NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.  
Permit Number: 4-3042-92  
Date of issue: 08-05-2010  
Date: 08-05-2010  
Time: 7:00 AM

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 58 (E) and/or West Virginia Administrative Regulation: (Evidence indicates that prior to the explosion on April 5, 2011, water was provided to the #122W water line located parallel with the active NO. 4 Ellis conveyor for the purpose of fire protection, beginning at the new long wall belt construction site located at XBD No. 22155, to the Ellis Portal, measuring a distance of approximately one thousand two hundred feet in length (1200FT). (See next page)

Order: X

Company / Operator Agent Served: Wayne Fersinger
Authorized Representative: (Signature) Inspector No. 233

VIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

nsd S Violation:  

ilelihood of Occurrence: Unlikely: *(0)*** Reasonably likely: (10)*** Occurred (20)

rarity of Injury Expected: None: *(0)*** No lost work days: *(6)*** Lost or restricted days: (11)

Permanently disabling: (15)*** Fatal: (20)

See are checked in each category, do not go further unless a knowing violation.

of Perons Potentially Affected: 0 (0)*** 1 (1)*** 2 (2)*** 3 (4)*** 4-5: (9)*** 6-9: (8)*** 9+: (10)

elligence: None: (0)*** Low: (10)*** Moderate: (15)*** High: (20)

ring Violation: No: Yes: Repeat:

d Faith in Abatement: Lack of good faith: (+15%) Extra effort: (-15%)  

ompliance (extenuating circumstances): 0%***
NOTICE OF VIOLATION - CONTINUATION PAGE NO. 2

It was also observed at the new longwall left construction site, located at Spd No. 22155, that the 10 inch water line was deliberately disconnected, and cut off valves were installed on both ends of the-inch water lines, therefore completely stopping the supply of water to the 10 inch water line running parallel with the 5ive Ellis No. 4 conveyor belt, creating an extremely dangerous situation to every person on this mine, in the event of a belt fire.

Signature / Operator Agent Served: Wayne Persinger

Inspection Representative: David Pariseau

Inspector No: 233

V: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.
STATE OF WEST VIRGINA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.  Contractor: Yes ___ No ___

Permit Number: 8-4  Mine Name: UBBMC Montcoal.Eagle

Date of Issue: 8-4 2011  Time: 7:30 X A.M. ___ P.M. ___

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to add two (2) safety precautions to the ventilation base plan. This plan was submitted to MSHA on 9-21-09, and approved by MSHA on 9-22-09. This violation is a violation of a safety provision of the West Virginia Code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. ___ Order ___

Area or equipment (if order is issued): ___

The foregoing violation shall be totally abated by ___ a.m. ___ p.m. on ___.

The foregoing violation was totally abated by ___ 8/4/11 ___ 7:30 a.m. ___ p.m. on ___ 8/4/11 ___ 2:30 P.M. ___

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the West Virginia Office of Miners’ Health, Safety and Training.

Company / Operator Agent Served: Jack Riles ___

Authorized Representative: _____________  Inspector No: _____________

REVIEW: In accordance with Section 22A-1-11 of the Code, an operator or any representative of the miner may apply to the Director of the Office of Miners' Health, Safety and Training for review of this Notice of Violation within thirty (30) days from the issuance date.

S & S Violation: ___  Recommend Special Assessment: ___ X ___

Likelihood of Occurrence: Unlikely: *(0)___ Reasonably likely (10) ___ Occurred (20) ___

Severity of Injury Expected: None: *(0)___ No lost work days *(6)___ Lost or restricted days (11) ___

Permanently Disabling (15) ___ Fatal (20) ___

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) ___ 1 (1) ___ 2 (2) ___ 3 (4) ___ 4-5 (6) ___ 6-9 (8) ___ 10+ (10) ___

Negligence: None (0) ___ Low (10) ___ Moderate (15) ___ High (20) ___

Knowing Violation: No ___ Yes ___ Repeat ___

Good Faith in Abatement: Lack of good faith (+15%) ___

Extra effort (-15%) ___

No compliance (extenuating circumstances) (0%) ___

Special Assessment Evaluation
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

No: 41843

Company / Operator: Performance Coal Co.
Mine Name: UBBMC Montcoal Eagle
Permit Number: U-3042-92
Date of Issue: 8/4/2011

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, Title 1, Section 5, exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to drill a 20-inch dewatering hole in No. 3 Entry Inby Break 131. This plan was submitted to MSHA on 9-18-09 and approved by MSHA on 9-24-09. This violation is a violation of a safety provision of the West Virginia Code and is of a serious nature and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order

Area / equipment (if order is issued):

This foregoing violation shall be totally abated by 8:40 a.m. on 9-24-09.

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the Office of MSHA.

Company / Operator Agent Served: Jack Robs

Authorized Representative: Mark Jawal 233

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this Notice of Violation within thirty (30) days from the issuance date.

Special Assessment

VIOLATION ASSESSMENT EVALUATION

S and S Violation: 

Likelihood of Occurrence: Unlikely: 0 (0) Reasonably likely: 10 (10) Occurred: 20 (20)

Severity of Injury Expected: None: 0 (0) No lost work days: 6 (6) Lost or restricted days: 11 (11)

Permanently disabling: 15 (15) Fatal: 20 (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (3) 4-5 (6) 6-9 (8) 10 (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No (0) Yes (15) Repeat (5)

Good Faith In Abatement: Lack of good faith (+15%)

No compliance (extenuating circumstances) (0%)

Extra effort (-15%)
NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.
Permit Number: U-3042-92
Location: UBBMC Montcoal.Eagle
Mine Name: UBBMC Montcoal.Eagle
Contractor: Yes ___ No ___

Date of Issue: 9-4-11
Time: 7:30 A.M. ___ P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: Title ______, Series ______, Section ______, exists as follows: The operator failed to submit to the West Virginia Office of Miners' Health, Safety and Training the required ventilation plan to cut two (2) entries into the North Glory Mains under Phase 1 of the plan, and under Phase 2 the installation or removal of ventilation controls of the I-Right Crossover after the section is moved to establish an intake air course. This plan was submitted to MSHA on 10-13-09 and MSHA approved on 10-15-09. This violation is a violation of the West Virginia Code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. ___ X ___ Order ___
Area or Equipment (if order is issued):

The foregoing violation shall be totally abated by ______ a.m. ______ p.m. on ______ 8-21-11

The foregoing violation was totally abated by ______ a.m. ______ p.m. on ______ 8-21-11

Action taken to abate the violation: DISCUSSED WITH MANAGEMENT CONCERNING VENTILATION PLANS TO BE SUBMITTED TO THE OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING FOR APPROVAL

Company / Operator Agent Served: __________
Authorized Representative: __________
Inspector No.: __________

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may appeal to the Director of the Office of Miners' Health, Safety and Training for review of this Notice of Violation within thirty (30) days from the issuance date.

S and S Violation: __________
Recommend Special Assessment: X ___

Likelihood of Occurrence: Unlikely: * (0) ___ Reasonably likely (10) ___ Occurred (20) ___
Severity of Injury Expected: None: * (0) ___ No lost work days (6) ___ Lost or Restricted days (11) ___
Permanently disabling (15) ___ Fatal (20) ___

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) ___ 1 (1) ___ 2 (2) ___ 3 (4) ___ 4-5 (6) ___ 6-9 (8) ___ 10 (10) ___

Negligence: None (0) ___ Low (10) ___ Moderate (15) ___ High (20) ___

Knowing Violation: No ___ Yes ___ Repeat ___

Good Faith in Attempt: Lack of good faith (15%) ___
No compliance (extenuating circumstances) (0%) ___ Extra effort (15%) ___
STATE OF WEST VIRGINA

OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Contractor: Yes No X

Company/Operator: Performance Coal Co.
Mine Name: UBBMC Montcoal Eagle
Permit Number: U-3042-92
Date of Issue: 9-4-11

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2 and/or West Virginia Administrative Regulation, exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to use belt air in the face on one North Longwall.

This plan was submitted to MSHA on 12-23-09 and approved by MSHA on 12-23-09.

This violation is a violation of a safety provision of the West Virginia Code and is of a serious nature and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 7:30 a.m. p.m. on 9-14-11.

The foregoing violation was totally abated by 7:30 a.m. p.m. on 9-14-11.

Action taken to abate the violation: DISCUSSED THIS ARTICLE OF LAW WITH MANAGEMENT OF VENTILATION PLANS TO BE SUBMITTED TO THE OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING FOR REVIEW.

Company/Operator Agent Served: Jack Roles

Authorized Representative: Danny Mull 231

REVIEWED IN ACCORDANCE WITH SECTION 22A-1-17 OF THE CODE, AN OPERATOR OR ANY REPRESENTATIVE OF THE MINE MAY APPEAL TO THE DIRECTOR OF THE OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING FOR REVIEW OF THIS NOTICE OF VIOLATION WITHIN THIRTY (30) DAYS FROM THE DATE ISSUED.

Special Assessment:

VIOLATION ASSESSMENT EVALUATION

JV and 5 Violation: X

Reasonable likelihood (10) Occurred (20)

Severity of Injury Expected: None: (0) No lost work days (8)

Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

S and 5 Violation: X

If these are checked in each category, do not go further unless all known violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) 10 (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No Yes Repeat

Good Faith in Abatement: Lack of good faith (+15%)

Extra effort (-15%)

No compliance (extenuating circumstances) (0%)
NOTICE OF VIOLATION

Company / Operator: Performance Coal Co. Contractor: Yes No X

Mine Name: UBBMC Montcoal Eagle Permit Number: U-3042-92

Date of Issue: 8/14/2011 Time: 2:30 AM PM

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to relocate EP-LW3. This plan was submitted to MSHA on 2-5-10 and approved by MSHA on 2-22-10. This violation is a violation of a safety provision of the West Virginia code and is of a serious nature and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by a.m. p.m. on

The foregoing violation was totally abated by a.m. p.m.

Action taken to abate the violation: Discussed this article of law with mine management requiring ventilation plans to be submitted to the Office of Miners' Health, Safety & Training.

Company / Operator Agent Served: Jack Miles

Authorized Representative: Danny Doss, Inspector No. 225

REVIEW: In accordance with Section 22A.1-17 of the Code, an operator or any representative of the operator may appeal to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

VIOLATION ASSESSMENT EVALUATION

S and K Violation: X

Likelihood of Occurrence: Unlikely 0(0) Reasonably likely 10(10) Occurred (20)

Severity of Injury Expected: None 0(0) No lost work days 1(1) Lost or restricted days 8(8)

Permanently disabling 15(15) Fatal 20(20)

"If these are checked in each category, do not go further unless a knowing violation.

No. of Parties Potentially Affected: 0(0) 1(1) 2(2) 3(4) 4-5(6) 6-9(8) 10+ (10)

Negligence: None 0(0) Low 10(10) Moderate 15(15) High 20(20)

Knowing Violation: No Yes Repeat

Good Faith in Abatement: Lack of good faith 15(15)

No compliance (extenuating circumstances) 0(0) Extra effort 15(15)
STATE OF WEST VIRGINIA

OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.  Contractor: Yes [X] No

Mine Name: UBBMC Montcoal Eagle

Permit Number: 3042-92

Date of Issue: 8-4-2011 Time: 7:30 a.m.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, Title 21, Series 500, Section 2 exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to show the No. 4 section right return changing direction to the North Portal. This plan was submitted to MSHA on 10-13-09 and approved by MSHA on 10-15-09. This violation is a violation of a safety provision of the West Virginia code and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of issuance: N.O.V. [X] Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 7:30 a.m. on 8-4-2011

The foregoing violation was totally abated by 7:30 a.m. on 8-4-2011

Action taken to abate the violation: Discussed this article of law with mine management requiring ventilation plans to be submitted to the Office of Miners' Health, Safety and Training for approval.

Company / Operator Agent Served: Jack Reck

Authorized Representative: Annex Doc 231 [Name Forfeited] Inspector No. 225

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the mine is required to file an objection to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

Special Assessment

VIOLATION ASSESSMENT EVALUATION

S and 5 Violation: [X]

Recommends Special Assessment: [X]

Likelihood of Occurrence: Unlikely: *(0)*** Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0)*** No lost work days (6) Lost or restricted days (11)

Permanently disabling (15)*** Fatal (20)

* If these are checked in each category do not go further unless a knowing violation.

No of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (5) 6-9 (8) ≥10 (10)

Negligence: None (0)*** Low (10) Moderate (15) High (20)

Knowing Violation: No [X] Yes [ ] Repeat [ ]

Good Faith Lit Abatement: Lack of good faith (-15%)

No compliance (extenuating circumstances) (0%)

Extra effort (-15%)
NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.  
Contractor: Yes      No X

Permit Number: U-3042-92  
Mine Name: UBBMC Montcoal Eagle

Date of Issue: 8-4-2011  
Time: 7:10 A.M.       P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, Title __________, Series __________, Section __________ exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners Health, Safety and Training when shearing blocks for the new longwall belt to head gate 2-North. This plan was submitted to MSHA on 12-16-09 and approved by MSHA 12-17-09. This violation is a violation of the West Virginia code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Authorized Representative: D.D. Brown  
Inspector No. 229

REVIEW: in accordance with Section 22A-1-17 of the Code, an operator or any representative of the miner may apply to the Director of the Office of Miners Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

S & S Violation:  
Likelihood of Occurrence: Unlikely: *(0)  
Severity of Injury Expected: None: *(0)

Recommend Special Assessment: X

No. of Persons Potentially Affected: 0 (0)  
Negligence: None (0)  
Knowing Violation: No

Extra effort (-15%)
STATE OF WEST VIRGINIA
OFFICE OF MINERS’ HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.
Contractor: Yes No X

Permit Number: U-3042-92
Mine Name: UBBMC Montcoal Eagle

Date of Issue: 8-4 20V Time: 7:30 X A.M. – P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners’ Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: Title , Series , Section , exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners’ Health, Safety and Training to install ventilation controls after the longwall passes No. 2 crossover. This plan was submitted to MSHA 3-10-10 and approved by MSHA 3-22-10. This violation is a violation of the safety provision of the West Virginia code, and is of a serious nature and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. V Order

Area or equipment (If order is issued):

The foregoing violation shall be totally abated by ___________ e.m. ___________ p.m. on ___________.
The foregoing violation was totally abated by ___________ e.m. ___________ p.m. on ___________.

Action taken to abate the violation: Discussed this article of law with mine management. Requiring ventilation plans to be submitted to the Office of Miners’ Health, Safety & Training. For approval.

Company / Operator Agent Served: Jack Rogers

Authorized Representative: Danny M. Kundis, Inspector No. 229

REVIEW: In accordance with Section 22A-11-17 of the Code, an operator or any representative of the miner may apply to the Director of the Office of Miners’ Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

Special Assessment Violation Assessment Evaluation

S and S Violation: X

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0) No lost work days *(6) Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) ≥9+ (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No Yes Repeat

Good Faith in Abatement: Lack of good faith (+15%)

No compliance (extenuating circumstances) (0%) Extra effort (-15%)
STATE OF WEST VIRGINA

OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.
Mine Name: UBBMC Montcoal.Eagle
Permit Number: M-3042-92
Date of Issue: 8-9-2011
Time: 7:30 A.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, Title, Series, Section exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners Health, Safety and Training to install doors between cross cuts 9 and 11 in the One North tail gate section. This plan was submitted to MSHA on 9-3-09 and approved by MSHA on 9-4-09. This violation is a violation of the West Virginia Code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 2100 P.M. on 8-12-2011.

The foregoing violation was totally abated by 2100 P.M. on 8-12-2011.

Action taken to abate the violation: Discussed. This article of law will require management. Requires ventilation, plans to be submitted to the Office of Miners Health, Safety and Training for approval.

Company / Operator Agent Served: Jack Bortes

Authorized Representative: Danny Harrell, Inspector No. 229

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the operator may appeal to the Director of the Office of Miners Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

SPECIAL ASSESSMENT EVALUATION

S and S Violation: [X] Recommend Special Assessment: [X]


Severity of Injury Expected: None: [0] No lost work days: [8] Lost or restricted days: [11]


If these are checked in each category, do not go further unless knowing violation.


Knowing Violation: No: [Yes] Repeat

Good Faith in Abatement: Lack of good faith: [15%] Extra effort: [15%]
STATE OF WEST VIRGINA

OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.

Permit Number: U-3042-92

Mine Name: UBBMC Montcoal Eagle

Date of Issue: 8-4-2011

Time: 2:15

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners Health, Safety and Training to revise the return air course on the Lower Big Branch area, and show controls to be installed at the Birchton portal on the Northern portion of the mine. This plan was submitted to MSHA on 9-4-09 and approved by MSHA on 9-4-09. This violation is a violation of a safety provision of the West Virginia Code and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. X Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by a.m. p.m. on 8-4-11.

The foregoing violation was totally abated by 7:30 a.m. p.m. on 8-4-11.

Action taken to abate the violation: Discussed with management concerning ventilation Plans to be submitted to the office of MSHA.

Company / Operator Agent Served: Jack Rees

Authorized Representative: Dan Miller Inspector No. 229

REVIEW: In accordance with Section 22A-1-47 of the Code, an operator or any representative of the mine's must apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issuance date.

S and S Violation: X

Recommend Special Assessment: X

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0) No lost work days *(6) Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) 10 (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No Yes Repétit

Good Faith in Abstaining: Lack of good faith (+15%)

No compliance (extenuating circumstances) (0%) Extra effort (-15%)
NOTICE OF VIOLATION

Company / Operator: Performance Coal Co. 
Permit Number: U-1042-92 
Mine Name: UBBMC Montcoal.Eagle 

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of the mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: Title ___, Series ___, Section _____ exists as follows: 

The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to install three (3) regulators on the intake overcast to cause the intake air to course the Ellis Mains, and a portion of the Ellis Mains converted to neutral air course. This plan was submitted to MSHA on 9-3-09 and approved by MSHA on 9-4-09. This violation is a violation of a safety provision of the West Virginia Code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. 
Area or equipment (if order is issued): 

The foregoing violation shall be totally abated by ___________________________ a.m. _______ p.m. on _________ 6/12/10. 
The foregoing violation was totally abated by ___________________________ a.m. _______ p.m. on _________ 6/12/10. 
Action taken to abate the violation: DISCUSSED WITH MANAGEMENT CONCERNING VENTILATION PLANS TO BE SUBMITTED TO THE OFFICE OF MHSYI 

Authorized Representative: 

Company / Operator Agent Served: Jack Roles 

Review: In accordance with Section 22A, Article 17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

Special Assessment

VIOLATION ASSESSMENT EVALUATION

S and B Violation: [X] 
Recommend Special Assessment: [X] 

Likelihood of Occurrence: Unlikely: *(0)***** Reasonably likely (10) Occurred (20) 
Severity of Injury Expected: None: *(0)***** No lost work days *(6) Lost or restricted days (11) 

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (5) 6-9 (8) 10 (10) 
Negligence: None (0) Low (10) Moderate (15) High (20) 

Knowing Violation: No [ ] Yes [X] Repeat [ ] 

Good Faith in Abatement: Lack of good faith ([15%]) 
No Compliance (extenuating circumstances) (0%) 
Extra effort ([15%]) 

Special Assessment
STATE OF WEST VIRGINIA

OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING

1619 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.
Permit Number: U-3042-92
Mine Name: UBBMC Montcoal Eagle

Date of Issue: 2/4/2011 Time: 7:30 X A.M. P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: Title_________ Series_________ Section_________ exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to install a 50-PSI Minova Seal... This plan was submitted to MSHA on 9-8-09. This violation is a violation of a safety provision of the West Virginia Code, and is of a serious nature, and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order_________
Area or equipment (if order is issued):

The foregoing violation shall be totally abated by_________ a.m. p.m. on_________.
The foregoing violation was totally abated by_________ a.m. p.m. on_________.

Action taken to abate the violation: DISCUSSED WITH MANAGEMENT CONCERNING VENTILATION PLANS TO BE SUBMITTED TO THE OFFICE OF MSHA.

Company / Operator Agent Served: Jack Coles

Authorized Representative: [Signature)
Inspector No. 227

REVIEW: In accordance with Section 22A-4-17 of the Code, an operator or any representative of the mine may apply to the Director of the Office of Miners' Health, Safety and Training for review of this Notice of Violation within thirty (30) days from the issue date.

Special Assessment

VIOLATION ASSESSMENT EVALUATION

S and S Violation: [ ] Recommend Special Assessment: [x]

Likelihood of Occurrence: Unlikely: "O)_________ Reasonably likely (10)_________ Occurred (20)
Severity of Injury Expected: None: "O)_________ No lost work days "(6)_________ Lost or restricted days (11)
Permanently disabling (15)_________ Fatal (20)_________

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (O)_________ 1 (1)_________ 2 (2)_________ 3 (4)_________ 4-6 (6)_________ 6-9 (8)_________ 10 (+10)

Negligence: None (0)_________ Low (10)_________ Moderate (15)_________ High (20)

Knowing Violation: No ______ Yes ______ Repeat

Good Faith in Abatement: Lack of good faith (+15%)_________ Extra effort (-15%)_________
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Co.
Permit Number: U-3042-92
Mine Name: UBBMC Montcoal Eagle
Date of Issue: 8-14-2011
Time: 7:30 a.m.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation: Title ___, Series ___, Section ___, exists as follows: The operator failed to submit the required ventilation plan to the West Virginia Office of Miners' Health, Safety and Training to install two regulators between Breaks 33 and 34 on Tailgate 1 North in entries 4 and 5. This plan was submitted to MSHA on 9-10-10, and approved by MSHA on 9-18-10. This violation is a violation of a safety provision of the West Virginia Code and is of a serious nature and involves an extraordinarily high degree of negligence.

Type of Issuance: N.O.V. Order

The foregoing violation shall be totally abated by 7:30 a.m. on 8-14-2011.

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the Office of MSHA.

Company / Operator Agent Served: Jack Rules

Authorized Representative: [Signature]

REVIEW: In accordance with Section 22A-17-17 of the Code, an operator or any representative of the miner may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the date of issuance.

Special Assessment

VIOLATION ASSESSMENT EVALUATION

S and S Violation: X

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0) No lost work days *(8) Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) 10+ (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No ___ Yes ___ Repeat ___

Good Faith in Abatement: Lack of good faith (-15%)

No Good Faith (extenuating circumstances) (0%)

Extra effort (-15%)
NOTICE OF VIOLATION

Company / Operator: Performance Coal Co. Contractor: Yes No X

Permit Number: U-3042-92 Mine Name: UBBMC Montcoal Eagle

Date of issue: 8-4-20 Time: 7:30 A.M. P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 2, and/or West Virginia Administrative Regulation, Title, Series, Section (6) exists as follows: The approved six (6) phase revision of the approved ventilation plan, which was approved 3-15-10, which shows the mining of the Lower Big Branch portion of the mine to establish and to retreat a long wall section is not being complied with during the phase II of the revision on April 5, 2010, in that evidence indicates that the following ventilation controls are missing. (1) The box check curtains inby and outby Spad 22132 are missing (2) The Bratice between Spad No. 22176 and Spad 22136 is missing (3) The Bratice 20 ft. outby Spad No. 22135 is missing (4) The Bratice between Spad 22133 and Spad No. 22134 is missing. (5) Both airlock doors at Spad No. 22151 at the spur track were found open, and a battery powered track locomotive

Type of Issuance: N.O.V. X Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by ______________ a.m. p.m. on ______________

The foregoing violation was totally abated by ______________ a.m. p.m. on ______________

Action taken to abate the violation: DISCUSSED WITH MINING MANAGEMENT THAT ALL VENTILATION REVISIONS MUST BE COMPLIED WITH.

Company / Operator Agent Signed: JACK ROLES

Authorized Representative: Dan Jr. 233 12/9/2011 Regional Inspector No. 229

REVIEW: In accordance with section 22A-1-3 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

Section 5 or 8 Violation: X

Recommend Special Assessment: X

Likelihood of Occurrence: Unlikely: (0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: (0) Lost work days (6) Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) 10+ (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No Yes Repeat

Good Faith in Abatement: Lack of good faith (+15%) Extra effort (-15%)
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION - CONTINUATION PAGE NO

Company/Operator: Performance Coal Co.  Contractor: Yes  No X

Permit Number: U-3042-92  Mine Name: UBBMC Montcoal Eagle

Date of Issue: __________, 20   Time: ________ A.M.  _______ PM.

coupled to a flat car was parked between the doors. (6) A regulator between
No. 1 and No. 2 entry at Spad No. 22151 is found covered with mine curtain.

Based on testimony, on April 5, 2010, during Phase II operation, a continuous
miner was cutting the mine roof at Spad No. 22151 to create an overcast, with the
above said ventilation controls missing. The dust from the continuous miner was
allowed to short circuit over and into the track entry, which is also designated
as the secondary escapeway, therefore creating a health danger of silica rockdust
in the mine track atmosphere, also poor visibility to all persons in this area.

The missing ventilation controls reflect a serious and willful neglect to the
approved ventilation plan, and for the health and safety of all miners at this
mine.

Also note: An installed set of opened air lock doors (found damages) is present
in the No. 1 entry of the Ellis Mains, between Spad No. 22247 and Spad No. 22275.
This entry is provided under Phase II of the approved revision, as the only
return air course from the Lower Big Branch construction area to the out side
Ellis portal.

Company/Operator Agent Served: Jack Roles

Authorized Representative: James 237/229  Inspector No. 229

REVIEW: In accordance with Section 22A 4-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.
STATE OF WEST VIRGINIA
OFFICE OF
MINERS’ HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Company
Permit Number: U-3042-92
Mine Name: UBB Montcoal Eagle

Date of Issue: 2-15-2012
Time: 1:05 A.M., X P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners’ Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 24 (a) and/or West Virginia Administrative Regulation: [Title, Series, Section] exists as follows:

The following condition was discovered during an investigation of an explosion that occurred at Performance Coal, Upper Big Branch mine on April 5, 2010. The law states that in all mines dangerous accumulations of fine, dry coal and coal dust shall be removed from the mine, and all dry and dusty operating sections and haulageways, conveyors and back entries, shall be rock dusted or dust allayed by such other means as may be approved by the Director. Mine management has failed to comply with this requirement of the law in that on April 5, 2010 an ignition occurred in the vicinity of the longwall face and this ignition spread into outby entries of the tailgate 21 area of the mine and propagated into a full blown coal dust explosion traveling large distances into the active workings of the mine claiming the lives of 29 men. The explosion throughout this area was fueled by coal dust and coal float dust that was not removed from the mine or rock dusted to a level that would prevent the propagation of an explosion. This is a violation of a safety statute and is of a serious nature involving fatalities.

Type of Issuance: N.O.V. X Order __________

Area or equipment (if order is issued): __________

The foregoing violation shall be totally abated by 1:30 a.m. on 2-15-2012

The foregoing violation was totally abated by 1:30 p.m. on 2-15-2012

Action taken to abate the violation: The requirements of the law have been reviewed with mine management.

Company / Operator Agent Served: Larry Brown
Authorized Representative: Barry Fletcher
Inspector No. 78

REVIEW: In accordance with Section 22A-1-7 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners’ Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: [ ] Recommend Special Assessment: X

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0) No lost work days (6) Lost or restricted days (11)

Permanently disabling (1) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-7 (8) 8-9 (8) 9+ (10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No [ ] Yes [ ] Repeat [ ]

Good Faith in Abatement: Lack of good faith (+15%)

No complaint (extenuating circumstances) (0%) Extra effort (-15%)
STATE OF WEST VIRGINIA
OFFICE OF
MINERS’ HEALTH, SAFETY AND TRAINING
1815 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Company  
Contractor: Yes ___ No x ___ 
Permit Number: U-3042-92  
Mine Name: UBB Montcoal Eagle 

Date of Issue: 2-15-12  
Time: 1:10 A.M. x P.M. 

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners’ Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 24(a)(c) and/or West Virginia Administrative Regulation exists as follows:

The following condition was discovered during an investigation of an explosion that occurred at Performance Coal Company, Upper Big Branch mine on April 5, 2010. This violation which violates state code is of a serious nature and involves fatalities. 22A-1-21 (b) (2) (A) The law states that in all mines dangerous accumulations of fine dry coal and coal dust shall be removed from the mine, and all dry and dusty operating sections, haulageways, conveyors and back entries shall be rock dusted or dusted by such other means as may be approved by the Director. It also states that rock dust shall be maintained in all areas. Mine management has failed to comply with this requirement of the law in that on April 5, 2010 a methane ignition occurred in the vicinity of the longwall face at this mine. Many factors contributed to the ignition becoming a full blown coal dust explosion. Testimony stated that rock dusting had not been conducted in the 21 Tailgate entries by the track mounted machine duster nor were there any records or testimony stating these entries had been dusted by hand or machine since the longwall began production months earlier. (page one of two, see continuation page attached)

Type of Issuance: N.O.V. x Order _________

Area or equipment (if order is issued): _________

The foregoing violation shall be totally abated by 1:30 a.m. on 2-15-2012  
The foregoing violation was totally abated by 1:30 a.m. on 2-15-2012

Action taken to abate the violation: The requirements of the law have been reviewed with mine management.

Company / Operator Agent Served: Larry Brown

Authorized Representative: Barry Fletcher  
Inspector No. 78

REVIEW: In accordance with Section 22A-1 -1 7 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners’ Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation:  
Recommend Special Assessment: x

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10)Occurred (20)  
Severity of Injury Expected: None:* (0) No lost work days *(6) Lost or restricted days (11)  
Permanently disabling (1 5) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.
No. of Persons Potentially Affected: 0 (0) 1 (1) 2 (2) 3 (4) 4-5 (6) 6-9 (8) 9+ (10)
Negligence: None (0) Low (10) Moderate (15) High (20)
Knowing Violation: No ______ Yes ______ Repeat
Good Faith in Abatement: Lack of good faith (+ 15%)
No compliance (extenuating circumstances) (0%) Extra effort (-15%)
The two most southern entries were the return airways for the miner sections which extended into the tailgate towards the Bandytown fan. The number seven entry or the northern most entry was the entry that was to be supplying fresh air to the tailgate of the longwall. The additional entries were neutral or intake air until the longwall would retreat and then they would be part of the longwall bleeder system ventilated toward the Bandytown fan. Additionally the number seven entry had experienced an air reversal weeks before the explosion which existed for an undetermined number of days which permitted the longwall face return air to flow in an outby direction allowing that entry to be contaminated with coal float dust from the active longwall. Another factor which contributed to the fuel for the explosion was excessive rib spalling which was visible in the entries in the vicinity of the longwall tailgate as well as other areas of the mine. These spalled entries and crosscuts were additional areas that had not been rock dusted in most locations once initial development had been completed and production on the longwall had begun. This is a violation of a serious nature involving fatalities.

Company / Operator Agent Served: Larry Brown

Authorized Representative: Barry Fletcher

Inspector No. 78

REVIEW- In accordance with Section 22A-147 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.
STATE OF WEST VIRGINIA
OFFICE OF
MINERS’ HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Company
Contractor: Yes ___ No X ___
Permit Number: U-3042-92
Mine Name: Upper Big Branch Montcoal Eagle

Violation No.: 104355

Date of Issue: 2-15-20 __ Time: 1:15 A.M. X P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners’ Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 4 (a) and/or West Virginia Administrative Regulation:
Title: ___________ Series: ___________ Section: ___________ exists as follows:

This violation of the state code is of a serious nature and involves fatalities. 22A-1-21 (b) (2) (A)--Adequate ventilation was not provided for the 21 Longwall section. The law requires the mine ventilation under any circumstance to have a sufficient volume and velocity of air to reduce and carry away any flammable or harmful gases. This requirement was not being complied with at the time of the explosion. Methane gas was allowed to accumulate on or near the longwall face, in the gob or the 21 Tailgate entries near the longwall tail. The accumulation was ignited and then became a coal dust explosion resulting in multiple fatalities.

Type of Issuance: N.O.V. ___________ Order: ___________

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by a.m. 1:30 p.m. on 2-15-2012
The foregoing violation was totally abated by a.m. 1:30 p.m. on 2-15-2012

Action taken to abate the violation: Requirements of the law were discussed with mine management.

Company / Operator Agent Served: Larry Brown
Authorized Representative: Barry Fletcher
Inspector No. 78

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners’ Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: [ ] Recommend Special Assessment: [X]

Likelihood of Occurrence: Unlikely: *(0)_________ Reasonably likely: (10)_________ Occurred: (20)_________
Severity of Injury Expected: None: *(0)_________ No lost work days: *(6)_________ Lost or restricted days: (11)_________
Permanently disabling: (15)_________ Fatal: (20)_________

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0)_________ 1 (1)_________ 2 (2)_________ 3 (4)_________ 4-5 (6)_________ 6-9 (8)_________ 9+(10)_________
Negligence: None (0)_________ Low (10)_________ Moderate (15)_________ High (20)_________
Knowing Violation: No ________ Yes ________ Repeat ________
Good Faith in Abatement: Lack of good faith (+15%)
No compliance (extenuating circumstances) (0%)_________ Extra effort (-15%)_________
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Company
Permit Number: U-3042-92
Mine Name: UBB Montcoal Eagle
Contractor: Yes ______ No ______ x ______

Date of Issue: 2-15-2012 Time: 1:20 A.M. ______ x ______ P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter ______ Article ______, Section ______ and/or West Virginia Administrative Regulation: ______ exists as follows:

The following condition was discovered during an investigation of an explosion that occurred at Performance Coal Company, Upper Big Branch mine on April 5, 2010. This violation of state code is of a serious nature and involves fatalities. 22A-1-21 (B) (2) (A) The Methane and Dust Control Plan dated August 20, 2009 and approved August 24, 2009 was not being complied with on the 21 Longwall working face on March 1, 2010 on the B Crew evening shift. The maintenance report for this shift shows that the longwall shearer was mining coal with 8 water sprays removed from each cutting drum. This action was recorded stating the water sprays were taken out and left out because the sprays kept plugging up, not working, while the crew was attempting to mine coal. The report goes on to document that the crew operated the machine the remainder of the shift in an attempt to flush or clean the drums water spray system. This action reduces the number of sprays required in the approved plan and also would drastically affect the required water pressure on the shearer.

Type of Issuance: N.O.V. ______ x ______ Order ______

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by ______ a.m. ______ p.m. on ______

The foregoing violation was totally abated by ______ a.m. ______ p.m. on ______

Action taken to abate the violation: ______ Requirement of the law was discussed with mine management.

Company / Operator Agent Served: Larry Brown
Authorized Representative: Barry Fletcher
Inspector No. 78

REVIEW: In accordance with Section 22A-1 -1 7 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: ______ Recommend Special Assessment: ______ x ______

Likelihood of Occurrence: Unlikely: *(0)_____* Reasonably likely (10) ______ Occurred (20) ______
Severity of Injury Expected: None: *(0)_____* No lost work days *(6)_____* Lost or restricted days *(11)_____*
Permanently disabling *(15)_____* Fatal *(20)_____*

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0)_____* 1 (1)_____* 2 (2)_____* 3 (4)_____* 4 to 5 (6)_____* 6 to 8 (8)_____* 9 to 10 (10)_____*

Negligence: None *(0)_____* Low *(10)_____* Moderate *(15)_____* High *(20)_____*

Knowing Violation: No ______ Yes ______ Repeat ______

Good Faith in Abatement: Lack of good faith *(+ 15%)_____*

No compliance (extenuating circumstances) *(0%)_____* Extra effort *(−15%)_____*
INSPECTION OF VIOLATION

**Good faith in abatement** Lack of good faith (+15%)  
No compliance (extenuating circumstances) (0%) Extra effort (-15%)  
Violation Number: 104350 was/is hereby totally abated by 20 
____ a.m. ____ p.m. extended to ____ a.m. ____ p.m. 20 modified to  
Order, Withdrawn.

Action taken to abate the violation: Violation #104350 issued on 10-19-2011 addressing the lack of water pressure at the tail drum sprays on the longwall shearer during the test conducted on December 20, 2010 is being modified. The assessment on the violation form is being changed to a "Special Assessed" violation. The violation will be referred to under a new case number of #78-0733 which will be attached to the above mentioned violation.

---

**Good faith in abatement** Lack of good faith (+15%)  
No compliance (extenuating circumstances) (0%) Extra effort (-15%)  
Violation Number: 26192 was/is hereby totally abated by 20 
____ a.m. ____ p.m. extended to ____ a.m. ____ p.m. 20 modified to  
Order, Withdrawn.

Action taken to abate the violation: Violation #26192 issued on 10-19-2010 addressing the amount of sprays installed and missing from the tail drum on the shearer on the longwall noted during an exam of the shearer on December 20, 2010 is being modified. The assessment on the violation form is being changed to a "Special Assessed" violation. The violation will be referred to under a new case number of #78-0733 which will be attached to the above mentioned violation.

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**Good faith in abatement** Lack of good faith (+15%)  
No compliance (extenuating circumstances) (0%) Extra effort (-15%)  
Violation Number: was/is hereby totally abated by 20 
____ a.m. ____ p.m. extended to ____ a.m. ____ p.m. 20 modified to  
Order, Withdrawn.

Action taken to abate the violation: 

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**Good faith in abatement** Lack of good faith (+15%)  
No compliance (extenuating circumstances) (0%) Extra effort (-15%)  
Violation Number: was/is hereby totally abated by 20 
____ a.m. ____ p.m. extended to ____ a.m. ____ p.m. 20 modified to  
Order, Withdrawn.

Action taken to abate the violation: 

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Company/Operator Agent served: Larry Brown  
Date: 2-15 2012  
Authorized Representative: Barry Fletcher  
Inspector Number 78
STATE OF WEST VIRGINIA  
OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
1615 Washington Street East  
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator Performance Coal Company  
Contractor: Yes____ No_____

Permit Number U-3042-92  
Mine Name UBB Montcoal Eagle  

Date of Issue 10-19____ 20_11  Time 9:10 A.M.____ P.M.____

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter_____, Article_____, Section_____, and/or West Virginia Administrative Regulation: Title 36, Series 6, Section 4.1 k, exists as follows:

The following conditions were discovered during an investigation of an explosion at the Performance Coal, Upper Big Branch Mine which occurred on April 5, 2010. Tests and checks were conducted on the Longwall Shearer water spray system on December 20, 2010 by members of all parties of the investigative teams. These tests clearly showed that the Methane and Dust Control Plan dated August 20, 2009 and approved August 24, 2009 was not being complied with on the day of the explosion. Seven (7) of the tail drums forty five (45) water sprays were missing when examined which leaves less than the 43 required in the plan to be operational. The sketch provided with the approved plan titled "Performance Coal Company Inc. Upper Big Branch Mine Spray Location Drawing" shows the minimum number of water sprays that must be operating at any one time on the tail drum to be 43 sprays. None of the missing sprays had been removed by any parties of the investigative teams prior to this test. This condition of the missing tail drum sprays existed at the time of the explosion.

Type of Issuance: N.O.V.____ x____ Order____

Area or equipment (if order is issued):____

The foregoing violation shall be totally abated by________ x____ a.m.____ p.m. on________ 10-19____ 20_11

The foregoing violation was totally abated by 10:00 x____ a.m.____ p.m. on 10-19____ 20_11

Action taken to abate the violation: The requirements pertaining to water sprays on the shearer as addressed in the approved Methane and Dust Control plan has been discussed with Jack Roles, mine superintendent.

Company / Operator Agent Served: Jack Roles

Authorized Representative: Barry Fletcher  
Inspector No.____ 78

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation:____ Recommend Special Assessment:____

Likelihood of Occurrence: Unlikely: *(0)%  Reasonably likely: (10)%  x____ Occurred (20)%

Severity of Injury Expected: None: *(0)%  No lost work days: *(6)%  Lost or restricted days: (11)%  x____

Permanently disabling: (15)%  Fatal: (20)%

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0)____ 1 (1)____ 2(2)____ 3(4)____ 4-5(6)____ x____ 6-9(8)____ 9+(10)

Negligence: None (0)%  Low (10)%  Moderate (15)%  x____ High (20)%

Knowing Violation: No____ Yes____ Repeat____

Good Faith in Abatement: Lack of good faith (+ 15%)

No compliance (extenuating circumstances) (0)%____ Extra effort (-15%)
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator: Performance Coal Company
Permit Number: U-3042-92
Mine Name: UBB Montcoal Eagle

Date of Issue: 10-19-20, 11:05 A.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 36, Article 6, Section 4.1, and/or West Virginia Administrative Regulation exists as follows:

The following conditions were discovered during an investigation of an explosion that occurred at Performance Coal, Upper Big Branch mine on April 5, 2010. The Methane and Dust Control Plan dated August 20, 2009 and approved August 24, 2009 was not being complied with on the Longwall 21 MMU No. 050-0 #1 Unit working section. The page of the approved plan titled, "Section Specific Methane Dust Control Plan" states that a minimum operating pressure at the sprays on the shearer to be 90 psi. Tests were conducted on the water pressure at the shearer water sprays on December 20, 2010 by members of all parties of the investigative teams. Due to multiple sprays missing from the tail cutting drum and a spray block broken off the face side near the tail drum zero psi could be obtained at the sprays on the tail drum of the shearer. These tests were conducted with water pressures delivered to the shearer ranging from 50 psi to as high as 450 psi.

Inadequate (Zero) pressures were measured on the tail drum with the gauges installed during these tests of the tail cutting drum.

Type of Issuance: N.O.V. x Order

Area or equipment (if order is issued):

The foregoing violation shall be totally abated by 10:00 a.m. p.m. on 10-19-20.

The foregoing violation was totally abated by 10:00 a.m. p.m. on 10-19-20.

Action taken to abate the violation: The requirements of the approved plan have been reviewed with Jack Roles, mine superintendent.

Company / Operator Agent Served: Jack Roles
Authorized Representative: Barry Fletcher

REVIEW: In accordance with Section 22A-1-17 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: x
Recommend Special Assessment:

Likelihood of Occurrence: Unlikely: *(0) x Reasonably likely (10)
Severity of Injury Expected: None: *(0) x Lost or restricted days (11)

Permanently disabling (15) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) x 1 (1) 2 (2) 3 (4) 4-5 (6) x 8-9 (8) 9+ (10)
Negligence: None (0) x Low (10) Moderate (15) x High (20)
Knowing Violation: No x Yes Repeat
Good Faith in Abatement: Lack of good faith (+15%)
No compliance (extenuating circumstances) (0%) Extra effort (-15%)

Inspector No. 78
STATE OF WEST VIRGINIA
OFFICE OF
MINERS' HEALTH, SAFETY AND TRAINING
1615 Washington Street East
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION

Company / Operator Performance Coal Company
Contractor: Yes No x

Permit Number U-3042-92 Mine Name UBB Montcoal Eagle

Date of Issue 2-15-12 Time 1:00 A.M. x P.M.

Notice is hereby given that the undersigned authorized representative of the Director of the Office of Miners' Health, Safety and Training, upon making an inspection of this mine finds that the violation referred to in West Virginia Code, Chapter 22A, Article 2, Section 66(b)(c) and/or West Virginia Administrative Regulation: exists as follows:

On April 5, 2010 at approximately 3:00 pm an explosion occurred at the Upper Big Branch Montcoal Eagle Mine. West Virginia Code 22A-2-66 requires the coal operator to give immediate notice within 15 minutes of ascertaining the occurrence of an accident. Based on evidence, Performance Coal should have determined that an accident as stated in West Virginia Code, 22A-2-66 (a)(5) occurred within moments because significant air forces were felt and seen in the mine near the Ellis portals and these unusually strong forces exiting the mine at Ellis and North portals which are miles apart. Additionally the Carbon Monoxide monitoring system began alarming to the outside and communication with all workers inby 78 break ceased to exist at this time. With all this information and more indicators of something extremely unusual happening Performance Coal did not report the accident until 3:39 pm.

Type of Issuance: N.O.V. x Order

Action taken to abate the violation: Reporting requirements have been discussed with mine management.

Company / Operator Agent Served: Larry Brown

Authorized Representative: Barry Fletcher Inspector No. 78

REVIEW: In accordance with Section 22A-1 -1 7 of the Code, an operator or any representative of the miners may apply to the Director of the Office of Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

VIOLATION ASSESSMENT EVALUATION

S and S Violation: x

Recommend Special Assessment:

Likelihood of Occurrence: Unlikely: *(0) Reasonably likely (10) Occurred (20)

Severity of Injury Expected: None: *(0) No lost work days *(6) Lost or restricted days (11)

Permanently disabling (1 5) Fatal (20)

* If these are checked in each category, do not go further unless a knowing violation.

No. of Persons Potentially Affected: 0 (0) 1 (1) 2(2) 3(4) 4-5(6) 8-9(8) 9+(10)

Negligence: None (0) Low (10) Moderate (15) High (20)

Knowing Violation: No Yes Repeat

Good Faith in Abatement: Lack of good faith (+ 15%)

No compliance (extenuating circumstances) (0%) Extra effort (-15%)