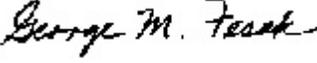


MEMORANDUM FOR KEVIN G. STRICKLIN  
Administrator for Coal  
Mine Safety and Health

FROM: GEORGE M. FESAK   
Chairman, MSHA Fatality Review Committee

SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: C-2007-29

Date of accident: June 12, 2007

Date of death: June 12, 2007

Mine: Calvary Mine

Operating Co.: ICG Knot County LLC

Decision: non-chargeable

In a unanimous decision the Fatality Review Committee has determined that the death of the decedent should be non-chargeable to the mining industry. The deceased, a former contract employee, was killed when he lost control of his ATV on a mine access road. His employment had been terminated earlier in the day and he had returned to pick up his personal equipment. He suffered fatal skull fractures in an impact with large rocks after leaving the roadway. It appears that the decedent was driving recklessly and at an excessive speed before the accident. The members of the committee felt this death should not be chargeable since the deceased was not an employee of the mine operator or a contractor at the time of the incident. Other issues raised were the fact that he was driving the ATV for his own personal transportation and that he was not engaged in a work related activity. The reckless nature of his actions and the location of the accident on a mixed use access road were issues also raised by members of the committee.

cc: Richard E. Stickler  
John Pallasch  
Robert M. Friend