

Mine Activity Data



1. Action: a. New Entry b. Update 2. Activity Code: E01 3. Event Number: 4111839

4. Date Event Started: 10/2/2006 5. Date Event Finished: 12/26/2006 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 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 0 (2) Impoundment Construction 0 (3) Buildings 0 (4) Dragline/Shovel: 0 (5) Other 0 l. Miscellaneous

m. MMU/Pit Number (1) 030

13. Number of Samples Collected a. Air Samples 10 b. Rock Dust Spot 0 c. Rock Dust Survey 1 d. Respirable Dust 6 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

a. This Inspection	Citations		Orders		Safeguards		Other	
	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con	Coal Opr	Ind Con
(1) New Issuances	28		2					
(2) Terminations/Vacations	26/0		2					
(3) Modifications/Extensions	0/4							
(4) Left Pending	2							
b. Previously Issued								
(1) Modifications/Extensions								
(2) Terminations/Vacations								

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

a.  Card Number 23703

b.  Card Number 23879

c. _____

d. _____

19. Key Entered By _____ Date _____

17. Remarks:

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 10/1/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 2 10/8/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 3 10/15/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 4 10/22/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 5 10/29/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 6 11/5/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 7 11/12/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 8 11/19/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 9 11/26/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>							
Week 10 12/3/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 11 12/10/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 12 12/17/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Week 13 12/24/2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mine Citation/Order

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



Section I - Violation Data

1. Date Mo Da Yr 10/03/2006	2. Time (24 Hr. Clock) 1120	3. Citation/ Order Number 7258404
4. Sent To JA SHANCOCK	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 roof control plan for mmu 030 section is not being complied with in the no. 3 left open at spad 2595 the opening was measured 32 ft wide and the 3 left opening one break out by spad 2595 was measured 31 ft. wide.

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 75.220(a)(1)
--------------	--	-------------------	---

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 Debilitating Fatal

() 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

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

6. Termination Due	A. Date Mo Da Yr 10/03/2006	B. Time (24 Hr. Clock) 1400
--------------------	--------------------------------	--------------------------------

Section III - Termination Action

7. Action to Terminate

8. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
---------------	------------------	------------------------

Section IV - Automated System Data

1. Type of Inspection (activity code) (b) (7) E01	20. Event Number 4111839	21. Primary or Mill
2. Signature	23. AR Number 23703	

MSHA Form 7000-3, Mar 85 (rev/ed) 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 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 L 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

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



Section I - Violation Data

1. Date Mo Da Yr 10/04/2006	2. Time (24 Hr. Clock) 0945	3. Citation/ Order Number 7258407
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	
8. Condition or Practice		8a. Written Notice (102g) <input type="checkbox"/>

The emergency park brake on the #1 scoop on mmu 030 section did not activate immediately when the scoop was deenergized.

See Continuation Form (MSHA Form 7000-2a)

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 75.523-3(b)(1)
--------------	--	-------------------	---

Section II - Inspector's Evaluation

10. Gravity:	A. Injury or illness (has) (s): 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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001	
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	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
15. Area or Equipment					

16. Termination Date	A. Date Mo Da Yr 10/04/2006	B. Time (24 Hr. Clock) 1145
----------------------	-----------------------------------	--------------------------------

Section III - Termination Action

17. Action to Terminate The park brake was adjusted.

18. Terminated	A. Date Mo Da Yr 10/04/2006	B. Time (24 Hr. Clock) 1030
----------------	-----------------------------------	--------------------------------

Section IV - Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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-RISG-FAIR (1-888-734-6247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 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

4/10/07

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

MS 10/15/06



Section I--Violation Data

1. Date Mo Da Yr 10/03/2006	2. Time (24 Hr. Clock) 1120	3. Citation/ Order Number 7258404
4. Served To JAMES HANCOCK	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 roof control plan for mmu 030 section is not being complied with in the no. 3 left open at spad 2595 the opening was measured 32 ft wide and the 3 left opening one break out by spad 2595 was measured 31 ft. wide.

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 75.220(a)(1)
--------------	--	----------------------	--

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: 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

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 Mo Da Yr 10/03/2006	B. Time (24 Hr. Clock) 1400
---------------------	--------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature	23. AR Number 23703	

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

MS
10-15-06



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) 10/03/2006	3. Citation/ Order Number 7258404 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Cribs were installed in the opening.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. [REDACTED]	AR Number 23703	12. Date Mo Da Yr 10/04/2006	13. Time (24 Hr. Clock) 0940

Mine Citation/Order

11/1/06

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

MS
10-15-06



Section I--Violation Data

1. Date Mo Da Yr 10/03/2006	2. Time (24 Hr. Clock) 1135	3. Citation/ Order Number 7258405
4. Served To JAMES HANCOCK		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 no. 5 entry on mmu 030 section did not have rock dust applied to the roof, rib and bottom, beginning at the last open break and extending for a distance of 105 ft.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.402
--------------	---	-------------------	---

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: 001		
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 10/03/2006	B. Time (24 Hr. Clock) 1300
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

At 5
10/5/06



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 10/03/2006	3. Citation/ Order Number	7258405 - 01
4. Served To WINDELL WILLS			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

Rock dust was applied to the #5 entry on mmu 030 section.

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
----------------	---------	----------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4111839					
11.	[REDACTED]	AR Number	23703	12. Date	Mo Da Yr	10/04/2006	13. Time (24 Hr. Clock)	0930

File Citation/Order

11/1/06

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

MS
10-19-06

Section I--Violation Data

1. Date Mo Da Yr 10/03/2006	2. Time (24 Hr. Clock) 1140	3. Citation/ Order Number 7258406
4. Served To JAMES HANCOCK		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"/>

Loose coal measureing 1 inch to 10 inches is present in the no. 3 left cross cut on mmu 030 section at spad 2595 for the distance of 80 ft.

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
--------------	--	----------------------	--

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 rea- sonably 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: 001			
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 10/03/2006	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

19. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

MSHA Form 7000-3, Mar 80 (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

let's
10-15-06



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/>	1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 10/03/2006	Mo Da Yr	3. Citation/ Order Number 7258406 - 01
4. Served To JAMES HANCOCK			5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The loose coal was removed and the area rockdusted.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839	11. Signature [Redacted]	AR Number 23703	12. Date Mo Da Yr 10/04/2006	13. Time (24 Hr. Clock) 0940
------------------------------	-----------------------------	-----------------------------	--------------------	------------------------------------	---------------------------------

4/10/07



Section I--Violation Data

1. Date Mo Da Yr 10/04/2006	2. Time (24 Hr. Clock) 0945	3. Citation/ Order Number 7258407
4. Served To WINDELL WILLS	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 emergency park brake on the #1 scoop on mmu 030 section did not activate immediately when the scoop was deenergized.

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 75.523-3(b)(1)
--------------	--	-------------------	---

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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	D. Number of Persons Affected: 001		
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	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

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 10/04/2006	B. Time (24 Hr. Clock) 1145
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate The park brake was adjusted.

18. Terminated	A. Date Mo Da Yr 10/04/2006	B. Time (24 Hr. Clock) 1030
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Sign	23. AR Number 23703	

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.

11/1/06

MS
10-15-06



Section I--Violation Data

1. Date Mo Da Yr 10/04/2006	2. Time (24 Hr. Clock) 1000	3. Citation/ Order Number 7258408
4. Served To WINDELL WILLS	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 fire suppression system on the #1 continuous miner on the mmu 030 section did not activate when the power was deenergized.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.1103-7(a)
--------------	---	-------------------	---

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 type="checkbox"/> Lost Workdays Or Restricted Duty <input checked="" 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: 001	
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	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					

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 10/05/2006	B. Time (24 Hr. Clock) 0800
---------------------	--------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

MSHA Form 7000-3, (Rev. 05-05-04) 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 1rd 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.

Citation/Order
Continuation

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

MS
10-1506



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 10/04/2006 Mo Da Yr	3. Citation/ Order Number 7258408 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The fire suppression activated when checked.

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
------------------------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. Signature [Redacted]	AR Number 23703	12. Date 10/10/2006 Mo Da Yr	13. Time (24 Hr. Clock) 0915

Case Citation/Order

11/1/06

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

MS
10-5-06

Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 0810	3. Citation/ Order Number 7258409
4. Served To BENNIE PRESTLY		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 weekly exam for the return entry for MMU 009 section was not being traveled in its entirety every seven days in that no records were found.

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 75.364(b)
--------------	--	----------------------	---

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: 001		
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		13. Type of Issuance (check one)			
104(a)		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 10/11/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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

9. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

MSHA Form 7000-3, March 2005. Pursuant to the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration as 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 Ford 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.

Citation/Order
Continuation

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

645
10-17-06


Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2006	3. Citation/ Order Number 7258409 - 01
--	---	--

4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY
-------------------------------	---

6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
--	-------------------------------------

Section II--Justification for Action

Weekly examination was conducted of the return air course for mmu 009 section. And a record was provided.

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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839
------------------------------	-----------------------------

11. 	AR Number 23703	12. Date Mo Da Yr 10/16/2006	13. Time (24 Hr. Clock) 1430
--	--------------------	---------------------------------	---------------------------------

Citation/Order

11/1/06

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

MS 10-15-06

Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 0925	3. Citation/ Order Number 7258410
4. Served To BENNIE PRESTLY		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 return air course for the MMU 030 section could not be made in its entirety every seven days in that an accumulation of 17 inches of water for a distance of 90 feet between crosscuts 14 and 15.

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 75.364(b)(2)
--------------	--	----------------------	--

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 type="checkbox"/>	Lost Workdays Or Restricted Duty <input checked="" 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: 001		
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 10/17/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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) (103g) (C)	20. Event Number 4111839	21. Primary or Mill
2. Signature	23. AR Number 23703	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration as 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 4th 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.

Citation/Order
Continuation

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

10.17.06


Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 10/10/2006 Mo Da Yr	3. Citation/ Order Number 7258410 - 01
--	--	--

4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY
-------------------------------	---

6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)
--	--

Section II--Justification for Action

The water was pump down, allowing the return to be travel in its entirety.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839
------------------------------	-----------------------------

11. AR Number 23703	12. Date 10/16/2006 Mo Da Yr	13. Time (24 Hr. Clock) 1630
------------------------	------------------------------------	---------------------------------

11/1/06

MS 10/15/06 

Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 1100	3. Citation/ Order Number 7258411
4. Served To BENNIE PRESTLY		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 3RT, Panel has not been evaluated for an air movement into the worked out area and an evaluation point was not established.

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 75.334(c)(4)
--------------	--	----------------------	--

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: 001		
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 10/10/2006	B. Time (24 Hr. Clock) 1200
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate An evaluation point was established and air reading of 6399 cfm was taken.

18. Terminated	A. Date Mo Da Yr 10/10/2006	B. Time (24 Hr. Clock) 1105
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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 as 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 4th 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.

Citation/Order

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

MS
10-1506

Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 1140	3. Citation/ Order Number 7258412
4. Served To BENNIE PRESTLY		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"/>

At one crosscut outby ss#1958 only one set of air lock doors were installed.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.333(d)(3)
--------------	---	-------------------	---

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 type="checkbox"/>	Lost Workdays Or Restricted Duty <input checked="" 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: 001		
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 10/11/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MS
10-17-06



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2006	3. Citation/ Order Number 7258412 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Stopping was installed.

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
------------------------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839	
11. AR Number 23703	12. Date Mo Da Yr 10/16/2006	13. Time (24 Hr. Clock) 1650

Mine Citation/Order

11/1/06

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

MS 10-1506 

Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 1145	3. Citation/ Order Number 7258413
4. Served To BENNIE PRESTLY		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

Loose coal and float coal dust measureing 1 inch to 12 inches is present under and on the off side of the no. 1 belt conveyor beginning at the curve of the track and extending out of the belt head. Coal is packed under the no. 1 belt head.

See Continuation Form (MSHA Form 7000-3a)

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

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 checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	D. Number of Persons Affected: 001		
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				F. Dated
A. Citation <input type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 10/11/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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.

MS
 10-17-06



Section I--Violation Data

1. Date Mo Da Yr 10/16/2006	2. Time (24 Hr. Clock) 1605	3. Citation/ Order Number 7258422
4. Served To wendell wills	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"/>

Little effort was made to remove the loose coal and float coal dust from the no. 1 belt conveyor.

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
--------------	--	-------------------	---

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 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 type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected:		
11. Negligence (check one)	A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>
12. Type of Action 104(b)	13. Type of Issuance (check one)		Citation <input type="checkbox"/>	Order <input checked="" type="checkbox"/>	Safeguard <input type="checkbox"/>
14. Initial Action	A. Citation <input checked="" type="checkbox"/>	B. Order <input type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	E. Citation/ Order Number 7258413
F. Dated		Mo Da Yr		10/10/2006	
15. Area or Equipment no. 1 belt conveyor.					

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

Section III--Termination Action

17. Action to Terminate The loose coal was remove from the off side of the belt out by the second overcast and the belt was rock dusted.

18. Terminated	A. Date Mo Da Yr 10/16/2006	B. Time (24 Hr. Clock) 1730
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

11/1/06

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

MS
10-15-06



Section I--Violation Data

1. Date Mo Da Yr 10/10/2006	2. Time (24 Hr. Clock) 1155	3. Citation/ Order Number 7258414
4. Served To BENNIE PRESTLY		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 circuit breaker for the no. 8 break return pump located at the no. 1 KVA box is identified as fork lift charger.

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 75.904
--------------	--	-------------------	---

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 checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:				D. Number of Persons Affected:		001
		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>			
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 10/10/2006	B. Time (24 Hr. Clock) 1400
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MSHA
10-17-06

Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/10/2006	3. Citation/ Order Number 7258414 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The circuit breaker was identified.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. [REDACTED]	AR Number 23703	12. Date Mo Da Yr 10/16/2006	13. Time (24 Hr. Clock) 1600

Mine Citation/Order

11/8/06

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

10-19-06

Section I--Violation Data

1. Date Mo Da Yr 10/18/2006	2. Time (24 Hr. Clock) 0945	3. Citation/ Order Number 7258427
4. Served To MICHAEL VAUGHT		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"/>

Loose coal is present on the no. 1 north belt conveyor, measuring 1 inch to 14 inches, beginning at break 12 and extending to the belt head on both the off side and walkway side of the belt. Coal has piled up under the belt at several of the rollers. With the roller rolling in the coal.

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
--------------	--	-------------------	---

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 checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001		
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 10/18/2006	B. Time (24 Hr. Clock) 2100
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MSJ
10-24-06



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 10/18/2006	Mo Da Yr	3. Citation/ Order Number 7258427 - 01
4. Served To BENNIE PRESTLY	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)	

Section II--Justification for Action

The losse coal was removed and the belt was rock dusted.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. Sig [REDACTED]	AR Number 23703	12. Date Mo Da Yr 10/24/2006	13. Time (24 Hr. Clock) 0830

Citation/Order

11/8/06

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

MS-3
10-19-06



Section I--Violation Data

1. Date Mo Da Yr 10/18/2006	2. Time (24 Hr. Clock) 1000	3. Citation/ Order Number 7258428
4. Served To MICHAEL VAUGHT	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"/>

Float coal dust is present on the frame and electrical components of the no. 1 north KVA box.

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
--------------	--	-------------------	---

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 checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001		
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	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					

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 10/19/2006	B. Time (24 Hr. Clock) 0800
---------------------	--------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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.

Citation/Order
Continuation

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

MS
10-24-06



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 10/18/2006	3. Citation/ Order Number	7258428 - 01
4. Served To BENNIE PRESTLY			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

Float coal dust was removed from the KVA box.

See Continuation Form

Section III--Subsequent Action Taken

1. 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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

1. Type of Inspection	E01	10. Event Number	4111839
1. Signa() () ()	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
	23703	10/24/2006	0835

Mine Citation/Order

1/23/07

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

MS 10-31-06



Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 0920	3. Citation/ Order Number 7258448
4. Served To WINDELL WILLS		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition of Practice		8a. Written Notice (103g) <input type="checkbox"/>

The mine roof is not adequately supported, beginning at break 37 and extending to EP 42, the mine roof has fallen from around 35 of the resin roof bolts. Also beginning at EP 42 to EP 41, the mine roof has fallen from around several of the resin roof bolts. And beginning at the overcast for the intake spilt for EP 39, has a fall roof in the no. 1 and no. 2 entries and several of the roof bolts is not firmly against the mine roof.

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 75.202(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 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

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 Mo Da Yr 11/08/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MSJ
11-16-06



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 10/30/2006	3. Citation Order Number	7258448 - 01
4. Served To Dempsey Pettry			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

The extension is granted. The miner and are being moved to the fall.
Additional time is needed to clean up the fall.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date	Mo Da Yr 12/06/2006	B. Time (24 Hr. Clock)	0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Rescinded
----------------	---------	------------------------	------------------------	------	-------------------------------------	--	---------------------------------------

Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4111839
11. Signer	[Redacted]	AR Number	23703
12. Date	Mo Da Yr 11/15/2006	13. Time (24 Hr. Clock)	1123

Mine Citation/Order
Continuation

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

M-5
12.2006



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/30/2006	3. Citation/ Order Number 7258448 - 02
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Due to the continuous miner being down, a extension is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 12/29/2006	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
----------------	-----------------------------------	--------------------------------	-------------------------------------	--	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. [Redacted]	AR Number 23703	12. Date Mo Da Yr 12/19/2006	13. Time (24 Hr. Clock) 1100

Mine Citation/Order
Continuation

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

MS
1-10-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/30/2006	3. Citation/ Order Number 7258448 - 03
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Due to mechanical difficulties and an additional roof fall was found an extension is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 01/15/2007	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
----------------	-----------------------------------	--------------------------------	-------------------------------------	--	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4116857		
11. Signature 	AR Number 23703	12. Date Mo Da Yr 01/09/2007	13. Time (24 Hr. Clock) 1420

Mine Citation/Order
Continuation

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

MS
1-17-7



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 10/30/2006	3. Citation/ Order Number 7258448 - 04
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The roof falls was clean up and supported, timbers was installed in the areas that the mine roof had fallen from around the the roof bolts.

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
------------------------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4116857		
11. S [REDACTED]	AR Number 23703	12. Date Mo Da Yr 01/16/2007	13. Time (24 Hr. Clock) 1030

Mine Citation/Order

11/27/06

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

MS
10-91-06



Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 0945	3. Citation/ Order Number 7258449
4. Served To WINDELL WILLS		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition of Practice		8a. Written Notice (103g) <input type="checkbox"/>

The intake air split beginning EP 41 and extending to EP 42 cannot be travel in its entirety, water measuring 1 inch to 24 inches is present 3 breaks inby EP 41, also a permanent stopping was installed blocking travel.

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 75.364(b)(1)
--------------	--	----------------------	--

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: 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

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 Mo Da Yr 11/07/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MSJ
11-7-6



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/30/2006	3. Citation/ Order Number 7258449 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Water was pumped down.

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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839				
1	AR Number 23703	12. Date Mo Da Yr 11/06/2006	13. Time (24 Hr. Clock) 0920		

11/27/06

M-5
10.71.06



Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 1010	3. Citation/ Order Number 7258450
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor) <input type="checkbox"/>
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

The automatic emergency parking brake on the no. 230 scoop at head gate 16, did not activate immediately by the emergency de-energization device.

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 75.523-3(b)(1)
--------------	--	-------------------	---

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 checked="" type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 001		
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 10/30/2006	B. Time (24 Hr. Clock) 1800
---------------------	-----------------------------------	--------------------------------

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)	20. Event Number 4111839	21. Primary or Mill
22. Signature	23. AR Number 23703	

MSHA Form 7000-3, March 2005 (rev. 05-05) 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

MS
11-7-6



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 10/30/2006	3. Citation/ Order Number	7258450 - 01
4. Served To WINDELL WILLS			5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH			7. Mine ID	46-08436	(Contractor)

Section II--Justification for Action

A new parking brake was installed.

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
----------------	---------	----------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection	E01	10. Event Number	4111839
11. Site	[REDACTED]	AR Number	23703
		12. Date	Mo Da Yr 11/06/2006
		13. Time (24 Hr. Clock)	0915

11/27/06

MS 10-31-06 

Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 1007	3. Citation/ Order Number 7258451
4. Served To WINDELL WILLS		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 no. 230 scoop at head gate 16 is not being maintain in permissible condition, the main breaker box has a opening in excess of .005, the conduit on the battery plug is busted, and the battery lids are not secured.

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 75.503
--------------	--	----------------------	--

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: 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

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 Mo Da Yr 10/30/2006	B. Time (24 Hr. Clock) 1400
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature	23. AR Number 23703	

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

MS
11-7-6



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 10/30/2006	3. Citation/ Order Number 7258451 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The conduit was replaced and the opening was corrected.

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
------------------------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. Signature [REDACTED]	AR Number 23703	12. Date Mo Da Yr 11/06/2006	13. Time (24 Hr. Clock) 0917

11/27/06

MS 5
10.31.06



Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 7258452
4. Served To WINDELL WILLS		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"/>

Loose coal and float coal dust measuring 1 inch to 24 inches is present on the no. no. 2 6 ft. belt conveyor, beginning at break 83 and extending to the mouth of lower big branch for a distance of 1500 ft.

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
--------------	--	----------------------	--

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: 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

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 Mo Da Yr 11/01/2006	B. Time (24 Hr. Clock) 1000
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

MS
11-7-6



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 10/30/2006	3. Citation/ Order Number 7258452 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Loose coal and coal float dust were removed and the area was rockdusted.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. Sig [Redacted]	AR Number 23703	12. Date Mo Da Yr 11/06/2006	13. Time (24 Hr. Clock) 0905

1/23/07

MSJ
10.31.06



Section I--Violation Data

1. Date Mo Da Yr 10/30/2006	2. Time (24 Hr. Clock) 1100	3. Citation/ Order Number 7258453
4. Served To WINDELL WILLS		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 intake split to EP 39 cannot be travel in its entirety, a roof fall had occurred at break 83 blocking travel in the no. 1 and no. 2 entries.

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 75.364(b)(1)
--------------	--	-------------------	---

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: 001		
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 11/10/2006	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

M-3
11-30-06



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 10/30/2006	3. Citation/ Order Number 7258453 - 01
4. Served To PAUL THOMPSON	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

The operator is bolting the area outby the fall and is moving the continuous miner at the sit to begin cleaning the fall up, therefore a extension is granted.

See Continuation Form

Section III-Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 12/11/2006	B. Time (24 Hr. Clock) 0900	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
----------------	-----------------------------------	--------------------------------	-------------------------------------	--	--------------------------------------

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4111839	
11. AR Number 23703	12. Date Mo Da Yr 11/30/2006	13. Time (24 Hr. Clock) 0405

Mine Citation/Order
Continuation

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

MS
12.20.06



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 10/30/2006			3. Citation/ Order Number 7258453 - 02	
4. Served To WINDELL WILLS				5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH				7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Due to the rock fall out by up 39 not being clean up, a extension is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 12/29/2006	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
----------------	-----------------------------------	--------------------------------	-------------------------------------	--	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839	AR Number 23703	12. Date Mo Da Yr 12/19/2006	13. Time (24 Hr. Clock) 1105
------------------------------	-----------------------------	--------------------	------------------------------------	---------------------------------

Mine Citation/Order
Continuation

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

4-5
1-10-7



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 10/30/2006	3. Citation/ Order Number 7258453 - 03
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Due to mechanical difficulties and an additional roof fall was found an extension is granted.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 01/15/2007	B. Time (24 Hr. Clock) 0800	<input type="checkbox"/> C. Vacated	<input type="checkbox"/> D. Terminated	<input type="checkbox"/> E. Modified
----------------	--------------------------------	--------------------------------	-------------------------------------	--	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4116857		
11. 	AR Number 23703	12. Date Mo Da Yr 01/09/2007	13. Time (24 Hr. Clock) 1415

Citation/Order
Continuation

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

MS
1-17-7



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 10/30/2006	3. Citation/Order Number 7258453 - 04
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The roof fall was clean up and supported, enabling the intake split to be travel in its entirety.

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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4116857		
11. S. [REDACTED]	AR Number 23703	12. Date Mo Da Yr 01/16/2007	13. Time (24 Hr. Clock) 1035

Mine Citation/Order

11/27/06

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

MS



Section I--Violation Data

1. Date Mo Da Yr 11/06/2006	2. Time (24 Hr. Clock) 0815	3. Citation/ Order Number 7258458
4. Served To WINDELL WILLS	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 pre-shift examiner that conducted a examination of the LLB section 11-05-2006 did not sign the pre-shift book, certifying that the examination was conducted.

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 75.360(f)
--------------	--	----------------------	---

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: 001		
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					F. Dated
A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>					Mo Da Yr
15. Area or Equipment					

16. Termination Due	A. Date Mo Da Yr 11/06/2006	B. Time (24 Hr. Clock) 1400
---------------------	-----------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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 rd 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

MSJ
11.14.06



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> 1a. Continuation <input type="checkbox"/>	2. Dated (Original Issue) 11/06/2006	Mo Da Yr	3. Citation/ Order Number 7258458 - 01
4. Served To BENNIE PRESTLY		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The pre-shift examiner sign the pre-shift book.

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
----------------	---------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. Sig [REDACTED]	AR Number 23703	12. Date Mo Da Yr 11/13/2006	13. Time (24 Hr. Clock) 0820

Mine Citation/Order

4/30/07

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



Section I--Violation Data

1. Date Mo Da Yr 11/06/2006	2. Time (24 Hr. Clock) 1115	3. Citation/ Order Number 7258459
4. Served To WINDELL WILLS	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"/>

Float coal dust is present on the frame and electrical components of the no. 5 KVA box.

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
--------------	--	-------------------	---

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 checked="" type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/>				
	C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 001	
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	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					

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 11/07/2006	B. Time (24 Hr. Clock) 0800
---------------------	--------------------------------	--------------------------------

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 4111839	21. Primary or Mill
22. Signature		23. AR Number 23703

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

11-9-6



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 11/06/2006	3. Citation/ Order Number 7258459 - 01
4. Served To WINDELL WILLS	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

The float coal dust was removed.

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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. [REDACTED]	AR Number 23703	12. Date Mo Da Yr 11/08/2006	13. Time (24 Hr. Clock) 0755

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	3. Citation/ Order Number	7	2	5	8	4	5	9	-	0	2		
			1	1	0		6	0	6									

4. Served To Greg Fennett	By Certified Mail	5. Operator Performance Coal Company
-------------------------------------	-------------------	--

6. Mine Upper Big Branch - South	7. Mine ID 4 6 - 0 8 4 3 6 - (contractor)
--	--

Section II -- Justification for Action

Upon further review at conference, this citation is modified as follows

Item 10 A is modified to Unlikely
Item 10 C is modified to Non-S&S

The area surrounding the KVA box was well rock dusted.

See Continuation Form

Section III -- Subsequent Action Taken

8. Extended To	Mo	Da	Yr	B. Time(24HrClock)	C. Vacated <input type="checkbox"/>	D. Terminated <input type="checkbox"/>	E. Modified <input checked="" type="checkbox"/>
A. Date							

Section IV -- Inspection Data

9. Type of Inspection T 0 2	10. Event Number 9 8 3 2 2 6 8
11. [Redacted]	AR Number 2 0 7 3 0
	12. Date Mo Da Yr 0 3 0 7 0 7
	13. Time(24 Hr.Clock) 1 1 0 0

APR 30 2007

MS
11-146



Section I--Violation Data

1. Date Mo Da Yr 11/13/2006	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 7258476
4. Served To BENNIE PRESTLY		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

Ba. Written Notice (103g)

The mine roof is not adequately supported in the following locations in the return air course for mmu 009 section. Beginning at break 87 and extending to break 89, the right rib has a cutter, the roof is broken and gapped down. Break 96 to 102 break the mine roof is gapped down with pressure on several of the roof bolts. Two breaks outby the top end of the glory hole, the mine roof is broken and crack in both the return entries. break 141, 146, 147 and 148 the mine roof is also broken and cracked with the roof gapped down with pressure on several of the roof bolts. This condition was reported in the weekly airway, beginning on 10-11-2006

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 75.202(a)
--------------	--	----------------------	---

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 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: 001		
11. Negligence (check one)					
A. None <input type="checkbox"/>	B. Low <input type="checkbox"/>	C. Moderate <input type="checkbox"/>	D. High <input checked="" type="checkbox"/>	E. Reckless Disregard <input type="checkbox"/>	
12. Type of Action 104(d)(2)		13. Type of issuance (check one)			
		Citation <input type="checkbox"/>	Order <input checked="" 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 checked="" type="checkbox"/>	C. Safeguard <input type="checkbox"/>	D. Written Notice <input type="checkbox"/>	7256467	06/20/2006

15. Area or Equipment Return air course beginning at break 87 and extending to break 148.

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

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 4111839	21. Primary or Mill
22. Signature			23. AR Number 23703

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 16 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

MS
12.28.06



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 11/13/2006	3. Citation/ Order Number 7258476 - 01
4. Served To BENNIE PRESTLY	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

The area had supplemental support added, 295 prop setters were installed.

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
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4111839		
11. S [REDACTED]	AR Number 23703	12. Date Mo Da Yr 12/26/2006	13. Time (24 Hr. Clock) 1248