Mine Citation/Order

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

Section I–Violation Data

1. Date (Mo Da Yr)	2. Time (24 Hr. Clock)		3. Citation/ Order Number
02/18/2010	1125		8087734

4. Served To	5. Operator
Berman Cornett, Safety	PERFORMANCE COAL COMPANY

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

8. Condition or Practice — 8a. Written Notice (103g) ☐

The operator is not following the Roof Control Plan as approved by the District Manager. Located at the rehabilitation area for the new Barrier section, entries and crosscuts are from 20 1/2 feet to 24 feet in width. Survey spads could not be found in the area but according to the location of the North Mains track it would be 60,61, and 62 break. Three entries are being rehabbed in this area. Crosscut No.1 to No.2 is 20 1/2 feet to 23 1/2 feet wide for a distance of 82 feet. Crosscut No.2 to No.3 is 20 1/2 feet to 23 1/2 feet wide for a distance of 75 feet. The No.2 entry is 21 feet to 24 feet wide for a distance of 72 feet.

See Continuation Form (MSHA Form 7000-3a) ☐

9. Violation	A. Health ☐ Safety ☑ Other ☐	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: 003

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

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

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

15. Area or Equipment The 3 entries and crosscuts on the rehabilitation area for the new Barrier section.

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)	20. Event Number	21. Primary or Mill	
E01	6286108		

22. Signature — 23. AR Number 24675

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

Section I--Subsequent Action/Continuation Data

1. Subsequent Action 1a. Continuation	2. Dated (Original Issue) Mo Da Yr	3. Citation/ Order Number
☑ ☐	02/18/2010	8087734 - 01

4. Served To	5. Operator
Berman Cornett, Safety	PERFORMANCE COAL COMPANY
6. Mine	**7. Mine ID** (Contractor)
UPPER BIG BRANCH MINE-SOUTH	46-08436

Section II--Justification for Action

Change **From** **To**

8. Condition Or Practice

Reason To add: Page 12, Drawing 2 shows a maximum of 20 feet in width in crosscuts and entries.

See Continuation Form ☐

Section III--Subsequent Action Taken

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	10. Event Number
E01	6286108

11. Signature	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
	24675	02/18/2010	1744

MSHA Form 7000-3a, Mar 85 (revised)

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	2. Dated (Original Issue) Mo Da Yr	3. Citation/ Order Number
☑	☐	02/18/2010	8087734 - ~~01~~ 02

4. Served To	5. Operator
Berman Cornett, Safety Director	PERFORMANCE COAL COMPANY
6. Mine	**7. Mine ID** (Contractor)
UPPER BIG BRANCH MINE-SOUTH	46-08436

Section II--Justification for Action

Timbers have been set in the locations indicated by the citation and according to the approved Roof Control Plan on page 12, drawing 2.

See Continuation Form ☐

Section III--Subsequent Action Taken

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	10. Event Number
E01	6286108

11. Signature	AR Number	12. Date Mo Da Yr	13. Time (24 Hr. Clock)
Matilda Collins	24765	02/19/2010	1045

MSHA Form 7000-3a, Mar 85 (revised)