

Revised 3-09

STATE OF WEST VIRGINIA

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Rep of MinesRegion 4OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
1615 Washington Street East  
Charleston, West Virginia 25311-2126

233-0116-2010

No: 36507

## NOTICE OF VIOLATION

Company / Operator Performance Coal Co. Contractor: Yes    No X  
Permit Number U-3042-92 Mine Name UBB Montreal Eagle  
Date of Issue 08-05- 20 10 Time 7:00 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 22-14, Article 2, Section 58 (E) and/or West Virginia Administrative Regulation, Title   , Series   , Section    exists as follows: EvidenceIndicates that prior to the explosion on April 5, 2011, 10 water was provided to the 16 inch water line located parallel with the active NO. 4 Ellis conveyor belt for the purpose of fire protection, beginning at the New Long Wall Belt Construction Site located at SPAD NO. 22155, to the Ellis portal, measuring a distance of approximately one thousand two hundred feet in length (1,200 ft). (see next page)Type of Issuance: N.O.V.    Order X  
Area or equipment (if order is issued):   The foregoing violation shall be totally abated by    a.m.    p.m. on    20   The foregoing violation was totally abated by    a.m.    p.m. on    20   Action taken to abate the violation: Must be Abated prior to belts being put back in service.Company / Operator Agent Served: Wayne PersingerAuthorized 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 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

and S Violation: ☐Recommend Special Assessment: ☒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)   

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

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

## OFFICE OF

## MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
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## NOTICE OF VIOLATION - CONTINUATION PAGE NO 2

Company / Operator Performance Coal Co. Contractor: Yes ☐ No ☒  
 Permit Number U-3042-92 Mine Name U.B.B. Montcoal Eagle  
 Date of Issue 08-05-2010 Time 7:00 ☒ A.M. ☐ P.M.

It was also observed at the new long wall belt construction site, located at Spad No. 22155 that the 6 inch water line was deliberately disconnected, and cut off valves were installed at both ends of the 6 inch water lines, therefore completely stopping the supply of water to the 6 inch water line running parallel with the five Ellis No. 4 conveyor belt, creating an extremely dangerous situation to every person in this mine, in the event of a belt fire.

Company / Operator Agent Served: Wayne Persinger

Authorized Representative: Danny Daniel

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 Miners' Health, Safety and Training for review of this notice of violation within thirty (30) days from the issued date.

018  
Revised 3-09

Region IV/ OAK HILL

233-0120-2011

No: 41842

STATE OF WEST VIRGINIA

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
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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: 7:30 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 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 8-4 2011

This foregoing violation was totally abated by 8-4-11 7:30 a.m. \_\_\_\_\_ p.m. on 8-4 2011

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

Company / Operator Agent Served: JACK Roles

Authorized Representative: Dan Ford 233

Inspector No. \_\_\_\_\_

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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%) \_\_\_\_\_

Region IV/ OAK HILL

233-0120-2011

No: 41843

STATE OF WEST VIRGINIA

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1615 Washington Street East  
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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 7:30 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 drill a 20-inch dewatering hole in No. 1 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. X Order     

Area or equipment (if order is issued):     

The foregoing violation shall be totally abated by      a.m.      p.m. on 20

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

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the office of MHS&T

Company / Operator Agent Served: Jack Roberts

Authorized Representative: [Signature] 233

Inspector No.     

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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%)

Region IV/ OAK HILL  
233-0120-2011

No: 41844

STATE OF WEST VIRGINIA

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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 8-4-11 20 11 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 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 26  
This foregoing violation was totally abated by 7:30 a.m.        p.m. on 8-4 26-11

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: JACK Roles

Authorized Representative: Dan J. Jull 233 Inspector No.         
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.

Special Assessment  
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)        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%)

018  
Revised 3-09

Region IV/ OAK HILL  
233-0120-2011

No: 41845

STATE OF WEST VIRGINIA

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1615 Washington Street East  
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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 7:30 ✓ 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 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 \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. on 20  
The foregoing violation was totally abated by 7:30 a.m. \_\_\_\_\_ p.m. on 8-4 20-11

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 Approval

Company / Operator Agent Served: JACK Roles

Authorized Representative Dennis J. 233 Inspector No. \_\_\_\_\_

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐ 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 (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%) \_\_\_\_\_ Extra effort (-15%) \_\_\_\_\_  
No compliance (extenuating circumstances) (0%) \_\_\_\_\_

Region IV/ OAK HILL

STATE OF WEST VIRGINIA

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233-0120-2011

No: 41846

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 7:30 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 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 20

The foregoing violation was totally abated by      a.m.      p.m. on 20

Action taken to abate the violation: Discussed this article of LNW with mine management requiring ventilation plans to be submitted to the office of miners health, safety & training

Company / Operator Agent Served: JACK Roles

Authorized Representative: Danny J. 233 / M. Brown Inspector No. 229

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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%)



Region IV/ OAK HILL  
233-0120-2011

No: 41847

STATE OF WEST VIRGINIA

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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 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 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      a.m.      p.m. on     

The foregoing violation was totally abated by 7:30 a.m.      p.m. on 8-4 20 11

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 ROBS

Authorized Representative: Daniel J. 233 / McNameis Inspector No. 229

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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 compliance (extenuating circumstances) (0%)      Extra effort (-15%)



Region IV/ OAK HILL

233-0120-2011

No: 41848

STATE OF WEST VIRGINIA

OFFICE OF  
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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 7:30 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 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.

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 20

The foregoing violation was totally abated by 7:30 a.m.      p.m. on 8-11 20

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 ROLES

Authorized Representative: Danny Hull 233/McKinnis Browning Inspector No. 225

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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 compliance (extenuating circumstances) (0%)      Extra effort (-15%)

IF-018  
Revised 3-09

Region IV/ OAK HILL

233-0120-2011

No: 41849

STATE OF WEST VIRGINIA

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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 7:30 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        a.m.        p.m. on 20

The foregoing violation was totally abated by 7:30 a.m.        p.m. on 8-4 20

Action taken to abate the violation: Discussed this article of law with mine management requiring vent plan to be submitted to the office of miners health, safety & training for approval

Company / Operator Agent Served: JACK ROLES

Authorized Representative: Dennis Branning Inspector No. 229

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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%)

018  
Revised 3-09

Region IV/ OAK HILL

233-0120-2011

No: 43861

STATE OF WEST VIRGINIA

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

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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 11 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 doors between cross cuts 9 and 11 on 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. X Order     

Area or equipment (if order is issued):     

The foregoing violation shall be totally abated by      a.m.      p.m. on 20

The foregoing violation was totally abated by 7:30 a.m.      p.m. on 8-4 20 11

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 Roles

Authorized Representative: Danny Jones 237/M-Kennie Browning Inspector No. 229

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐

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 (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%)

018  
Revised 3-09

Region IV/ OAK HILL

233-0120-2011

No: 43862

STATE OF WEST VIRGINIA

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

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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 7:30 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 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 20

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

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the office of MHST

Company / Operator Agent Serves: Jack Roles

Authorized Representative: Danny Smith 233 McKinnis Browning Inspector No. 229

REVIEW: In accordance with Section 22A-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 S Violation: ☐

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 (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 compliance (exhausting circumstances) (0%)      Extra effort (-15%)

018

Revised 3-09

Region IV/ OAK HILL

233-0120-2011

No: 43863

## STATE OF WEST VIRGINIA

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
1615 Washington Street East  
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## NOTICE OF VIOLATION

Company / Operator Performance Coal Co. Contractor: Yes      No XPermit Number U-3042-92 Mine Name UBBMC Montcoal EagleDate of Issue 8-4 20 11 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 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.      Order     Area or equipment (if order is issued):     The foregoing violation shall be totally abated by      a.m.      p.m. on 20The foregoing violation was totally abated by 7:30 a.m.      p.m. on 8-4 2011Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the office of MHS&TCompany / Operator Agent Served: JACK RolesAuthorized Representative: Danny June 233 / mstanni Brown 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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATIONS and S Violation: ☐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 (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 compliance (extenuating circumstances) (0%)     Extra effort (-15%)

Region IV/ OAK HILL  
233-0120-2011

No: 43864

STATE OF WEST VIRGINIA

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
1615 Washington Street East  
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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 11 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 20

The foregoing violation was totally abated by 7:30 a.m.      p.m. on 8-4 20 11

Action taken to abate the violation: Discussed with management concerning Ventilation plans to be submitted to the Office of MHS&T.

Company / Operator Agent Served: JACK Roles

Authorized Representative: Dan J. Small 233 /m/ Kenneth Brumby Inspector No. 229

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.

Special Assessment  
VIOLATION ASSESSMENT EVALUATION

S and S Violation: ☐ 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 (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%)      Extra effort (-15%)     

No compliance (extenuating circumstances) (0%)



018  
Revised 3-09  
Region IV/ OAK HILL

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

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233-0120-2011

No: 43865

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 11 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 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         
Area or equipment (if order is issued):       

The foregoing violation shall be totally abated by        a.m.        p.m. on        20       

This foregoing violation was totally abated by 7:30 a.m.        p.m. on 8-4 20 11

Action taken to abate the violation: Discussed with management concerning ventilation plans to be submitted to the office of MHST

Company / Operator Agent Served: JACK Roles

Authorized Representative: Dan Jull 233 / McKenna Branning Inspector No. 229

REVIEW: In accordance with Section 22A-17 of this 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 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%)        Extra effort (-15%)         
No compliance (extenuating circumstances) (0%)



Region IV/ OAK HILL

233-0123-2011

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

No: 36543

**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 11 Time 7:30 V.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 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 is missing (2) the Brattice between Spad No. 22176 and Spad 22136 is missing  
(3) The Brattice 20 ft. outby Spad No. 22135 is missing (4) The Brattice 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 20

The foregoing violation was totally abated by 7:40 a.m.          p.m. on 8-4 20 11

Action taken to abate the violation: Discussed with mine management that All Ventilation  
Revisions must be complied with.

Company / Operator Agent Served: JACK Roles

Authorized Representative: Dennis J. 233/m\*Kennis Brooming Inspector No. 229

REVIEW: In accordance with Section 22A-1-27 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 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 \*(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)          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%)

Region IV/ Oak Hill  
No. 233-0134-2011  
Violation No. 36543

**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.        P.M.

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 willfull 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: [Signature] 233/mcKennis Browning Inspector No. 229

**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.

Revised 4-07  
Region 4  
Case No 78-0732  
Violation No. 1

STATE OF WEST VIRGINIA  
OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

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No: **104352**

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, 20 12 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      a.m. 1:30 p.m. on 2-15 20 12

The foregoing violation was totally abated by      a.m. 1:30 p.m. on 2-15 20 12

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 (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)      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%)

IF-010  
Revised 4-07  
Region 4  
Case No 780732  
Violation No. 2  
No: **104354**

STATE OF WEST VIRGINIA  
OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

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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, 20 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: Title     , Series     , Section      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 dust allayed by such other means as may be approved by the Director. It also states that rock dust shall be maintained in all these 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      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: 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: ☒  
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%)

Region 4  
No. 78-0732  
Violation No. 104354--(page #2)

OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING  
161 5 Washington Street East  
Charleston, West Virginia 25311-2126

NOTICE OF VIOLATION - CONTINUATION PAGE NO.     

Company / Operator Performance Coal Company Contractor: Yes      No x

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

Date of, Issue 2-15 f20      Time 1:10      A.M. x P.M.

(page two of two) 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.

Revised 4-07  
Region FOUR  
Case No 78-0732  
Violation No. 3

STATE OF WEST VIRGINIA  
OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

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Assessment  
Regional Office  
Post  
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No: **104355**

NOTICE OF VIOLATION

Company / Operator Performance Coal Company Contractor: Yes ☐ No ☒

Permit Number U-3042-92 Mine Name Upper Big Branch Montcoal Eagle

Date of Issue 2-15, 20 12 Time 1:15 ☐ 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 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 -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: ☒

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%)

Region 4Case No 78-0733Violation No. 1No: **104357**OFFICE OF  
MINERS' HEALTH, SAFETY AND TRAINING1615 Washington Street East  
Charleston, West Virginia 25311-2126

## NOTICE OF VIOLATION

Company / Operator Performance Coal Company Contractor: Yes      No xPermit Number U-3042-92 Mine Name UBB Montcoal EagleDate of Issue 2-15, 20 12 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: Title 36, Series 6, Section 4.1 k 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, 2019 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. 1:30 p.m. on 2-15 20 12The foregoing violation was totally abated by      a. m. 1:30 p.m. on 2-15 20 12Action taken to abate the violation: Requirement of the law was discussed with mine management.Company / Operator Agent Served: Larry BrownAuthorized Representative: Barry Fletcher *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:

☒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%)



State of West Virginia  
Office of Miners' Health, Safety and Training  
1615 Washington Street, East  
Charleston, West Virginia 25311-2126

Case No. 78-0730

Region Four

**INSPECTION OF VIOLATION**

**Good faith in abatement** Lack of good faith (+ 1 5%) \_\_\_\_\_

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

Violation Number: 104350 was/is hereby \_\_\_\_\_ totally abated by 20

\_\_\_\_\_ a.m. \_\_\_\_\_ p.m. extended to \_\_\_\_\_, 20\_\_\_\_, X 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. This 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 (+1 5%) \_\_\_\_\_

No compliance (extenuating circumstances) (0%) \_\_\_\_\_ Extra effort (- 1 5%) \_\_\_\_\_

Violation Number: 26192 was/is hereby \_\_\_\_\_ totally abated by \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_ a.m. \_\_\_\_\_ p.m. extended to \_\_\_\_\_, 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.

**Good faith in abatement.** Lack of good faith (+1 5%) \_\_\_\_\_

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

Violation Number: \_\_\_\_\_ was/is hereby \_\_\_\_\_ totally abated by \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_ a.m. \_\_\_\_\_ p.m. extended to \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ modified to

\_\_\_\_\_ Order, \_\_\_\_\_ Withdrawn.

Action taken to abate the violation: \_\_\_\_\_

**Good faith in abatement** Lack of good faith (+1 5%) \_\_\_\_\_

No compliance (extenuating circumstances) (0%) \_\_\_\_\_ Extra effort (- 1 5%) \_\_\_\_\_

Violation Number: \_\_\_\_\_ was/is hereby \_\_\_\_\_ totally abated by \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_ a.m. \_\_\_\_\_ p.m. extended to \_\_\_\_\_, 20\_\_\_\_, 0 modified to

\_\_\_\_\_ Order, \_\_\_\_\_ Withdrawn.

Action taken to abate the violation: \_\_\_\_\_

Company/Operator Agent served: Larry Brown Date: 2-15 2012

Authorized Representative: Barry Fletcher Barry Fletcher Inspector Number 78

Issued 4-07

STATE OF WEST VIRGINIA

Inspector

Region 4

OFFICE OF

Assessment

Case No 78-0730

MINERS' HEALTH, SAFETY AND TRAINING

Regional Office

Violation No. 34

1615 Washington Street East

Post

Charleston, West Virginia 25311-2126

Rep of Mines

No: 26192

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. ☒ Order \_\_\_\_\_

Area or equipment (if order is issued): \_\_\_\_\_

The foregoing violation shall be totally abated by \_\_\_\_\_ a.m. \_\_\_\_\_ p.m. on \_\_\_\_\_ 20 \_\_\_\_\_

The foregoing violation was totally abated by 10:00 ☒ 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 *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: ☐

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) ☒ 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%) \_\_\_\_\_

Region 4Case No. 780730Violation No. 43No: **104350**

STATE OF WEST VIRGINIA  
OFFICE OF  
**MINERS' HEALTH, SAFETY AND TRAINING**

1615 Washington Street East  
Charleston, West Virginia 25311-2126

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**NOTICE OF VIOLATION**

Company / Operator Performance Coal Company Contractor: Yes      No xPermit Number U-3042-92 Mine Name UBB Montcoal EagleDate of Issue 10-19, 20 11 Time 9:55 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      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 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      a.m.      p.m. on      20     The foregoing violation was totally abated by 10:00 a.m.      p.m. on 10-19 20 11Action taken to abate the violation: The requirements of the approved plan have been reviewed with Jack Roles, mine superintendent.Company / Operator Agent Served: Jack RolesAuthorized Representative: Barry Fletcher *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: ☐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) xPermanently 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) x 8-9(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%)

4-07

## STATE OF WEST VIRGINIA

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## OFFICE OF

## MINERS' HEALTH, SAFETY AND TRAINING

1615 Washington Street East  
Charleston, West Virginia 25311-2126

## NOTICE OF VIOLATION

No 78-0731

ation No. 1

No: 104353

Company / Operator Performance Coal Company Contractor: Yes ☐ No ☒Permit Number U-3042-92 Mine Name UBB Montcoal EagleDate of Issue 2-15, 20 12 Time 1:00 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 66 (b) (c) and/or West Virginia Administrative Regulation: Title \_\_\_\_\_, Series \_\_\_\_\_, Section \_\_\_\_\_ 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 in by 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. ☒ 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 2012The foregoing violation was totally abated by \_\_\_\_\_ a.m. 1:30 p.m. on 2-15 2012Action taken to abate the violation: Reporting requirements have been discussed with mine management.Company / Operator Agent Served: Larry BrownAuthorized Representative: Barry Fletcher *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) \_\_\_\_\_ 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) \_\_\_\_\_ 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%) \_\_\_\_\_