

U.S. Department of Labor

Mine Safety and Health Administration
201 12th Street South
Arlington, Virginia 22202-5452



DEC 29 2016

MEMORANDUM FOR TIMOTHY WATKINS
Acting Administrator for
Coal Mine Safety and Health

FROM: JEFFREY A. DUNCAN 
Committee Chair
Director for Educational Policy and Development

SUBJECT: Chargeability Review Decision

Case No.: 2016-C-19- [REDACTED]

Deceased: [REDACTED]

Date of Incident: September 28, 2016

Date of Death: September 28, 2016

Operator: Frasure Creek Mining LLC

Mine: Surface No. 5 mine
MSHA ID 46-09105

Autopsy Conducted: None

Death Certificate Issued: October 4,
2016

Decision: Not chargeable

I have reviewed the investigative report in the death of [REDACTED] and determined it should not be charged to the mining industry. [REDACTED], a 31 year old trespasser, had been driving an all-terrain vehicle on mine property when he was shot and killed by an off-duty security guard.

The death certificate states the manner of death was homicide, and the immediate cause of death a gunshot wound of the left back. West Virginia is conducting a homicide investigation.

Based on the autopsy, death certificate, and MSHA's investigation, I have determined that the death of [REDACTED] was not due to mine related work activities and should not be charged to the mining industry.

cc: Joseph A. Main
Patricia W. Silvey
Laura V. McClintock
Marcus A. Smith