



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: Jeremy Burghduff
% John F. McCuskey, Esq.
Shuman, McCuskey & Slicer PLLC
P.O. Box 3953
Charleston, WV 25339

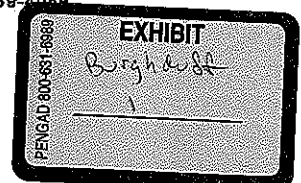
You are hereby **COMMANDED**, pursuant to W. Va. Code Section 22A-2-66(d), to appear and give testimony regarding the above referenced investigation on April 1, 2011 at 10:00 a.m. in classroom 121 at the Mine Academy located at 1301 Airport Road, Beaver, West Virginia 25813. The West Virginia Office 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 25th day of March, 2011.

(b) (7)(C)

C.A. Phillips, Acting Director

• Region One • 14 Commerce Dr., Suite 1 - Westover, West Virginia 26001 • Telephone 304-285-3288 • Fax 304-285-3275
• Region Two • 891 Stewart St. - Welch, West Virginia 24801-2311 • Telephone 304-438-8421 • Fax 304-438-2100
• Region Three • 137 Peach Court, Suite 2 - Danville, West Virginia 25053 • Telephone 304-369-7823 • Fax 304-369-7828
• Region Four • 550 Industrial Dr. - Oak Hill, West Virginia 25901-9714 • Telephone 304-469-8100 • Fax 304-469-4069





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

ACCEPTANCE OF SERVICE

TO: John F. McCuskey, Esq.

(b) (7)(C)

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 Jeremy Burghdoff.

3.28.11
Date

(b) (7)(C)

• Region One • 14 Commerce Dr., Suite 1 - Westover, West Virginia 26601 • Telephone 304-285-3258 • 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 26053 • Telephone 304-369-7823 • Fax 304-369-7826
• Region Four • 550 Industrial Dr. - Oak Hill, West Virginia 25901-9714 • Telephone 304-469-8100 • Fax 304-469-4000



PRESHIFT-MINE EXAMINER'S REPORT

Report shall be signed when made

Use Indelible Pencil or Ink

Date of Examination 4/15 2010 Section or Area Examined Bleeder Area
 Time of Examination: from 2:00 a.m. or 2:00 p.m. to 3:00 a.m. or 3:00 p.m.
 Was this report phoned to outside: Yes no Time AM P.M.
 By whom Brought out
 Report received by _____ (Signed)

Violations and other Hazardous Conditions Observed and Reported

Action Taken

Location	Violation or Hazardous Condition	Action Taken
1. 85-88 brk	ch ⁴ 0.23" of water at Point of measure	Pumping
2. 100 brk #1, 2, 3 ↓	no water	none
3. #4	ch ⁴ 0.1589" of water at Point of measure	Pumping
4. 118 brk #4	ch ⁴ 0.0% 24" of water at Point of measure	Pumping
5. 122 brk #1, #2 ↓	no water	none
6. #3	ch ⁴ 0.0589" of water at Point of measure	Pumping
7. 1	#4 ch ⁴ 0.06 L pump 30" R pump 24 1/2	Pumping
8. 125 brk #4 ↓	36" of water at Point of measure	Pumping
9.		
10.		

Air Measurements

CFM

Location

CFM

Location

Good Air Movement

Remarks: ch⁴ at 100 brk in #4 entry is 0.158 and at 122 brk in #3 entry is 0.058
 at time of exam. All other entries ch⁴ 0.0% max 0.208%

Track clear at time of exam
 Travelway at 83 1/2 brk has Damage Bolt and at 82 brk an old
 2 sections has a small fall on track in Return (Not a travelway) All other entries clear at time of exam

This is to certify that: (a) This section of the mine was properly examined by me, (b) all violations of the Federal Coal Mine Health and Safety Act of 1969 and other applicable laws, regulations, orders, and rules are listed in this report.

Signed By

(b) (7)(C)

1757-A
 Certificate No.

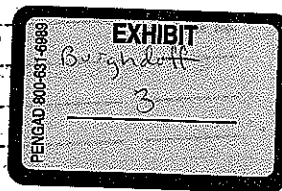
Assistant Foreman

Countersigned

Mine Manager—Mine Foreman

Assistant Foreman

Superintendent or Assistant



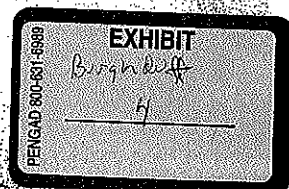
Upper Big Branch Mine (46-08436)

Gas Detector Calibration Record

Date	Dectector	Model #	Serial #
2-10-10	Solaris	Rodney S. Osborne	A5-95694
2-11-10	Solaris	J.A. Bickford	A5-80599
2-11-10	Solaris	Boles	A5-90572
2-13-10	Solaris	H.K. Lilly	A5-104687
2-17-10	Solaris	H.K. Lilly	A5-56465
2-19-10	Solaris	D. Jones	A5-94987
2-19-10	Solaris	Delbert Bailey	A5-88038
2-24-10	Solaris	Elstager	A5-99705
3-2-10	Solaris	R. Gummoe	A5-74419
3-2-10	Solaris	C. Ullman	A5-90655
3-2-10	Solaris	W. Persinger	A5-103855
3-3-10	Solaris	J. Stagg	A5-108899
3-5-10	Solaris	Jeremy Burghdoff	A3-31497
3-6-10	Solaris	Dean Jones	A5-90600
3-7-10	Solaris	Mike Webb	A5-11812
3-7-10	Solaris	Keith Stanley	A5-11803
3-8-10	Solaris	Kevin Medley	A5-74594
3-9-10	Solaris	Dean Jones	A5-104658

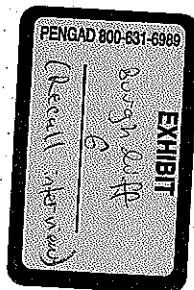
Calibrated by

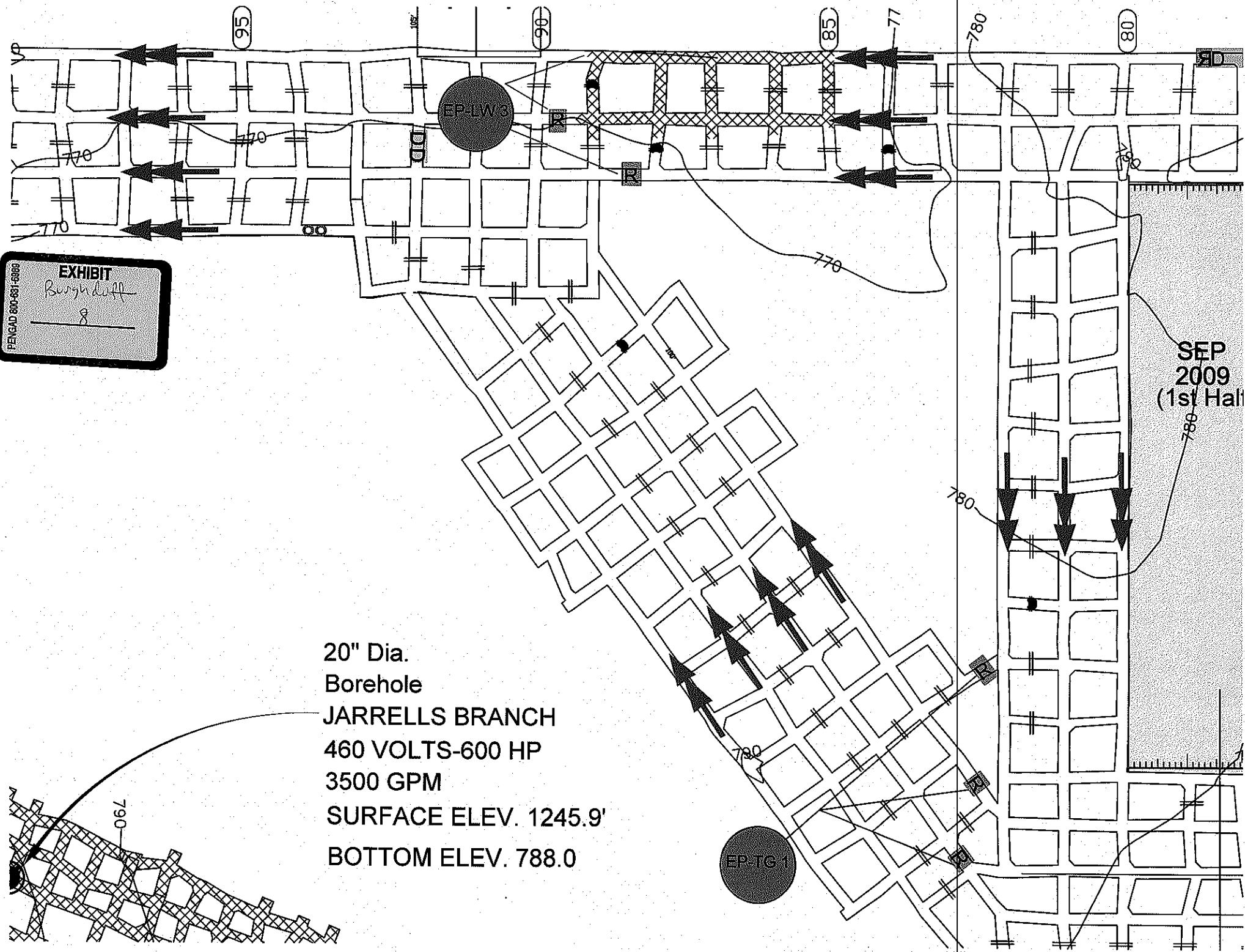
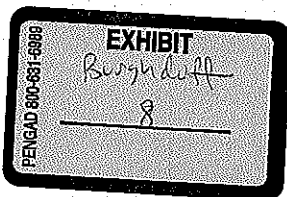
(b) (7)(C)



**Bandytown Fan
Weekly Air Readings beginning December 5, 2009**

Date	No. 1 Entry	No. 2 Entry	No. 3 Entry	Total	Water Gage Pressure in Inches	Examiner
12/29/2009	137,924	173,101	132,800	443,825		Semenske
1/4/2010	148,480	123,985	128,475	400,940		Burghduff
1/12/2010	145,279	125,053	126,850	397,182		Burghduff
1/18/2010	146,400	123,620	126,245	396,265		Burghduff
1/26/2010	145,876	124,221	127,015	397,112		Burghduff
2/3/2010	144,870	122,638	128,000	395,508		Burghduff
2/8/2010	145,015	122,136	126,950	394,101		Burghduff
2/16/2010	147,500	128,500	127,680	403,680		Burghduff
2/24/2010	146,870	129,015	127,720	403,605		Burghduff
3/1/2010	148,016	129,178	126,593	403,787		Burghduff
3/10/2010	148,291	128,950	126,144	403,385	4.60	Burghduff
3/16/2010	141,000	131,250	121,695	393,945	5.30	Burghduff
3/22/2010	135,625	141,250	120,900	397,775	5.10	Burghduff
3/29/2010	136,500	145,750	120,600	402,850	5.30	Burghduff





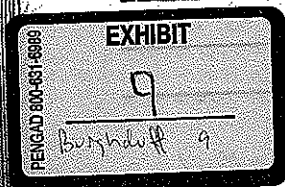
20" Dia.
Borehole
JARRELLS BRANCH
460 VOLTS-600 HP
3500 GPM
SURFACE ELEV. 1245.9'
BOTTOM ELEV. 788.0

Signature	Certification #
(b) (7)(C)	28045
	28045
	28045
	28045
	28045
	28045
	1759-A
	1759-A
	1759-A
	1759-A
	1759-A
	1759-A
	1759-A
	1759-A

(b) (7)(C) 2845

(b) (7)(C)

(b) (7)(C) 31292



Use Indelible
Pencil or Ink

PRESHIFT-MINE EXAMINER'S REPORT

Report shall be
signed when made

Date of Examination 4/11 20 10 Section or Area Examined Bleeder Area
Time of Examination: from 12:00 a.m. or 3:00 p.m. to 3:00 a.m. or 6:00 p.m.
Was this report phoned to outside: Yes no
By whom Brought on Time AM PM
Report received by _____ (Signed)

Violations and other Hazardous Conditions Observed and Reported.

Location	Violation or Hazardous Condition	Action Taken
1. 85 to 88 brd ch ⁴ 0.06 14" of water at Point of measure		Pumping
2. 100 brd #1, 2, 3 ↓ NO water		NONE
3. #4 ch ⁴ 0.25% NO water		NONE
4. 118 brd #4 ch ⁴ 0.08 24" of water at Point of measure		Pumping
5. 122 brd #1, #2 ↓ NO water		NONE
6. #3 ch ⁴ 0.05% 9" of water at Point of measure		Pumping
7. #4 ch ⁴ 0.0% L pump 30 1/2" R pump 25"		Pumping
8. 125 brd #4 ↓ 36 1/2" of water at Point of measure		Pumping
9. _____		
10. _____		

Air Measurements

Location	CFM	Location	CFM
Good Air Movement			

Remarks: CH⁴ at 100 brd in #4 entry is 0.25% and at 122 brd in #3 entry is 0.05%
at time of exam. All other entries ch⁴ 0.0% CO₂ 0.20.8%

Track clear at time of exam.

Travelway at 82 brd has One Brake Bolt.

all other travelway clear at time of exam.

This is to certify that: (a) This section of the mine was properly examined by me, (b) all violations of the Federal Coal Mine Health and Safety Act of 1969 and other unsatisfactory conditions and practices observed by me are listed in this report.

Signed By _____

Countersigned _____

(b) (7)(C)

mine manager

Assistant Foreman

Certificate No.
33303

Assistant Foreman

Superintendent or Assistant

EXHIBIT

Borghoff

10