U. S. Department of Labor

SEP 16 2009

Mine Safety and Health Administration 100 Bluestone Road Mount Hope, WV 25880-1000



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

Dear Mr. Blanchard:

Subject:

Mine Ventilation Plan, Section 75.370, 30 CFR, Upper Big Branch Mine-South, I.D. No. 46-08436, Performance Coal Company, Montcoal, Raleigh County, West Virginia

This will acknowledge receipt of a revision to the ventilation map, requesting to drill a dewatering hole into the subject mine, and convert the No. 4 entry of the No. 1 North Headgate to a return aircourse. The revision, dated September 8, 2009, was received by MSHA on September 11, 2009. The submitted map and plan, as submitted, does not provide the required information, pursuant to 30 CFR, Section 75.371 and 75.372, and cannot be approved. Furthermore, the proposed plan does not comply with the base mine ventilation plan approved on August 6, 2009. Please refer to the discrepancies marked on the attached map and plan, which provide the basis for denial of the ventilation map.

Additionally, citations were issued at the mine on September 15, 2009 for missing ventilation controls which compromised the isolation of the primary (intake) escapeway for the longwall mining section. In response to these conditions, pursuant to 30 CFR 75.370, additional provisions are being requested by the District Manager in the form of safety precautions to ensure the primary escapeway is not compromised in the future, and an inventory of equipment that is provided with automatic fire suppression or will be attended in the intake escapeway (to ensure compliance with 30 CFR 75.380(f)(3)).

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

Sincerely,

IN ROBERT G. HARDMAN

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

cc: Mt. Hope Field Office (3 copies Files/nlc

SUPERVISORY ACKNOWLEDGEMENT

Date

Initials



Performance Coal Company

P.O. Box 69

Naoma, WV

25140

September 8, 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 Borehole Plan

Dear Sir,

Performance Coal Company will be drilling a dewatering hole into the Upper Big Branch Mine in the area of the exhausting fan shaft (see location on map). An 8-inch pilot hole will be drilled initially and then reamed out to a diameter of 20 inches. When the hole reaches to within 100ft of the coal seam the area will be dangered off for a radius of 50ft. When the hole reaches to within 25ft of the coal seam no one will be allowed within 200ft of the bottom of the proposed hole location. Methane will be monitored continuously at the top of the hole.

Before the hole intersects the mine workings a regulator will be build inby the hole location to prevent a short circuit of air. This regulator will be removed once the hole is regulated on the surface. Also before hole-through the area at the bottom of the hole will be pre-shift examined.

At the current time the No. 4 entry of the No.1 North Headgate is designated as an intake airway. This entry will be converted to a return air course once the #1 section begins mining the Panel No.2 Crossover per approved ventilation plan dated August 6, 2009. The proposed controls for starting the #1 section are shown on the attached map.

Performance Coal Company Inc. does not have a miner's representative at this time. If you have any questions or concerns feel free to contact me at (304) 854-3508.

Respectfully Submitted Performance Coal Company

Eric Lily Mine Engineer MSHA MOUNT HOPE, WV

SEP 1 1 2009

RECEIVED VENTILATION

			5-4-4 1-6-5-1-1				
Mine Citation/O	der				nent of Labor and Health Admi	nistration	ula MV
Section I-Violation Date	a						
,	Da Yr 14/2009	2. Time (24 Hr. C 06(ation/ der Number 809459)4
4. Served To EVERETT HAGER (SUPER)				5. Operator PERFORMA	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	16-08436		(Contractor)	
8. Condition or Prac		. 122 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2				8a. Written I	Votice (103g)
CONTROLS I	·	REGULATOR THE #4 EN		ON THE #1 SE	CTION AND	THE DOUBLE SE	CT OF
						an Caulingation Farm (1801)	E 7000 4-1 [
	lealth ☐ Safety ✔ Other ☐	B. Section of Act		C. Part/Section of Title 30 CFR	3	ee Continuation Form (MSHA	Form 7000-3a) _
Section II-Inspector's	Evaluation						
 Gravity: A. Injury or Iline 	ss (has) (is):	No Likelihood 🔽	Unlikely 🗌	Reasonably Lik	ely 🗌 Highly	Likely Occurre	ed 🗌
B. Injury or illne sonably be e	ss could rea- pected to be:	No Lost Work	days 🗸 Lost	Workdays Or Restricted	l Duty 🗌 Perr	nanently Disabling	Fatal 🗍 .
C. Significant a	nd Substantia	Yes 🗌	No 🗸		D. Nun	nber of Persons Affected:	011
11. Negligence (ch	eck one)	A. None	B. Low 🗌	C. Moderate 🗸	D. High	E. Reckless Disregar	d 🗌

15. Area or Equipment

12. Type of Action

A. Citation

14. Initial Action

16. Termination Due A. Date Mo Da Yr 09/14/2009 B. Time (24 Hr. Clock) 0605

13. Type of Issuance (check one)

D. Written Notice

E. Citation/

Order Number

Citation 🗸

Order [

Safeguard [

F. Dated

Written Notice

Mo Da Yr

Section III-Termination Action

17. Action to Terminate THE MAP IS NOW CORRECT.

C. Safeguard

104(a)

B. Order

Mo Da Yr 18. Terminated B. Time (24 Hr. Clock) 0605 A. Date 09/14/2009 Section IV--Automated System Data 19. Type of Inspection 20. Event Number 21. Primary or Mill 4119293 E01 (activity code) 23. AR Number 22. Signatu 24172

MSHA Form Poos p., Apr to (10186) In accordance that so performed specific specific

Mine Citatio	on/Order		7	U.S. Depar Mine Safety		abor a Administrat	ion 9	INP 🔷
Section IViolati	ion Data							·
1. Date	Mo Da Yr 09/14/2009	2. Time (24 Hr. Clos 0300				3. Citation/ Order Num	nber 809459	93
4. Served To				5. Operator PERFORM	IANCE CO	AL COMPA	NY	
6, Mine	AHAM (FORE	IVIAIN)		7, Mine ID				
	G BRANCH MI	NE-SOUTH			46-0843	0 .		(Contractor)
8. Condition of							8a. Written	Notice (103g)
THE THI SECTION	RD SET OF	AIRLOCK DC SHUT TO F	OORS INBY CORM AN AIR		#78 FOR	THE LON	NGWALL AN	D #1
	•					•		·
	-					,		
							•	
	**	w						
							nuation Form (MSHA	Form 7000 3a)
			·	C. Part/Section of		See Conu	HUABOTI FORTH (MISH)	(FOIII 7000-32)
9. Violation	A. Health ☐ Safety ✔ Other ☐	B. Section of Act		Title 30 CFR		75.333	(d)(3)	
	ector's Evaluation	-						
10. Gravity: A. Injury o	or Illness (has) (is):	No Likelihood	Unlikely 🗸	Reasonably I	_ikely 🔲	Highly Likely	Occur	red 🗌
	or illness could rea- y be expected to be:	No Lost Workda	ays 🗹 Lost Wo	orkdays O r Restric	ted Duty	Permanenti	y Disabling 🗌	Fatal 🗌 .
C. Signifi	cant and Substantia	Yes 🗍 .	No 🗹			D. Number of	Persons Affected	011
11. Negligen	ce (check one)	A. None	B. Low 🗌 C	C. Moderate 🔽	D. High	E.	Reckless Disrega	ard 🗌
12. Type of	Action 104(a)		13. Type of Issua	ince (check one)	Citation 🗸	Order 🗌	Safeguard	Written Notice
14. Initial Ac		C. Safeguard	D. Written Notice	E. Citation/ Order Num	nber		F. Dated	Mo Da Yr
15. Area or	Equipment	-						
							-	
16. Termina	tion Due A. Date	Mo Da Yr 09/14/2009	B. Time (24 Hr. Cloc	sk) 0303				
Section IIITe	ermination Action							
17. Action to	oTerminate THE	DOORS WER	E SHUT.					
r	went of the second			•				
18. Termina	I A 130to	Da Yr 14/2009 B. Time	e (24 Hr. Clock)	0303				•
Section IVA	utomated System Data		•					
19. Type of (activity		20. Event Number	^r 4119293	3 21. Pr	imary or Mill			
20 Clamatu				■		23. AR	Number	170

MSHA Form 7000-3, Apr 08 (revised). In accordance with the provisions of the Grigan belief set shell be shell b

24172

22. Signature

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration			
Section IViolation Data				
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 09/15/2009 0835	3. Citation/ Order Number 8094595			
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY			
6. Mine	7. Mine ID 46-08436			
UPPER BIG BRANCH MINE-SOUTH	40-06430 (Contractor)			
8. Condition or Practice	8a. Written Notice (103g)			
THE OPERATOR FAILED TO RECORD THE LAST PRE-SHIFT EXAMINATIONS BOOKS BEING CONE				
regularity				
	·			
	•			
9. Violation A. Health B. Section C. Pr	See Continuation Form (MSHA Form 7000-3a)			
	art/Section of the 30 CFR 75.360(f)			
Section II-Inspector's Evaluation				
10. Gravity:	PROPERTY AND ADDRESS OF THE PROPERTY OF THE PR			
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 Workday	nys Or Restricted Duty Permanently Disabling Fatal			
C. Significant and Substantial: Yes ☐ No 🗹	D. Number of Persons Affected: 000			
	derate 🗸 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/ F. Dated Mo Da Yr Order Number			
15. Area or Equipment				
t. t.				
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	1600			
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				
10 Time of Inspection 100 Time! Number				
120. Event Number 4110202	[AGENTHIOLY OF WHILE			

MSHA Form 70

Ill 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.

23, AR Number

24172

4119293

(activity code)

22. Signature

Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section IViolation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 1230	3, Citation/ Order Number 8094597
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH 8. Condition or Practice	7. Mine ID 46-08436 (Contractor)
	8a. Written Notice (103g)
THE OPERATOR FAILED TO CERTIFY WITH DAT PUMP LOCATED AT CROSS CUT #71 IN THE #1 FOR 9/15/2009.	CE, TIME, AND INITIALS THAT THE ELECTRIC SECTION RETURN HAD BEEN PRE-SHIFTED
	See Continuation Form (MSHA Form 7000-3a)
Safety of Act Ti	art/Section of the 30 CFR 75.360(e)
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 Workday	rys 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. Mo	derate 🗸 D. High 🗌 E. Reckless Disregard 🦳

15. Area or Equipment

12. Type of Action

A. Citation

14. Initial Action

16. Termination Due Mo Da Yr A. Date B. Time (24 Hr. Clock) 1231 09/15/2009 Section III-Termination Action

E. Citation/

Order Number

17. Action to Terminate THE OPERATOR CONDUCTED AN EXAMINATION AND CITIFIED THIS AREA

WITH DATE, TIME, AND INITIALS.

13. Type of Issuance (check one)

Citation 🗸

Order

23. AR Number

Safeguard [

F. Dated

Written Notice

Mo Da Yr

104(a)

18. Terminated Mo Da Yr A. Date B. Time (24 Hr. Clock) 1232 09/15/2009

B. Order C. Safeguard D. Written Notice

Section IV--Automated System Data

19. Type of Inspection 20. Event Number 21. Primary or Mill 4119293 (activity code) 22. Signature

24172 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.

Aline Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 09/14/2009 0045	3. Citation/ Order Number 8094590
4. Served To BILLY GRAHAM (FOREMAN)	5. Operator
6. Mine	PERFORMANCE COAL COMPANY 7. Mine ID 4.0.042.6
UPPER BIG BRANCH MINE-SOUTH	46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
THE OPERATOR FAILED TO APPLY SEALANT TO SECTION RETURN.	THE REGULATOR LOCATED ON THE NEW #1
	See Continuation Form (MSHA Form 7000-3a)
Safety ₩ of Act Tit	art/Section of the 30 CFR 75.333(d)(1)
Section II-Inspector's Evaluation 10. Gravity:	
A fact in the control of the control	Reasonably Likely Highly Likely Occurred
B. Injury or illness could rea-	ys Or Restricted Duty Permanently Disabling Fatal
C. Significant and Substantial: Yes ☐ No ✓	D. Number of Persons Affected: 003
11. Negligence (check one) A. None B. Low C. Mod	derate 🗸 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	Citation/ F. Dated Mo Da Yr Order Number
15. Area or Equipment	
16. Termination Due A. Date Mo Da Yr 09/15/2009 B. Time (24 Hr. Clock)	0600
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) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number

MSHA Form 700
ss 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 businesses. 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.

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Mine Citation/Order	U.S. Department of Labor Mine Sefety and Health
	Mine Safety and Health Administration
Section I-Violation Data 1. Date Mo Da Yr 12 Time (24 Hr Clock)	
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 09/14/2009 0130	3. Citation/ Order Number 8094591
4. Served To	
BILLY GRAHAM (FOREMAN)	5. Operator PEREORMANICE COAL COMPANY
6. Mine	PERFORMANCE COAL COMPANY 7. Mine ID 46, 09426
UPPER BIG BRANCH MINE-SOUTH	1 40-08430
8. Condition or Practice	(Contractor)
THE OPERATOR FAILED TO SEPARATE THE PRI	8a. Written Notice (103g) [MARY ESCAPEWAY FOR THE LONGWALL SECTION
AT CROSS CUTS #43 AND #51 FROM POWER BO	EXES (S.N. 14196-1800-100 AND S.N. 29920
209) LOCATED IN THESE BREAKS.	(oth: 11100 1000-100 MND 5.W. 29920
•	
A tolor	See Continuation Form (MSHA Form 7000-3a)
	art/Section of
Other	lle 30 CFR 75.380(f)(3)(iii)
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 Workday	
C. Significant and Substantial:	ys Or Restricted Duty 🗹 Permanently Disabling 🗌 Fatal 🗌
162 140 8	D. Number of Persons Affected: 008
11. Negligence (check one) A. None B. Low C. Mor	derate ☑ . D. High ☐ E. Reckless Disregard ☐
12. Type of Action 104(a) 13. Type of Issuance (chook and Other The Control of the C
	ANTICOLI LANGUE
A. Citation B. Order C. Safeguard D. Written Notice	E. Citation/ F. Dated Mo Da Yr
15. Area or Equipment	
· - 4	
16. Termination Due A. Date Mo Da Yr O(15/2000 B. Time (24 Hr. Clock)	0800
Section III-Termination Action	0000
17. Action to Terminate	
The restaurant	
18. Terminated A. Date Mo Da Yr B. Time (24 Hr. Clock)	
Section IV-Automated System Data	
19. Type of Inspection 120 Event Number	
(activity code) E01 20. Event Number 4119293	21. Primary or Mill
22. Signature	100 40 11
	23. AR Number 24172
MSHA Form 7000	

MSHA Form 7000—, The Chevised of 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.

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Mine Citation/Order	U.S. Department of Labor Mine Safety and Health Administration
Section I-Violation Data	To the second state of the
1. Date Mo Da Yr 2. Time (24 Hr. Clock) 09/15/2009 1110	3. Citation/ Order Number 8094596
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY
6. Mine	7 Ading IN
UPPER BIG BRANCH MINE-SOUTH	46-08436 (Contractor)
8. Condition or Practice	8a. Written Notice (103g)
	CT ESCAPEWAYS FOR THE LONGWALL SECTION ION IS SETTING UP. A STOPPING HAD NOT
	See Continuation Form (MSHA Form 7000-3a)
1 = 1	Part/Section of title 30 CFR 75.380(a)
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	ays Or Restricted Duty ✔ Permanently Disabling ☐ Fatal ☐
C. Significant and Substantial: Yes ☐ No ☑	D. Number of Persons Affected: 008
11. Negligence (check one) A. None . B. Low . C. Mo	oderate ☑ 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/ F. Dated Mo Da Yr Order Number
15. Area or Equipment	
16. Termination Due A. Date Mo Da Yr B. Time (24 Hr. Clock)	1230
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	Other in the control of the control
19. Type of Inspection (activity code) E01 20. Event Number 4119293	21. Primary or Mill

MSHA Form Teach, in the Control 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.

23. AR Number

24172

22. Signatu