



## State of West Virginia

Earl Ray Tomblin, Governor

WV Office of Miners' Health, Safety & Training  
C. A. Phillips, Acting Director  
1615 Washington Street East • Charleston, West Virginia • 25311-2126  
Telephone 304-558-1425 • Fax 304-558-1282  
[www.wvminesafety.org](http://www.wvminesafety.org)

### IN THE MATTER OF:

### THE INVESTIGATION OF THE APRIL 5, 2010 MINE EXPLOSION AT UPPER BIG BRANCH MINE.

### SUBPOENA

TO: David Shears  
(b) (7)(C)

You are hereby **COMMANDED**, pursuant to W. Va. Code Section 22A-2-66(d), to appear and give testimony regarding the above referenced investigation on February 23, 2011 at 3:00 p.m. in classroom 121 at the Mine Academy located at 1301 Airport Road, Beaver, West Virginia 25813. The West Virginia Office of Miners' Health, Safety and Training, the Mine Safety and Health Administration, and the Governor's Independent Investigation Team will participate in the interview.

Given under my hand this 16<sup>th</sup> day of February, 2011.

(b) (7)(C)

C.A. Phillips, Acting Director

• Region One • 14 Commerce Dr., Suite 1 - Westover, West Virginia 26501 • Telephone 304-285-3268 • Fax 304-285-3275  
• Region Two • 891 Stewart St. - Welch, West Virginia 24801-2311 • Telephone 304-436-8421 • Fax 304-436-2100  
• Region Three • 137 Peach Court, Suite 2 - Danville, West Virginia 25053 • Telephone 304-369-7823 • Fax 304-369-7826  
• Region Four • 550 Industrial Dr. - Oak Hill, West Virginia 25901-9714 • Telephone 304-469-8100 • Fax 304-469-4059

EXHIBIT

Shears Ex. 1

PENGAD 800-431-8833

**STATE OF WEST VIRGINIA**

**Earl Ray Tomblin, Governor**

**WV Office of Miners' Health, Safety & Training**

**C.A. Phillips, Acting Director**

**AFFIDAVIT OF SERVICE**

**IN THE MATTER OF:**

**THE INVESTIGATION OF THE  
APRIL 5, 2010 MINE EXPLOSION  
AT UPPER BIG BRANCH MINE.**

**STATE OF WEST VIRGINIA,  
COUNTY OF KANAWHA, to-wit:**

**I, Robert J. MacDonald, being first duly sworn, do testify and aver as follows:**

1. That I am a credible person over the age of 21 years.
2. That on the 19th day of February, 2011. I personally served David L. Shears,  
with a Subpoena at (b) (7)(C)

(b) (7)(C)

**Further your affiant says not.**

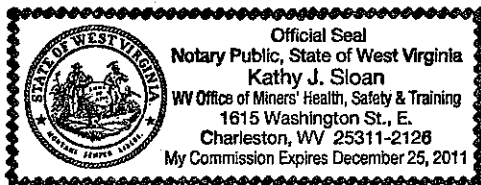
**(b) (7)(C)**

(b) (7)(C)

**Robert J. MacDonald**

Taken, subscribed and sworn to by **Robert J. MacDonald**, this the 22 day of  
February, 2011.

**My commission expires:**



**(b) (7)(C)**

**EXHIBIT**

Shears Ex. 2

PENGAD 800-631-698