

Citation/Order

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

7/9/09 WB



1. Date Mo Da Yr 07/08/2009		2. Time (24 Hr. Clock) 0850	3. Citation/ Order Number 8072754
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)	

The quantity of air reaching the last open break of the left side of the Head Gate section, MMU 040-0 is 5,347 cfm. 9,000 cfm is required.

9. Violation				A. Health Safety ☒	B. Section of Act	C. Part/Section of Title 30 CFR 75.325(b)	See Continuation Form (MSHA Form 7000-3a) ☐	
Section II-Inspector's Evaluation								
10. Gravity:								
A. Injury or illness (has) (s) No Likelihood ☐ Unlikely ☐ Reasonably Likely ☒ Highly Likely ☐								
B. Injury or illness could reasonably be expected to be: No Lost Workdays ☐ Lost Workdays Or Restricted Duty ☒ Permanently Disabling ☐ Fatal ☐								
C. Significant and Substantial: Yes ☒ No ☐ D. Number of Persons Affected: 000								
11. Negligence (check one) A. None ☐ B. Low ☐ C. Moderate ☒ D. High ☐ E. Reckless Disregard ☐								
12. Type of Action Ind (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								

16. Termination Due	A. Date Mo Da Yr 07/08/2009	B. Time (24 Hr. Clock) 1230
---------------------	-----------------------------------	--------------------------------

Section III-Termination Action

17. Action to Terminate

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

Section IV-Automated System Data

19. Type of Inspection (activity code) E01	20. Event Number 4119293	21. Primary or Mill
22. Signature <i>Benjamin C. Doherty</i>		23. AR Number 74300

MSHA Form 7000-3, April 1998 (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, please contact the Ombudsman at 1-800-833-6347 or write to the Director, Office of Small Business Administration, Office of Regulatory Ombudsman, and 300 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

7/10/9 MIA

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation ☒	2. Dated (Original Issue)	Mo Da Yr 07/08/2009	3. Citation/ Order Number	8072754 - 01
4. Served To Gary Mays, 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

Air was restored to 10,631 CFM.

Section III--Subsequent Action Taken

See Continuation Form ☐

8. Extended To	A. Date Mo Da Yr	B. Time (24 Hr. Clock)	☐ C. Vacated	☒ D. Terminated	☐ E. Modified
----------------	------------------	------------------------	-------------------------------------	---	--------------------------------------

Section IV--Inspection Data

9. Type of Inspection	E02	10. Event Number	4123477
11. Signature	Thomas L. Clark	AR Number	24516
12. Date	Mo Da Yr	13. Time (24 Hr. Clock)	07/09/2009 1115