



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

IN THE MATTER OF:

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

SUBPOENA

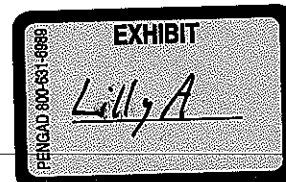
TO: Harold Lilly
% John F. McCuskey, Esq.
Shuman, McCuskey & Slicer PLLC
P.O. Box 3953
Charleston, WV 25339

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 June 21, 2011 at 5:00 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 7th day of June, 2011.

(b) (7)(C)

C.A. Phillips, Acting Director





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IN THE MATTER OF:

**THE INVESTIGATION OF THE
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ACCEPTANCE OF SERVICE

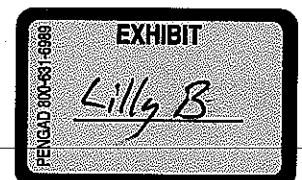
TO: John F. McCuskey, Esq.
1411 Virginia Street, East
Suite 200
Charleston, WV 25339

As evidenced by my signature hereto, I am authorized to accept service of the Office of Miners' Health, Safety & Training subpoena in the above-styled matter and hereby acknowledge receipt of said subpoena and that said subpoena has the same force and effect as if personally served on my client Harold Lilly.

(b) (7)(C)

6.8.11

Date



Air Way Travels

- 3-16-10 TRAVELED INTAKE FROM 5 BK NORTH MAIN TO 85 BK N MAINS (CS)
- 3-16-10 TRAVELED INTAKE FROM 75 BK TO MOUTH OF OLD 2 sect (CS)
- 3-16-10 TRAVELED RETURN FROM MOUTH OF 25 section TO 75 BK (CS)
- 3-16-10 TRAVELED INTAKE FROM LONGWALL TAIL TO MOUTH OF 25 sect (CS)
- 3-16-10 TRAVELED RETURN FROM MOUTH OF 32 BK ON OLD 2 sect TO TG 22 FACE (CS)
- 3-16-10 TRAVELED PRIMARY FROM TG 22 TO WHERE 182 CONNECTS (CS)
- 3-16-10 TRAVELED PRIMARY FROM 12 BK ON LONGWALL BELT TO OUTSIDE A Ellis punchout (CS)
- 3-16-10 TRAVELED PRIMARY ESCAPEWAY FROM LOB TO #10 BK. LHWALL (HL)
- 3-16-10 TRAVELED LHWALL TAIL ENTRY FROM FACE TO MOUTH OF LHWALL (HL)
- 3-17-10 TRAVELED INTAKE FROM 85 BK TO 167 BRAKE NORTH MAINS (CS)
- 3-17-10 TRAVELED RETURN FROM 167 BK TO DOORS AT GLORY HOLE (CS)
- 3-17-10 TRAVELED PRIMARY ESCAPEWAY FROM HG 22 TO 81 BK N. MAINS (CS) (S)
- 3-17-10 TRAVELED RETURN OFF OF NORTH MAINS FROM 167 TO MOUTH OF HG 22 1422
- 3-17-10 TRAVELED Secondary Escapeway ON Longwall FROM MOUTH OF L/W TO LAST OPEN ON LONGWALL (SH)
- 3-18-10 TRAVELED old primary going out Ellis ON Rt side going OUT (CS)
- 3-18-10 TRAVELED RETURN FROM 73 BK ON OLD 2 SECTION TO 131 BK AT BRADDOWN TAIL (TLR)
- 3-19-10 TRAVELED old INTAKE ON Rt side OF TRACK COMING FROM 75 BK - 131 BK (CS)

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Signature (b) (7)(C)

(b) (7)(C)

Wire Foreman

Superintendent of Company

(b) (7)(C)

Upper Big Branch Mine (46-08436)

Gas Detector Calibration Record

| Date | Dectector | Model # | Serial # | Calibrated By |
|---------|-----------|----------------|------------------------|---------------|
| 3-9-10 | SOLARIS | C. Senke | A431106 | (b) (7)(C) |
| 3-10-10 | SOLARIS | M Kiblinger | A4 27391 | |
| 3-10-10 | SOLARIS | R Osborne | A5-95694 | |
| 3-10-10 | SOLARIS | L Brown | A4-31518 | |
| 3-10-10 | SOLARIS | S. Walker | A5-10682 | |
| 3-11-10 | SOLARIS | J. Bickford | A5-80599 | |
| 3-11-10 | SOLARIS | L Cox | A 05708892 | |
| 3-11-10 | SOLARIS | Bill Cuddock | A5-11846 10000001 | |
| 3-13-10 | SOLARIS | Delbert Bailer | A5 A5-11796 | |
| 3-14-10 | SOLARIS | Harold Lilly | A5-104687 | |
| 3-15-10 | SOLARIS | K Farmer | A4-31130 | |
| 3-15-10 | SOLARIS | S. Halstead | A5-95696 | |
| 3-14-10 | SOLARIS | B. Campbell | A5-103855 | |
| 3-15-10 | SOLARIS | B. Bowling | A5-95558 | |
| 3-16-10 | SOLARIS | W Persinger | A5-11816 | |
| 3-17-10 | SOLARIS | W Persinger | A5-11816 | |
| 3-23-10 | SOLARIS | D. Sims | A5-11809 | |
| 3-23-10 | SOLARIS | Bill Cuddock | A5-11846 | |
| 3-27-10 | SOLARIS | Ward Lilly | A5-56465 | |

PENGAD 800-831-6669
EXHIBIT
Lilly E

| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # |
|----|---------|-------|-----------------|----------------|----|---------|-----------------------|-------------------|-----------------|
| #1 | 2-24-10 | ← | 0.0% | 20.8% | 0% | 146,970 | at Bendytown fan | (b) (7)(C) | |
| #2 | 2-24-10 | — | 0.0% | 20.8% | 0% | 129,015 | at Bendytown fan | | |
| #3 | 2-24-10 | — | 0.0% | 20.8% | 0% | 27,720 | at Bendytown fan | | |
| #3 | 2-24-10 | T61 | 0.0% | 20.8% | 0% | 82,300 | towards Bendytown fan | | |
| #4 | 2-24-10 | T61 | 0.0% | 20.8% | 0% | 59,849 | towards Bendytown fan | | |
| #5 | 2-24-10 | T61 | 0.0% | 20.8% | 0% | 16,970 | towards Bendytown fan | | |
| 4 | 2-24-10 | EP2 | 0.0% | 20.8% | 0% | 40,160 | TO FAN | | |
| 5 | 2-24-10 | " | 0.0% | 20.8% | 0% | 39,310 | TO FAN | | |
| 6 | 2-24-10 | " | 0.0% | 20.8% | 0% | 46,005 | TO FAN | | |
| 7 | 2-24-10 | " | 0.0% | 20.8% | 0% | 42,110 | TO FAN | | |
| | 2-24-10 | EPLW1 | 0.0% | 20.8% | 0% | 30,150 | TO FAN | | |
| #4 | 2-25-10 | EPLW3 | 0% | 20.8% | 0% | 35,790 | towards Bendytown fan | | |
| #3 | 2-25-10 | LW3 | 0% | 20.8% | 0% | 52,860 | towards Bendytown fan | | |
| #2 | 2-25-10 | LW3 | 0% | 20.8% | 0% | 17,430 | towards Bendytown fan | | |
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PENGAD 800-851-5889
EXHIBIT
 Lilly F
 6 pages

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| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # |
|----|--------|-----------------|-----------------|----------------|----|---------|-----------------------|-------------------|-----------------|
| #1 | 3/1 | — | 0.0% | 20.8% | 0% | 148,016 | AT Bandytown Fan | (b) (7)(C) | |
| #2 | 3/1 | — | 0.0% | 20.8% | 0% | 129,178 | AT Bandytown Fan | | |
| #3 | 3/1 | — | 0.0% | 20.8% | 0% | 126,593 | AT Bandytown Fan | | |
| 4 | 3-3-10 | EP2 | 10% | 20.8% | 0% | 40,060 | TO FAN | | |
| 5 | 3-3-10 | " | 10% | 20.8% | 0% | 38,140 | TO FAN | | |
| 6 | 3-3-10 | " | 10% | 20.8% | 0% | 46,510 | TO FAN | | |
| 7 | 3-3-10 | " | 10% | 20.8% | 0% | 12,011 | TO FAN | | |
| | 3-3-10 | EPLW1 | 10% | 20.8% | 0% | 30,160 | TO FAN | | |
| #2 | 3-3-10 | LW ³ | 10% | 20.8% | 0% | 35,260 | towards Bandytown Fan | | |
| #3 | 3-3-10 | LW ³ | 10% | 20.8% | 0% | 32,640 | towards Bandytown Fan | | |
| #4 | 3-3-10 | LW ³ | 10% | 20.8% | 0% | 16,994 | towards Bandytown Fan | | |
| | 3-7-10 | Dpp1 | 0.10 | 20.8 | 0 | 39,520 | TO OUTSIDE | | |
| #3 | 3-4-10 | EPT61 | 0.0% | 20.8% | 0% | 81,874 | towards Bandytown Fan | | |
| #4 | 3-4-10 | T61 | 0.0% | 20.8% | 0% | 49,262 | towards Bandytown Fan | | |
| #5 | 3-4-10 | T61 | 0.0% | 20.8% | 0% | 15,300 | towards Bandytown Fan | | |

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(b) (7)(C)

| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # |
|----|---------|-------|-----------------|----------------|------|---------|-----------------------|------------|-----------------|
| 4 | 3-10-10 | EP2 | .090 | 20.80 | .090 | 19,000 | TO FAN | (b) (7)(C) | |
| 5 | 3-10-10 | " | .090 | 20.80 | .090 | 12,400 | TO FAN | | |
| 6 | 3-10-10 | " | .090 | 20.80 | .090 | 10,500 | TO FAN | | |
| 7 | 3-10-10 | " | .090 | 20.80 | .090 | 16,980 | TO FAN | | |
| | 3-10-10 | EPLW1 | .090 | 20.80 | .090 | 30,160 | TO FAN | | |
| | 3-10-10 | MP36 | .090 | 20.80 | .090 | 29,890 | TO FAN | | |
| #1 | 3-10-10 | — | .090 | 20.80 | .090 | 148,291 | At Bandytown Fan | | |
| #2 | 3-10-10 | — | .090 | 20.80 | .090 | 128,850 | At Bandytown Fan | | |
| #3 | 3-10-10 | — | .090 | 20.80 | .090 | 20,144 | At Bandytown Fan | | |
| #3 | 3-10-10 | TG1 | .090 | 20.80 | .090 | 27,460 | towards Bandytown Fan | | |
| #4 | 3-10-10 | TG1 | .090 | 20.80 | .090 | 61,119 | towards Bandytown Fan | | |
| #5 | 3-10-10 | TG1 | .090 | 20.80 | .090 | 12,200 | towards Bandytown Fan | | |
| #2 | 3-12-10 | LW3 | .090 | 20.80 | .090 | 14,780 | towards Bandytown Fan | | |
| #3 | 3-12-10 | LW3 | .090 | 20.80 | .090 | 37,260 | towards Bandytown Fan | | |
| #4 | 3-12-10 | LW3 | .090 | 20.80 | .090 | 28,280 | towards Bandytown Fan | | |
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(b) (7)(C)

| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # |
|----|---------|------|------------------|----------------|------|---------|-----------------------|------------|-----------------|
| 4 | 3-16-10 | LW 2 | 0.9% | 20.8% | 0.0% | 16,500 | TO FAN | (b) (7)(C) | |
| 5 | 3-16-10 | " | 0.9% | 20.8% | 0.0% | 10,610 | TO FAN | | |
| 6 | 3-16-10 | " | 0.9% | 20.8% | 0.0% | 10,500 | TO FAN | | |
| 7 | 3-16-10 | " | 0.9% | 20.8% | 0.0% | 12,010 | TO FAN | | |
| | 3-16-10 | MP36 | 0.9% | 20.8% | 0.0% | 50,400 | TO FAN | | |
| | 3-16-10 | LW 1 | could not get to | | | | EP Due to WAF | | |
| #1 | 3-16-10 | — | 0.9% | 20.8% | 0.0% | 141,000 | BT Bandytown Fan | | |
| #2 | 3-16-10 | — | 0.9% | 20.8% | 0.0% | 131,250 | BT Bandytown Fan | | |
| #3 | 3-16-10 | — | 0.9% | 20.8% | 0.0% | 121,695 | BT Bandytown Fan | | |
| #2 | 3-16-10 | LW 3 | 0.9% | 20.8% | 0.0% | 13,260 | towards Bandytown Fan | | |
| #3 | 3-16-10 | LW 3 | 0.9% | 20.8% | 0.0% | 57,400 | towards Bandytown Fan | | |
| #4 | 3-16-10 | LW 3 | 0.9% | 20.8% | 0.0% | 65,300 | towards Bandytown Fan | | |
| #3 | 3-18-10 | TG 1 | 0.9% | 20.8% | 0.0% | 69,300 | towards Bandytown Fan | | |
| #4 | 3-18-10 | TG 1 | 0.9% | 20.8% | 0.0% | 27,090 | towards Bandytown Fan | | |
| #5 | 3-18-10 | TG 1 | 0.9% | 20.8% | 0.0% | 2,753 | towards Bandytown Fan | | |

(b) (7)(C)

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(b) (7)(C)

| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # | |
|----|---------|-----------------|---------------------------|----------------|----|---------|-----------------------|-------------------|-----------------|--|
| #1 | 3/22/10 | — | 0.0% | 20.8% | 0% | 135,625 | at Bandytown Fan | (b) (7)(C) | | |
| #2 | 3/22/10 | — | 0.0% | 20.8% | 0% | 141,250 | at Bandytown Fan | | | |
| #3 | 3/22/10 | — | 0.0% | 20.8% | 0% | 120,900 | at Bandytown Fan | | | |
| #2 | 3/22/10 | LW ³ | 0.0% | 20.8% | 0% | 11,244 | towards Bandytown Fan | | | |
| #3 | 3/22/10 | LW ³ | 0.0% | 20.8% | 0% | 64,000 | towards Bandytown Fan | | | |
| #4 | 3/22/10 | LW ³ | 0.0% | 20.8% | 0% | 71,800 | towards Bandytown Fan | | | |
| 4 | 3-23-10 | LW ² | 0.0% | 20.8% | 0% | 16,010 | Toward Fan | | | |
| 5 | 3-23-10 | " | 0.0% | 20.8% | 0% | 9,050 | Toward Fan | | | |
| 6 | 3-23-10 | " | 0.0% | 20.8% | 0% | 10,110 | Toward Fan | | | |
| 7 | 3-23-10 | " | 0.0% | 20.8% | 0% | 8,340 | Toward Fan | | | |
| | 3-23-10 | MP36 | 0.0% | 20.8% | 0% | 50,940 | Toward Fan | | | |
| | 3-23-10 | LW1 | could not get to EP under | | | | | | | |
| #3 | 3-23-10 | TG1 | 0.0% | 20.8% | 0% | 75,900 | towards Bandytown Fan | | | |
| #4 | 3-23-10 | TG1 | 0.0% | 20.8% | 0% | 27,000 | towards Bandytown Fan | | | |
| #5 | 3-23-10 | TG1 | 0.0% | 20.8% | 0% | 2,120 | towards Bandytown Fan | | | |
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(b) (7)(C)

| | Date | EP | CH ₄ | O ₂ | CO | Cfm | Direction of Air | Signature | Certification # |
|----|---------|-----------------|-----------------|----------------|----|---------|-----------------------|------------|-----------------|
| #1 | 3-29-10 | — | 0.0% | 20.8% | 0% | 73,500 | at Bandytown fan | (b) (7)(C) | |
| #2 | 3-29-10 | — | 0.0% | 20.8% | 0% | 14,750 | at Bandytown fan | | |
| #3 | 3-29-10 | — | 0.0% | 20.8% | 0% | 120,600 | at Bandytown fan | | |
| #2 | 3-29-10 | LW ³ | 0.0% | 20.8% | 0% | 10,957 | towards Bandytown fan | | |
| #3 | 3-29-10 | LW ³ | 0.0% | 20.8% | 0% | 70,000 | towards Bandytown fan | | |
| #4 | 3-29-10 | LW ³ | 0.0% | 20.8% | 0% | 87,200 | towards Bandytown fan | | |
| #4 | 3-30-10 | LW ² | 0.0% | 20.8% | 0% | 15,010 | Towards fan | | |
| #5 | 3-30-10 | " | 0.0% | 20.8% | 0% | 8,300 | Towards Fan | | |
| #6 | 3-30-10 | " | 0.0% | 20.8% | 0% | 9,160 | Towards Fan | | |
| #7 | 3-30-10 | " | 0.0% | 20.8% | 0% | 8,400 | Towards Fan | | |
| | 3-30-10 | MP36 | 0.0% | 20.8% | 0% | 50,190 | Towards Fan | | |
| | 3-30-10 | EP39 | 0.0% | 20.8% | 0% | 50,200 | Towards Fan | | |
| #3 | 3-30-10 | T61 | 0.0% | 20.8% | 0% | 72,435 | towards Bandytown fan | | |
| #4 | 3-30-10 | T61 | 0.0% | 20.8% | 0% | 27,120 | towards Bandytown fan | | |
| #5 | 3-30-10 | T61 | 0.0% | 20.8% | 0% | 1,750 | towards Bandytown fan | | |
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