

Mine Activity Data

1. Action: a. New Entry b. Update 2. Activity Code: E02 3. Event Number: 4113416

4. Date Event Started: 3/30/2006 5. Date Event Finished: 3/30/2006 6. Mine ID: 46-08436

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

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

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

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

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

m. MMU/Pit Number (1) 0310

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

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

a.  Card Number 24024

b. _____

c. _____

d. _____

19. Key Entered By _____ Date _____

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

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

**PERFORMANCE SAFETY DEPARTMENT**

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

I respectfully request to conference the following violation/violations.

Citation #	Date
7251654	03/30/06
7251656	03/30/06
7251658	04/03/06

OPERATION: Upper Big Branch Mine**ID#:** 46-08436**INSPECTOR:** [REDACTED] AR# 24024**Brief description for reason of requested conference:**

Gravity

RECEIVED2006-143
APR 17 2006MSHA CLR
DISTRICT 4

C:\Documents and Settings\gpoe\Desktop\GPFFiles\CitationConferenceRequest\UBB-Citation(725580)(Issued2-7-05)(Sem2-17-05).doc

Mine Citation/Order

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



Section I - Violation Data

1. Date Mo Da Yr 03/30/2006	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 7251654
4. Violation Assigned To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The approved Ventilation Plan is not being complied with on the .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.

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 75.325(c)(2)
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Section II - Inspector's Evaluation

10. Gravity:	A. Injury or illness (trais) (js): 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 rea- sonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	D. Number of Persons Affected: 003
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11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action	104(a)	13. Type of Issuance (check one)	Citation <input checked="" type="checkbox"/>	Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
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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
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15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1200-
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Section III - Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code)	E02	20. Event Number 4113416	21. Primary or Mill
22. Signature			23. AR Number 24024

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

Mine Citation/Order Continuation

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



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	3. Citation/Order Number 7251654 - 01
4. Forwarded To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

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.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1335	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV-Inspection Data

9. Type of Inspection E02	10. Event Number 4113416		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 1235

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) 03/30/2006	Mo Da Yr	3. Citation/ Order Number 7251654 - 02
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4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY
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6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
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Section II-Justification for Action

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)

See Continuation Form

Section III-Subsequent Action Taken

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

9. Type of Inspection E02	10. Event Number 4113416
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11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 1330
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Mine Citation/Order

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



Section I - Violation Data

1. Date Mo Da Yr 03/30/2006	2. Time (24 Hr. Clock) 0830	3. Citation/ Order Number 7251656
4. Assigned To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practices		8a. Written Notice (109g) <input type="checkbox"/>

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 Stageloaded 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

See Continuation Form (MSHA Form 7000-3a)

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

10. Gravity:	A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input type="checkbox"/> Reasonably Likely <input checked="" type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/>
	B. Injury or illness could reasonably be expected to be: No Lost Workdays <input type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input checked="" type="checkbox"/> Fatal <input type="checkbox"/>
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> D. Number of Persons Affected: 003

11. Negligence (check one)	A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/>
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12. Type of Action 104(a)	13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/>
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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
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15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1230
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Section III - Termination Action

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

18. Terminated	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1345
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Section IV - Automated System Data

19. Type of Inspection (activity code) E22	20. Event Number 4113417	21. Primary or Mill
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22. Signature	23. AR Number 24024
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MSHA Form 7000-3, Mar 85 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW, MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order Continuation

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



Section I - Subsequent Action/Continuation Data

1. Subsequent Action <input type="checkbox"/> 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	3. Citation/Order Number 7251656
4. Issued To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II - Justification for Action

Continuation of 8. Condition or Practice

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

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 type="checkbox"/> E. Modified
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Section IV - Inspection Data

9. Type of Inspection E22	10. Event Number 4113417	
11. AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 0830

Mine Citation/Order

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

Section I--Violation Data

1. Date Mo Da Yr 04/03/2006	2. Time (24 Hr. Clock) 0850	3. Citation/ Order Number 7251658
4. Assigned To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

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

See Continuation Form (MSHA Form 7000-3a)

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

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

16. Termination Due	A. Date Mo Da Yr 04/03/2006	B. Time (24 Hr. Clock) 1100.
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Section III--Termination Action

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

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

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

MSHA Form 7000-3, Mar 89 (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 20418. 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: 09</i>
<i>Phone: 877-3900</i>	<i>Date: 04/17/06</i>
<i>Re: Request for citation conference</i>	<i>CC:</i>

Comments:

April 10, 2006

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

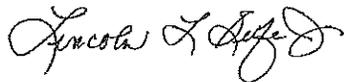
Dear Mr. Potter:

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.

<u>CITATION/ORDER NO.</u>	<u>DATE ISSUED</u>
7251654	03/30/06
7251656	03/30/06
7251658	04/03/06

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

Sincerely,



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

cc: Files/pab

*Being
conferenced*

Conf. & Sustained

Special Assessment Review Form

JUN 08 2006

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



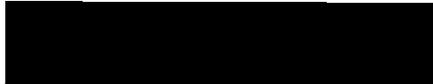
1. MSHA District Office 4 - Mt. Hope, WV		2. Field Office 0406 - Madison, WV	
3. Mine ID/Contractor ID 46-08436		4. Mine Name UPPER BIG BRANCH MINE-SOUTH	
5. Operator Name PERFORMANCE COAL COMPANY		6. Citation/Order Number 7251654	7. Citation/Order Issue Date 3/30/06

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

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

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

A special assessment is warranted due to gravity. This MMU is currently under continuing non compliance citation for excessive respirable dust. The dust levels have been 4.23 mg per cubic meter and 3.98 mg per cubic meter since 02/06/2006. This section is cutting approximately 30 inches of rock and was also cited for respirable dust parameters (Citation #7251656) on the Longwall Shear on this same date. Therefore this citation is requested to be reviewed for special assessment.



See Continuation Sheet Signature 3-30-06
Date

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

Michael T. Dickson

Signature 4-5-06
Date

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

Richard J. Stevie

Signature 4/5/06
Date

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

See Continuation Sheet Signature Date

Mine Citation/Order

JUN 08 2006

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



Section I--Violation Data

1. Date Mo Da Yr 03/30/2006	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 7251654
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The approved Ventilation Plan is not being complied with on the 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.

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 75.325(c)(2)
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Section II--Inspector's Evaluation

10. Gravity:					
A. Injury or illness (has) (is):	No Likelihood <input type="checkbox"/>	Unlikely <input type="checkbox"/>	Reasonably Likely <input checked="" type="checkbox"/>	Highly Likely <input type="checkbox"/>	Occurred <input type="checkbox"/>
B. Injury or illness could reasonably be expected to be:	No Lost Workdays <input type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input checked="" type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 003		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input checked="" type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(a)		13. Type of Issuance (check one)			
		Citation <input checked="" type="checkbox"/>		Order <input type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action			E. Citation/ Order Number		F. Dated Mo Da Yr
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>		

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1200
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Section III--Termination Action

17. Action to Terminate

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

19. Type of Inspection (activity code) E02	20. Event Number 4113416	21. Primary or Mill
22. Signature		23. AR Number 24024

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

Mine Citation/Order
Continuation

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

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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 03/30/2006	3. Citation/ Order Number 7251654 - 01
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

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.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 03/30/2006	B. Time (24 Hr. Clock) 1335	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
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Section IV--Inspection Data

9. Type of Inspection E02	10. Event Number 4113416		
11. Signature 	AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 1235

Mine Citation/Order
Continuation

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



Section I-Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	3. Citation/ Order Number 7251654 - 02
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The 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)

See Continuation Form

Section III-Subsequent Action Taken

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

9. Type of Inspection E02	10. Event Number 4113416		
11. Signature [Redacted]	AR Number 24024	12. Date Mo Da Yr 03/30/2006	13. Time (24 Hr. Clock) 1330

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4-4-06

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) Mo Da Yr 03/30/2006	3. Citation/ Order Number 7251654 - 03
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

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

See Continuation Form

Section III--Subsequent Action Taken

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

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

Mine Citation/Order

4/20/06

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



Section I--Violation Data

1. Date Mo Da Yr 03/30/2006	2. Time (24 Hr. Clock) 0805	3. Citation/ Order Number 7251655
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The 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.

See Continuation Form (MSHA Form 7000-3a)

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

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

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 03/31/2006	B. Time (24 Hr. Clock) 0800
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Section III--Termination Action

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E02	20. Event Number 4113416	21. Primary or Mill
22. Signature		23. AR Number 24024

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 03/30/2006	3. Citation/ Order Number 7251655 - 01
4. Served To Jack Roles, Longwall Coordinator	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

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

See Continuation Form

Section III--Subsequent Action Taken

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

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