

7/10/09



Mine Activity Data

1. Action: a. New Entry b. Update 2. Activity Code: E02 3. Event Number: 4123477

4. Date Event Started: 7/9/2009 5. Date Event Finished: 7/9/2009 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 01 10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check) a. First b. Interim c. Last d. Not Applicable 12. Area of Inspections a. Active Sections 2 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 l. Miscellaneous

m. MMU/Pit Number (1) 029 (2) 040

13. Number of Samples Collected a. Air Samples 1 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				
(2) Terminations/Vacations				1/0				
(3) Modifications/Extensions								
(4) Left Pending								
b. Previously Issued								
(1) Modifications/Extensions								
(2) Terminations/Vacations				1/0				

18. Signature and Card Number of Authorized Representative/Right of Entry Person(s) Responsible for Activity
[Redacted Signature] Card Number
a. [Redacted]
b. [Redacted]
c. [Redacted]
d. [Redacted]

17. Remarks:

19. Key Entered By _____ Date _____

Activity Calendar

Event Number: 4123477

Mine ID: 4608436

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 7/9/2009	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>																		

7/10/09



Section I--Violation Data

1. Date Mo Da Yr 07/09/2009	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8086127
4. Served To Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The operator is failing to properly maintain the 029-040 MMU section. Loose coal has been allowed to accumulate in several locations of the section. The no.4 entry has coal measuring 1 inch to 24 inches deep for a distance of 112 feet on both ribs and the roadway. The 3 right cross-cut has coal accumulations measuring 1 inch to 24 inches deep on both ribs and the roadway for a distance of 79 feet in length. The no.3 entry, just outby the last open cross-cut has coal measuring 1 inch to 24 inches deep on both ribs and the roadway. The 2 left cross-cut has coal accumulations measuring 1 inch to 15 inches deep on both ribs and the roadway for a distance of 40 feet.

With the citation issued on 07/08/2009 citing over 2% methane in the same

See Continuation Form (MSHA Form 7000-3a)

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

10. Gravity:

A. Injury or Illness (has) (is): No Likelihood 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: 010

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

12. Type of Action 104(d)(2) 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 8082692 F. Dated Mo Da Yr
03/17/2009

15. Area or Equipment No. 4, 3, 3-Right Cross-cut, and 2-left cross-cut on the MMU-029/040 section.

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

Section III--Termination Action

17. Action to Terminate All the affected areas have been cleaned and dusted.

18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)
07/09/2009 1315

Section IV--Automated System Data

19. Type of Inspection (activity code) E02 20. Event Number 4123477 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form 7000-3, Apr 08 (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

7/10/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 07/09/2009	3. Citation/ Order Number 8086127
4. Served To  Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Continuation of 8. Condition or Practice

location and the problems encountered today with excessive methane, the above conditions create a hazard.

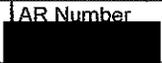
This violation is an unwarrantable failure to comply with a mandatory standard.

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 E02	10. Event Number 4123477		
11. 	AR Number 	12. Date Mo Da Yr 07/09/2009	13. Time (24 Hr. Clock) 1030

Mine Citation/Order
Continuation

previously issued

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

7/10/09



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 07/08/2009	3. Citation/ Order Number	8072754 - 01
4. Served To [redacted] Mine Foreman	5. Operator PERFORMANCE COAL COMPANY			
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)	

Section II--Justification for Action

Air was restored to 10,631 CFM.

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	4123477
11. S [redacted] AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)	07/09/2009 1115

UNITED STATES DEPARTMENT OF LABOR
MSHA LABORATORIES - MOUNT HOPE, WEST VIRGINIA
ANALYSIS OF AIR SAMPLES

7/20/09 [REDACTED]

Mine: UPPER BIG BRANCH MINE SOUTH
Company: PERFORMANCE COAL COMPANY

Mine ID: 4608436
Inspector: [REDACTED]

Date(s) Collected: 07/04/09/2009
Office: 401

BOTTLE NUMBER	LOCATION IN MINE	CARBON				CUBIC FEET	CUBIC FEET
		DIOXIDE	OXYGEN	METHANE	ETHANE	AIR PER MINUTE	METHANE IN 24 HOURS
D1414	#1 SECTION - #4 ENTRY - MAIN RETURN	0.160	20.67	0.960	0.000	10631	146963

THE PERCENTAGE OF NITROGEN CAN BE DETERMINED BY SUBTRACTING THE SUM OF THE REPORTED VALUES FROM 100.00