



**MAR 28 2011**

**MEMORANDUM FOR NEAL H. MERRIFIELD**  
**Administrator for Metal and**  
**Nonmetal Mine Safety and Health**

**FROM:**

**DENNIS RAYMOND** *Dennis Raymond*  
Acting Chief, Program Policy Evaluation Office

**HEIDI W. STRASSLER** *Heidi W. Strassler*  
Associate Solicitor for Mine Safety and Health

**JEFFREY A. DUNCAN** *Jeffrey A. Duncan*  
Director for Educational Policy and Development

**LINDA F. ZEILER** *Linda F. Zeiler*  
Acting Director of Technical Support

**NANCY M. SAHAKIAN, M.D.**  
Senior Program Management Consultant, Clinical Operations,  
Federal Occupational Health Service, United States Public  
Health Service *Nancy Sahakian*

**SUBJECT:** Fatality Review Committee Decision on Chargeability

**Case No.:** 2009-M-67-[REDACTED]

**Deceased:** [REDACTED]

**Date of Incident:** September 28,  
2009

**Date of Death:** September 28, 2009

**Operator:** Payne and Dolan, Inc.

**Mine:** PS1

**Decision:** Not chargeable

In a unanimous decision, the Fatality Review Committee has determined that the death of [REDACTED] should not be charged to the mining industry. The deceased, a trespasser, attempted to take a shortcut home after drinking with a friend. He was traveling down a slope on a 4-wheeler ATV when he fell from the vehicle. The accident occurred on the entry road to a mine site inside a gated area. Friends attempted to locate [REDACTED] when he failed to return home but were not able to find him in time.

The death certificate indicated that the death was accidental and was due to closed head trauma secondary to an all-terrain vehicle accident. The coroner's report also indicated that the death was due to complications from closed head trauma. His alcohol level was found to be 0.317% and was believed to be a factor in the accident.

Based on the certificate of death, the coroner's report and the MSHA investigation, the committee members concluded that [REDACTED] died as a result of a non-work related accident and that his death should not be charged to the mining industry.

cc: Joseph A. Main  
Gregory R. Wagner, M.D.  
Patricia W. Silvey