



MAR 12 2008

MEMORANDUM FOR FELIX A. QUINTANA
Administrator for Metal and
Nonmetal Mine Safety and Health

FROM: GEORGE M. FESAK *George M. Fesak*
Director, Program Evaluation and Information Resources
Chairman, MSHA Fatality Review Committee

EDWARD P. CLAIR *Edward P. Clair*
Associate Solicitor for Mine Safety and Health
Member, MSHA Fatality Review Committee

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Director, Educational Policy and Development
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~~for~~ Director, Technical Support
Member, MSHA Fatality Review Committee

SUBJECT: Fatality Review Committee Decision on Chargeability

Deceased: [REDACTED] Case No.: M-2007-38

Date of Incident: July 6, 2007 Date of Death: July 6, 2007

Operator: Bucklen Equipment Company, Incorporated Mine: Bucklen Equipment Company, Incorporated

Decision: Not Chargeable

In a unanimous decision, the MSHA Fatality Review Committee has determined that the death of [REDACTED] should not be charged to the mining industry. MSHA's investigation revealed that the deceased was visiting the mine property with the son of the operator and subsequently drowned during the course of an unauthorized automobile stunt. The Autopsy Report indicates that [REDACTED] was the unrestrained

passenger in a vehicle that had been "modified" and used as a stunt, driving it off a low dirt ramp in order to jump it into a flooded gravel pit. Based on the Autopsy Report and the results of MSHA's investigation, the committee members concluded that [REDACTED] death should not be charged to the mining industry because he was not performing mining-related activities at the time of the incident that resulted in his death.

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