



Mine Activity Data

1. Action: a. New Entry b. Update 2. Activity Code: E01 3. Event Number: 6284361

4. Date Event Started: 10/23/2008 5. Date Event Finished: 12/31/2008 6. Mine ID: 46-08436

7a. Organization Code (Mine Assignment) 20401 b. Work Group Identifier 01 9. Company Name PERFORMANCE COAL COMPANY

8a. Organization Code (AR Assignment) 20401 b. Work Group 01 10. Mine Name UPPER BIG BRANCH MINE-SOUTH

11. Report Type (check) a. First b. Interim c. Last d. Not Applicable 12. Area of Inspections a. Active Sections 3 b. Idle Sections 0

c. Outby Areas d. Shafts/Slopes e. Surface Areas (UG) f. Surface Workings g. Company Records h. ATF i. Impoundments j. Refuse Piles

k. Major Construction (1) Shaft/Slope Sinking 0 (2) Impoundment Construction 0 (3) Buildings 0 (4) Dragline/Shovel 0 (5) Other 0 l. Miscellaneous

m. MMU/Pit Number (1) 029 (2) 030 (3) 031 (4) 060 (5) 061

13. Number of Samples Collected a. Air Samples 35 b. Rock Dust Spot 0 c. Rock Dust Survey 3 d. Respirable Dust 2425 e. Noise 14 f. Other 0

14. Impoundments/Refuse Piles:
a. Number b. FHC c. Configuration

15. Prime Independent Contractor Codes (Major Construction)

16. Inspection Results

| a. This Inspection | Citations | | Orders | | Safeguards | | Other | |
|------------------------------|-----------|---------|----------|---------|------------|---------|----------|---------|
| | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con | Coal Opr | Ind Con |
| (1) New Issuances | 40 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| (2) Terminations/Vacations | 40/0 | 0/0 | 1/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (3) Modifications/Extensions | 1/0 | 0/0 | 1/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (4) Left Pending | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| b. Previously Issued | | | | | | | | |
| (1) Modifications/Extensions | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |
| (2) Terminations/Vacations | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 | 0/0 |

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

Card Number

a.

b.

c.

d.

17. Remarks:

A3235 A3238 A3236 Z5437 A3220 Z5439 Z5481 Z5463 A1577 Z7819 A1513
A0376 A7422 A1583 A7425 A7429 A3272 A7458 A7457 A7450 A7440 A7459
A6684 A6654 A7412 A7426 A7439 A7449 A8392 A8388 A8358 A8339 A7403
A8391 A7417

19. Key Entered By _____ Date _____

Activity Calendar

Event Number: 6284361

Mine ID: 4608436

| Shift | Sun | | | Mon | | | Tue | | | Wed | | | Thur | | | Fri | | | Sat | | |
|----------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|
| | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 | 1 | 2 | 3 |
| Week 1 10/19/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Week 2 11/9/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 3 11/16/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 4 11/30/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 5 12/7/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 6 12/14/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Week 7 12/21/2008 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

10/27/08 

Section I--Violation Data

| | | |
|---|---|--|
| 1. Date Mo Da Yr 10/25/2008 | 2. Time (24 Hr. Clock) 0905 | 3. Citation/ Order Number 6616983 |
| 4. Served To William Harless, 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"/> |

A last open crosscut air reading is not being recorded in the Preshift Examination Record Book for the East Mains Construction Section where equipment is being installed. The statement "Good Air Movement" is being recorded.

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(c)(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: 003

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 10/25/2008 | B. Time (24 Hr. Clock) 1500 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A last open crosscut air reading has now been recorded in the Preshift Examination Record Book.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 10/25/2008 | B. Time (24 Hr. Clock) 1045 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

10/27/08 

Section I--Violation Data

| | | |
|---|--------------------------------|---|
| 1. Date Mo Da Yr 10/25/2008 | 2. Time (24 Hr. Clock) 1300 | 3. Citation/ Order Number 6616984 |
| 4. Served To William Harless, 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)

A ventilation control (Regulator) in the mouth of the North Portal No. 5 entry is not constructed in a traditionally accepted method. This control is only dry stacked concrete blocks in a area of high air velocity and could easily be blown out disrupting ventilation. This mine is on a 103 (i) methane spot status.

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(e)(1)(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: 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 10/25/2008 | B. Time (24 Hr. Clock) 2000 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The ventilation control has now been properly plastered.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 10/25/2008 | B. Time (24 Hr. Clock) 1500 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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--Violation Data

| | | |
|---|--------------------------------|--|
| 1. Date Mo Da Yr 10/25/2008 | 2. Time (24 Hr. Clock) 1320 | 3. Citation/ Order Number 6616985 |
| 4. Served To William Harless, 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 employees bathhouse is not being maintained in a clean and sanitary condition. Debris consisting of coat hangers, discarded tape, and newspapers along with mud and coal dirt is scattered throughout the floor. There is also water either dripping from the flush tanks and/or from around the base of the some of the toilet basins.

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 75.1712-3(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: 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 | | | 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"/> | | | E. Citation/ Order Number |

15. Area or Equipment

| | | |
|---------------------|-----------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 10/27/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signatur | | 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.

10/20/08



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"/> | 2. Dated (Original Issue) Mo Da Yr 10/25/2008 | 3. Citation/ Order Number 6616985 - 01 |
|--|---|---|

| | |
|---|---|
| 4. Served To William Harless, 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 bathhouse 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 E02 | 10. Event Number 6284360 |
|------------------------------|-----------------------------|

| | | | |
|-------------------|---------------|------------------------------------|---------------------------------|
| 11. Signature | AR Number | 12. Date Mo Da Yr 10/29/2008 | 13. Time (24 Hr. Clock) 0815 |
|-------------------|---------------|------------------------------------|---------------------------------|

Section I--Violation Data

| | | |
|--|--------------------------------|---|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 0840 | 3. Citation/ Order Number 8069135 |
| 4. Served To Bill Harless, 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 checked="" type="checkbox"/> |

Two compressed gas cylinders were found laying on a wooden pilot at the mouth of the number 3 section. These were not secured in an upright position or otherwise secured against being accidentally tipped over.

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 75.1106-3(a)(2) |
|--------------|--|----------------------|---|

Section II--Inspector's Evaluation

| | | | | | |
|---|---|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input type="checkbox"/> | Lost Workdays Or Restricted Duty <input checked="" type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | D. Number of Persons Affected: 001 | | |
| 11. Negligence (check one) | | | | | |
| A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input checked="" type="checkbox"/> | D. High <input type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> | |
| 12. Type of Action 104(a) | | 13. Type of Issuance (check one) | | | |
| | | Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> 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 Dup | A. Date Mo Da Yr 11/13/2008 | B. Time (24 Hr. Clock) 0900 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The two compressed gas cylinders have been secured in an upright position.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/13/2008 | B. Time (24 Hr. Clock) 0900 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | | |
|---|-----|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) | E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | | 23. AR Number |

11/20/08


Section I--Subsequent Action/Continuation Data

| | | |
|---|---|--|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/13/2008 | 3. Citation/ Order Number 8069135 - 01 |
| 4. Served To Bill Harless, 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

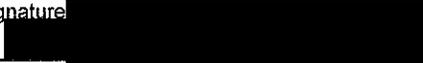
| Change | From | To |
|--------------------------|---------------------------------------|----|
| 8. Condition Or Practice | | |
| Reason | Change the wording of pilot to pallet | |
| | Change the word pilot to pallet. | |

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 11/17/2008 | 13. Time (24 Hr. Clock) 1348 |

11/14/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 0855 | 3. Citation/ Order Number 8069136 |
| 4. Served To Bill Harless, 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 approved roof control plan is not being complied with on the number 3 Section. 1 crosscut out by the face of number 2 entry, two roof bolts were measured to be 64" and 70" from the rib. Page 6, Item 31 allows maximum of 48".

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.220(a)(1) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

10. Gravity:

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

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

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

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard 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 11/13/2008 B. Time (24 Hr. Clock) 0920

Section III--Termination Action

17. Action to Terminate Extra bolts were installed in the area where the bolts were too wide from the rib, in the number 2 entry on the number 3 section.

18. Terminated A. Date Mo Da Yr 11/13/2008 B. Time (24 Hr. Clock) 0920

Section IV--Automated System Data

19. Type of Inspection (activity code) E01 20. Event Number 6284361 21. Primary or Mill

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

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Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 0900 | 3. Citation/ Order Number 8069137 |
| 4. Served To Bill Harless, 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"/> |

A bar for taking down loose material is not being provided on the roof bolter (Serial number 9715-2008-301) being used on the number 3 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 75.211(d) |
|--------------|--|----------------------|---|

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 11/13/2008 | B. Time (24 Hr. Clock) 0910 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A bar for taking down loose material is now provided for the roof bolter #9715-2008-301 being used on the number 3 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/13/2008 | B. Time (24 Hr. Clock) 0910 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

11/14/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 0920 | 3. Citation/ Order Number 8069138 |
| 4. Served To Bill Harless, 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"/> |

Loose coal was allowed to accumulate in the number 7 entry on the number 3 section. The coal ranged from 5 inches to 18 inches in both ribs for a distance of 120 feet.

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 11/13/2008 | B. Time (24 Hr. Clock) 1300 |
|---|--------------------------------|

Section III--Termination Action

17. Action to Terminate

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

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

11/17/8

Section I--Subsequent Action/Continuation Data

| | | |
|--|---|--|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/13/2008 | 3. Citation/ Order Number 8069138 - 01 |
| 4. Served To Bill Harless, 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 loose coal has been cleaned up in the number 7 entry on the number 3 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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 11/14/2008 | 13. Time (24 Hr. Clock) 1030 |

11/14/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 0945 | 3. Citation/ Order Number 8069139 |
| 4. Served To Bill Harless, 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 approved roof control plan is not being complied with on the number 3 section. Approximately 25 feet out by the face of the number 4 entry, The width measured 22 feet to 23 feet for a distance of 40 feet. (Page 10)

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.220(a)(1) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

10. Gravity:

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

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

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

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard 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 11/13/2008 | B. Time (24 Hr. Clock) 1030 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A row of Jacks have been installed in the wide place in the number 4 entry on the number 3 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/13/2008 | B. Time (24 Hr. Clock) 1030 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11/17/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 11/14/2008 | 2. Time (24 Hr. Clock) 0920 | 3. Citation/ Order Number 8069140 |
| 4. Served To Bill Harless, 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 methane monitor on the right side miner (JM5849) on the number 3 section is not being maintained in proper operating condition. When checked with a known air-methane mixture of 2.5 percent, the readout would only show 0.7 percent methane. No methane was detected on the section with a hand held instrument.

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 75.342(a)(4) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | | |
|---|--|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input checked="" type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | D. Number of Persons Affected: 001 | | |
| 11. Negligence (check one) | | | | | |
| A. None <input type="checkbox"/> | B. Low <input 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 | | | | | |

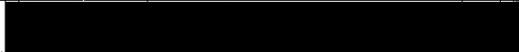
| | | |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 11/14/2008 | B. Time (24 Hr. Clock) 1000 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The methane monitor was repaired and is now operating properly.

| | | |
|----------------|--------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/14/2008 | B. Time (24 Hr. Clock) 0940 |
|----------------|--------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11/17/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/14/2008 | 2. Time (24 Hr. Clock) 1045 | 3. Citation/ Order Number 8069141 |
| 4. Served To Bill Harless, 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 battery lids on the Fairchild 35C scoop (T339-230) being used on the number 3 section are not secured in the closed position.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.503 |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | | |
|--|--|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input checked="" type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | D. Number of Persons Affected: 001 | | |
| 11. Negligence (check one) | | | | | |
| A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input checked="" type="checkbox"/> | D. High <input type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> | |
| 12. Type of Action | 104(a) | 13. Type of Issuance (check one) | | | |
| | | Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> 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 11/17/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

MSHA Form 7000-5, April 06 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

11-20-08

Mine Citation/Order
Continuation

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



Section I--Subsequent Action/Continuation Data

| | | |
|--|--|--|
| 1. Subsequent Action <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/14/2008 | 3. Citation/ Order Number 8069141 - 01 |
| 4. Served To Bill Harless, 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 battery lids on the Fairchild 35C Scoop (T339-230) have been secured in the closed position on the number 3 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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 11/19/2008 | 13. Time (24 Hr. Clock) 1431 |

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/17/2008 | 2. Time (24 Hr. Clock) 0935 | 3. Citation/ Order Number 8069142 |
| 4. Served To Bill Harless, 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 right side Fletcher roof bolter being used on the number 2 section (serial number 95099) has excessive amounts of oil accumulated at both operator stations and also in the rear deck of the machine.

See Continuation Form (MSHA Form 7000-3a)

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

Section II--Inspector's Evaluation

| | | | | | |
|---|--|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could 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 | | | E. Citation/ Order Number | | F. Dated Mo Da Yr |
| A. Citation <input type="checkbox"/> B. Order <input type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/> | | | | | |
| 15. Area or Equipment | | | | | |

| | | |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 11/18/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

MSHA Form 7000-3, April 06 (revised) In accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

11-20-08

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 11/17/2008 | 3. Citation/ Order Number 8069142 - 01 |
| 4. Served To Bill Harless, 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 excessive accumulation of oil has been removed from the right-side roof bolter being used on the number 2 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 6284361 | | |
| 11. Signature | AR Number | 12. Date Mo Da Yr 11/19/2008 | 13. Time (24 Hr. Clock) 1120 |

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/17/2008 | 2. Time (24 Hr. Clock) 1130 | 3. Citation/ Order Number 8069143 |
| 4. Served To Bill Harless, 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 Fairchild Scoop available for use on the number 2 section has the following defects: 1. The battery lids were not secured in the closed position. 2. The battery plug lock is broken on the off-side. 3. The packing gland was loose on both rear end lights.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|-------------------|---|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.503 |
|--------------|--|-------------------|---|

Section II--Inspector's Evaluation

10. Gravity:

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

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

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

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

12. Type of Action 104(a) 13. Type of Issuance (check one) Citation Order Safeguard 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 11/18/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

12/1/08 

Section I--Subsequent Action/Continuation Data

| | | |
|---|---|--|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/17/2008 | 3. Citation/ Order Number 8069143 - 01 |
| 4. Served To Bill Harless, 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 following repairs have been made to the Fairchild scoop used on the number 2 section: 1. The battery lids have been secured. 2. The broken battery plug lock has been replaced. 3. The packing glands have been tightened.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 11/21/2008 | 13. Time (24 Hr. Clock) 1022 |

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|--------------------------------|---|
| 1. Date Mo Da Yr 11/18/2008 | 2. Time (24 Hr. Clock) 0915 | 3. Citation/ Order Number 8069144 |
| 4. Served To Bill Harless, Mine Foreman | | 5. Operator PERFORMANCE COAL COMPANY |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | | 7. Mine ID 46-08436 (Contractor) |
| 8. Condition or Practice | | |

The approved methane and dust control plan is not being complied with in the number 3 entry on the number 3 section. Only 828cf/m was reaching the end of the line curtain where the roof bolter was operating. The bolt crew had installed 1 row of bolts in this place.

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 11/18/2008 | B. Time (24 Hr. Clock) 0925 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Repairs were made and 5,244 cf/m is now reaching the end of the line curtain, in the number 3 entry.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/18/2008 | B. Time (24 Hr. Clock) 0925 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/18/2008 | 2. Time (24 Hr. Clock) 0920 | 3. Citation/ Order Number 8069145 |
| 4. Served To Bill Harless, 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 approved roof control plan is not being followed on the number 3 section. The number 1 face is not bolted to within 5 feet of the face. The distance when measured was 7 feet on the first three bolts and 6 feet 6 inches on the fourth bolt.

pg 10
Drawing 1

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.220(a)(1) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | | |
|--|--|---|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input checked="" type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | D. Number of Persons Affected: 001 | | |

| | | | | | |
|----------------------------|----------------------------------|---------------------------------|---|----------------------------------|--|
| 11. Negligence (check one) | A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input checked="" type="checkbox"/> | D. High <input type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> |
|----------------------------|----------------------------------|---------------------------------|---|----------------------------------|--|

| | | | | | | |
|--------------------|--------|----------------------------------|--|--------------------------------|------------------------------------|---|
| 12. Type of Action | 104(a) | 13. Type of Issuance (check one) | Citation <input checked="" type="checkbox"/> | Order <input type="checkbox"/> | Safeguard <input type="checkbox"/> | 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 11/18/2008 | B. Time (24 Hr. Clock) 1000 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A row of bolts has been installed in the face of number 1 entry.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/18/2008 | B. Time (24 Hr. Clock) 1000 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | | |
|---|-----|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) | E01 | 20. Event Number 6284361 | 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.

11-20-08



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/18/2008 | 2. Time (24 Hr. Clock) 0930 | 3. Citation/ Order Number 8069146 |
| 4. Served To Bill Harless, 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 dust collection system provided on the Fletcher right-side roof bolter being used on the number 3 section was not maintained as approved. The static vacuum pressure at the left (operators) side drill pot indicated 7 inches (Hg). The dust collection system approval plate specifies a minimum static vacuum pressure of 12 inches. This condition indicates possible leakage somewhere in the collection system compromising the collection efficiency of the dust collector.

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 <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: 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 |
| 15. Area or Equipment | | | | | F. Dated Mo Da Yr |

| | | |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 11/18/2008 | B. Time (24 Hr. Clock) 0940 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The dust collection system was repaired and is now reading 12 inches on the static vacuum pressure on the operators side .

| | | |
|----------------|--------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/18/2008 | B. Time (24 Hr. Clock) 0940 |
|----------------|--------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/18/2008 | 2. Time (24 Hr. Clock) 1015 | 3. Citation/ Order Number 8069147 |
| 4. Served To Bill Harless, 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 Joy shuttle car (ET17640) is anchored to a permanent bolt installed in the mine roof in the number 4 entry on the number 3 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 75.204(f)(7) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | | |
|---|--|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could reasonably be expected to be: | No Lost Workdays <input checked="" type="checkbox"/> | Lost Workdays Or Restricted Duty <input type="checkbox"/> | Permanently Disabling <input type="checkbox"/> | Fatal <input type="checkbox"/> | |
| C. Significant and Substantial: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | D. Number of Persons Affected: 001 | | |
| 11. Negligence (check one) | | | | | |
| A. None <input type="checkbox"/> | B. Low <input type="checkbox"/> | C. Moderate <input checked="" type="checkbox"/> | D. High <input type="checkbox"/> | E. Reckless Disregard <input type="checkbox"/> | |
| 12. Type of Action 104(a) | | 13. Type of Issuance (check one) | | | |
| | | Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> 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 11/18/2008 | B. Time (24 Hr. Clock) 1040 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate An anchor bolt has been installed for the shuttle car trailing cable.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/18/2008 | B. Time (24 Hr. Clock) 1040 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 11/18/2008 | 2. Time (24 Hr. Clock) 1115 | 3. Citation/ Order Number 8069148 |
| 4. Served To Bill Harless, 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"/> |

A hazardous condition exists in the right return entry off the number 3 section at spad #490. Water has accumulated for a distance of approximately 200 feet and is 12 to 14 inches in depth. A person is required to travel through this area weekly.

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 75.363(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 11/21/2008 | 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 6284361 | 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"/> <input type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/18/2008 | 3. Citation/ Order Number 8069148 - 01 |
| 4. Served To Bill Harless, 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

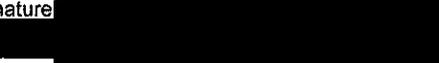
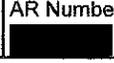
The accumulation of water has been pumped from the right return entry off the # 3 section at spad # 490.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 11/21/2008 | 13. Time (24 Hr. Clock) 0830 |

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 11/13/2008 | 2. Time (24 Hr. Clock) 1125 | 3. Citation/ Order Number 8069149 |
| 4. Served To Bill Harless, Mine Foreman | | 5. Operator PERFORMANCE COAL COMPANY |
| 6. Mine UPPER BIG BRANCH MINE SOUTH | | 7. Mine ID 46-08436 (Contractor) |
| 8. Condition or Practice | | 9a. Written Notice (103g) <input type="checkbox"/> |

The #1 South conveyor belt is not separated from the right return entry at spud #504. The permanent stopping has a 3' x4' hole in the middle of the stopping.

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)(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: 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
11/19/2008

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 6284361

21. Primary or Mill

22. Signature

23. AR Number

MSHA Form 7000-3, Apr 08 (rev 08) 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 1-822-REG-FAIR (1-822-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 400 5th Street, SW, MC 2120, Washington, DC 20541. 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

12/1/8



Section I--Subsequent Action/Continuation Data

| | | |
|--|---|---|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/18/2008 | 3. Citation/ Order Number 8069149 - 01 |
| 4. Served To Bill Harless, 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 permanent stopping separating the 1 south belt from the return entry at spad #504 has 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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 11/21/2008 | 13. Time (24 Hr. Clock) 0840 |

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/19/2008 | 2. Time (24 Hr. Clock) 0830 | 3. Citation/ Order Number 8069150 |
| 4. Served To Bill Harless, 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"/> |

No fire protection is being provided at the electrical 100KVA Box being used on the surface at the new Eunice Portal.

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 11/19/2008 | B. Time (24 Hr. Clock) 1400 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A fire extinguisher has been provided for the electrical 100KVA Box.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/19/2008 | B. Time (24 Hr. Clock) 1400 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

11-20-08

Mine Citation/Order

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



Section I--Violation Data

| | | |
|--|--------------------------------|---|
| 1. Date Mo Da Yr 11/19/2008 | 2. Time (24 Hr. Clock) 1125 | 3. Citation/ Order Number 8069151 |
| 4. Served To Bill Harless, 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 dust collection system provided for the Right -side bolter (Fletcher 95099) was not maintained as approved. An examination of the dust collection boxes revealed that the rubber door latches on the off-side were broken and one was broken on the operators side. This condition allows leakage along the door seal compromising the collection efficiency of the dust collector. This roof bolting machine installs roof supports on the MMU 040 and MMU 041 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 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 11/20/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

12/1/08 

Section I--Subsequent Action/Continuation Data

| | | |
|---|---|---|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> <input type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/19/2008 | 3. Citation/ Order Number 8069151 - 01 |
| 4. Served To Bill Harless, 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

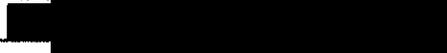
The rubber door latches have been replaced on the dust collection system on the right-side bolter being used on the number 2 section.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 11/21/2008 | 13. Time (24 Hr. Clock) 1028 |

12/1/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 11/21/2008 | 2. Time (24 Hr. Clock) 0730 | 3. Citation/ Order Number 8069152 |
| 4. Served To Bill Harless, 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 approved methane and dust control plan is not being complied with in that no scrubber readings have been recorded in the preshift/onshift book for the Number 1 Section for the week of 11-02-08 thru 11-09-08. (Safety precaution #13)

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|---|-------------------|---|
| 9. Violation | A. Health Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.370(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: 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 |
| 14. F. Dated Mo Da Yr | | | |
| 15. Area or Equipment | | | |

| | | |
|---------------------|--------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 11/21/2008 | B. Time (24 Hr. Clock) 1100 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Scrubber readings have been entered in the preshift/onshift book for the number 1 section.

| | | |
|----------------|--------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/21/2008 | B. Time (24 Hr. Clock) 1200 |
|----------------|--------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

12/1/8

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 11/21/2008 | 2. Time (24 Hr. Clock) 0745 | 3. Citation/ Order Number 8069153 |
| 4. Served To Bill Harless, 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"/> |

Weekly scrubber readings are not being entered in the preshift/onshift book for the Number 2 Section for either MMU 040-0 or MMU 041-0

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 11/21/2008 | B. Time (24 Hr. Clock) 1200 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Weekly scrubber readings have now been entered in the preshift/onshift book for the Number 2 Section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 11/21/2008 | B. Time (24 Hr. Clock) 1200 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

12/4/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/01/2008 | 2. Time (24 Hr. Clock) 1020 | 3. Citation/ Order Number 8069154 |
| 4. Served To Bill Harless, 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"/> |

A guard was missing on the DBT feeder, serial number 54-2147, being used on the number 1 section. The guard had been removed and not put back in place. The guard measured 24 inches X 6.5 inches and was laying on top of the feeder. This guard offers protection from the sprocket chain that drives the pick breaker.

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 <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: 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 |
| 15. Area or Equipment | | | |

| | | |
|---------------------|-----------------------------------|--------------------------------|
| 16. Termination Due | A. Date Mo Da Yr 12/01/2008 | B. Time (24 Hr. Clock) 1030 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The guard was bolted back in place on the feeder being used on the number 1 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/01/2008 | B. Time (24 Hr. Clock) 1040 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/4/08



Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/01/2008 | 2. Time (24 Hr. Clock) 1050 | 3. Citation/ Order Number 8069155 |
| 4. Served To Bill Harless, 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 approved ventilation plan is not being complied with on the number 1 section in that no permanent stopping's were built in the last 4 crosscuts on the return side. Page 2 of the ventilation plan allows for three open crosscuts providing 13,500 is being maintained.

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 12/01/2008 | B. Time (24 Hr. Clock) 1200 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A stopping has been built on the return side and 14,560 cf/m air is reaching the last open break.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/01/2008 | B. Time (24 Hr. Clock) 1200 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/4/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/01/2008 | 2. Time (24 Hr. Clock) 1100 | 3. Citation/ Order Number 8069156 |
| 4. Served To Bill Harless, 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"/> |

Only 10,790 cf/m was reaching the last open crosscut on the number 1 section. Page 2 of the ventilation plan requires 13,500 when 3 open crosscuts exist, out by the face.

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 12/01/2008 | B. Time (24 Hr. Clock) 1200 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A stopping was built and plastered on the return side and 14,560 cf/m is now reaching the last open crosscut on the number 1 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/01/2008 | B. Time (24 Hr. Clock) 1200 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/01/2008 | 2. Time (24 Hr. Clock) 1110 | 3. Citation/ Order Number 8069157 |
| 4. Served To Bill Harless, 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 approved roof control plan is not being followed on the number 1 section. The face of number 2 entry is not bolted to within 5 feet as required by drawing 1 of the plan. The left two bolts were 7 feet when measured and the two bolts on the right side were 6 feet.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.220(a)(1) |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | |
|---|--|---|------------------------------|------------------------------------|
| 10. Gravity: | | | | |
| A. Injury or illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/> | | | | |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/> | | | | |
| C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | | | | D. Number of Persons Affected: 001 |
| 11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/> | | | | |
| 12. Type of Action 104(a) | | 13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> 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 12/01/2008 | B. Time (24 Hr. Clock) 1300 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate A row of bolts has been installed in the face of number 2 entry on the number 1 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/01/2008 | B. Time (24 Hr. Clock) 1300 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/4/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/01/2008 | 2. Time (24 Hr. Clock) 1130 | 3. Citation/ Order Number 8069158 |
| 4. Served To Bill Harless, 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 dust collection system provided for the Fletcher dual-boom, roof bolting machine (95067-2004328) was not maintained as approved. The static vacuum pressure at both drill pots indicated 10 inches (Hg). The dust collection system approval plate specifies a minimum static vacuum pressure of 12 inches (Hg). This condition indicates possible leakage somewhere in the collection system or other system defect compromising the collection efficiency of the dust collector. This roof bolting machine installs roof support on the MMU 029-0, number 1 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 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 12/02/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

12/4/08 

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 12/01/2008 | 3. Citation/ Order Number 8069158 - 01 |
| 4. Served To Bill Harless, 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

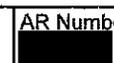
Repairs have been made to the Fletcher roof bolter serial number 95067-2004328 and the static vacuum pressure is now reading 13 inches (Hg) on the operators side and 12 inches (HG) on the off-side.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/02/2008 | 13. Time (24 Hr. Clock) 1005 |

12/15/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/05/2008 | 2. Time (24 Hr. Clock) 1000 | 3. Citation/ Order Number 8069164 |
| 4. Served To Bill Harless, 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 intake air course is not separated from the belt conveyor haulage way out by the number 2 section tailpiece in that 4 stopping's had blocks missing in the stopping's.

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)(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 12/08/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

12/10/08 

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 12/05/2008 | 3. Citation/ Order Number 8069164 - 01 |
| 4. Served To Bill Harless, 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

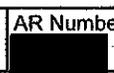
The intake stoppings have been repaired on the number 2 section outby the tail piece.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/09/2008 | 13. Time (24 Hr. Clock) 0800 |

12/08/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/08/2008 | 2. Time (24 Hr. Clock) 0930 | 3. Citation/ Order Number 8069165 |
| 4. Served To Bill Harless, 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 deluge type water system on the glory hole belt was inoperative due to the water valve supplying water to the system is shut off.

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 75.1101-3 |
|--------------|--|----------------------|---|

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: 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 12/08/2008 | B. Time (24 Hr. Clock) 0945 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Water valve for the glory hole belt deluge system was turned on.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/08/2008 | B. Time (24 Hr. Clock) 0935 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/9/08 


Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/08/2008 | 2. Time (24 Hr. Clock) 0940 | 3. Citation/ Order Number 8069166 |
| 4. Served To Bill Harless, 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 circuit breaker supplying power to the glory hole belt head was not marked for identification.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|-------------------|---|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.904 |
|--------------|--|-------------------|---|

Section II--Inspector's Evaluation

10. Gravity:

A. Injury or illness (has) (is): No Likelihood 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 12/08/2008 | B. Time (24 Hr. Clock) 0950 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Circuit breaker was properly marked.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/08/2008 | B. Time (24 Hr. Clock) 0945 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/10/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/09/2008 | 2. Time (24 Hr. Clock) 0915 | 3. Citation/ Order Number 8069167 |
| 4. Served To Bill Harless, 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"/> |

Combustible material in the form of trash, such as rags, plastic bottles, card board, and lunch snack papers have accumulated around the power box at the number 5 Break on the 4 North Belt.

See Continuation Form (MSHA Form 7000-3a)

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

Section II--Inspector's Evaluation

| | | | | | |
|--|--|--|--|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could 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 | | | 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 12/10/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | 23. AR Number | |

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

Mine Citation/Order
Continuation

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

12/15/08

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 12/09/2008 | 3. Citation/ Order Number 8069167 - 01 |
| 4. Served To Bill Harless, 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 combustible material has been cleaned up from around the power center and taken outside to the trash dumpster.

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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 12/10/2008 | 13. Time (24 Hr. Clock) 0830 |

12/10/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/09/2008 | 2. Time (24 Hr. Clock) 0935 | 3. Citation/ Order Number 8069168 |
| 4. Served To Bill Harless, 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 first bottom roller in by 4 North Head that is used to hold the belt up has a shaft protruding out each side for a distance of 2 inches and is not guarded . People are required to travel this area each shift.

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 12/10/2008 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 6284361 21. Primary or Mill

22. Signature  23. AR Number 

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

Mine Citation/Order
Continuation

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

12/19/08

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 12/09/2008 | 3. Citation/ Order Number 8069168 - 01 |
| 4. Served To Bill Harless, 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 protruding shaft on the first bottom roller in by 4 North Belthead has been trimmed 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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 12/10/2008 | 13. Time (24 Hr. Clock) 0715 |

12/15/08 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/11/2008 | 2. Time (24 Hr. Clock) 1100 | 3. Citation/ Order Number 8069169 |
| 4. Served To Bill Harless, 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"/> |

Combustible material consisting of cardboard, plastic wrap, empty resin boxes, oil cans, and wooden pallets have accumulated along both sides of the 3 stopping lines from the mouth of number 3 section to the section tailpiece. This is a distance of approximately 700 feet.

See Continuation Form (MSHA Form 7000-3a)

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

Section II--Inspector's Evaluation

| | | | | | |
|--|--|---|--|--|---|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <input type="checkbox"/> | Unlikely <input checked="" type="checkbox"/> | Reasonably Likely <input type="checkbox"/> | Highly Likely <input type="checkbox"/> | Occurred <input type="checkbox"/> |
| B. Injury or illness could 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 | | | 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 12/13/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

MSHA Form 7000-3, Apr 06 (revised) in accordance with the provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, the Small Business Administration has established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MSHA, you may call 1-888-REG-FAIR (1-888-734-3247), or write the Ombudsman at Small Business Administration, Office of the National Ombudsman, 409 3rd Street, SW MC 2120, Washington, DC 20416. Please note, however, that your right to file a comment with the Ombudsman is in addition to any other rights you may have, including the right to contest citations and proposed penalties and obtain a hearing before the Federal Mine Safety and Health Review Commission.

Mine Citation/Order
Continuation

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

12/17/08 

Section I--Subsequent Action/Continuation Data

| | | | |
|---|--|--|--|
| 1. Subsequent Action <input checked="" type="checkbox"/> | 1a. Continuation <input type="checkbox"/> | 2. Dated (Original Issue) 12/11/2008 Mo Da Yr | 3. Citation/ Order Number 8069169 - 01 |
| 4. Served To HOMER WALLACE | | 5. Operator PERFORMANCE COAL COMPANY | |
| 6. Mine UPPER BIG BRANCH MINE-SOUTH | | 7. Mine ID 46-08436 (Contractor) | |

Section II--Justification for Action

The combustible material was removed from the cross cut along the track.

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 E02 | 10. Event Number 4122398 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/16/2008 | 13. Time (24 Hr. Clock) 1045 |

12/16/08

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/11/2008 | 2. Time (24 Hr. Clock) 1130 | 3. Citation/ Order Number 8069170 |
| 4. Served To Bill Harless, 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 number 3 Section belt was not guarded where the track extends under the beltline. A track crew was working in this area exposing workers to a hazard of a running belt.

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 <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: 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 12/11/2008 | B. Time (24 Hr. Clock) 1140 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Management stopped the belt and installed a guard immediately.

| | | |
|----------------|--------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/11/2008 | B. Time (24 Hr. Clock) 1140 |
|----------------|--------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/17/08

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/16/2008 | 2. Time (24 Hr. Clock) 1030 | 3. Citation/ Order Number 8069171 |
| 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 approved methane and dust control plan is not being followed on the number 2 section (MMU 040-0) in the number 3 entry. The left mining machine was not cutting the curtain side first as required by the plan.

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 12/16/2008 | B. Time (24 Hr. Clock) 1035 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate The mining machine was moved to cut the curtain side first, and a discussion was held with the miner operator.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/16/2008 | B. Time (24 Hr. Clock) 1035 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/17/08 

Section I--Violation Data

| | | |
|--|--------------------------------|---|
| 1. Date Mo Da Yr 12/16/2008 | 2. Time (24 Hr. Clock) 1040 | 3. Citation/ Order Number 8069172 |
| 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 | | |

The approved methane and dust control plan is not being followed on the number 2 section (040-0), only 1,364 CF/M was being delivered to the end of the line curtain where the left side bolter was being operated, in the 4 left face.

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: 021

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 12/16/2008 | B. Time (24 Hr. Clock) 1045 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Repairs were made to the curtains and 7,280 cf/m is now being delivered to the end of the line curtain in 4 left face.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/16/2008 | B. Time (24 Hr. Clock) 1050 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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.

12/17/08 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/16/2008 | 2. Time (24 Hr. Clock) 1055 | 3. Citation/ Order Number 8069173 |
| 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 approved roof control is not being followed on the number 2 section (040-0) in the number 7 entry. A wide place exists outby the face approximately 30 feet. The entry is 21 to 22 feet wide for a distance of 16 feet. (Drawing 3 page 12)

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|-------------------|---|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.220(a)(1) |
|--------------|--|-------------------|---|

Section II--Inspector's Evaluation

| | | | | | |
|--|---|--|---|--|-----------------------------------|
| 10. Gravity: | | | | | |
| A. Injury or Illness (has) (is): | No Likelihood <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: 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 12/16/2008 | B. Time (24 Hr. Clock) 1130 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Jacks have been installed in the wide place in the number 7 entry on the number 2 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/16/2008 | B. Time (24 Hr. Clock) 1130 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 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--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/18/2008 | 2. Time (24 Hr. Clock) 1635 | 3. Citation/ Order Number 8069174 |
| 4. Served To Bill Harless, 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 permissible cap lights being used at this mine are not being maintained in permissible condition. 10 lights have screws missing and 2 lights have the top part of the light taped on to the battery.

See Continuation Form (MSHA Form 7000-3a)

| | | | |
|--------------|--|----------------------|--|
| 9. Violation | A. Health <input type="checkbox"/> Safety <input checked="" type="checkbox"/> Other <input type="checkbox"/> | B. Section of Act | C. Part/Section of Title 30 CFR 75.503 |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | |
|---|--|---|---|
| 10. Gravity: | | | |
| A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/> | | | |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays <input checked="" type="checkbox"/> Lost Workdays Or Restricted Duty <input type="checkbox"/> Permanently Disabling <input type="checkbox"/> Fatal <input type="checkbox"/> | | | |
| C. Significant and Substantial: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | | | D. Number of Persons Affected: 001 |
| 11. Negligence (check one) A. None <input type="checkbox"/> B. Low <input type="checkbox"/> C. Moderate <input checked="" type="checkbox"/> D. High <input type="checkbox"/> E. Reckless Disregard <input type="checkbox"/> | | | |
| 12. Type of Action 104(a) | | 13. Type of Issuance (check one) Citation <input checked="" type="checkbox"/> Order <input type="checkbox"/> Safeguard <input type="checkbox"/> 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 12/19/2008 | B. Time (24 Hr. Clock) 1000 |
|---------------------|--------------------------------|--------------------------------|

Section III--Termination Action

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

Section IV--Automated System Data

| | | |
|--|-----------------------------|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

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

Mine Citation/Order
Continuation

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

1/6/09 

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 12/18/2008 | 3. Citation/ Order Number 8069174 - 01 |
| 4. Served To Bill Harless, 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

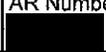
The 10 battery lights have been removed from service .

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/22/2008 | 13. Time (24 Hr. Clock) 1100 |

1/6/09 

Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/18/2008 | 2. Time (24 Hr. Clock) 1900 | 3. Citation/ Order Number 8069175 |
| 4. Served To Bill Harless, 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 approved methane and dust control plan is not being followed on the number 1 section (MMU 029-0). Only 1,560 cf/m is reaching the in by end of the line curtain in number 1 entry. The roof bolter was operating in this 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 75.370(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 12/18/2008 | B. Time (24 Hr. Clock) 1910 |
|---------------------|-----------------------------------|--------------------------------|

Section III--Termination Action

17. Action to Terminate Repairs were made to the line curtain and 3,504 is now reaching the inby end of the line curtain in #1 entry, on the number 1 section.

| | | |
|----------------|-----------------------------------|--------------------------------|
| 18. Terminated | A. Date Mo Da Yr 12/18/2008 | B. Time (24 Hr. Clock) 1910 |
|----------------|-----------------------------------|--------------------------------|

Section IV--Automated System Data

| | | |
|---|-----------------------------|---|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature  | | 23. AR Number  |



Section I--Violation Data

| | | |
|--|--------------------------------|--|
| 1. Date Mo Da Yr 12/22/2008 | 2. Time (24 Hr. Clock) 0750 | 3. Citation/ Order Number 8069176 |
| 4. Served To Bill Harless, 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 last recorded date for the weekly permissibility exam for the right roof bolter being used on the number 3 Section is 12-9-2008. There is no record for the week of 12-14-2008 thru 12-20-2008.

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 75.512-2 |
|--------------|--|----------------------|--|

Section II--Inspector's Evaluation

| | | | | |
|---|--|---|------------------------------|------------------------------------|
| 10. Gravity: | | | | |
| A. Injury or Illness (has) (is): No Likelihood <input type="checkbox"/> Unlikely <input checked="" type="checkbox"/> Reasonably Likely <input type="checkbox"/> Highly Likely <input type="checkbox"/> Occurred <input type="checkbox"/> | | | | |
| B. Injury or illness could reasonably be expected to be: No Lost Workdays <input 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 12/23/2008 | 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 6284361 | 21. Primary or Mill |
| 22. Signature | | 23. AR Number |

MSHA Form 7000-3, Apr 06 (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 12/22/2008 | 3. Citation/ Order Number 8069176 - 01 |
| 4. Served To Bill Harless, 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 permissibility exam has been made and recorded for the right side roof bolter on the number 3 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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 12/23/2008 | 13. Time (24 Hr. Clock) 0752 |

1/6/09 

Section I--Violation Data

| | | |
|--|---|--|
| 1. Date Mo Da Yr 12/23/2008 | 2. Time (24 Hr. Clock) 1310 | 3. Citation/ Order Number 8069177 |
| 4. Served To Greg Raines, Safety Director | 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"/> |

After careful review of the training records for this mine I.D. No current or up-dated certificates of training could be found for 10 of the employees at this mine site.

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 48.9(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 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: 010 | | |
| 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(g)(1) | 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 type="checkbox"/> C. Safeguard <input type="checkbox"/> D. Written Notice <input type="checkbox"/> | E. Citation/ Order Number | | | F. Dated Mo Da Yr | |

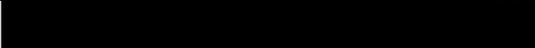
15. Area or Equipment 

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

Section III--Termination Action

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

Section IV--Automated System Data

| | | |
|---|---|---------------------|
| 19. Type of Inspection (activity code) E01 | 20. Event Number 6284361 | 21. Primary or Mill |
| 22. Signature  | 23. AR Number  | |

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

Mine Citation/Order
Continuation

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

1/6/09 

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 12/23/2008 | 3. Citation/ Order Number 8069177 - 01 |
| 4. Served To Greg Raines, Safety Director | 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 | Add the statement; The federal mine safety and health act of 1977 declares that an untrained miner is a hazard to himself and to others. | |

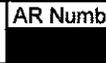
Up to date training records are now available for the 10 employees listed under training order 8069177.

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 6284361 | | |
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/30/2008 | 13. Time (24 Hr. Clock) 1128 |

Mine Citation/Order Continuation

previously issued

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

11/17/08

Section I--Subsequent Action/Continuation Data

| | | |
|--|---|--|
| 1. Subsequent Action 1a. Continuation <input checked="" type="checkbox"/> | 2. Dated (Original Issue) Mo Da Yr 11/13/2008 | 3. Citation/Order Number 8069138 - 01 |
|--|---|--|

| | |
|--|---|
| 4. Served To Bill Harless, 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 loose coal has been cleaned up in the number 7 entry on the number 3 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 6284361 |
|------------------------------|-----------------------------|

| | | | |
|-----------------------------|-------------------------|---------------------------------|---------------------------------|
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 11/14/2008 | 13. Time (24 Hr. Clock) 1030 |
|-----------------------------|-------------------------|---------------------------------|---------------------------------|

Mine Citation/Order
Continuation

previously issued

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

12/10/08



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 12/04/2008 | 3. Citation/ Order Number 8069161 - 01 |
| 4. Served To Bill Harless, 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 has been pumped in the return entry off the number 1 section inby spad 22122.

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 6284361 | | |
| 11. Signature [Redacted] | AR Number [Redacted] | 12. Date Mo Da Yr 12/09/2008 | 13. Time (24 Hr. Clock) 1045 |

Mine Citation/Order
Continuation

previously issued

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

12/10/08 



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 12/04/2008 | 3. Citation/ Order Number 8069162 - 01 |
|---|---|---|

| | |
|--|---|
| 4. Served To Bill Harless, 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 slip has been removed and the loose roof taken down at the return entry at the Eunice portal.

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 6284361 |
|---------------------------|--------------------------|

| | | | |
|---|---|---------------------------------|---------------------------------|
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/09/2008 | 13. Time (24 Hr. Clock) 1100 |
|---|---|---------------------------------|---------------------------------|

Mine Citation/Order
Continuation

previously issued

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

Hicks 

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 12/04/2008 | 3. Citation/ Order Number 8069163 - 01 |
|---|---|--|

| | |
|--|---|
| 4. Served To Bill Harless, 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 has been pumped in the intake escapeway between #10 and #11 break for the number 1 and 2 Sections.

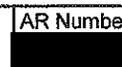
See Continuation Form

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 6284361 |
|------------------------------|-----------------------------|

| | | | |
|--|--|------------------------------------|---------------------------------|
| 11. Signature  | AR Number  | 12. Date Mo Da Yr 12/09/2008 | 13. Time (24 Hr. Clock) 1115 |
|--|--|------------------------------------|---------------------------------|