



Mine Citation/Order  
Continuation

8/19/09  
[Redacted]

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



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 08/11/2009	3. Citation/ Order Number 8094556 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE OPERATOR HAS INSTALLED GUARDING IN THE AFFECTED AREA.

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 4119293	AR Number [Redacted]	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1400
------------------------------	-----------------------------	-------------------------	---------------------------------	---------------------------------

8/12/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1732	3. Citation/ Order Number 8094557
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO MAINTAIN A CONTINUOUS LIFELINE IN THE SECONDARY ESCAPEWAY ON THE #2 SECTION BETWEEN #9 AND #10 CROSS CUTS. THIS LIFELINE WAS INSTALLED ABOVE THE FRAME OF THE AIR LOCK DOORS THAT WAS INSTALLED. ALSO WHERE THE TRACK TURNS AND ENTERS THE BELT ENTRY (#10 CROSS CUT) THE LIFELINE WAS OVER TOP POWER CABLES.

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 75.380(d)(7)(i)
--------------	--	----------------------	---

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: 007

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 08/12/2009 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 4119293 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form established a... regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established... 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

8/19/09  
[Redacted]

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



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 08/11/2009	3. Citation/ Order Number 8094557 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE OPERATOR INSTALLED THE LIFELINE THROUGH THE DOORS IN THE AFFECTED AREA.

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 4119293		
[Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1401

8/11/2009



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1745	3. Citation/ Order Number 8094558
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO GUARD THE ENDS OF THE HOLD UP ROLLER SHAFT ON THE #1 BELT TAILPIECE #2 SECTION. THIS MOVING SHAFT EXTENDS OUT APPROXIMATELY 4 INCHES FROM THE BEARINGS ON BOTH SIDES OF THE ROLLER.

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 75.1722(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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/12/2009	B. Time (24 Hr. Clock) 0600
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4110202	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Regulatory Enforcement Fairness Act of 1998, the Small Business Administration has established a Regulatory Enforcement Fairness Board 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.

8/19/09

Mine Citation/Order Continuation

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



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 08/11/2009	3. Citation/Order Number 8094558 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

THE ENDS OF THE SHAFTS HAVE BEEN CUT OFF.

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 4119293	
AR Number	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1245

8/12/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1815	3. Citation/ Order Number 8094559
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

ACCUMULATIONS OF COMBUSTIBLE MATERIAL (LOOSE DRY COAL) WAS PRESENT AT THE TAILPIECE ON THE #2 SECTION BELT. THIS MATERIAL WAS APPROXIMATELY 3 TO 30 INCHES IN DEPTH. ALSO THE TAIL ROLLER WAS TURNING IN LOOSE COAL AND THE BELT WAS RUBBING THIS MATERIAL UNDER THE TAILPIECE.

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: 002	
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"/> Written Notice <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	
15. Area or Equipment				

16. Termination Due	A. Date Mo Da Yr 08/11/2009	B. Time (24 Hr. Clock) 2200
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a, established and enforced under the Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established Small Business Review Boards to receive comments from small businesses about federal agency actions and the 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

8/19/09  
[Redacted]

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



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 08/11/2009	3. Citation/ Order Number 8094559 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE AFFECTED AREA HAS BEEN CLEANED.

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 4119293	11. AR Number [Redacted]	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1246
------------------------------	-----------------------------	-----------------------------	---------------------------------	---------------------------------

*8/12/09*



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1830	3. Citation/ Order Number 8094560
4. Served To RICK FOSTER (MINE FOREMAN)	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"/>

ACCUMULATIONS OF COMBUSTIBLE MATERIAL (LOOSE DRY COAL) WAS PRESENT AT THE #1 TAILPIECE FOR #1 BELT #2 SECTION. THIS MATERIAL WAS APPROXIMATELY 3 TO 12 INCHES DEEP AND 17 FT. IN LENGTH ON THE OFFSIDE OF THE BELT. THE END OF THE HOLD UP ROLLER WAS TURNING IN THIS MATERIAL AND THE BELT WAS RUBBING IT UNDER THE TAILPIECE.

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: 002
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"/> Written Notice <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
15. Area or Equipment			F. Dated Mo Da Yr

16. Termination Due	A. Date Mo Da Yr 08/11/2009	B. Time (24 Hr. Clock) 2200
---------------------	--------------------------------	--------------------------------

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 4110202	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business Ombudsman and 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

8/19/09



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



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/11/2009	3. Citation/ Order Number 8094560 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II-Justification for Action

THE AFFECTED AREA HAS BEEN CLEANED.

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 4119293	AR Number [Redacted]	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1145
------------------------------	-----------------------------	-------------------------	---------------------------------	---------------------------------

8/12/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1845	3. Citation/ Order Number 8094561
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE PRESSURE PUMP LOCATED ON THE #2 SECTION WAS NOT PROVIDED WITH FIRE FIGHTING EQUIPMENT.

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 75.1100-2(e)
--------------	--	-------------------	---

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No  D. Number of Persons Affected: 001

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/12/2009	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 4119293	21. Primary or Mill
22. Signat	23. AR Number	

MSHA Form... Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established... 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

8/19/09  
[Redacted]

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



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 08/11/2009			3. Citation/ Order Number 8094561 - 01	
4. Served To GARY MAY (MINE FOREMAN)				5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH				7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

THE OPERATOR HAS PROVIDED FIRE FIGHTING EQUIPMENT AT THE PRESSURE PUMP.

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 4119293			
[Redacted]	AR Number 24172	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1155		



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 1950	3. Citation/ Order Number 8094562
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE DOORS LOCATED BETWEEN CROSS CUTS #9 AND #10 ON THE #2 SECTION TRACK ARE NOT INSTALLED IN PAIRS TO FORM AN AIRLOCK.

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 75.333(d)(3)
--------------	--	-------------------	---

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: 007

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/15/2009	B. Time (24 Hr. Clock) 0600
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signatu	23. AR Number	

MSHA Form... Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established... 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

8/19/09

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/11/2009	3. Citation/ Order Number 8094562 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE OPERATOR HAS ORDERED DOORS FOR THIS LOCATION.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 08/21/2009	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 4119293	
AR Number	12. Date Mo Da Yr 08/17/2009	13. Time (24 Hr. Clock) 1324

Mine Citation/Order  
Continuation

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

8/27/09 

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 08/11/2009	3. Citation/ Order Number 8094562 - 02
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

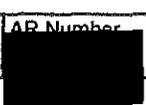
THE OPERATOR HAS STARTED INSTALLING THE DOORS AND NEEDS MORE TIME TO FINISH.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 08/26/2009	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 4119293		
	AP Number 	12. Date Mo Da Yr 08/25/2009	13. Time (24 Hr. Clock) 1330

8/31/09 GDL

Mine Citation/Order  
Continuation

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



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 08/11/2009	3. Citation/ Order Number 8094562 - 03
4. Served To EVERETT HAGER (SUPER)	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 HAS INSTALLED ANOTHER SET OF DOORS.

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 4119293	
AR Number	12. Date Mo Da Yr 08/28/2009	13. Time (24 Hr. Clock) 1120

Handwritten mark/signature

8/17/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 2000	3. Citation/ Order Number 8094563
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO PROVIDE A MULTI-GAS DETECTOR FOR THE MINER LOCATED AT THE #78 CROSS CUT WHERE THE #1 AND #2 SECTIONS SPLIT.

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 75.1714-7(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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/11/2009	B. Time (24 Hr. Clock) 2030
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business Ombudsman and 19 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

8/19/09

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



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/11/2009	3. Citation/ Order Number 8094563 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

THE OPERATOR IS NOW PROVIDING MINERS WITH MULTI-GAS DETECTOR. ALSO THE OPERATOR HAS COVERED THIS WITH THE OUTBY MINERS.

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 4119293		
11. Structure [REDACTED]	11. AR Number [REDACTED]	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 0820

8/12/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 2005	3. Citation/ Order Number 8094564
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO REMOVE THE SELF-CONTAINED SELF-RESCUER (S.N.18016) FROM SERVICE THAT WAS DAMAGED THE MINER WAS WEARING AT CROSS CUT #78 WHERE THE #1 AND #2 SECTIONS SPLIT.

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 75.1714-3(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 type="checkbox"/>	Lost Workdays Or Restricted Duty <input type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" 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"/> Written Notice <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 08/11/2009	B. Time (24 Hr. Clock) 2007
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR TOOK THIS SCSR OUT OF SERVICE AND GAVE THE MINER A PROPERLY MAINTAINED SCSR.

18. Terminated	A. Date Mo Da Yr 08/11/2009	B. Time (24 Hr. Clock) 2007
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
---	-----------------------------	---------------------

22. Sign	23. AR Number
----------	---------------

MSHA For business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established Small Business Regulatory Enforcement 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.

8/11/09



Section I--Violation Data

1. Date Mo Da Yr 08/11/2009	2. Time (24 Hr. Clock) 2020	3. Citation/ Order Number 8094565
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR ALLOWED WATER TO ACCUMULATE OVER THE TRACK RAILS BETWEEN CROSS CUTS #45 AND #46 ON THE NOTH MAIN TRACK.

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 75.1403
--------------	--	-------------------	--

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No  D. Number of Persons Affected: 010

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number 4623816 F. Dated Mo Da Yr 05/03/1998

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/12/2009	B. Time (24 Hr. Clock) 0600
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signat	23. AR Number	

MSHA Form 7000-3a, Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established the 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

8/19/09

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



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 08/11/2009	3. Citation/ Order Number 8094565 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE WATER IS NOW OFF THE RAILS IN THE AFFECTED AREA.

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 4119293	
AR Number	12. Date Mo Da Yr 08/13/2009	13. Time (24 Hr. Clock) 1020

8/19/09

Mine Citation/Order



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



Section I--Violation Data

1. Date Mo Da Yr 08/13/2009	2. Time (24 Hr. Clock) 1000	3. Citation/ Order Number 8094566
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		

8a. Written Notice (103g)

THE OPERATOR FAILED TO INSTALL A READILY VISIBLE WARNING DEVICES OR A PHYSICAL BARRIER TO IMPEDE TRAVEL BEYOND PERMANENT SUPPORT AT CROSS CUT #132 ON THE OLD NORTH MAINS BELT LINE.

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 75.208
--------------	--	-------------------	---

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  Written Notice

14. Initial Action

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

E. Citation/Order Number

F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr 08/13/2009

B. Time (24 Hr. Clock) 1600

Section III--Termination Action

17. Action to Terminate

18. Terminated

A. Date Mo Da Yr

B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01

20. Event Number 4119293

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business Ombudsman and 19 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

8/19/09

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 08/13/2009	3. Citation/ Order Number 8094566 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

ROOF SUPPORT (SAND JACKS) HAS BEEN INSTALLED IN THE AFFECTED AREA.

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 4119293	
AR Number [REDACTED]	12. Date Mo Da Yr 08/17/2009	13. Time (24 Hr. Clock) 0915

Mine Citation/Order

8/19/09  
[Redacted]

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



Section I--Violation Data

1. Date Mo Da Yr 08/13/2009	2. Time (24 Hr. Clock) 1035	3. Citation/ Order Number 8094567
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO PROVIDE A MULTI-GAS DETECTOR FOR THE LONG WALL MOTOR CREW AT CROSS CUT #81 COMING OFF THE LONG WALL SET-UP.

THIS IS A NOTICE TO THE OPERATOR THAT THIS CITATION HAS BEEN ISSUED 3 TIMES IN THE LAST TWO INSPECTION DAYS.

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 75.1714-7(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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			D. Number of Persons Affected: 002	
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"/> Written Notice <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 08/13/2009	B. Time (24 Hr. Clock) 1036
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR PROVIDED THE MINERS WITH A MULTI-GAS DETECTOR AT THIS LOCATION.

18. Terminated	A. Date Mo Da Yr 08/13/2009	B. Time (24 Hr. Clock) 1036
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature [Redacted]		23. AR Number [Redacted]

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business 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

8/19/09  
[REDACTED]

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



Section I--Violation Data

1. Date Mo Da Yr 08/13/2009	2. Time (24 Hr. Clock) 1040	3. Citation/ Order Number 8094568
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO MAINTAIN A CONTINUOUS LIFELINE IN THE PRIMARY ESCAPEWAY AT #81 CROSS CUT FOR THE #2 SECTION. A BLACK PLASTIC 2 INCH WATER LINE WAS UNDER THE LIFELINE.

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 75.380(d)(7)(i)
--------------	--	-------------------	--

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: 007

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 08/13/2009 B. Time (24 Hr. Clock) 1050

Section III--Termination Action

17. Action to Terminate THE LIFELINE IS NOW CLEAR OF THE PLASTIC WATER LINE.

18. Terminated A. Date Mo Da Yr 08/13/2009 B. Time (24 Hr. Clock) 1050

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Sig [REDACTED] 23. AR Number [REDACTED]

MSHA has established the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established the 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.

8/19/09  
[REDACTED]



Section I--Violation Data

1. Date Mo Da Yr 08/13/2009	2. Time (24 Hr. Clock) 1300	3. Citation/ Order Number 8094569
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR WAS FAILING TO TEST THE TORQUE RANGE ON THE TORQUE TENSION RESIN ASSISTED BOLTS BEING INSTALLED ON THE MMU-040 SECTION. THE TORQUE WRENCH THAT WAS ON THE LEFT BOLT MACHINE DID NOT WORK.

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 75.204(f)(4)
--------------	--	-------------------	---

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" type="checkbox"/>				
C. Significant and Substantial: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>			D. Number of Persons Affected: 007	
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"/> Written Notice <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 08/13/2009	B. Time (24 Hr. Clock) 1305
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR HAS PROVIDED THIS MACHINE WITH A WORKING TORQUE WRENCH WHEN TESTED.

18. Terminated	A. Date Mo Da Yr 08/13/2009	B. Time (24 Hr. Clock) 1305
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. [REDACTED]		23. AR Number [REDACTED]

Under 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.

8/27/09 

Section I--Violation Data

1. Date Mo Da Yr 08/24/2009	2. Time (24 Hr. Clock) 0855	3. Citation/ Order Number 8094570
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

ACCUMULATION OF COMBUSTIBLE MATERIAL (LOOSE COAL) WAS ALLOWED TO ACCUMULATE AT CROSS CUT #28 ON THE #1 SOUTH BELT LINE. THIS MATERIAL WAS APPROXIMATELY 4 TO 6 INCHES DEEP, 4 FT. WIDE, AND 22 FT. IN LENGTH.

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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/25/2009	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 4119293	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3a Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business Ombudsman. 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

8/27/9  


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 08/24/2009	3. Citation/ Order Number 8094570 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

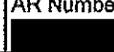
THE AFFECTED AREA HAS BEEN CLEANED.

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 4119293	AR Number 	12. Date Mo Da Yr 08/25/2009	13. Time (24 Hr. Clock) 0810
------------------------------	-----------------------------	--	---------------------------------	---------------------------------

8/27/09 

Section I--Violation Data

1. Date Mo Da Yr 08/24/2009	2. Time (24 Hr. Clock) 1030	3. Citation/ Order Number 8094571
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE DRY CHEMICAL SYSTEM BEING USED ON THE SCOOP BATTERY CHARGER (S.N.EL1353) WAS NOT BEING MAINTAINED IN A USABLE CONDITION. THIS SYSTEM WAS MISSING THE CANISTER FOR THE DRY CHEMICAL

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 75.1100-3
--------------	--	-------------------	--

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"/>	Written Notice <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 08/24/2009	B. Time (24 Hr. Clock) 1100
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR INSTALLED THE CANISTER.

18. Terminated	A. Date Mo Da Yr 08/24/2009	B. Time (24 Hr. Clock) 1100
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a, established by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board to receive comments from small businesses about federal agency 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.

8/29/09 

Section I--Violation Data

1. Date Mo Da Yr 08/26/2009	2. Time (24 Hr. Clock) 0915	3. Citation/ Order Number 8094572
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE DESIGNATED PERSON TO TAKE CHARGE IN THE EVENT OF AN EMERGENCY DID NOT KNOW THE LOCATION OF THE MINERS UNDERGROUND. A TOTAL OF 79 MINERS WERE UNDERGROUND WITH NO MEANS OF TRACKING THE LOCATIONS OF THESE MINERS.

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 75.1501(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 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: 079
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"/> Written Notice <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
15. Area or Equipment			

16. Termination Due	A. Date Mo Da Yr 08/26/2009	B. Time (24 Hr. Clock) 1200
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR IS NOW TRACKING MINERS UNDERGROUND.

18. Terminated	A. Date Mo Da Yr 08/26/2009	B. Time (24 Hr. Clock) 1130
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signatur 	23. AR Number 	

MSHA Form 7000-3a (Rev. 12/10/08) Under 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.

8/29/09 

Section I--Violation Data

1. Date Mo Da Yr 08/26/2009	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 8094573
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE CHECK-IN AND CHECK-OUT SYSTEM AT THIS MINE WAS NOT PROVIDING POSITIVE IDENTIFICATION OF 27 MINERS FOR THE DAYSHIFT. SEVENTEEN MINERS WERE NOT CHECKED IN AND 10 MINERS WERE CHECKED IN, BUT WAS GONE FROM THE MINE.

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 75.1715
--------------	--	----------------------	---

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: 027

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/26/2009	B. Time (24 Hr. Clock) 1500
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE MINE OPERATOR HAS FOUND THE LOCATION OF THESE 27 MINERS.

18. Terminated	A. Date Mo Da Yr 08/26/2009	B. Time (24 Hr. Clock) 1500
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4110202	21. Primary or Mill
22. Signat	23. AR Number	

MSHA Form 7000-3a is established under the Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established Regulatory Enforcement Fairness Boards to receive comments from small businesses about federal agency 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.

8/28/09 [Redacted]

Section I--Violation Data

1. Date Mo Da Yr 08/26/2009	2. Time (24 Hr. Clock) 1330	3. Citation/ Order Number 8094574
4. Served To EVERETT HAGER (SUPER)		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"/>

ACCUMULATION OF FLOAT COAL DUST WAS PRESENT INSIDE THE KVA BOX (S.N. 22037-2300-1105) LOCATED AT THE 4 NORTH BELT HEAD.

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  Written Notice

14. Initial Action

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

E. Citation/  
Order Number

F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due

A. Date Mo Da Yr  
08/27/2009

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 4119293

21. Primary or Mill

22. Signal

23. AR Number

MSHA Form 7000-3a (Rev. 12/08) Under the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and 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

d/8/9

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 08/26/2009	Mo Da Yr	3. Citation/ Order Number 8094574 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

THIS MINE HAS BEEN DOWN ON A104 D-2 ORDER AND MORE TIME HAS BEEN GRANTED.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 09/05/2009	B. Time (24 Hr. Clock) 0600	<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 4119293	11. AR Number	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 0913
------------------------------	-----------------------------	---------------	---------------------------------	---------------------------------

Mine Citation/Order  
Continuation

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

9/1/09 

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 08/26/2009	3. Citation/ Order Number 8094574 - 02
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

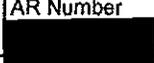
THE POWER BOX HAS BEEN CLEANED.

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 4119293		
	AR Number 	12. Date Mo Da Yr 09/08/2009	13. Time (24 Hr. Clock) 1730

8/28/09

Section I--Violation Data

1. Date Mo Da Yr 08/26/2009	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 8094575
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO MAKE TEMPORARY NOTATIONS ON THE 75.1200 MAP FOR THE ANGLE STOPPING AT SPAD #22338, A MISSING STOPPING AT SPAD #22220, WATER AT SPAD #222219, AND MAN DOORS AT SPAD #21089.

THIS IS A NOTICE TO THE OPERATOR THAT THE 75.1200 MAP HAS BEEN CITED FOR THESE CONDITIONS 4 TIMES IN THE LAST 6 MONTHS.

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 75.1200
--------------	--	----------------------	---

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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/27/2009	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 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board to receive comments from small businesses about federal agency 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

9/8/09

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 08/26/2009	3. Citation/ Order Number 8094575 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THIS MINE HAS BEEN UNDER A 104 D-2 ORDER AND MORE TIME HAS BEEN GRANTED TO CORRECT THIS CITATION.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 09/04/2009	B. Time (24 Hr. Clock) 1600	<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 4119293	AR Number	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 0910
------------------------------	-----------------------------	-----------	------------------------------------	---------------------------------

Mine Citation/Order  
Continuation

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

1/1/19   


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 08/26/2009	3. Citation/ Order Number 8094575 - 02
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

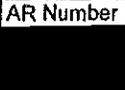
THE OPERATOR IS NOW PROVIDING AN UP-TO-DATE MAP.

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 4119293	AR Number 	12. Date Mo Da Yr 09/08/2009	13. Time (24 Hr. Clock) 2207
---------------------------	--------------------------	---	---------------------------------	---------------------------------

8/28/09

Section I--Violation Data

1. Date Mo Da Yr 08/27/2009	2. Time (24 Hr. Clock) 1350	3. Citation/ Order Number 8094576
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO ESTABLISH AND FOLLOW A GROUND CONTROL PLAN WHERE THE HIGHWALL IS BEING DEVELOPED AT THE ELLIS PUNCH OUT PORTALS.

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 77.1000
--------------	--	----------------------	---

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: 007

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 08/28/2009	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 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a 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

9/9/09 

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 08/27/2009	3. Citation/ Order Number 8094576 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

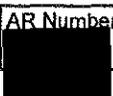
THE OPERATOR HA SUBMITTED A GROUND CONTROL PLAN TO MSHA.

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 4119293	AR Number 	12. Date Mo Da Yr 09/08/2009	13. Time (24 Hr. Clock) 1645
------------------------------	-----------------------------	--	---------------------------------	---------------------------------

7





9-1-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 08/30/2009	2. Time (24 Hr. Clock) 1105	3. Citation/ Order Number 8094579
4. Served To TOM SHEETS (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO FOLLOW THE APPROVED VENTILATION PLAN ON THE MMU-062 SECTION IN THE #1 ENTRY. THIS ENTRY WAS INBY THE LAST OPEN BREAK FOR APPROXIMATELY 45 FT. WITH THE LINE CURTAIN LAYING ON THE MINE FLOOR.

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 75.370(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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 08/30/2009 B. Time (24 Hr. Clock) 1600

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form 7000-3a 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

9/9/09 

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 08/30/2009	3. Citation/ Order Number 8094579 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

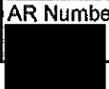
THE OPERATOR HAS CONNECTED THE #2 TO #1 CROSS CUT IN THIS AREA.

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 4119293		
	AR Number 	12. Date Mo Da Yr 09/08/2009	13. Time (24 Hr. Clock) 2225

9-1-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 08/30/2009	2. Time (24 Hr. Clock) 1130	3. Citation/ Order Number 8094580
4. Served To TOM SHEETS (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO SUPPORT OR CONTROL THE RIBS ON THE #4 SECTION BETWEEN ENTRIES #3 AND #4 IN THE L.O.B., THE LEFT RIB AT THE FEEDER, AND THE RIB BETWEEN THE #2 AND #3 ENTRIES ONE BREAK OUTBY THE L.O.B. THESE RIBS WERE APPROXIMATELY 10 TO 16 FT. IN LENGTH 1 FT. THICK, AND 18 INCHES WIDE OF SLATE ROCK.

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 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" 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"/> Written Notice <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 08/30/2009	B. Time (24 Hr. Clock) 1145
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE RIBS WERE VERY EASILY PULLED DOWN WITH A SLATE BAR.

18. Terminated	A. Date Mo Da Yr 08/30/2009	B. Time (24 Hr. Clock) 1145
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business Ombudsman 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.

9-2-09

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 09/01/2009	2. Time (24 Hr. Clock) 0930	3. Citation/ Order Number 8094581
4. Served To EVERETT HAGER (SUPER)		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 AIRLOCK DOORS LOCATED IN THE TRACK ENTRY OUTBY THE PLUMLEY SWITCH IS NOT BEING MAINTAINED FOR THE PURPOSE THEY WERE INSTALLED FOR. THE INBY SET OF DOORS WOULD NOT STAY CLOSED TO FORM AN AIRLOCK.

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 75.333(b)
--------------	--	----------------------	---

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: 002

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 09/04/2009 B. Time (24 Hr. Clock) 0600

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signat [Redacted] 23. AR Number [Redacted]

MSHA Form [Redacted] Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established [Redacted] 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

9/8/09



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 09/01/2009	3. Citation/Order Number 8094581 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THESE DOORS HAVE BEEN REPAIRED.

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 4119293	
AR Number	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 1130



9-2-0

Mine Citation/Order

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



Section I--Violation Data

1. Date Mo Da Yr 09/01/2009	2. Time (24 Hr. Clock) 1200	3. Citation/ Order Number 8094582
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO FOLLOW THE APPROVED VENTILATION PLAN (8/6/2009) FROM CROSS CUT #81 TO CROSS CUT #78. AIRFLOW HAS REVERSED IN THIS ENTRY ALLOWING THE AIR TO COME OUTBY INSTEAD OF INBY

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 75.370(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: 002

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/04/2009	B. Time (24 Hr. Clock) 0600
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number 4110202	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a (10-2008) Under the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business 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

9/8/9



Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/01/2009	3. Citation/ Order Number 8094582 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

THE AIR IS NOW MOVING IN THE RIGHT DIRECTION.

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 4119293	AR Number	12. Date Mo Da Yr 09/04/2009	13. Time (24 Hr. Clock) 1230
------------------------------	-----------------------------	-----------	------------------------------------	---------------------------------

9/8/09 

Section I--Violation Data

1. Date Mo Da Yr 09/04/2009	2. Time (24 Hr. Clock) 1305	3. Citation/ Order Number 8094583
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO CONTROL THE LEFT RIB FROM CROSS CUT #77 TO #78 ALONG THE TRACK ENTRY FOR THE LONGWALL SECTION. THIS RIB APPROXIMATELY 50 FT. LONG, 18 INCHES WIDE, AND 12 TO 18 INCH THICK.

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 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 type="checkbox"/>	Permanently Disabling <input type="checkbox"/>	Fatal <input checked="" type="checkbox"/>	
C. Significant and Substantial:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	D. Number of Persons Affected: 007		
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"/> Written Notice <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 09/04/2009	B. Time (24 Hr. Clock) 1430
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR INSTALLED SAND JACKS IN THIS LOCATION.

18. Terminated	A. Date Mo Da Yr 09/04/2009	B. Time (24 Hr. Clock) 1430
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signal	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established National Fairness Boards to receive comments from small businesses about federal agency 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.



9/9/09 

Section I--Violation Data

1. Date Mo Da Yr 09/08/2009	2. Time (24 Hr. Clock) 1805	3. Citation/ Order Number 8094585
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE TWO PERMANENT STOPPINGS LOCATED BETWEEN THE AIRLOCK DOORS AT #9 CROSS CUT ON THE LONGWALL SECTION TRACK HAD NOT BEEN PLASTERED ON EITHER SIDE.

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 75.333(d)(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: 013		
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"/> Written Notice <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 09/09/2009	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 4119293	21. Primary or Mill
22. Signature 	23. AR Number 24172	

MSHA Form 7000-3a Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established 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

9/16/09

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 09/08/2009	3. Citation/ Order Number 8094585 - 01
4. Served To BILLY GRAHAM (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE STOPPING'S HAVE BEEN PLASTERED.

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 4119293	
AR Number	12. Date Mo Da Yr 09/14/2009	13. Time (24 Hr. Clock) 0005

1/9/10

Section I--Violation Data

1. Date Mo Da Yr 09/08/2009	2. Time (24 Hr. Clock) 1830	3. Citation/ Order Number 8094586
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO PROVIDE AN ESCAPEWAY MAP FOR THE MINERS LOCATED ON THE LONGWALL SECTION MMU-050.

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 75.1505(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: 008

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr 09/08/2009 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 4119293 21. Primary or Mill

22. Signature 23. AR Number

MSHA Form 7000-3a Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a 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

9/10/09 

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 09/08/2009	3. Citation/Order Number 8094586 - 01
4. Served To BILLY GRAHAM (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

A MAP IS NOW PROVIDED FOR THE LONGWALL 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 4119293	
AR Number	12. Date Mo Da Yr 09/14/2009	13. Time (24 Hr. Clock) 0235

9/9/09

Section I--Violation Data

1. Date Mo Da Yr 09/08/2009	2. Time (24 Hr. Clock) 1930	3. Citation/ Order Number 8094587
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO MAINTAIN A SAFE CLEAR TRAVELWAY IN THE PRIMARY ESCAPEWAY FOR THE LONGWALL SECTION MMU-050. FROM CROSS CUT #67 TO CROSS CUT #26 THE LIFELINE WAS INSTALLED OVER THE TRACK RAILS IN NUMEROUS LOCATIONS WHERE THE TRACK WAS SETTING ON CRIB BLOCKS CREATING A TRIP HAZARD.

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 75.380(d)(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 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: 008		

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"/>	Written Notice <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 09/09/2009	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)	20. Event Number 4110000	21. Primary or Mill
22. Signat	23. AR Number	

MSHA Form 7000-3a (Rev. 12/10/08) 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

9/10/09

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 09/08/2009	3. Citation/ Order Number 8094587 - 01
4. Served To BILLY GRAHAM (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE ESCAPEWAY IS BEING MAINTAINED IN A SAFE CONDITION.

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 4119293	
AR Number	12. Date Mo Da Yr 09/14/2009	13. Time (24 Hr. Clock) 0230

*ghe/9*

Section I--Violation Data

1. Date Mo Da Yr 09/14/2009	2. Time (24 Hr. Clock) 0045	3. Citation/ Order Number 8094590
4. Served To BILLY GRAHAM (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO APPLY SEALANT TO THE REGULATOR LOCATED ON THE NEW #1 SECTION RETURN.

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 75.333(d)(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: 003
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"/> Written Notice <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
15. Area or Equipment			

16. Termination Due	A. Date Mo Da Yr 09/15/2009	B. Time (24 Hr. Clock) 0600
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate		
18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a established a National Ombudsman 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



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 09/14/2009	3. Citation/ Order Number 8094590 - 01
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

SEALANT HAS BEEN APPLIED TO THE CONTROL.

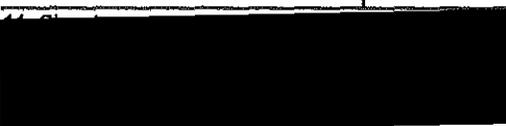
See Continuation Form

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 4119293	11. AR Number	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1200
------------------------------	-----------------------------	---------------	---------------------------------	---------------------------------



7

9/16/09

Section I--Violation Data

1. Date Mo Da Yr 09/14/2009	2. Time (24 Hr. Clock) 0130	3. Citation/ Order Number 8094591
4. Served To BILLY GRAHAM (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO SEPARATE THE PRIMARY ESCAPEWAY FOR THE LONGWALL SECTION AT CROSS CUTS #43 AND #51 FROM POWER BOXES (S.N. 14196-1800-100 AND S.N. 29920-209) LOCATED IN THESE BREAKS.

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 75.380(f)(3)(iii)
--------------	--	----------------------	---

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: 008	
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"/> Written Notice <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 09/15/2009	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)
----------------	------------------	------------------------

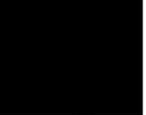
Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board 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

*d/10/09* 

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 09/14/2009	3. Citation/ Order Number 8094591 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

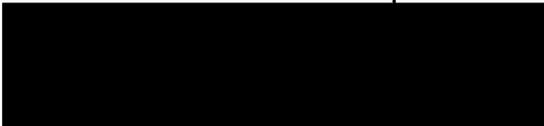
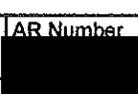
VENTILATION CONTROLS HAVE BEEN INSTALLED.

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 4119293		
	AR Number 	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1215

Mine Citation/Order

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

9/14/09

Section I--Violation Data

1. Date Mo Da Yr 09/14/2009	2. Time (24 Hr. Clock) 0120	3. Citation/ Order Number 8094592
4. Served To BILLY GRAHAM (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

WATER WAS ALLOWED TO ACCUMULATE OVER TOP OF THE TRACK RAILS BETWEEN CROSS CUTS #40 AND #41 FOR THE LONGWALL SECTION.

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 75.1403
--------------	--	----------------------	---

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: 008

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number 4636408 F. Dated Mo Da Yr  
08/05/1996

15. Area or Equipment

16. Termination Due A. Date Mo Da Yr  
09/14/2009 B. Time (24 Hr. Clock) 1600

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 4119293 21. Primary or Mill

22. Signal 23. AR Number

MSHA Form 7000-3a, revised 12/2008. Under the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established Small Business Enforcement Fairness Boards to receive comments from small businesses about federal agency 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.

9/14/09

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 09/14/2009	3. Citation/ Order Number 8094592 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE WATER IS NOW BELOW THE RAILS.

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 4119293	
AR Number	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1208

9/10/09 

Section I--Violation Data

1. Date Mo Da Yr 09/14/2009	2. Time (24 Hr. Clock) 0300	3. Citation/ Order Number 8094593
4. Served To BILLY GRAHAM (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE THIRD SET OF AIRLOCK DOORS INBY CROSS CUT #78 FOR THE LONGWALL AND #1 SECTIONS WERE NOT SHUT TO FORM AN AIRLOCK.

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 75.333(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 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: 011
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"/> Written Notice <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 09/14/2009	B. Time (24 Hr. Clock) 0303
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE DOORS WERE SHUT.

18. Terminated	A. Date Mo Da Yr 09/14/2009	B. Time (24 Hr. Clock) 0303
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board 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.



Section I--Violation Data

1. Date Mo Da Yr 09/14/2009	2. Time (24 Hr. Clock) 0600	3. Citation/ Order Number 8094594
4. Served To EVERETT HAGER (SUPER)	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 CERTIFIED 75.1200 MAP WAS NOT UP-TO-DATE WITH THE CORRECT VENTILATION CONTROLS FOR THE REGULATOR LOCATED ON THE #1 SECTION AND THE DOUBLE SET OF DOORS LOCATED IN THE #4 ENTRY FOR THE LONGWALL.

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 75.1202
--------------	--	-------------------	--

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: 011

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

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

Section III--Termination Action

17. Action to Terminate THE MAP IS NOW CORRECT.

18. Terminated	A. Date Mo Da Yr 09/14/2009	B. Time (24 Hr. Clock) 0605
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a was established under the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Ombudsman who 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.

9/16/09 

Section I--Violation Data

1. Date Mo Da Yr 09/15/2009	2. Time (24 Hr. Clock) 0835	3. Citation/ Order Number 8094595
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO RECORD THE LAST OPEN BREAK READING FOR THE #1 SECTION PRE-SHIFT EXAMINATIONS BOOKS BEING CONDUCTED THIS SECTION.

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  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: 000

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/15/2009	B. Time (24 Hr. Clock) 1600
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4110203	21. Primary or Mill
22. Signature 	23. AR Number 	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Ombudsman 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

9/15/09  

Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 09/15/2009 Mo Da Yr	3. Citation/ Order Number 8094595 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

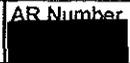
THE OPERATOR IS NOW RECORDING THE L.O.B.

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 4119293		
	AR Number 	12. Date Mo Da Yr 09/16/2009	13. Time (24 Hr. Clock) 0800

*Handwritten initials/signature*

Section I-Violation Data

1. Date Mo Da Yr 09/15/2009	2. Time (24 Hr. Clock) 1110	3. Citation/ Order Number 8094596
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO HAVE TWO DISTINCT ESCAPEWAYS FOR THE LONGWALL SECTION AT CROSS CUT #30 WHERE THE NEW #1 SECTION IS SETTING UP. A STOPPING HAD NOT BEEN INSTALLED AT THIS LOCATION.

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 75.380(a)
--------------	--	----------------------	---

Section II-Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood  Unlikely  Reasonably Likely  Highly Likely  Occurred

B. Injury or illness could reasonably be expected to be: No Lost Workdays  Lost Workdays Or Restricted Duty  Permanently Disabling  Fatal

C. Significant and Substantial: Yes  No  D. Number of Persons Affected: 008

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

18. Termination Due	A. Date Mo Da Yr 09/15/2009	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 4119293	21. Primary or Mill
22. Signa	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established the Small Business 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

9/19/09 

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 09/15/2009	3. Citation/ Order Number 8094596 - 01
4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

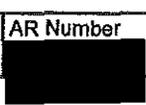
THE WATER IS NOW BELOW THE RAILS.

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 4119293	AR Number 	12. Date Mo Da Yr 09/15/2009	13. Time (24 Hr. Clock) 1208
------------------------------	-----------------------------	--	------------------------------------	---------------------------------

Mine Citation/Order  
Continuation

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

9/16/09

Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/15/2009	3. Citation/ Order Number 8094596 - 02
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Change	From	To
8. Condition Or Practice		
Reason	THE WRONG CITATION NUMBER WAS TERMINATED IN ERROR.  THE OPERATOR HAS INSTALLED A STOPPING.	

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 checked="" type="checkbox"/> E. Modified
----------------	------------------	------------------------	-------------------------------------	---	---

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	AR Number	12. Date Mo Da Yr 09/16/2009	13. Time (24 Hr. Clock) 1000
------------------------------	-----------------------------	-----------	---------------------------------	---------------------------------

9/18/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/15/2009	3. Citation/Order Number 8094596 - 03
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change	From	To
11. Negligence	Moderate	High
Reason		
12. Type of Action	104(a)	104(d)(2)
Reason		
13. Type of Issuance	Citation	Order
Reason		
14. Initial Action		Order
Reason		
14. E. Citation/Order Number		8082692
Reason		
14. F. Initial Action Dated		03/17/2009
Reason		
15. Area or Equipment		
Reason	THE #1 SECTION AND THE LONGWALL SECTION.	

AFTER REVIEWING THE VENTILATION VIOLATIONS AT THIS MINE THE OPERATOR HAS SHOWN A HIGH DEGREE OF NEGLIGENCE WITH THIS CONDITION PRESENT.

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	
 AR Number	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 0805

7

9/25/09 

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 09/15/2009	3. Citation/ Order Number 8094596 - 04
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

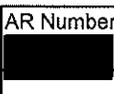
Change	From	To
16. A. Termination Due Date	09/15/2009	
<b>Reason</b>	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	
16. B. Termination Due Time	12:30	
<b>Reason</b>	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	
 AR Number 	12. Date Mo Da Yr 09/22/2009	13. Time (24 Hr. Clock) 0621

9/16/09 

Section I--Violation Data

1. Date Mo Da Yr 09/15/2009	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 8094597
4. Served To RICK FOSTER (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO CERTIFY WITH DATE, TIME, AND INITIALS THAT THE ELECTRIC PUMP LOCATED AT CROSS CUT #71 IN THE #1 SECTION RETURN HAD BEEN PRE- SHIFTED FOR 9/15/2009.

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(e)
--------------	--	----------------------	---

Section II--Inspector's Evaluation

10. Gravity:				
A. Injury or illness (has) (is): No Likelihood <input checked="" 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 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"/> Written Notice <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 09/15/2009	B. Time (24 Hr. Clock) 1231
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR CONDUCTED AN EXAMINATION AND CITIFIED THIS AREA WITH DATE, TIME, AND INITIALS.

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signat 		23. AR Number 

MSHA Form 7000-3a (Rev. 12/08) 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.

7

9/18/09

Section I-Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1216	3. Citation/ Order Number 8094598
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR HAS FAILED TO CONDUCT PRE-SHIFT EXAMINATIONS FOR THE ROOM LOCATED ON THE ELLIS INTAKE SPLIT. THIS ROOM IS DROVE APPROXIMATELY 21 FT. INBY THE CORNER OF THE SOLID RIB LOCATED ONE CROSS CUT INBY SPAD #21272 AND ONE BREAK TO THE RIGHT.

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(a)(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: 035	
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"/> Written Notice <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 09/16/2009	B. Time (24 Hr. Clock) 1225
---------------------	--------------------------------	--------------------------------

Section III-Termination Action

17. Action to Terminate CURTAIN WAS INSTALLED AND A PRE-SHIFT EXAM WAS CONDUCTED.

18. Terminated	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1225
----------------	--------------------------------	--------------------------------

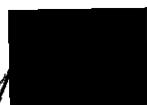
Section IV-Automated System Data

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

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Ombudsman 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 20418. 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

9/1/09 

Section I-Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/Order Number 8094598 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Change	From	To
11. Negligence	Moderate	High
Reason		
12. Type of Action1	104(a)	104(d)(2)
Reason		
13. Type of Issuance	Citation	Order
Reason		
14. Initial Action		Order
Reason		
14. E. Citation/Order Number		8082692
Reason		
14. F. Initial Action Dated		03/17/2009
Reason		
15. Area or Equipment		
Reason	ENTIRE MINE.	

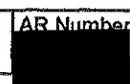
AFTER REVIEWING THE VENTILATION VIOLATIONS AT THIS MINE THE OPERATOR HAS SHOWN A DEGREE OF NEGLIGENCE WITH THIS CONDITION PRESENT.

See Continuation Form

Section III-Subsequent Action Taken

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

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	AR Number 	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 0807
------------------------------	-----------------------------	--	------------------------------------	---------------------------------



*A*

Mine Citation/Order  
Continuation

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

9/23/09

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/ Order Number 8094598 - 02
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	

Section II--Justification for Action

Change	From	To
16. B. Termination Due Time	12:25	
Reason	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	
18. A. Terminated Date	09/16/2009	
Reason	MODIFIED TO ORDER NO DUE TIME OR DATE REQUIRED.	

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	
AR Number	12. Date Mo Da Yr 09/22/2009	13. Time (24 Hr. Clock) 0626

9/16/09

Section I--Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1217	3. Citation/ Order Number 8094599
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO INSTALL A VENTILATION CONTROL IN THE ROOM LOCATED ONE CROSS CUT INBY SPAD #21272 AND ONE BREAK TO THE RIGHT. THIS ROOM WAS DROVE APPROXIMATELY 21 FT. FROM THE SOLID RIB.

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 75.333(g)
--------------	--	-------------------	--

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: 035

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1224
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate A CURTAIN WAS INSTALLED.

18. Terminated	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1224
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a is established by the Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Regulatory Enforcement Fairness Board 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.

9/18/09

Section I--Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1300	3. Citation/ Order Number 8094600
4. Served To EVERETT HAGER (SUPER)		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 #2 D-BOX POWER CABLE IS COMING IN CONTACT WITH THE HIGH VOLTAGE POWER CABLE FROM THE ELLIS TRACK SWITCH TO THE SECOND OVERCAST TOWARDS THE ELLIS PORTALS IN THE TRACK ENTRY.

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 75.807
--------------	--	----------------------	--

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 checked="" type="checkbox"/>	C. Moderate <input 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"/>	Written Notice <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 09/17/2009	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)	20. Event Number 4110202	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form... Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established... 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, 408 3rd Street, SW MC 2120, Washington, DC 20418. 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

9/18/09

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 09/16/2009 Mo Da Yr	3. Citation/ Order Number 8094600 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

THE EXAMINATION OF 9/17/09 HAS BEEN ENTERED IN THE BOOKS.

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 4119293	
AR Number	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 1410

Mine Citation/Order  
Continuation

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

9/18/09 

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 09/16/2009	3. Citation/ Order Number 8094600 - 02
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

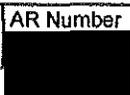
THE TERMINATION SHOULD HAVE READ THE CABLE IS NO LONGER IN CONTACT WITH HIGH VOLTAGE CABLE.

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119293		
	AR Number 	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 1448

3/16/09 

Section I--Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1400	3. Citation/ Order Number 8094601
4. Served To EVERETT HAGER (SUPER)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)

8. Condition or Practice  
VARIOUS LOCATIONS ALONG THE TRACK ENTRY FROM THE ELLIS SWITCH TO THE PORTAL OF THE NORTH SIDE HAS AREAS MEASURING 20 TO 24 FT WIDE FOR A DISTANCE EXCEEDING 5 FT. RIBS HAVE ROLLED OUT DISLODGING SEVERAL TIMBERS IN THIS ENTRY CREATING WIDE PLACES ALSO.

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 75.203(e)(2)
--------------	--	-------------------	---

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: 012

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/30/2009	B. Time (24 Hr. Clock) 0800
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

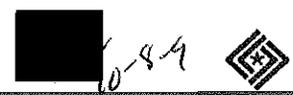
17. Action to Terminate

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 4119293	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3, Apr 08 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/ Order Number 8094601 - 01
4. Served To Gary May, Superintendent	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 has installed additional roof support in various locations along the track entry from the Ellis switch to the portal on the north side.

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 .8072776 - 6288652		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 10/07/2009	13. Time (24 Hr. Clock) 1400

9/15/09

Section I--Violation Data

1. Date Mo Da Yr 09/16/2009	2. Time (24 Hr. Clock) 1415	3. Citation/ Order Number 8094602
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR HAS FAILED TO RECORD THE RESULTS FOR THE PRE-SHIFT EXAMINATION THAT WAS CONDUCTED ON 9/16/09 FOR THE GLORY HOLE AND NORTH MAIN INTAKE ROOMS.

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  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: 000

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/16/2009	B. Time (24 Hr. Clock) 1500
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a 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

9/17/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/16/2009	3. Citation/ Order Number 8094602 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

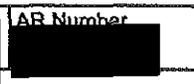
THE OPERATOR HAS A RECORD OF THE ROOMS FOR 9/17/09

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 4119293		
	11. AR Number 	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 1405

9/25/09 

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1930	3. Citation/ Order Number 8094603
4. Served To STEVE COLO (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-064 SECTION.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.362(a)(2)
--------------	--	-------------------	---

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 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: 004	
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"/> Written Notice <input type="checkbox"/>	
14. Initial Action	A. Citation <input type="checkbox"/> B. Order <input checked="" type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/>		E. Citation/ Order Number	F. Dated
			8082692	Mo Da Yr 03/17/2009
15. Area or Equipment	THE MMU-064 SECTION.			

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR FINISHED THE EXAMINATION OF THE CONTINUOUS MINING MACHINE.

18. Terminated	A. Date Mo Da Yr	B. Time (24 Hr. Clock)
	09/23/2009	2145

Section IV--Automated System Data

19. Type of Inspection (activity code)	20. Event Number	21. Primary or Mill
E01	4119293	
22. Signature	23. AR Number	
		

MSHA Form 7000-3a 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

9/28/09

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 09/23/2009	3. Citation/Order Number 8094603 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Change From To

8. Condition Or Practice

Reason THE OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-064 SECTION. MANAGEMENT ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE IN THAT PRODUCTION WAS DEEMED MORE IMPORTANT THAN CONDUCTING PARAMETER CHECKS ON THE CONTINUOUS MINING MACHINE. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.

See Continuation Form

Section III-Subsequent Action Taken

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

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	
AR Number	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0700

9/25/09 

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1935	3. Citation/ Order Number 8094604
4. Served To STEVE COLO (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-065 SECTION.

See Continuation Form (MSHA Form 7000-3a)

9. Violation	A. Health <input checked="" type="checkbox"/> Safety <input type="checkbox"/> Other <input type="checkbox"/>	B. Section of Act	C. Part/Section of Title 30 CFR 75.362(a)(2)
--------------	--	----------------------	--

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: 004

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number 8082692 F. Dated Mo Da Yr  
03/17/2009

15. Area or Equipment THE MMU-065 SECTION.

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR FINISHED THE EXAMINATION OF THE CONTINUOUS MINING MACHINE.

18. Terminated	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2145
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board 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

9/28/09 

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 09/23/2009	3. Citation/Order Number 8094604 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Change	From	To
8. Condition Or Practice		
Reason	THE OPERATOR FAILED TO CONDUCT A COMPLETE EXAMINATION TO ASSURE COMPLIANCE WITH THE RESPIRABLE DUST CONTROL PARAMETERS SPECIFIED IN THE METHANE DUST CONTROL PLAN FOR THE MMU-065 SECTION. MANAGEMENT ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE IN THAT PRODUCTION WAS DEEMED MORE IMPORTANT THAN CONDUCTING PARAMETER CHECKS ON THE CONTINUOUS MINING MACHINE. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.	

See Continuation Form

Section III-Subsequent Action Taken

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

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	AR Number	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0715
------------------------------	-----------------------------	-----------	---------------------------------	---------------------------------

9/25/09

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 2100	3. Citation/ Order Number 8094605
4. Served To STEVE COLO (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436 (Contractor)	
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE DUST COLLECTING SYSTEM BEING USED ON THE MMU-064 ROOF BOLTING MACHINE (S.N. 2003-318) WAS NOT MAINTAINED IN PERMISSIBLE AND OPERATING CONDITION WHEN TESTED, (-10) WAS THE READING ON THE GAUGE AT THE DRILL CHUCK.

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 72.630(b)
--------------	--	-------------------	--

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: 002

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2200
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a is required by the 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 20418. 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

9/28/09



Section I--Subsequent Action/Continuation Data

1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/23/2009	3. Citation/ Order Number 8094605 - 01
4. Served To EVERETT HAGER (SUPER)	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 BOLTING MACHINE NOW HAS THE CORRECT VACUUM PRESSURE.

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 4119293	
AR Number	12. Date Mo Da Yr 09/25/2009	13. Time (24 Hr. Clock) 1100

9/25/09

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 2050	3. Citation/ Order Number 8094606
4. Served To STEVE COLO (FOREMAN)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE DUST COLLECTING SYSTEM BEING USED ON THE MMU-065 ROOF BOLTING MACHINE (S.N. 2008-322) WAS NOT MAINTAINED IN PERMISSIBLE AND OPERATING CONDITION WHEN TESTED, (-10) WAS THE READING ON THE GAUGE AT THE OPERATOR SIDE DRILL CHUCK.

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 72.630(b)
--------------	--	-------------------	--

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: 002

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

12. Type of Action 104(a)

13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2055
---------------------	--------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR NOW HAS (-12) AT THE DRILL CHUCK.

18. Terminated	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2055
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

MSHA Form 7000-3a (Rev. 12/10/08) Under the Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Regulators 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.

9/23/09

Section I--Violation Data

1. Date Mo Da Yr 09/23/2009	2. Time (24 Hr. Clock) 1855	3. Citation/ Order Number 8094607
4. Served To STEVE COLO (FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR HAS FAILED TO CERTIFY BY DATE, TIME, AND INITIALS THAT THE EXAMINATION (DUST PARAMETERS) FOR 9/23/09 EVENING SHIFT WAS MADE.

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 75.362(g)(2)
--------------	--	-------------------	---

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: 000

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

12. Type of Action 104(d)(2) 13. Type of Issuance (check one) Citation  Order  Safeguard  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number 8082692 F. Dated Mo Da Yr 03/17/2009

15. Area or Equipment THE #3 SECTION.

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

Section III--Termination Action

17. Action to Terminate THE OPERATOR IS NOW CERTIFYING THE EXAMS.

18. Terminated	A. Date Mo Da Yr 09/23/2009	B. Time (24 Hr. Clock) 2230
----------------	--------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Sign	23. AR Number	

MSHA Form 7000-3a Small Business Regulatory Enforcement Fairness Act of 1998, 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

9/28/09

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 09/23/2009	3. Citation/ Order Number 8094607 - 01
4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II-Justification for Action

Change	From	To
8. Condition Or Practice		

**Reason** THE OPERATOR HAS FAILED TO CERTIFY BY DATE, TIME, AND INITIALS THAT THE EXAMINATION (DUST PARAMETERS) FOR 9/23/09 EVENING SHIFT WAS MADE. THE OPERATOR ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE BY NOT CERTIFYING THAT HE HAD CONDUCTED THE PARAMETER CHECKS. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH A MANDATORY STANDARD.

See Continuation Form

Section III-Subsequent Action Taken

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

Section IV-Inspection Data

9. Type of Inspection E01	10. Event Number 4119293	11. AR Number	12. Date Mo Da Yr 09/28/2009	13. Time (24 Hr. Clock) 0710
------------------------------	-----------------------------	---------------	---------------------------------	---------------------------------

9/28/09



Section I--Violation Data

1. Date Mo Da Yr 09/25/2009	2. Time (24 Hr. Clock) 1120	3. Citation/ Order Number 8094608
4. Served To EVERETT HAGER (SUPER)		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 NOZZLES (DRY CHEMICAL) WERE NOT BEING MAINTAINED IN A USABLE CONDITION ON THE #3 S/C ON #3 SECTION. LOOSE COAL WAS PACKED AROUND THESE TWO NOZZLES LOCATED IN THE HYDRAULIC PUMP COMPARTMENT.

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 75.1100-3
--------------	--	-------------------	--

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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/25/2009	B. Time (24 Hr. Clock) 1130
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE LOOSE COAL WAS REMOVED FROM THIS AREA.

18. Terminated	A. Date Mo Da Yr 09/25/2009	B. Time (24 Hr. Clock) 1130
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4110203	21. Primary or Mill
22. Signature	23. AR Number	

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business Regulatory Enforcement Fairness Board to receive comments from small businesses about federal agency actions that affect small business. The Board 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.

9/28/09

Section I--Violation Data

1. Date Mo Da Yr 09/25/2009	2. Time (24 Hr. Clock) 1125	3. Citation/ Order Number 8094609
4. Served To EVERETT HAGER (SUPER)		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"/>

ACCUMULATIONS OF COMBUSTIBLE MATERIAL WAS PRESENT IN THE HYDRAULIC PUMP COMPARTMENT ON THE #3 S/C ON #3 SECTION. THIS MATERIAL WAS APPROXIMATELY 12 INCHES DEEP, 30 INCHES LONG ,AND 20 INCHES 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 75.400
--------------	--	----------------------	--

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  Written Notice

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 09/25/2009	B. Time (24 Hr. Clock) 1300
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THIS MATERIAL WAS CLEANED OUT OF THE COMPARTMENT.

18. Terminated	A. Date Mo Da Yr 09/25/2009	B. Time (24 Hr. Clock) 1300
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4110203	21. Primary or Mill
22. Signatu	23. AR Number	

MSHA Form 7000-3a Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a Small Business and 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 20418. 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.

9/29/09 

Section I--Violation Data

1. Date Mo Da Yr 09/25/2009	2. Time (24 Hr. Clock) 1230	3. Citation/ Order Number 8094610
4. Served To EVERETT HAGER (SUPER)		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 TRAILING CABLE ON THE CONTINUOUS MINING MACHINE LOCATED ON THE MMU-065 HAD A SPLICE APPROXIMATELY 40 FT. FROM THE STANDOFF THAT WAS NOT SEALED TO EXCLUDE MOISTURE.

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 75.604(b)
--------------	--	----------------------	---

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 type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input checked="" 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"/> Written Notice <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 09/25/2009	B. Time (24 Hr. Clock) 1245
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE SPLICE WAS RE-SEALED.

18. Terminated	A. Date Mo Da Yr 09/25/2009	B. Time (24 Hr. Clock) 1245
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3a established a Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a 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.

10/1/09 

Section I--Violation Data

1. Date Mo Da Yr 09/27/2009	2. Time (24 Hr. Clock) 2135	3. Citation/ Order Number 8094612
4. Served To GARY MAY (MINE FOREMAN)		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

THE OPERATOR FAILED TO DESIGNATE A RESPONSIBLE PERSON FOR THE EVENING SHIFT CREW (11 MINERS) ON 9/27/09 THAT WAS WORKING UNDERGROUND AT THIS MINE.

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 75.1502
--------------	--	----------------------	---

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: 011

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

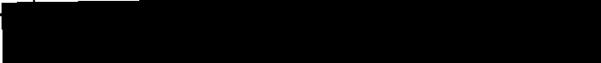
16. Termination Due	A. Date Mo Da Yr 09/28/2009	B. Time (24 Hr. Clock) 2230
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate THE OPERATOR NOW HAS A RESPONSIBLE PERSON LOCATED AT THE MINE.

18. Terminated	A. Date Mo Da Yr 09/27/2009	B. Time (24 Hr. Clock) 2230
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature 		23. AR Number 

MSHA Form 7000-3a is required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business 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

*previously issued*

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

7/21/09 

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue)	Mo Da Yr 04/09/2009	3. Citation/ Order Number	8082712 - 06
--	------------------------------	------------------------	------------------------------	--------------

4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
---	---

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

Section II--Justification for Action

ADDITIONAL TIME IS ALLOWED FOR MSHA REVIEW.

See Continuation Form

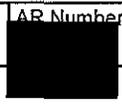
Section III--Subsequent Action Taken

8. Extended To	A. Date	Mo Da Yr 08/15/2009	B. Time (24 Hr. Clock)	0600	<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	4119293
-----------------------	-----	------------------	---------

AR Number	12. Date	Mo Da Yr 07/20/2009	13. Time (24 Hr. Clock)	0609
-----------	----------	------------------------	-------------------------	------



Mine Citation/Order  
Continuation

*8/19/09*  
*Previously issued*

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



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 04/09/2009	3. Citation/ Order Number 8082712 - 07
---	---	--

4. Served To RICK FOSTER (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY
--	---

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

Section II--Justification for Action

A PLAN HAS BEEN SUBMITTED TO THE DISTRICT OFFICE, AND MORE TIME HAS BEEN GRANTED.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr 08/31/2009	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 4119293
------------------------------	-----------------------------

AR Number	12. Date Mo Da Yr 08/17/2009	13. Time (24 Hr. Clock) 1329
-----------	------------------------------------	---------------------------------

Citation/Order  
Continuation

*Previously issued*

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

9/18/09

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 04/09/2009	3. Citation/ Order Number	8082712 - 09
---	------------------------------	------------------------	------------------------------	--------------

4. Served To EVERETT HAGER (SUPER)	5. Operator PERFORMANCE COAL COMPANY
---------------------------------------	---

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

Section II--Justification for Action

THE VENTILATION PLAN HAS BEEN APPROVED.

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	4119293
-----------------------	-----	------------------	---------

AP Number	12. Date	Mo Da Yr	13. Time (24 Hr. Clock)
		09/17/2009	1413

Mine Citation/Order  
Continuation

*Previously issued*

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

8/27/09



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 08/17/2009	3. Citation/ Order Number	8086155 - 01
4. Served To GARY MAY (MINE FOREMAN)	5. Operator PERFORMANCE COAL COMPANY			
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)		

Section II-Justification for Action

THE DOORS HAVE BEEN REPAIRED.

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	4119293		
11. AP Number	[Redacted]	12. Date	Mo Da Yr 08/25/2009	13. Time (24 Hr. Clock)	1200



Mine Citation/Order

Continuation

*New Order issued*

U.S. Department of Labor

Mine Safety and Health Administration

*7/18/09* [Redacted]

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/>	2. Dated (Original Issue) Mo Da Yr 09/15/2009	3. Citation/Order Number 8086180 - 02
--	---	--

4. Served To Everette Hagar, Mine Supt.	5. Operator PERFORMANCE COAL COMPANY
--	---

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

Section II--Justification for Action

Change	From	To
11. Negligence	Moderate	High
Reason The operator waited for at least six hours to post an individual at the fan.		
12. Type of Action1	104(a)	104(d)(2)
Reason After further review of the situation and a discussion with my supervisor, I feel the modification is justified.		

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection -B02 E01	10. Event Number <del>4123487</del> 4119293	
11. Citation/Order Number [Redacted]	12. Date Mo Da Yr 09/17/2009	13. Time (24 Hr. Clock) 0650

*Previously issued*

7/27/9  

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	Dated (Original Issue) 09/15/2009	Mo Da Yr	3. Citation/Order Number 8086180 - 03
4. Served To Everette Hagar, Mine Supt.	5. Operator PERFORMANCE COAL COMPANY		
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436		(Contractor)

Section II--Justification for Action

Change	From	To
13. Type of Issuance	Citation	Order
Reason	Citation changed to an order	
14. Initial Action		Citation
Reason		
14. E. Citation/Order Number		8074834
Reason	Additional information is needed for this order.	
14. F. Initial Action Dated		03/17/2009
Reason	Additional information needed	
15. Area or Equipment		
Reason	The No.1, No.2, and Longwall sections, as well as all belts and outby areas ventilated by the Bandy Town fan are affected.	
16. A. Termination Due Date	09/15/2009	
Reason		
16. B. Termination Due Time	09:00	
Reason		

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E02 E01	10. Event Number 4123487-4119293	
AR Number	12. Date Mo Da Yr 09/23/2009	13. Time (24 Hr. Clock) 1340

7/27/09

Section I--Violation Data

1. Date Mo Da Yr 07/08/2009	2. Time (24 Hr. Clock) 0735	3. Citation/ Order Number 8072755
4. Served To Gary May, Mine Foreman		5. Operator PERFORMANCE COAL COMPANY
6. Mine UPPER BIG BRANCH MINE-SOUTH		7. Mine ID 46-08436 (Contractor)
8. Condition or Practice		8a. Written Notice (103g) <input type="checkbox"/>

Over 2 percent methane concentration is detected in the face of the #3 entry on the Head Gate section, MMU 029-0. The section foreman ordered the power be knocked and withdrew all persons from the affected area.

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 75.323(b)
--------------	--	----------------------	---

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: 004

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

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

14. Initial Action A. Citation  B. Order  C. Safeguard  D. Written Notice  E. Citation/  
Order Number F. Dated Mo Da Yr

15. Area or Equipment

16. Termination Due	A. Date Mo Da Yr 07/08/2009	B. Time (24 Hr. Clock) 0900
---------------------	-----------------------------------	--------------------------------

Section III--Termination Action

17. Action to Terminate Ventilation was adjusted and the excessive concentration of methane swept out and diluted.

18. Terminated	A. Date Mo Da Yr 07/08/2009	B. Time (24 Hr. Clock) 0930
----------------	-----------------------------------	--------------------------------

Section IV--Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature		23. AR Number

Mine Citation/Order  
Continuation

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

7/27/09

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 07/08/2009	3. Citation/ Order Number 8072755 - 01
4. Served To Gary May, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Change	From	To
9. C. Part/Section	75.323(e)	75.323(b)

Reason

Cited wrong part of CFR.

See Continuation Form

Section III--Subsequent Action Taken

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

Section IV--Inspection Data

9. Type of Inspection E01	10. Event Number 4119293		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 07/08/2009	13. Time (24 Hr. Clock) 1813

Mine Citation/Order  
Continuation

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



Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/>	2. Dated (Original Issue) 07/08/2009	3. Citation/ Order Number 8072755 - 02
4. Served To Gary May, Mine Foreman	5. Operator PERFORMANCE COAL COMPANY	
6. Mine UPPER BIG BRANCH MINE-SOUTH	7. Mine ID 46-08436	(Contractor)

Section II--Justification for Action

Having over 2 percent methane is not, in and of itself, a violation.

See Continuation Form

Section III--Subsequent Action Taken

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	<input checked="" 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 4119293		
11. Signature [Redacted]	AR Number [Redacted]	12. Date Mo Da Yr 07/15/2009	13. Time (24 Hr. Clock) 1037