**Mine Activity Data**

1. **Action:**
   - a. New Entry ✓
   - b. Update □

2. **Activity Code:** E02

3. **Event Number:** 4119934

4. **Date Event Started:** 2/5/2009

5. **Date Event Finished:** 2/5/2009

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

7a. **Organization Code (Mine Assignment):** 20401
   - b. Work Group Identifier 01

8a. **Organization Code (AR Assignment):** 20401
   - b. Work Group 01

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

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

11. **Report Type (check):**
   - a. First □
   - b. Interim □
   - c. Last □
   - d. Not Applicable ✓
   - e. Outby Areas ✓
   - f. Surface Areas (UG) □
   - g. Surface Workings □
   - h. Company Records ✓
   - i. ATF □
   - j. Impoundments □
   - k. Refuse Piles □

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

13. **Number of Samples Collected:**
   - a. Air Samples 3
   - 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**
   - a. This Inspection
     - (1) New Issuances 3
     - (2) Terminations/Vacations 1/0
     - (3) Modifications/Extensions
     - (4) Left Pending 2
   - b. Previously Issued
     - (1) Modifications/Extensions
     - (2) Terminations/Vacations

17. **Remarks:**
   - B1232, B1242, B1240

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

19. **Key Entered By**

---

MSHA Form 2000-22. Oct. 85 (Revised) Previous editions are Obsolete
<table>
<thead>
<tr>
<th>Week</th>
<th>Sun</th>
<th>Mon</th>
<th>Tue</th>
<th>Wed</th>
<th>Thur</th>
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Key Codes: 1- Owl Shift, 2- Day Shift & 3- Evening Shift (Mark "X" in appropriate Block to Indicate Shift)
The operator is failing to comply with the section specific page of the methane/dust control plan for the 040 JVIMU. There was only 4560 CFM of air behind the line curtain where the continuous miner was loading in the #5 entry. The plan call for 5400 CFM to be available with the scrubber off.
The operator is failing to properly guard the high voltage in places where miners must work or travel under it on the #2 section. At the section pressure pump, high line sled and KVA box the high voltage cable is not guarded. The cable is from 4.5' to 5' above ground level for a length of 30'.

<table>
<thead>
<tr>
<th>9. Violation</th>
<th>A. Health Safety ✓</th>
<th>B. Section of Act</th>
<th>C. Part/Section of Title 30 CFR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>75,807</td>
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10. Gravity:
A. Injury or Illness (has) (is): Unlikely ✓ Reasonably Likely
B. Injury or illness could reasonably be expected to be: No Lost Workdays Lost Workdays Or Restricted Duty Permanently Disabling Fatal ✓
C. Significant and Substantial: Yes No ✓
D. Number of Persons Affected: 001

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

12. Type of Action 104(a)
13. Type of Issuance (check one) Citation ✓ Order □ Safeguard □ Written Notice □

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 02/06/2009
B. Time (24 Hr. Clock) 0800

17. Action to Terminate

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

19. Type of Inspection (activity code) E02
20. Event Number 4119934
21. Primary or Mill

22. Signature □
23. AR Number □
The high voltage cable has been guarded.
The operator is not maintaining the life line in the #2 section secondary escapeway in a condition for miners to use to effectively escape. The following conditions were found from the Ellis track switch to the section:

1) The life line was not equipped with reflective material every 25' in numerous locations.
2) The life line is hung too high to reach in numerous locations.
3) The life line runs over multiple cables, phone lines, waterlines and flyboards in multiple locations.
4) The life line is hung together with the phone line and other cables along the belt in numerous locations.

**Section II--Inspector's Evaluation**

10. Gravity:
   - A. Injury or Illness (has) (is): No Likelihood [ ] Unlikely [ ] Reasonably Likely [X] Highly Likely [ ] Occurred [ ]
   - B. Injury or Illness could reasonably be expected to be: No Lost Workdays [ ] Lost Workdays Or Restricted Duty [ ] Permanently Disabling [X] Fatal [ ]
   - C. Significant and Substantial: Yes [X] No [ ]
   - D. Number of Persons Affected: 008

12. Type of Action: 104(a)

16. Termination Due
   - A. Date: Mo Da Yr 02/05/2009
   - B. Time (24 Hr. Clock): 1400

**Section IV--Automated System Data**

19. Type of Inspection (activity code): E02
20. Event Number: 4119934
21. Primary or Mill

22. Signature: [Redacted]
23. AR Number: [Redacted]
Work has been performed on the life line, but additional corrections are still needed.
This citation is extended due to the mine fan being down.
The lifeline has been correctly installed.
A map has been submitted and waiting approval.
The dayshift has conducted and recorded a smoke search on #3 section.
The CO monitor is now functional.
Modify subsequent action 8074737-01 to read "The methane monitors have been calibrated and the results recorded."
UNITED STATES DEPARTMENT OF LABOR  
MSHA LABORATORIES - MOUNT HOPE, WEST VIRGINIA  
ANALYSIS OF AIR SAMPLES

Mine: UPPER BIG BRANCH MINE SOUTH  
Company: PERFORMANCE COAL COMPANY  
Mine ID: 4608436  
Inspector: [Redacted]  
Date(s) Collected: 02/05/2009  
Office: 401

<table>
<thead>
<tr>
<th>BOTTLE NUMBER</th>
<th>LOCATION IN MINE</th>
<th>CARBON DIOXIDE</th>
<th>OXYGEN</th>
<th>METHANE</th>
<th>ETHANE</th>
<th>CUBIC FEET AIR PER MINUTE</th>
<th>CUBIC FEET METHANE IN 24 HOURS</th>
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</thead>
<tbody>
<tr>
<td>B1232</td>
<td>#5 ENTRY - #2 SECTION</td>
<td>0.060</td>
<td>20.88</td>
<td>0.180</td>
<td>0.000</td>
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<tr>
<td>B1240</td>
<td>#2 SECTION - L.O.B.</td>
<td>0.060</td>
<td>20.88</td>
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<td>0.000</td>
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<tr>
<td>B1242</td>
<td>#2 SECTION - IMMEDIATE RETURN</td>
<td>0.060</td>
<td>20.52</td>
<td>0.150</td>
<td>0.000</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The percentage of nitrogen can be determined by subtracting the sum of the reported values from 100.00

1  Rec. 02/06/2009  PAGE: 1
DATE: 4/8/09

MESSAGE FOR: FIELD OFFICE SECRETARY -

FROM: [Redacted]

# PAGES (INCLUDING COVER): 1

SUBJECT: CONTESTED VIOLATION DATA AT ID NO. 8436

The violations shown below have been contested by the mine operator:

<table>
<thead>
<tr>
<th>VIOL#</th>
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<th>VIOL#</th>
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<td>1/20/09</td>
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<td>8074724</td>
<td>&quot;</td>
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<td>8074731</td>
<td>1/22/09</td>
<td>8074753</td>
<td>2/11/09</td>
</tr>
</tbody>
</table>

These documents go before lawyers and judges. It is important that all copies be clean and clearly legible.

Please provide a copy of each violation and all subsequent actions for that violation.

I also need a copy of the inspector's notes (including the Daily Cover Sheet) for each violation, as well as any special assessment forms and a copy of appropriate plans related to those violations.

If there are any related violations, such as 107(a) Orders, I need a copy of them too.

Please fax your response back to me today or tomorrow - I have a very short turn-around time to get this material into the Solicitor's Office in Arlington.

If you have any questions, call me on extension 148.

Thank you for your help.