Mr. Chris Blanchard  
President  
Performance Coal Company  
P. O. Box 69  
Naoma, WV 25140

Dear Mr. Blanchard:

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 the annual ventilation map, dated February 28, 2009, and received by MSHA on March 13, 2009, for the subject mine. The certified map submitted for approval does not meet the requirements of 30CFR, Section 75.372 and is hereby denied. Specifically, the map does not depict an accurate representation of the surface openings at the 'Ellis Punch-out'. The certified map provides air quantities, and shows existing ventilation controls in-place, for the #2 and #3 portals which are mapped as openings to the surface. MSHA has determined that these entries are not opened to the surface; therefore the certified map is inaccurate and misrepresents the depiction of these portal entries.

An accurate and acceptable ventilation map must be resubmitted to this office as soon as possible in order to address enforcement action issued at the mine site on April 9, 2009, by an Authorized Representative.

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

Sincerely,

/s/ Richard J. Kline

Robert G. Hardman  
District Manager  
Coal Mine Safety and Health, District 4

Cc: Mt. Hope Field Office (3incl.)  
Files/nlc

SUPERVISORY ACKNOWLEDGEMENT

Date 4-10-09

Initials 4-10-09
APR 10 2009

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

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Sincerely,

[Signature]

Robert G. Hardman
District Manager
Coal Mine Safety and Health, District 4
THE OPERATOR HAS SUBMITTED AN INACCURATE AND MISREPRESENTING MAP TO THE DISTRICT MANAGER FOR APPROVAL ON 3/13/2009. THE MAP HAS INACCURATE INFORMATION FOR THE ELLIS PUNCH OUT.

9. Violation
   A. Health
   Safety
   Other

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: 016

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):
    A. Citation
    B. Order
    C. Safeguard
    D. Written Notice

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

15. Area or Equipment:
    THE #2, #3, AND #4 ENTRIES FOR THE ELLIS PUNCH OUT FOR A DISTANCE OF 300 FT. UNDERGROUND FROM THE HIGHWALL.

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

17. Action to Terminate

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

19. Type of Inspected (activity code)
    (activity code)
    E01

20. Event Number
    4119936

21. Primary or Mill

22. Signature
    [Redacted]

23. AR Number
    24172
March 12, 2009

Mr. Robert G. Hardman
Mine Safety and Health Administration
100 Bluestone Road
Mount Hope, WV 25880

Re: Performance Coal Company
    Upper Big Branch Mine
    MSHA ID: 46-08436
    State ID: U-3042-92
    Annual Ventilation Map

Dear Sir:
Please find enclosed, three (3) copies of the Annual Ventilation Map for our Upper Big Branch Mine for your review and approval. Overlays are included as an attachment.

This mine currently has no miner’s representative. If you have any questions or comments, feel free to contact me at (304) 854-3516.

Respectfully Submitted,
Performance Coal Company, Inc.

Eric Lilly
Mine Engineer