### Mine Activity Data

**U. S. Department of Labor**

**Mine Safety and Health Administration**

1. **Action:**
   - a. New Entry [x]
   - b. Update [ ]

2. **Activity Code:** E02

3. **Event Number:** 4113416

4. **Date Event Started:** 3/30/2006

5. **Data Event Finished:** 3/30/2006

6. **Mine ID:** 46-08436

7a. **Organization Code (Mine Assignment):** 20401

   - b. Work Group Identifier: 02

8a. **Organization Code (AR Assignment):** 20401

   - b. Work Group Identifier: 02

9. **Company Name:** PERFORMANCE COAL COMPANY

10. **Mine Name:** UPPER BIG BRANCH MINE-SOUTH

11. **Report Type (check one):**
   - a. First [x]
   - b. Interim [ ]
   - c. Last [ ]
   - d. Not Applicable [x]

12. **Area of Inspections:**
   - a. Active Sections 1
   - b. Idle Sections 0

13. **Number of Samples Collected:**
   - a. Air Samples 1
   - b. Rock Dust Spot 0
   - c. Rock Dust Survey 0
   - d. Respirable Dust 0
   - e. Noise 0
   - f. Other 0

14. **Impoundments/Refuse Piles:**
   - a. Number [ ]
   - b. PHC [ ]
   - c. Configuration [ ]

15. **Prime Independent Contractor Codes (Major Construction):**

16. **Inspection Results:**

17. **Remarks:**
   - Air Bottle Sample:
     1. M0457 @ shield No. 160

18. **Signature and Card Number of Authorized Representative/Right of Entry Person(s) Responsible for Activity:**
   - Card Number 24024

19. **Key Entered By**
   - Date

**MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete**
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
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.

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<tr>
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<td>*7251654</td>
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<td>*7251658</td>
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</table>

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
DATE: 04/17/06
TO: Jesse Cole
FROM: Mike Vaught
RE: Request for Conference

I respectfully request to conference the following violation/violations.

<table>
<thead>
<tr>
<th>Citation #</th>
<th>Date</th>
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<tbody>
<tr>
<td>7251654</td>
<td>03/30/06</td>
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<tr>
<td>7251658</td>
<td>04/03/06</td>
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</tbody>
</table>

OPERATION: Upper Big Branch Mine

ID#: 46-08436

INSPECTOR: [Redacted] AR# 24024

Brief description for reason of requested conference:

Gravity
The approved Ventilation Plan is not being complied with on the Longwall Section. The required velocity of air that will be provided to control methane and respirable dust is not being maintained along the longwall face line. There is only 317 FPM at shield No. 17 when measured with a properly calibrated anemometer and 108 FPM at shield No. 160 when measured with chemical smoke. This section is currently out of compliance in respirable dust, is cutting approximately 30 inches of rock, is on a reduced respirable dust standard and is in a 103 (i) 10 day methane spot inspection status.
Work is ongoing to make adjustments to the ventilation controls and to install line brattice along the shields on the faceline. More time is needed to complete the brattice installation, therefore more time is granted.
The ventilation controls have now been installed and the required ventilation velocity is now maintained at the No. 17 shield (436 FPM) and at the No. 160 shield (270 FPM).
The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. The following conditions exist:

1. The required sprays located at Crusher and the Stageloader were not operating (water turned off)
2. The required sprays located at the Stageloader were damaged and not operating affectively.
3. The four (4) spray blocks on the Shear at location C, D, E and F of the plan were either inoperative or the sprays were out.
4. The four (4) spray block on the headgate end of the Shear near the ranging arm was not installed.
5. There is zero (0) water pressure to the required sprays when checked.

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

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### Mine Citation/Order

- **Date**: 03/30/2006
- **Time**: 0830
- **Operator**: Jack Roles, Longwall Coordinator
- **Mine**: PERFORMANCE COAL COMPANY
- **Contractor**: UPPER BIG BRANCH MINE-SOUTH
- **Citation/Order Number**: 7251656

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### Condition or Practice

- **5. Condition or Practice**
  - The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. The following conditions exist:

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### Violation

- **9. Violation**
  - **A. Health**
  - **B. Section of Act**
  - **C. Part/Section of Title 30 CFR**

### Inspectors Evaluation

- **10. Gravity**
  - **A. Injury or Illness (has) (has) (is):**
    - No Likelihood
    - Unlikely
    - Reasonably Likely
    - Highly Likely
    - Occurred

### Negligence

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

### Type of Action

- **12. Type of Action**
  - 104(a)

### Initial Action

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

### Type of Issuance

- **13. Type of Issuance (check one)**
  - **Citation**
  - **Order**
  - **Safeguard**

### Action to Terminate

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

### Terminated

- **18. Terminated**
  - **A. Date**: 03/30/2006
  - **Time**: 1230

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### Type of Inspection

- **19. Type of Inspection (activity code)**
  - E22

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### Event Number

- **20. Event Number**: 4113417

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### AR Number

- **23. AR Number**: 24024

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**Note:** This form 7000-3, Mar 96 (revised) conforms to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1995, the Small Business Administration has joined a National Small Business and Agricultural 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-FAR (1-888-739-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20414. Please note, however, that your right to file a complaint with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.
reduced respirable dust standard and is cutting approximately 30 inches of rock.
The Ventilation, Methane, Dust Control Plan is not being complied with on the Longwall 031-0 MMU Section. There is only 47,260 CFM of air being delivered to the last open crosscut when measured with a properly calibrated anemometer. This low reading thus resulted in low air velocities at Shield No. 17 (306 FPM) and Shield No. 160 (162 FPM). This section is currently out of compliance of respirable dust, is on a reduced (1.7) respirable dust standard, 103 (i) 10 day methane spot status and has history of methane ignitions.
Performance Coal Safety

P. O. Box 69 Naoma WV 25140

Phone: 304-854-1762
Fax: 304-854-3530

Fax

To: Lincoln Selfe
Fax: 877-3927
Phone: 877-3900
Re: Request for citation conference

From: Mike Vaught
Pages: 09
Date: 04/17/06
CC:

Comments:
April 10, 2006

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

Dear Mr. Potter:

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

<table>
<thead>
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<tbody>
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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
A special assessment is warranted due to gravity. This MMU is currently under continuing non compliance citation for excessive respirable dust. The dust levels have been 4.23 mg per cubic meter and 3.98 mg per cubic meter since 02/06/2006. This section is cutting approximately 30 inches of rock and was also cited for respirable dust parameters (Citation #7251656) on the Longwall Shear on this same date. Therefore this citation is requested to be reviewed for special assessment.
The approved Ventilation Plan is not being complied with on the 031-0 MMU Longwall Section. The required velocity of air that will be provided to control methane and respirable dust is not being maintained along the longwall face line. There is only 317 FPM at shield No. 17 when measured with a properly calibrated anemometer and 108 FPM at shield No. 160 when measured with chemical smoke. This section is currently out of compliance in respirable dust, is cutting approximately 30 inches of rock, is on a reduced respirable dust standard and is in a 103(i) 10 day methane spot inspection status.
Work is ongoing to make adjustments to the ventilation controls and to install line brattice along the shields on the faceline. More time is needed to complete the brattice installation, therefore more time is granted.
The ventilation controls have now been installed and the required ventilation velocity is now maintained at the No. 17 shield (436 FPM) and at the No. 160 shield (270 FPM).

MSHA Form 7000-3a, Mar 85 (revised)
<table>
<thead>
<tr>
<th>Change</th>
<th>From</th>
<th>To</th>
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<tbody>
<tr>
<td>10. A. Injury or illness</td>
<td>Reasonably Likely</td>
<td>Highly Likely</td>
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</table>

Reason: Original checked in error.

See Continuation Form

Section III—Subsequent Action Taken

8. Extended To
   A. Date 04/03/2006
   B. Time (24 Hr. Clock) 0500
   C. Vacated
   D. Terminated
   E. Modified

Section IV—Inspection Data

9. Type of Inspection E22
10. Event Number 4113418
11. Signature

AR Number 24024
12. Date 04/03/2006
13. Time (24 Hr. Clock) 0500

MSHA Form 7000-3a, Mar 85 (revised)
The Carbon Monoxide Sensor Station No. 127, located at the 031-0 MMU, Longwall Section Belt Tailpiece is inoperative when checked. This sensor is used to monitor the air in belt conveyor haulage entry that is being used to ventilate a working section.
The Carbon Monoxide Sensor located at the 031-0 Longwall Belt Conveyor Tailpiece has now been repaired.