------|--------------------|----------|

| | |
|--|--|
| 17. Number of Persons in Mine at Time of Accident: | 18. Number of Persons Unaccounted For: |
| a) Mine Employees: 34 | a) Mine Employees: 0 |
| b) Contractor Employees: | b) Contractor Employees: |

| | |
|--|------------------------------|
| 19) Location of Accident: | 20. Mining Height: |
| <input checked="" type="checkbox"/> 01-Underground <input type="checkbox"/> 02-Surface at Underground <input type="checkbox"/> 03-Open Pit <input type="checkbox"/> 04-Dredge Mining <input type="checkbox"/> 05-Retreat Mining <input type="checkbox"/> 06-Advance Mining <input type="checkbox"/> 07-Retreat Mining <input type="checkbox"/> 08-Mill/Prep Plant <input type="checkbox"/> 09-Office Facility <input type="checkbox"/> Other (specify) | Feet Inches 7 0 |

| | |
|------------------------|---------------------|
| 21. Nonfatal Injuries: | 22. Fatal Injuries: |
|------------------------|---------------------|

| | | |
|--|---------|--------|
| 23. Victim Information : | a) Name | b) Age |
| No Victims Reported for this Accident Investigation | | |

| | | | |
|-----------------------|----------------------------------|--|--|
| c) Regular Job Title: | d) Activity at Time of Accident: | <input type="checkbox"/> Mine Employee | <input type="checkbox"/> Contractor Employee |
|-----------------------|----------------------------------|--|--|

| | | | | |
|------------------|------------------|----------------------|--------------------|------------------|
| 24. Experience : | Years Weeks Days | Years Weeks Days | Years Weeks Days | Years Weeks Days |
| a) Total: | b) at the mine: | c) at activity (23d) | d) with Contractor | |

| | |
|---|---|
| 25. Autopsy Performed: If Yes, Location | 26. Mine Telephone No.: (304) 854-1456 |
|---|---|

27. Description of Accident (include equipment involved, the exact location in the mine, and status of rescue and recovery operations):
 On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory hole) from a mine or mines above. [REDACTED] was examining the Glory hole area when he noticed water coming into the mine through the Glory hole at 8:55 PM. The North Mains six entry section was flooded.

The information provided in this notice is based on preliminary data ONLY and does not represent final determinations regarding the nature of the incident or conclusions regarding the cause of the accident.

| | |
|-----------------------------|------------|
| 28. Equipment Manufacturer: | 29. Model: |
|-----------------------------|------------|

| | | |
|---------------------------------|-----------------------------------|-------------------|
| 30. District: C0400 Mt. Hope | 32. Field Office: Mt. Hope, WV | 33. Event Number: |
|---------------------------------|-----------------------------------|-------------------|

| | | | |
|--|--|--------------------|-----------------|
| 34. Accident Investigator: [REDACTED] | 35. MSHA Person Notified: Jesse P. Cole | Date 03/12/2006 | Time 11:40 A |
|--|--|--------------------|-----------------|

| | | |
|--------------------------------|---|--------------------|
| 36. Type of Report: Initial | 37. Name of Preparer and Date Prepared: [REDACTED] | Date 03/13/2006 |
|--------------------------------|---|--------------------|

| |
|---------------------------|
| 38. Reason For Amendment: |
|---------------------------|

Preliminary Report of Accident



| | | | | |
|----------------------------------|---|--|------------------------|--------------------|
| 1. Accident Type: No Injuries | 2. Accident Classification: Inundation | 3. Date/Time of Accident: 03/12/2006 11:30 PM | 4. Date/Time of Death: | 5. Fatal Case No.: |
|----------------------------------|---|--|------------------------|--------------------|

| | | |
|--|---|-----------------------------|
| 6. Mine Information: | | |
| a) Mining Company Name Performance Coal Company | b) Mine Name Upper Big Branch Mine-South | c) Parent of Mining Company |

| | | | | | |
|-------------------|------------------|----------------------|----------------|--------------------------------|-----------|
| 7. Mine Location: | a) City NAOMA | b) County Raleigh | c) State WV | 8. Mine ID Number: 46-08436 | 9. Union: |
|-------------------|------------------|----------------------|----------------|--------------------------------|-----------|

| | | | | | | |
|----------------------------|-------------------------------|-----------------|-----------------------|--------------------|--------------------|---------------|
| 10. Primary Mineral Mined: | 11. Number of Mine Employees: | a) Total 181 | b) Underground 172 | c) Open Pit/Quarry | d) Mill/Prep Plant | e) Other 9 |
|----------------------------|-------------------------------|-----------------|-----------------------|--------------------|--------------------|---------------|

| | | |
|----------------------|------------|---------------------------|
| 12. Contractor Name: | 13. Union: | 14. Contractor ID Number: |
|----------------------|------------|---------------------------|

| | | | | |
|-------------------------|---------|-----------|----------|-------------|
| 15. Contractor Address: | a) City | b) County | c) State | d) Zip Code |
|-------------------------|---------|-----------|----------|-------------|

| | | | | | |
|-------------------------------------|----------|----------------|--------------------|--------------------|----------|
| 16. Number of Contractor Employees: | a) Total | b) Underground | c) Open Pit/Quarry | d) Mill/Prep Plant | e) Other |
|-------------------------------------|----------|----------------|--------------------|--------------------|----------|

| | |
|--|--|
| 17. Number of Persons in Mine at Time of Accident: | 18. Number of Persons Unaccounted For: |
| a) Mine Employees: 34 | b) Contractor Employees: |
| b) Contractor Employees: | a) Mine Employees: 0 |
| | b) Contractor Employees: |

| | |
|--|--------------------|
| 19) Location of Accident: | 20. Mining Height: |
| <input checked="" type="checkbox"/> 01-Underground | Feet Inches |
| <input type="checkbox"/> 02-Surface at Underground | 7 0 |
| <input type="checkbox"/> 03-Open Pit | |
| <input type="checkbox"/> 04-Advance Mining | |
| <input type="checkbox"/> 05-Mill/Prep Plant | |
| <input type="checkbox"/> 06-Dredge Mining | |
| <input type="checkbox"/> 07-Retreat Mining | |
| <input type="checkbox"/> 08-Office Facility | |
| <input type="checkbox"/> Other (specify) | |

| | |
|------------------------|---------------------|
| 21. Nonfatal Injuries: | 22. Fatal Injuries: |
|------------------------|---------------------|

| | | |
|---|---------|--------|
| 23. Victim Information: | a) Name | b) Age |
| No Victims Reported for this Accident investigation | | |

| | | | |
|-----------------------|----------------------------------|--|--|
| c) Regular Job Title: | d) Activity at Time of Accident: | <input type="checkbox"/> Mine Employee | <input type="checkbox"/> Contractor Employee |
|-----------------------|----------------------------------|--|--|

| | | | | |
|-----------------|------------------|----------------------|--------------------|------------------|
| 24. Experience: | Years Weeks Days | Years Weeks Days | Years Weeks Days | Years Weeks Days |
| a) Total: | b) at the mine: | c) at activity (23d) | d) with Contractor | |

| | | |
|------------------------|------------------|-------------------------|
| 25. Autopsy Performed: | If Yes, Location | 26. Mine Telephone No.: |
| | | (304) 854-1456 |

27. Description of Accident (include equipment involved, the exact location in the mine, and status of rescue and recovery operations):
 On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory hole) from a mine or mines above. [REDACTED] was examining the Glory hole area when he noticed water coming into the mine through the Glory hole at 8:55 PM. The North Mains six entry section was flooded.

The information provided in this notice is based on preliminary data ONLY and does not represent final determinations regarding the nature of the incident or conclusions regarding the cause of the accident.

| | |
|-----------------------------|------------|
| 28. Equipment Manufacturer: | 29. Model: |
|-----------------------------|------------|

| | | |
|---------------------------------|-----------------------------------|-------------------|
| 30. District: C0400 Mt. Hope | 32. Field Office: Mt. Hope, WV | 33. Event Number: |
|---------------------------------|-----------------------------------|-------------------|

| | | | |
|--|--|--------------------|-----------------|
| 34. Accident Investigator: [REDACTED] | 35. MSHA Person Notified: Jesse P. Cole | Date 03/12/2006 | Time 11:40 A |
|--|--|--------------------|-----------------|

| | | |
|--------------------------------|---|--------------------|
| 36. Type of Report: Initial | 37. Name of Preparer and Date Prepared: [REDACTED] | Date 03/13/2006 |
|--------------------------------|---|--------------------|

| |
|---------------------------|
| 38. Reason For Amendment: |
|---------------------------|

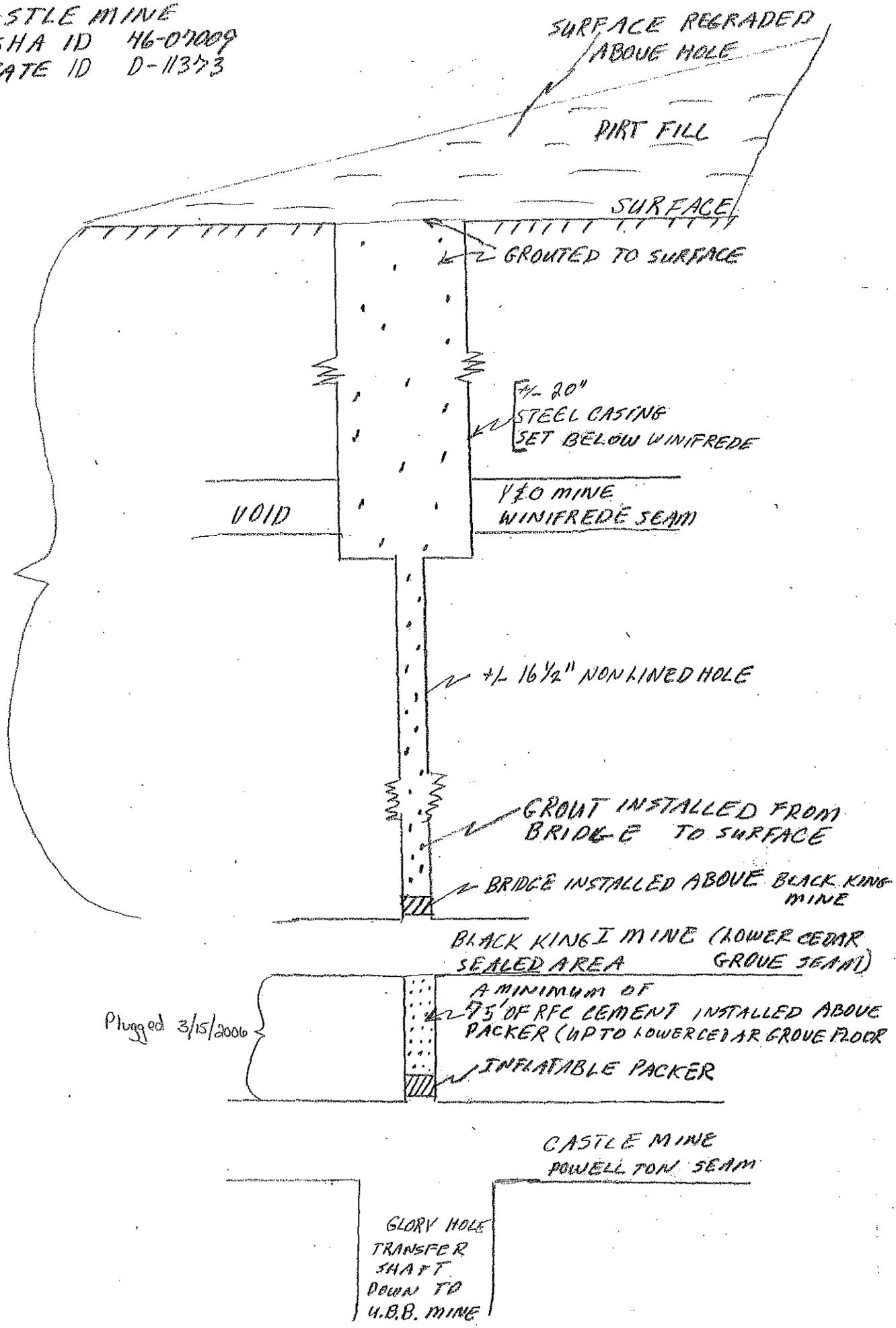
Pilot Hole Plugging

3-15-2006

SKETCH - NOT TO SCALE

CASTLE MINE
MSHA ID 46-07009
STATE ID D-11373

To be plugged
n or before
1/29/2006



Plugged 3/15/2006

GLORY HOLE
TRANSFER
SHAFT
DOWN TO
U.B.B. MINE

24. Conclusion:

Continued on attachment

25. Enforcement Actions: Indicate P for procedure type violation, C for condition type, or T for training type.

| Violation Type | Citation Number | Regulation Cited | Section of the Act |
|----------------|-----------------|--|-----------------------|
| P C T | 7250744 | | 103K |
| Citation | Order | Type/Action: <input checked="" type="checkbox"/> | Summary of Violation: |

To assure the safety of all persons entering the mine

| Violation Type | Citation Number | Regulation Cited | Section of the Act |
|----------------|-----------------|--|-----------------------|
| P C T | 7250745 | 75.370(a)(1) | 104d |
| Citation | Order | Type/Action: <input checked="" type="checkbox"/> | Summary of Violation: |

Operator failed to follow approved ventilation plan and did not grout the bore hole.

| Violation Type | Citation | Order | Type/Action: | Summary of Violation: |
|----------------|----------|-------|--------------|-----------------------|
| P C T | | | | |

| Violation Type | Citation | Order | Type/Action: | Summary of Violation: |
|----------------|----------|-------|--------------|-----------------------|
| P C T | | | | |

| Violation Type | Citation | Order | Type/Action: | Summary of Violation: |
|----------------|----------|-------|--------------|-----------------------|
| P C T | | | | |

| Violation Type | Citation | Order | Type/Action: | Summary of Violation: |
|----------------|----------|-------|--------------|-----------------------|
| P C T | | | | |

C. MSHA Information

| | | |
|---|--|---|
| 26. Last Quarter NFDL Injury Incidence Rate (PEIR) for: Industry: 5.02 This Mine: 6.55 Contractor: | 27. Did Technical Support Participate in this Investigation ? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | 28. Part 50 Document Control Number: (Form 7000-1) |
| 29. MSHA District Office: Mt. Hope | 30. MSHA Field Office: Mt. Hope | 31. Date Last Regular Inspection Completed: Date: 12-29-2005 |
| 32. Lead Accident Investigator Name: AR No.; Date Name: [Redacted] AR No.: 23784 Date: 3-14-06 | 33. Date On-site Investigation Started: Date: 3-12-06 | 34. Formal Report: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> 35. Report Release Date: Date: |

Accident Investigation Data - Victim Information

Event Number:



Victim Information: 1

| | | | | | | | | | | |
|--|--|---------------------------------------|--------------------------------|------|----------------------------------|---|----------------------|-------|------------------|------|
| 1. Name of Injured/III Employee: | | 2. Sex: | 3. Victim's Age | | 4. Last Four Digits Of SSN: | | 5. Degree of Injury: | | | |
| 6. Date(MM/DD/YY) and Time(24 Hr.) Of Death: | | | | | 7. Date and Time Started: | | | | | |
| a. Date: | | | b. Time: | | a. Date: | | b. Time: | | | |
| 8. Regular Job Title: | | | 9. Work Activity when Injured: | | | 10. Was this work activity part of regular job? | | | | |
| | | | | | | Yes No | | | | |
| 11. Experience | | Years | Weeks | Days | Years | Weeks | Days | Years | Weeks | Days |
| a. This Work Activity: | | | b. Regular Job Title: | | | c. This Mine: | | | d. Total Mining: | |
| 12. What Directly Inflicted Injury or Illness? | | | | | 13. Nature of Injury or Illness: | | | | | |
| | | | | | | | | | | |
| 14. Training Deficiencies: | | | | | | | | | | |
| Hazard: | | New/Newly-Employed Experienced Miner: | | | Annual: | | Task: | | | |
| 15. Company of Employment: (If different from production operator) | | | | | | | | | | |
| Independent Contractor ID: (if applicable) | | | | | | | | | | |
| 16. On-site Emergency Medical Treatment: | | | | | | | | | | |
| Not Applicable: | | First-Aid: | CPR: | EMT: | Medical Professional: | None: | | | | |
| 17. Part 50 Document Control Number: (form 7000-1) | | | | | 18. Union Affiliation of Victim: | | | | | |

Victim Information: 2

| | | | | | | | | | | |
|--|--|---------------------------------------|--------------------------------|------|----------------------------------|---|----------------------|-------|------------------|------|
| 1. Name of Injured/III Employee: | | 2. Sex: | 3. Victim's Age: | | 4. Last Four Digits Of SSN: | | 5. Degree of Injury: | | | |
| 6. Date(MM/DD/YY) and Time(24 Hr.) Of Death: | | | | | 7. Date and Time Started: | | | | | |
| a. Date: | | | b. Time: | | a. Date: | | b. Time: | | | |
| 8. Regular Job Title: | | | 9. Work Activity when Injured: | | | 10. Was this work activity part of regular job? | | | | |
| | | | | | | Yes No | | | | |
| 11. Experience | | Years | Weeks | Days | Years | Weeks | Days | Years | Weeks | Days |
| a. This Work Activity: | | | b. Regular Job Title: | | | c. This Mine: | | | d. Total Mining: | |
| 12. What Directly Inflicted Injury or Illness? | | | | | 13. Nature of Injury or Illness: | | | | | |
| | | | | | | | | | | |
| 14. Training Deficiencies: | | | | | | | | | | |
| Hazard: | | New/Newly-Employed Experienced Miner: | | | Annual: | | Task: | | | |
| 15. Company of Employment: (If different from production operator) | | | | | | | | | | |
| Independent Contractor ID: (if applicable) | | | | | | | | | | |
| 16. On-site Emergency Medical Treatment: | | | | | | | | | | |
| Not Applicable: | | First-Aid: | CPR: | EMT: | Medical Professional: | None: | | | | |
| 17. Part 50 Document Control Number: (form 7000-1) | | | | | 18. Union Affiliation of Victim: | | | | | |

Victim Information: 3

| | | | | | | | | | | |
|---|--|---------------------------------------|--------------------------------|------|----------------------------------|---|----------------------|-------|------------------|------|
| 1. Name of Injured/III Employee: | | 2. Sex: | 3. Victim's Age: | | 4. Last Four Digits Of SSN: | | 5. Degree of Injury: | | | |
| 6. Date(MM/DD/YY) and Time(24 Hr.) Of Death: | | | | | 7. Date and Time Started: | | | | | |
| a. Date: | | | b. Time: | | a. Date: | | b. Time: | | | |
| 8. Regular Job Title: | | | 9. Work Activity when Injured: | | | 10. Was this work activity part of regular job? | | | | |
| | | | | | | Yes No | | | | |
| 11. Experience: | | Years | Weeks | Days | Years | Weeks | Days | Years | Weeks | Days |
| a. This Work Activity: | | | b. Regular Job Title: | | | c. This Mine: | | | d. Total Mining: | |
| 12. What Directly Inflicted Injury or Illness? | | | | | 13. Nature of Injury or Illness | | | | | |
| | | | | | | | | | | |
| 14. Training Deficiencies: | | | | | | | | | | |
| Hazard: | | New/Newly-Employed Experienced Miner: | | | Annual: | | Task: | | | |
| 15. Company of Employment:(If different from production operator) | | | | | | | | | | |
| Independent Contractor ID: (if applicable) | | | | | | | | | | |
| 16. On-site Emergency Medical Treatment: | | | | | | | | | | |
| Not Applicable: | | First-Aid: | CPR: | EMT: | Medical Professional: | None: | | | | |
| 17. Part 50 Document Control Number: (form 7000-1) | | | | | 18. Union Affiliation of Victim: | | | | | |



Event Number:

Independent Contractor Information: 1

| | | |
|----------------------|----------------------|------------------------------------|
| 1. Company Name: | 2. MSHA ID Number: | 3. Type of Independent Contractor: |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | |
|-----------------------------|--|
| 4. Nature of Contract Work: | 5. Number of Independent Contractor employees On-Site at Time of Accident: |
| <input type="text"/> | a. Underground: <input type="text"/> <input type="text"/> b. Surface: <input type="text"/> |

6. Independent Contractor Officials:

| On-Site/Other: | Title | Name | Address |
|----------------|-------|------|---------|
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Independent Contractor Information: 2

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|----------------------|----------------------|------------------------------------|
| 1. Company Name: | 2. MSHA ID Number: | 3. Type of Independent Contractor: |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | |
|-----------------------------|--|
| 4. Nature of Contract Work: | 5. Number of Independent Contractor employees On-Site at Time of Accident: |
| <input type="text"/> | a. Underground: <input type="text"/> <input type="text"/> b. Surface: <input type="text"/> |

6. Independent Contractor Officials:

| On-Site/Other: | Title | Name | Address |
|----------------|-------|------|---------|
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Independent Contractor Information: 3

| | | |
|----------------------|----------------------|------------------------------------|
| 1. Company Name: | 2. MSHA ID Number: | 3. Type of Independent Contractor: |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

| | |
|-----------------------------|--|
| 4. Nature of Contract Work: | 5. Number of Independent Contractor employees On-Site at Time of Accident: |
| <input type="text"/> | a. Underground: <input type="text"/> <input type="text"/> b. Surface: <input type="text"/> |

6. Independent Contractor Officials:

| On-Site/Other: | Title | Name | Address |
|----------------|-------|------|---------|
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Event Number:

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|--|--|--|--|--|--|--|--|--|--|

A. Section Information

| | | | | | | | |
|--|--------------|---|--|---|--|----------------|--|
| 1. Ignition or Explosion: | | 2. Location of Ignition/Explosion: | | | | | |
| a. Ignition | b. Explosion | a. Description: | | | | b. MMU Number: | |
| 3. Type of Mining: | | 4. Extended Cut Approved in: (Coal only) | | | | | |
| Development | Retreat | Ventilation Plan | | Roof Control Plan | | No Approval | |
| 5. Extended cut used at time of accident? | | 6. Depth extended cut approved (in feet): | | 7. Depth of extended cut at time of accident (in feet): | | | |
| Yes <input type="checkbox"/> No <input type="checkbox"/> | | | | | | | |

B. Dust Suppression Information

| | |
|--|--|
| 8. Water Spray Parameters: | |
| a. Number of water sprays required in ventilation plan: | b. Number of water sprays operable at time of ignition: |
| c. Water pressure required in ventilation plan (in PSI): | d. Water pressure measured during investigation (in PSI): |
| e. Water flow rate required in ventilation plan (in GPM): | f. Water flow rate measured during investigation (in GPM): |
| g. Type of water spray system (include type of scrubber and fan system): | h. Exhaust system velocity (in FPM): |
| Description | |

C. Face Ventilation Information

| | | |
|--|---|-------------|
| 9. Ventilation Configuration: | | |
| a. Exhaust | Blowing | Combination |
| 10. Ventilation control devices at time of accident: | | |
| a. Auxiliary Fan/Tubing | b. Curtain | c. Diffuser |
| Other ventilation controls (describe): | | |
| 11. Distance from inby end of ventilation control to face: | | |
| a. Required in Ventilation Plan (ft.) | b. At time of accident (ft.) | |
| 12. Air Quantities (in CFM): | | |
| a. Air quantity required at LOC or pillar line: | b. Air quantity measured at LOC or pillar line: | |
| c. Air quantity required at face or reaching longwall: | d. Air quantity measured at face or longwall: | |
| e. Measured diffuser fan capacity: | f. Measured scrubber quantity: | |

D. Methane Information

| | | | |
|---|--|----------------------|-----------------------------------|
| 13. Methane Liberation | | | |
| a. On Section (cubic feet each 24 hrs): | b. Category (Metal and Nonmetal only): | | |
| | I II III IV V VI | | |
| 14. Source of Methane Accumulation: | | | |
| a. Normal Liberation | b. Feeder | c. Other (Describe): | |
| d. Description of feeder location (if applicable): | | | |
| 15. Was methane monitor functioning properly? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> | | | |
| 16. Equipment involved maintained in permissible condition? Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> | | | |
| 17. Location of methane monitor sensing head: | | | |
| a. Right side | b. Left Side | c. Center | d. Distance From Face (in inches) |
| 18. Barometric Pressure: | | | |
| a. Measurement (in/hg) | b. Rising | Falling | Steady |

E. Bit Information

| | |
|------------------------|--|
| 19. Bit Type: | |
| 20. Bit Configuration: | |
| 21. Condition of Bits: | |

F. Other Information

| | | | | | |
|--|---------------|--------------------|------------|-----------------|----------------------|
| 22. Energy Source: | | | | | |
| a. Frictional | b. Electrical | c. Cutting/Welding | d. Smoking | e. Undetermined | f. Other (describe): |
| 23. Coke samples taken: Yes <input type="checkbox"/> No <input type="checkbox"/> | | | | | |
| 24. Other Technical Data: | | | | | |



Event Number:

A. General Information

1. Type of Fall: a. Roof/Back b. Rib c. Face d. Outburst e. Rockburst M/NM Only

2. Dimension of Fall: a. Length b. Width c. Thickness 3. Width of Entry, Room, etc:

4. Immediate Roof/Back Information: a. Thickness b. Strata Composition:

5. Main Roof/Back Information: a. Thickness b. Strata Composition:

6. Was the fall above the anchorage horizon of the bolts? Yes No N/A 7. Did the fall affect ventilation resulting in less than required quantity or quality? Yes No

8. Did the fall affect the passage of workers? (entrapment) Yes No

9. Did miners have indication of the pending fall? Yes No

10. If indication was given, what type?

B. Fall on Working Section/Active Face Area

11. Type of Roof Support:

12. Type of ATRS (Coal only):

13. Type of Original Support in Fall Area:

14. Distance Between Fall and Face: Feet Inches

C. Fall Outby Working Section/Previously Developed Area

15. Location and Type of Entry (intake, return, main haulage, etc.):

16. Approximate Date of Development (MM/DD/YYYY): a. Date: ___/___/___

17. Type of Original Support in Fall Area:

D. Operator's Investigation

18. Did the operator investigate the fall? Yes No

19. What did the operator determine to be the cause of the fall?

20. What steps did the operator take to prevent a similar occurrence?

E. Plan Revisions

21. Are plan revisions anticipated (Coal only)? Yes No

[REDACTED]

From: [REDACTED]
Sent: Friday, April 07, 2006 9:49 AM
To: Brooks, Patricia A - MSHA
Subject: FW: 8436 Inundation Description of Accident

Subject: 8436 Inundation Description of Accident

On March 12, 2006, an inundation of water occurred at the Performance Coal Company, Upper Big Branch Mine-South, ID No. 46-08436. The water entered the mine through a borehole (known as Glory hole) from a mine or mines above. [REDACTED] was examining the Glory hole area when he noticed water coming into the mine at 8:55 p.m. The North Mains six entry section was flooded with an estimated 4.8 million gallons of water.

Conclusion:

The operator failed to follow the approved ventilation plan which states that after the raise bore drill string has been removed above the Castle Mine an inflatable packer would be installed and the pilot hole would be grouted off above the Castle Mine Powellton seam. A temporary packer was installed and the grouting part of the plan was not completed which was the contributing factor of the inundation of water.

4/13/06



OCT 05 2005

Mr. Bill Potter
President
Performance Coal Company
P. O. Box 69
Naoma, WV 25140

Dear Mr. Potter:

Subject: Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper
Big Branch Mine-South, I.D. No. 46-08436, Performance
Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, which includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8 1/2 inch diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. No. 46-07009) and into Upper Big Branch Mine. Additionally, a 14 inch diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

The revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact William L. Ross at (304) 877-3900/Ext. 142.

Sincerely,

/s/ William Ross

Jesse P. Cole
District Manager
Coal Mine Safety and Health, District 4

cc: Mt. Hope Field Office (3 encl.)
Files/dac

| | | |
|-----------------------------|----------|---------|
| SUPERVISORY ACKNOWLEDGEMENT | Initials | Date |
| | JR | 10-5-05 |

U. S. Department of Labor

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



OCT 05 2005

Mr. Bill Potter
President
Performance Coal Company
P. O. Box 69
Naoma, WV 25140

Dear Mr. Potter:

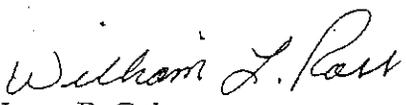
Subject: Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper
Big Branch Mine-South, I.D. No. 46-08436, Performance
Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, which includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8 1/2 inch diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. No. 46-07009) and into Upper Big Branch Mine. Additionally, a 14 inch diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

The revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact William L. Ross at (304) 877-3900/Ext. 142.

Sincerely,

for 
Jesse P. Cole
District Manager
Coal Mine Safety and Health, District 4

9493-B4A13

VENTILATION REVIEW

Company: Performance Coal Company

Mine: Upper Big Branch Mine - South ID#: 46-08436 Status: _____

10/5/05 DATE RECEIVED FROM COMPANY (by fax)

10/5/05 DATE APPROVED PLAN MAILED TO OPERATOR

0 TOTAL DAYS ELAPSED

REASON FOR PLAN AND ANNUAL MAP

ADDENDUM

TECHNICAL REVIEW

Description: Revised Page 1 of the revision approved 8/12/05, describing procedures & safety precautions to drill a 8 1/2" dia pilot hole into the UBB Mine & then raise-bore a 14" dia. hole from the UBB Mine up through the Castle Mine

Person Reviewing Plan:  Date: 10/5/05

Comments: _____

Ventilation Supervisor: Bill Ross Date: 10-5-05

Comments: _____

Assistant District Manager: Spencer Date: 10/05/05

Comments: _____

for Chief of Engineering Services: Bill Ross Date: 10-5-05

Comments: _____

Mr. Bill Potter
President
Performance Coal Company
P. O. Box 69
Naoma, WV 25140

Dear Mr. Potter:

Subject: Mine Ventilation Plan, Section 75.370, 30 CFR 75, Upper
Big Branch Mine - South, I.D. No. 46-08436, Performance
Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation plan, submitted to this office and dated October 4, 2005, that includes a revised Page 1, of a ventilation supplement that was previously approved on August 12, 2005. The revised page includes changes in the procedures and safety precautions for drilling an 8 ½" diameter pilot hole down and through the Elk Run Coal Company's Castle Mine (I.D. 46-07009) and into Upper Big Branch Mine. Additionally, a 14" diameter borehole will subsequently be raise-bored from the Upper Big Branch Mine, up through the Castle Mine, and through a sealed portion of Elk Run Coal Company's Black King I Mine in the Lower Cedar Grove seam.

This revision is hereby approved and will be made a part of the approved plan for this mine.

Should you have any questions concerning this matter, please contact the Ventilation Department at (304) 877-3900/Ext. 142.

Sincerely,

Jesse P. Cole
District Manager
Coal Mine Safety and Health, District 4

October 4, 2005

Mr. Jesse Cole
District Manager
Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880

RE: Upper Big Branch Mine
State ID - U-3042-92
M.S.H.A. ID 46-08436
Revised Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Cole,

Enclosed please find a revised page 1 of a ventilation supplement. Our current approved plan states that the pilot hole will be cased off from all voids as it is drilled. We have cased the 1st 500 feet of the hole down through the abandoned Y&O mine in the Winifrede seam. When we drilled below the casing the pilot hole deviated from the required course. We then used a directional drilling company to steer an 8.5" hole back on course down into the floor of a sealed portion of our Black King I mine. When we attempted to ream this hole to 18" (which would allow casing to be run) the hole deviated off course in the same direction as the first. The drilling contractor believes that further attempts would result in similar deviations.

The attached plan shows directional drilling of an 8.5" hole on into the Upper Big Branch Mine. There the bit will be changed to 14". This will allow the pilot hole to be raise bored to the usable diameter. The attached plan shows that the Lower Cedar Grove seam was verified by camera for water and how air seperation between the seams will be accomplished.

If you should need any additional information or have any further question please feel free to contact me at the above referenced phone number.

Sincerely,



**Upper Big Branch Mine
MSHA ID 46-08436
STATE ID U-3042-92
Coal Transfer Shaft
Ventilation Supplement
Revised Page (10/4/2005)
Pilot Hole**

1. The first 500 feet of the pilot hole will be steel cased.
2. An 8.5" directionally steered hole was drilled into the floor of the Black King I mine. A camera was lowered into the hole. The video verified that no impounded water exists at the location of the hole.
3. The pilot hole will drill into the Castle mine where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Castle mine preshift examinations will begin and continue through out the process.
4. The pilot hole will drill into the Eagle seam where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Upper Big Branch mine preshift examinations will begin and continue through out the process.
5. The 8.5" bit on the drill steel will be changed to a 14" reaming bit. This bit will be used to raisebore the 14" pilot hole up to the 18" steel casing (500 foot from the surface).
6. During all times either drill steel or a packer will exist in the hole between the Castle mine and the sealed area of the Black King I mine above. When it is necessary to install or remove a packer the area will be constantly monitored for direction and quality (methane and oxygen).
7. After reaming the pilot hole to 14" between the UBB mine and the Castle mine a cap with a valve for sampling will be installed over the pilot hole in the floor of the Castle mine. The 14" hole will proceed to be enlarged above the Castle mine. The hole can be enlarged untill it is 5 feet below the Black King mine floor. A packer will then be installed in the roof of the Castle mine. Then the hole can be enlarged the remainder of the distance.
8. The raise bore drill rig will be installed on the surface. Before the drill string for the raise bore is lowered through the Castle mine roof the packer will be removed. Checks will be made for direction and quality before the packer is removed. Before the drill string can be lowered below the Castle mine floor the cap seperating the Castle and UBB mines will be removed. The air will be sampled before the cap is removed. Then the drill string will be extended down into the Upper Big Branch Mine. Air ventilating the area will be directed into the return.
9. The raise bore will then excavate the shaft between the 2 seams. See page 2 for raise bore details.
10. After the raise bore drill string has been removed above the Castle mine, but still extends down below the Lower Cedar Grove seam, a packer will be installed. The hole will then be grouted off above the Castle Mine.

PILOT HOLE

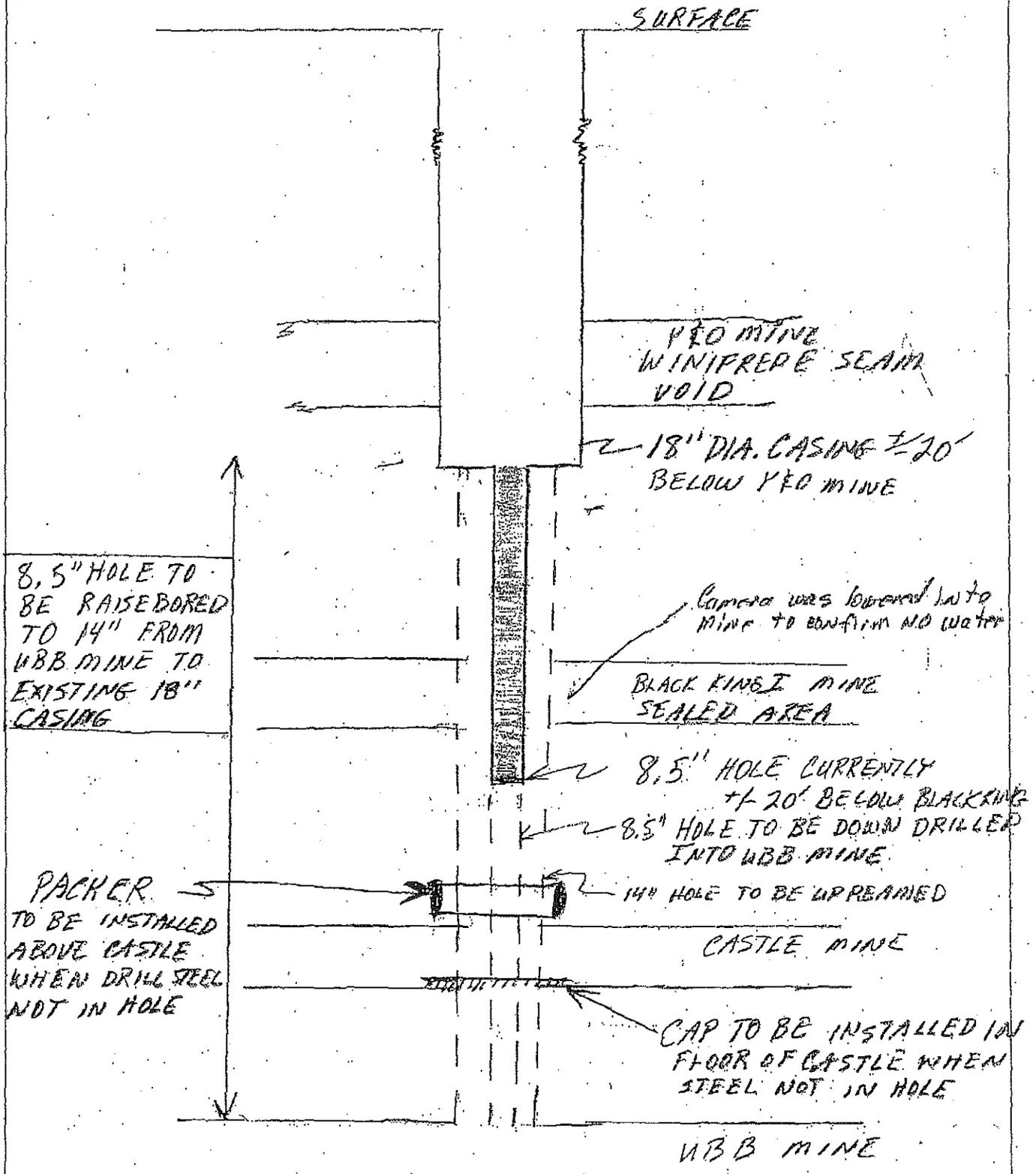
10-5-05

SKETCH - NOT TO SCALE

UWB MINE
MSHA ID 46-08436
STATE ID U-3042-92

CASTLE MIN
MSHA ID 46-07009
STATE ID D-11373

22-141 50 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



8.5" HOLE TO BE RAISEBORED TO 14" FROM UWB MINE TO EXISTING 18" CASING

YEO MINE
WINIFREDE SEAM
VOID

18" DIA. CASING ± 20'
BELOW YEO MINE

Camera was lowered into mine to confirm no water

BLACK KING I MINE
SEALED AREA

8.5" HOLE CURRENTLY ± 20' BELOW BLACK KING

8.5" HOLE TO BE DOWN DRILLED INTO UWB MINE

PACKER TO BE INSTALLED ABOVE CASTLE WHEN DRILL STEEL NOT IN HOLE

14" HOLE TO BE UP REAMED

CASTLE MINE

CAP TO BE INSTALLED ON FLOOR OF CASTLE WHEN STEEL NOT IN HOLE

UWB MINE



Massey Energy®



ENGINEERING

Marfork Coal Company
Elk Run Coal Company
Performance Coal Company

P.O. Box 69
Naoma, WV 25140
Ph: 854-1761
Mining Dept. Fax: 854-3529
Permitting Dept. Fax: 854-3528

FAX

To: BILL ROSS From: [REDACTED]

Fax: _____ Date: _____

Phone: _____ Pages: _____

Re: _____ CC: _____

- Urgent For Review Please Comment Please Reply Please Recycle

Comments: PLEASE REVIEW URB PILOT HOLE PLAN
 AFTER WE FINALIZE AN IDENTICAL
 PLAN WILL BE SUBMITTED FOR THE
 CASTLE MINE
 A SKETCH IS INCLUDED TO
 CLARIFY

March 17, 2006

Mr. Harry Linville
Office of Miners' Health, Safety, and Training
Region -3 Danville
Lick Creek Professional Building
Danville, WV 25053-7823

RE: Castle Mine
State ID - D-11373
M.S.H.A ID - 46-07009
Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Linville,

Attached please find our plan for the grouting off of the pilot hole, which was used to drill the Coal Transfer Shaft between Elk Run Coal Company's Castle Mine and Performance Coal Company's Upper Big Branch Mine.

If you should need any additional information or have any further questions please feel free to contact me.

Sincerely,



APPROVED MAR 20 2006

Harry Linville

CASTLE MINE
MSHA ID 46-07009
STATE ID D-11373

SURFACE REGRADED
ABOVE HOLE

PIRT FILL

SURFACE

GROUTED TO SURFACE

4" 20"
STEEL CASING
SET BELOW WINIFREDE

1/20 MINE
WINIFREDE SEAM

VOID

To be plugged
on air before
3/29/2006

4" 16 1/2" NON LINED HOLE

GROUT INSTALLED FROM
BRIDGE TO SURFACE

BRIDGE INSTALLED ABOVE BLACK KING
MINE

BLACK KING I MINE (LOWER CEDAR
SEALED AREA GROVE SEAM)

Plugged 3/15/2006

A MINIMUM OF
2 1/2' OF R/C CEMENT INSTALLED ABOVE
PACKER (UP TO LOWER CEDAR GROVE FLOOR)

INFLATABLE PACK

CASTLE MINE
POWELL POW. SEAM

GLORY HOLE
TRANSFER
SHAFT
DOWN TO
U.B.B. MINE



MINERS' HEALTH, SAFETY AND TRAINING
137 PEACH COURT, SUITE 2
DANVILLE, WEST VIRGINIA 25053

PHONE: (304) 369-7823

FAX: (304) 369-7826

FROM: *Harry Luville*

TO: [REDACTED]

MESSAGE: *Approval Request*

PAGES: 3 **PLUS COVER**



Northstar Consulting, LLC

Oil & Gas Engineering, Geological and Evaluation Services

March 21, 2005

[REDACTED]
Elk Run Coal Company, Inc.
P. O. Box 497
Slyvester, WV 25193

Re: *UBB Glory Hole – Integrity of Cement Plug*
Castle Mine – MSHS ID 46-07009 – State ID D-11373

Dear [REDACTED]

In response to your request we have reviewed the information provided, see enclosures, in addition to other pertinent data to ascertain the integrity of the 128' cement plug and Baker packer in the well.

It is our understanding from review of the information provided that a Baker inflatable packer was set 128' below the pavement of the Cedar Grove coal seam in a 16 3/4" hole at an elevation of 1065'. Then the 128' interval, (elevation 1065' to 1193'), from the Baker packer to the Cedar Grove pavement was filled with "RFC" (expanding) cement.

In the following discussion in which we will elaborate on the capabilities of the Baker packer and cement to resist inflow of water from the mine works. It will be obvious from the data presented the capabilities of the cement and packer exceed that necessary to provide a seal restricting water inflow.

If you have any questions, please give us a call.

Sincerely,

W. Thomas White
Petroleum Geologist
CPG #5016

WTW:/wtw

[REDACTED]
Enclosures:
UBB Glory Hole.doc

304.344.0885 • Fax: 304.344.0806 • website: northstarenergy.net

Boulevard Tower • Suite 309 • 1018 Kanawha Blvd., E. • Charleston, WV 25301

UBB Glory Hole

MSHA ID 46-07709

State ID D-11373

General Comments

As described in the earlier paragraphs cement plugs are typically utilized to isolate and prevent future migration of gas from the reservoir formations. Our remarks and computations therefore are focused on the cement plugs which have been tested in laboratory conditions for compressive and shear bond strength.

Cement Plug -- Compressive Strength

Cement, as it sets up, develops a certain compressive strength depending upon the specific constituents added to the cement blend used and the amount of time pumping has ceased. The cement blend RFC as provided by Schlumberger Fields Services has a compressive strength of 1,200 psi after 24 hours or additionally 2,200 psi after 72 hours, (data provided by Schlumberger Field Services).

Cement Plug -- Shear Bond Strength

Performance of shear bond strength specifications were documented in two publications, "Well Cementing", by Erik Nelson, DS Schlumberger Field Services, 1990 and an SPE Monograph Series, "Cementing" by Dwight K. Smith, Halliburton Services, 1976. In "Cementing" laboratory tests of resin coated steel pipe had 2,400 psi cement shear bond strength. In "Well Cementing" testing determined shear bond strengths between pipe and cement ranged from 1,000 psi for standard cement to 1,800 psi for cement with bond-enhancing agents. Although these tests were conducted between cement and pipe, similar or greater shear bond strength is expected between cement and formation primarily due to the textured surface of the rock providing better bond adhesion.

Without actual shear strength data for cement to formation bond, calculations will be based on the lower standard cement specifications of 1000 psi. For this comparison the total bond shear pressure is equal to surface area of the plug in contact with the formation wall times 1000 psi. This figure must exceed the total force capable of being exerted against the plug's exposed surface area by the reservoir pressure.

The 128' plug in the 17.5" hole would have bond shear strength equal to 84,446,000 pounds of force, (17.5" x 3.14 x 1,536" x 1,000 psi).

Baker "Inflatable" Packer - Shear Bond Strength

Performance of shear bond strength specifications of the Baker "Inflatable" Packer were provided by Baker Oil Tool, Inc. The particular packer installed in the UBB Glory Hole is a 10 3/8" OD tool with a rated differential pressure of 2000 psi in a 16 3/4" hole. With a surface area of 220 cu. inches this equates to 440,000 psi of shear strength.

Summary

A Baker "Inflatable" Packer was set in the UBB Glory Hole and then cemented with 128' of fill-up on top of the packer in a 16.75" to 17.50" hole. A downhole video camera was run verifying 128' of fill-up to the pavement of the Cedar Grove coal seam. Computations based upon documented cement strength data and specifications of the Baker "Inflatable" Packer provide sufficient support to indicate the cement and packer capable of isolating fluid inflow.

Service Contract Receipt



SCHLUMBERGER TECHNOLOGY CORPORATION

Job Number
220021880

| | | | | |
|------------------|------|-----------|------|-------------|
| DEPARTURE | Date | 3/15/2006 | Time | 1:00:00 PM |
| ARRIVE LOCATION | Date | 3/15/2006 | Time | 5:00:00 PM |
| JOB START | Date | 3/15/2006 | Time | 7:45:00 PM |
| JOB COMPLETION | Date | 3/15/2006 | Time | 10:00:00 PM |
| LEAVE LOCATION | Date | 3/15/2006 | Time | 1:00:00 PM |
| ARRIVED DISTRICT | Date | 3/16/2006 | Time | 2:30:00 AM |

Invoice Mailing Address:
NEW RIVER ENERGY CORPORATION

315 70TH STREET, S.E.
CHARLESTON, WV
US

Service Instructions
CEMENT PLUG

Service Description
Cementing - Plug & Abandon

| | | | |
|----------------------|---------------------------------------|---------------------|----------------|
| Customer PO | Contract | AFE | RIG |
| | | | PETTEY |
| Well | State/Province | County/Parish/Block | Legal Location |
| UBB GLORY HOLE 06307 | WEST VIRGINIA | BOONE | ELK RUN |
| Field | Customer or Authorized Representative | | |
| ELK RUN | COMER, TIM | | |

THE ESTIMATED CHARGES AND DATA SHOWN BELOW ARE SUBJECT TO CORRECTION BY SCHLUMBERGER.

| Item | Description | Quantity | Unit | Unit Price | Amount |
|-------------------------------|--|----------|------|------------|------------------|
| Services | | | | | |
| 102872020 | Liner/Sqz/Plug 0-2000' 1st 4hr | 1 | EA | 4,290.00 | 4,290.00 |
| 107182000 | High Pressure Integral Swags, Rental, pe | 1 | JOB | 201.50 | 201.50 |
| 107264001 | Regulatory Conformance Charge | 2 | EA | 630.00 | 1,260.00 |
| 49100000 | Service Chg Cement Mat Land All DW Fur | 141 | CF | 4.22 | 595.02 |
| 49102000 | Transportation Cement Ton Mile | 971 | MI | 3.11 | 3,019.81 |
| 59200002 | Mileage, All Other Equipment | 300 | MI | 8.28 | 2,484.00 |
| Services Subtotal: | | | | | 11,850.33 |
| Discount: | | | | | 6,079.12 |
| Special Discount: | | | | | 0.00 |
| Estimated Total (USD): | | | | | 5,771.21 |

| | | | | | |
|-------------------------------|---------------------------------|------|----|--------|-----------------|
| Products | | | | | |
| 102946000 | Fuel Surcharge | 1 | EA | 355.51 | 355.51 |
| D046 | Antifoam Agent, All Purpose D46 | 24 | LB | 9.60 | 230.40 |
| D053 | Cement Agent D53 | 1175 | LB | 1.29 | 1,515.75 |
| D901 | Cement, Class A D901 | 125 | CF | 31.15 | 3,893.75 |
| Products Subtotal: | | | | | 5,995.41 |
| Discount: | | | | | 3,014.84 |
| Special Discount: | | | | | 0.00 |
| Estimated Total (USD): | | | | | 2,980.57 |

| | | | | |
|---------------------------------|------------------|-------------------------------|--|-----------------|
| Total (Before Discount): | 17,846.74 | | | |
| Discount: | 9,093.75 | | | |
| Special Discount: | 0.00 | | | |
| | | Estimated Total (USD): | | 8,751.99 |

Service Contract Receipt

Schlumberger

SCHLUMBERGER TECHNOLOGY CORPORATION

Job Number
22004488

| | | | |
|-----------------|-----|----------|----------|
| LEAVE DISTRICT | PER | 03/20/08 | 07:00 AM |
| ARRIVE LOCATION | PER | 03/20/08 | 08:00 PM |
| JOB START | PER | 03/20/08 | 08:00 AM |
| JOB COMPLETION | PER | 03/20/08 | 08:00 AM |
| LEAVE LOCATION | PER | 03/20/08 | 08:00 PM |
| ARRIVE DISTRICT | PER | 03/20/08 | 08:00 AM |

Invoice Mailing Address:
NEW RIVER ENERGY CORPORATION

 315 70TH STREET, S.E.
 CHARLESTON, WV
 US

Service Instructions
 CEMENT PLUG

Service Description
 Cementing - Plug & Abandon

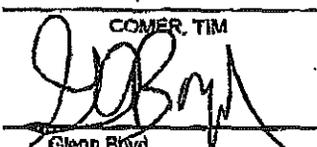
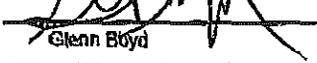
| | | | |
|----------------------|---------------------------------------|---------------------|----------------|
| Customer PO | Contract | APE | Rig |
| | | | PETIEY |
| Well | State/Province | County/Parish/Block | Legal Location |
| UBB GLORY HOLE 05307 | WEST VIRGINIA | BOONE | ELK RUN |
| Field | Customer or Authorized Representative | | |
| ELK RUN | COMER, TIM | | |

THE ESTIMATED CHARGES AND DATA SHOWN BELOW ARE SUBJECT TO CORRECTION BY SCHLUMBERGER.

| Item | Description | Quantity | Unit | Unit Price | Amount |
|------|-------------|----------|------|------------|--------|
|------|-------------|----------|------|------------|--------|

THE ESTIMATED CHARGES AND DATA SHOWN ABOVE ARE SUBJECT TO CORRECTION BY SCHLUMBERGER.

THE SERVICES, EQUIPMENT, MATERIALS AND /OR PRODUCTS PROVIDED BY THIS SERVICE CONTRACT RECEIPT HAVE BEEN PERFORMED OR RECEIVED AS SET FORTH ABOVE.

Signature of Customer or Authorized Representative: _____ **Date:** _____
 COMER, TIM

Signature of Schlumberger Representative: _____ **Date:** 3/15/08
 Glenn Boyd




Cementing Service Report

| | | | | | | | |
|--|--|---|--|--|--|--|--|
| Well: UBB GLORY HOLE 06307 | | Location (Legal): ELKRUN | | Schlumberger Location: Glenville, WV | | Job Start: 2006-Mar-15 | |
| Field: ELK RUN | | Formation Name/Type: | | Deviation: 0 | | Bit Size: 17.5 in | |
| County: BOONE | | State/Province: WEST VIRGINIA | | Well MD: 970 ft | | Well TVD: 970 ft | |
| Well Number: 0630791377 | | API UWI: | | BHP: psi | | BBS: °F | |
| Rig Name: PETTEY | | Drilled For: Oil & Gas | | Service Via: Land | | Pore Press. Gradient: psi/ft | |
| Offshore zone: | | Well Class: Old | | Well Type: Workover | | Casing/liner: | |
| Drilling Fluid Type: | | Max. Density: lb/gal | | Plastic Vt: cp | | Depth, ft: 960 | |
| Services Line: Cementing | | Job Type: Plug & Abandon | | Max. Allowed Tubing Pressure: 500 psi | | Max. Allowed Ann. Pressure: 0 psi | |
| Wellhead Connection: 2 3/8" SWAGE | | Top, ft: | | Bottom, ft: | | No. of Shells: | |
| Services Instructions: CEMENT PLUG | | Wellhead Connection: 2 3/8" SWAGE | | Total Interval: ft | | Diameter: in | |
| Treat Down: Tubing | | Displacement: 1 bbl | | Packer Type: None | | Packer Depth: ft | |
| Tubing Vol.: 3.7 bbl | | Casing Vol.: bbl | | Annular Vol.: 280 bbl | | Open hole Vol.: bbl | |
| Casing/Tubing Secured: <input checked="" type="checkbox"/> | | 1 Hole Volume Circulated prior to Cementing: <input type="checkbox"/> | | Casing Tools: | | Squeeze Job: | |
| Lift Pressure: 996 psi | | Pipe Rotated: <input type="checkbox"/> | | Pipe Reciprocated: <input type="checkbox"/> | | Shoe Type: None | |
| No. Centralizers: Top Plugs: | | Bottom Plugs: | | Shoe Depth: ft | | Squeeze Type: | |
| Cement Head Type: | | Stage Tool Type: | | Tool Type: | | Tool Depth: ft | |
| Job Scheduled For: | | Stage Tool Depth: ft | | Tail Pipe Size: in | | Tail Pipe Depth: ft | |
| Arrived on Location: 2006-Mar-15 17:00 | | Leave Location: 2006-Mar-15 20:30 | | Collar Type: None | | Collar Depth: ft | |
| | | | | Sqr Total Vol.: bbl | | | |

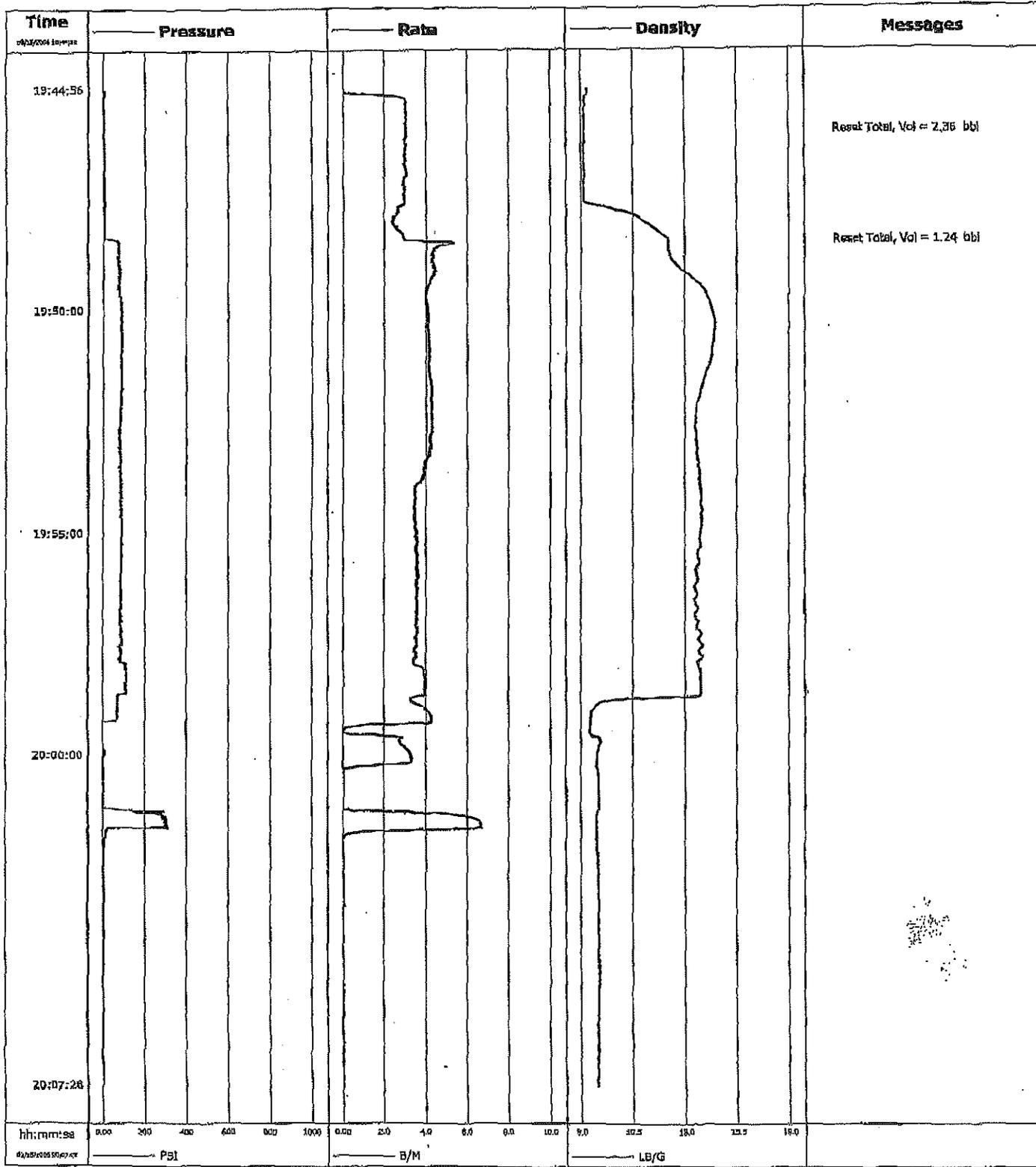
| Date | Time | Flow Rate (gpm) | Flow Rate (bbl/min) | WT CEMENT (lbs) | Volume (bbl) | | | | |
|-------------|-------|-----------------|---------------------|-----------------|--------------|---|---|---|---------------------|
| 2006-Mar-15 | 19:48 | 55 | 2.9 | 12.17 | 3.7 | 0 | 0 | 0 | START CEMENT SLURRY |
| 2006-Mar-15 | 19:48 | 73 | 3.3 | 12.17 | 4.0 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:48 | 73 | 4.3 | 12.56 | 6.2 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:49 | 78 | 4.1 | 13.82 | 8.3 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:49 | 87 | 4.1 | 14.30 | 10.3 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:50 | 87 | 4.1 | 14.41 | 12.4 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:50 | 87 | 4.1 | 14.27 | 14.4 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:51 | 87 | 4.2 | 13.97 | 16.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:51 | 87 | 4.3 | 13.66 | 18.6 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:52 | 82 | 4.3 | 13.49 | 20.7 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:52 | 82 | 4.2 | 13.54 | 22.8 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:53 | 82 | 3.9 | 13.62 | 24.9 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:53 | 82 | 3.5 | 13.74 | 26.8 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:54 | 82 | 3.5 | 13.80 | 28.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:54 | 87 | 3.5 | 13.73 | 30.3 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:55 | 87 | 3.6 | 13.62 | 32.0 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:55 | 87 | 3.6 | 13.57 | 33.8 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:56 | 87 | 3.6 | 13.46 | 35.8 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:56 | 87 | 3.6 | 13.63 | 37.3 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:57 | 87 | 3.5 | 13.77 | 39.1 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:57 | 110 | 3.5 | 13.66 | 40.8 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:58 | 110 | 3.9 | 13.73 | 42.8 | 0 | 0 | 0 | END CEMENT |

| Well | | Field | | Service Date | | Customer | | Job Number | |
|---------------------------------------|--------------------------|-------------------|-------------------------|-----------------|--|---|--------------|------------------|-------------|
| L5B GLORY HOLE #08907 | | ELK RUN | | 0674-Mar-15 | | NEW RIVER ENERGY CORPORATION | | 7200-0052 | |
| Date | Time | Slurry Rate (bpm) | Pressure (psi) | Flow Rate (gpm) | Volume (bbl) | Spacers | Perforations | Temperature (°F) | Message |
| 2006-Mar-15 | 19:58 | 64 | 4.0 | 8.54 | 44.6 | 0 | 0 | 0 | FLUSH LINES |
| 2006-Mar-15 | 19:59 | -9 | 0.0 | 8.41 | 46.0 | 0 | 0 | 0 | |
| 2006-Mar-15 | 19:59 | 5 | 3.3 | 8.76 | 48.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:04 | 0 | 0.0 | 8.86 | 46.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:05 | 0 | 0.0 | 8.85 | 46.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:05 | 5 | 0.0 | 8.85 | 46.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:06 | 0 | 0.0 | 8.83 | 46.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:06 | 0 | 0.0 | 8.81 | 46.5 | 0 | 0 | 0 | |
| 2006-Mar-15 | 20:07 | 0 | 0.0 | 8.79 | 46.5 | 0 | 0 | 0 | |
| Production Summary | | | | | | | | | |
| Average Pump Rates, bpm | | | | | Volume of Fluid Injected, bbl | | | | |
| Slurry | N2 | Mud | Maximum Rate | Total slurry | Mud | Spacer | N2 | | |
| 4 | 0 | 0 | 4 | 37 | 0 | 0 | | | |
| Treating Pressure Summary, psi | | | | | Breakdown Fluid | | | | |
| Maximum | Final | Average | Bump Plug to | Breakdown | Volume | Density | | | |
| 100 | | 100 | | | | lb/gal | | | |
| Avg. N2 Percent | Designated Slurry Volume | Displacement | Mix Water Temp | | <input type="checkbox"/> Cement Circulated to Surface? | Volume | | | |
| 0 % | 35.6 bbl | 2 bbl | °F | | <input type="checkbox"/> Washed Thin Perfs | To | ft | | |
| Customer or Authorized Representative | | | Schlumberger Supervisor | | | <input type="checkbox"/> Circulation Lost <input checked="" type="checkbox"/> Job Completed | | | |
| COMER, TIM | | | Glenn Boyd | | | | | | |

Schlumberger

Cementing Job Report

| | | | |
|-----------------|---------------|-----------------|------------------|
| Well | 6307 | Client | NEW RIVER ENERGY |
| Field | WHITESVILLE | SIR No. | 2200243876 |
| Engineer | | Job Type | PLUG |
| Country | United States | Job Date | 03-15-2006 |



October 4, 2005

Mr. Jesse Cole
District Manager
Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880

RE: Castle Mine
State ID D-11373
M.S.H.A. ID 46-07009
Revised Ventilation Supplement for Coal Transfer Shaft

Dear Mr. Cole,

Enclosed please find a revised page 1 of a ventilation supplement. Our current approved plan states that the pilot hole will be cased off from all voids as it is drilled. We have cased the 1st 500 feet of the hole down through the abandoned Y&O mine in the Winifrede seam. When we drilled below the casing the pilot hole deviated from the required course. We then used a directional drilling company to steer an 8.5" hole back on course down into the floor of a sealed portion of our Black King I mine. When we attempted to ream this hole to 18" (which would allow casing to be run) the hole deviated off course in the same direction as the first. The drilling contractor believes that further attempts would result in similar deviations.

The attached plan shows directional drilling of an 8.5" hole on into the Upper Big Branch Mine. There the bit will be changed to 14". This will allow the pilot hole to be raise bored to the usable diameter. The attached plan shows that the Lower Cedar Grove seam was verified by camera for water and how air seperation between the seams will be accomplished.

If you should need any additional information or have any further question please feel free to contact me at the above referenced phone number.

Sincerely,



Castle Mine
MSHA ID 46-07009
STATE ID D-11373
Coal Transfer Shaft
Ventilation Supplement
Revised Page (10/4/2005)
Pilot Hole

1. The first 500 feet of the pilot hole will be steel cased.
2. An 8.5" directionally steered hole was drilled into the floor of the Black King I mine. A camera was lowered into the hole. The video verified that no impounded water exists at the location of the hole.
3. The pilot hole will drill into the Castle mine where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Castle mine preshift examinations will begin and continue through out the process.
4. The pilot hole will drill into the Eagle seam where mining has already occurred. Access to this area will be dangered off during drilling. Once drilling breaks through into the Upper Big Branch mine preshift examinations will begin and continue through out the process.
5. The 8.5" bit on the drill steel will be changed to a 14" reaming bit. This bit will be used to raisebore the 14" pilot hole up to the 18" steel casing (500 foot from the surface).
6. During all times either drill steel or a packer will exist in the hole between the Castle mine and the sealed area of the Black King I mine above. When it is necessary to install or remove a packer the area will be constantly monitored for direction and quality (methane and oxygen).
7. After reaming the pilot hole to 14" between the UBB mine and the Castle mine a cap with a valve for sampling will be installed over the pilot hole in the floor of the Castle mine. The 14" hole will proceed to be enlarged above the Castle mine. The hole can be enlarged untill it is 5 feet below the Black King mine floor. A packer will then be installed in the roof of the Castle mine. Then the hole can be enlarged the remainder of the distance.
8. The raise bore drill rig will be installed on the surface. Before the drill string for the raise bore is lowered through the Castle mine roof the packer will be removed. Checks will be made for direction and quality before the packer is removed. Before the drill string can be lowered below the Castle mine floor the cap seperating the Castle and UBB mines will be removed. The air will be sampled before the cap is removed. Then the drill string will be extended down into the Upper Big Branch Mine. Air ventilating the area will be directed into the return.
9. The raise bore will then excavate the shaft between the 2 seams. See page 2 for raise bore details.
10. After the raise bore drill string has been removed above the Castle mine, but still extends down below the Lower Cedar Grove seam, a packer will be installed. The hole will then be grouted off above the Castle Mine.

CASTLE MINE (MSHA ID 46-07009)
VENTILATION SUPPLEMENT
COAL TRANSFER SHAFT (GLORY HOLE)

The shaft will be drilled between the Glory Hole Mains section of the Castle Mine (MSHA ID 46-07009, State ID D-11373) and the North Mains section of the Upper Big Branch Mine (MSHA ID 46-08436, STATE ID U-3042-92). The Upper Big Branch Mine is +/-180 feet below the Castle Mine.

Shaft Construction will be performed by Frontier Kemper who will submit their required plans to your office.

The cuttings from the shaft will be removed by Performance Coal Company personnel and approved contractors. The cuttings will be removed by underground equipment and placed in crosscuts and/or transported to the surface by conveyor belt. The attached map shows the proposed ventilation for the area. Below are safety precautions that will be followed.

1. Permanent roof at the top of the shaft will be supported in accordance with the approved roof control plan. During no time will employees be subjected to unsupported roof or to hazards of falling material (rocks). During drilling access to the area where the drilling will occur will be endangered off.
2. During the boring operation ventilation in the shaft will be provided by Frontier Kemper. The Raise Drill machine will draw air up the shaft and through the drill pipe with a vacuum blower.
3. Communications between the surface and the top of the shaft will comprise of utilizing mine phones to communicate to the responsible person on the surface of the mine who will communicate with the drill operator by 2 way radio.
4. Drill cuttings will not be allowed to accumulate at the bottom of the shaft to the extent that air is blocked coming up the shaft.
5. Prior to drilling the shaft through into the Castle Mine controls will be built boxing in the area at the top of the shaft. Doors and regulators will be installed for access and ventilation. Ventilation will then be checked for direction, quantity, and quality before any other work is performed.
6. The remainder of the shaft will then be drilled through to the Castle mine. Ventilation will then be checked for direction, quantity, and quality before any other work is performed. The top of the shaft will then be capped in the Castle. The cap will be equipped with openings to ventilate the shaft. Air will flow from the Castle mine down the shaft and directly into the return in the Upper Big Branch mine. An auxiliary fan will be installed if necessary to ventilate the shaft. The fan will run continuously until completion of the project. 9,000 cfm will be maintained down the shaft, if not work will cease. Work toward correcting the problem will begin immediately and continue until 9,000 cfm has been restored. The cap will be examined on 20 minute intervals for the Upper Big Branch mine when construction is being performed in the Upper Big Branch mine. The cap will be kept in place until coal has filled the bin high enough to prevent air exchange. The bin will be kept at a level that will prevent airflow between the 2 mines.

REPORT OF HEALTH & SAFETY CONFERENCE

Held: May 16, 2006 ID: 46-08436
Time: 1:00 p.m. Company: Performance Coal Company
Type: in Person Mine: Upper Big Branch Mine - South

Attending for MSHA: Dana Hosch, Conference Officer

Attending for Operator: Greg Fennett, Asst. Safety Director

Attending for Miners' Rep.: None

All parties have been advised of their H&S Conference Right.

104(d)(1) Citation No. 7250745-S&S-75.370(a)(1) - Special Assessment Requested - The operator contested the validity and gravity of this citation. Fennett stated that he believed proper procedures were followed during the drilling of the pilot hole for the raised bore shaft. Frontier-Kemper, the contracting company that drilled the holes, did scope the hole and concluded that no danger from outburst of water existed. Engineers from Performance used this information to establish priorities as to when they would install the packer.

MSHA Inspector Moore's notes indicate that information gathered during a mine inundation of water accident revealed that proper procedures were not followed during the drilling of a pilot hole for a raised bore shaft. Afterwards, an incident occurred and approximately 5 million gallons of water inundated the mine. It was determined that the water came from an abandoned mine above.

The plan clearly calls for the installation of a packer above the Castle mine. Only a make-shift packer was ever installed. The mine had been cited previously by MSHA during construction for failing to install a packer above the Black King I Mine. Contemporaneous statements by management indicated that they just failed to get around to installing the packer. This indicated that the violation was known by management for several months prior to issuance and prior to the inundation.

The Conference Officer finds that this citation is sustained as issued. High Negligence and Special Assessment are warranted because little care was exercised by management towards installing the required packer. In addition, management was involved in the existence of the violation, knew of the plan requirement and had been cited previously for the exact violation.

*Note: The violation of 77.1900-1 on 12/07/2005 issued by Inspector Fink 7244340 was cited during shaft construction. The ventilation plan approved

Citations/Orders Discussed: 1 # S & S: 1 # Special Assessment: 1

Modified: 0

Gravity: 0 Negligence: 0 S & S: 0 Special Assessment: 0

Vacated: 0

*** MSHA INTERNAL WORK PRODUCT - NOT TO BE RELEASED BY FOIA ***

May 16, 2006
Performance Coal Company
Upper Big Branch Mine - South
46-08436

on 10/05/2005 incorporated the shaft sinking plan and is the correct regulation 75.370(a)(1) to cite this violation.