October 13, 2006

Fatal Privately Owned Vehicle Accident Investigation Report
Frasure Creek Mining, LLC
Mine No. 4
Permit No. S-5022-01A

Region Two – Welch Office
891 Stewart Street
Welch, WV  24801
Fred B. Stinson, Inspector-at-Large
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>SKETCH</td>
<td>iii</td>
</tr>
<tr>
<td>GENERAL INFORMATION</td>
<td>1</td>
</tr>
<tr>
<td>DESCRIPTION</td>
<td>1</td>
</tr>
<tr>
<td>FINDINGS OF FACT</td>
<td>1</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>2</td>
</tr>
<tr>
<td>RECOMMENDATIONS</td>
<td>2</td>
</tr>
<tr>
<td>ACKNOWLEDGMENT &amp; SIGNATURES</td>
<td>2</td>
</tr>
<tr>
<td>APPENDIX</td>
<td>2</td>
</tr>
<tr>
<td>CONTRACTOR INFORMATION</td>
<td>3</td>
</tr>
<tr>
<td>MINE INFORMATION</td>
<td>4,5</td>
</tr>
<tr>
<td>VICTIM INFORMATION</td>
<td>6,7</td>
</tr>
<tr>
<td>INVESTIGATION</td>
<td>8</td>
</tr>
</tbody>
</table>
FATAL PRIVATELY OWNED VEHICLE ACCIDENT INVESTIGATION REPORT
FRASURE CREEK MINING, LLC
MINE NO. 4
PERMIT NO. S-5022-01A

GENERAL INFORMATION

An accident involving privately owned vehicles occurred at Frasure Creek Mining’s haul road on October 13, 2006, at approximately 11:20 a.m. Jerry Ray May was dead at the scene. Mr. May was delivering lunches at the time of the accident. Mr. May was employed by Bonnie’s Restaurant. Matthew Cantrell, driver of the second vehicle involved, was leaving the mine. Mr. Cantrell is employed by Austin Powder Company.

The Office of Miners’ Health, Safety and Training received notification of the accident from Joe Hall at approximately 12:05 p.m. on October 13, 2006. A joint investigation with the Mine Safety and Health Administration (MSHA) was started immediately. The West Virginia State Police also responded during the initial phase of the investigation.

Frasure Creek Mining, LLC, Mine No. 4, began production in 2004 and currently employs 52 people on two shifts.

DESCRIPTION

Jerry Ray May, deliveryman for Bonnie’s Restaurant, entered the mine haul road to deliver lunches to the mine at approximately 11:15 a.m. on October 13, 2006. Mark Cantrell, employee of Austin Powder Company, was leaving the mine, having finished his work for the shift. As Mr. May drove into curve No. 6, his vehicle made no attempt to turn and drove straight into the vehicle driven by Mark Cantrell. Mr. May was dead at the scene. Mr. Cantrell was transported to Logan Regional Medical Center with a knee injury, possible broken leg and lacerations to the head.

FINDINGS OF FACT

1. The weather was clear and the road was dry.
2. The haul road was thirty-six feet wide in curve No. 6.
3. The haul road was well maintained.
4. The curves were all numbered for call points for traffic.
5. Curve No. 6 was a moderate curve, not sharp.
CONCLUSION

From all indications and from questioning Matthew Cantrell, driver of the second vehicle, Mr. May made no apparent attempt to steer his vehicle away from Mr. Cantrell’s vehicle.

RECOMMENDATIONS

Lunch deliveries or any vendors having no physical need to travel to the working area of the mine site shall conduct all activities at the guard shack.

ACKNOWLEDGMENT

The West Virginia Office of Miners’ Health, Safety and Training acknowledges the cooperation of Frasure Creek Mining, LLC and the Mine Safety and Health Administration during this investigation.

Respectfully submitted:

Terry Farley, Administrator of Enforcement

Fred B. Stinson, Inspector-at-Large

Eddie Miller, Surface Inspector, #110

Bobby J. Thornsberry, Electrical Inspector, #25

APPENDIX

- Mine Data Sheets
- Victim Data Sheets
- List of Persons Providing Information/or Present During the Investigation
CONTRACTOR INFORMATION

CONTRACTOR ______ Austin Powder Company

MINE NAME ______ Frasure Creek Mining, Mine No. 4

WV PERMIT ______ S-5022-01A ______ MSHA PERMIT NO. ______

ADDRESS ______ 300 North Pax Avenue, Mount Hope, WV 25880

COUNTY ______ Fayette ______ PHONE NUMBER ______ 304-877-2301

DATE PERMIT ISSUED ______ Blasting and Drilling

WORKING STATUS ______ Blasting and Drilling

LOCATION ______ Frasure Creek Mining, Mine No. 4, Wharncliffe, WV

UNION ______ NON-UNION ______ X

DAILY PRODUCTION ______

ANNUAL PRODUCTION TO DATE ______

TOTAL EMPLOYEES ______ Nine (9)

NUMBER OF SHIFTS ______ Two (2) Shifts

NAME OF COAL BED ______

SEAM THICKNESS ______

ACCIDENT INCIDENT RATE ______ LOST TIME ACCIDENTS ______

TYPE OF HAULAGE ______ Bulk ANFO

WVOMHST INSPECTOR ______ Eddie Miller

DATE OF LAST INSPECTION ______ Regular Inspector - June 2006

NOTIFIED BY ______

TIME OF NOTIFICATION ______

CMSP – ANNIVERSARY DATE ______

CMSP – CONTACT PERSON ______
MINE INFORMATION

COMPANY NAME Frasure Creek Mining, LLC

MINE NAME Mine No. 4

MAILING ADDRESS 1051 Main Street, Suite 100, Milton, WV 25541

MINE TELEPHONE NO 304-664-3885

MSHA ID NO 46-09002

STATE PERMIT NO S-5022-01A

MINE OFFICIAL LISTED ON STATE PERMIT JEFF HOOPS

MINE NAME LISTED ON STAT PERMIT FRASURE CREEK MINING, LLC

PRESIDENT N/A LLC MEMBER JEFFREY HOOPS

SUPERINTENDENT OF MINE CHARLES SPARKS

MINE FOREMAN CHARLES SPARKS

SAFETY DIRECTOR DANNY ADAMS

HEALTH AND SAFETY OFFICER DANNY ADAMS

CHAIRMAN OF MINE SAFETY COMMITTEE N/A

CMSP ANNIVERSARY DATE NOVEMBER 2006

CMSP CONTACT PERSON

WORKING STATUS ACTIVE

MINE LOCATION WHARNCLIFFE

UNION NON-UNION X

UNION LOCAL DISTRICT

MINERS’ REPRESENTATIVE DAY SHIFT EVENING (ALTERNATES)

OWL SHIFT (ALTERNATES)

DAILY PRODUCTION APPROX. 3,500 TONS

ANNUAL PRODUCTION TO DATE 600,000 TONS
TOTAL NUMBER OF EMPLOYEES 52
NO. DAY SHIFT EMPLOYEES (UG) NONE (SURFACE) 26
NO. EVENING SHIFT EMPLOYEES (UG) NONE (SURFACE) 26
NO. OWL SHIFT EMPLOYEES (UG) NONE (SURFACE) NONE
NO. OF PRODUCTION SHIFTS 2
NO. OF MAINTENANCE SHIFTS NONE
NAME OF COALBED UCG, LCG, AND ALMA
SEAM THICKNESS 4 FT., 4 FT., AND 4 FT.
NO. OF DRIFTS NONE NO. OF SHAFTS NONE NO. OF SLOPES NONE
NO. OF DAYS WORKED EACH WEEK SIX (6)
ACCIDENT INCIDENCE RATE LOST-TIME ACCIDENTS
MSHA INSPECTOR ASSIGNED TO MINE TYRONE STEPP
LAST NSPECTION DATE (MSHA) JUNE 2006
STATE INSPECTOR ASSIGNED TO MINE EDDIE MILLER
LAST INSPECTION DATE (STATE) JUNE 2006
MSHA NOTIFIED BY JOE HALL DATE 10/13/06 TIME 12:00 PM APPROX.
STATE NOTIFIED BY JOE HALL DATE 10/13/06 TIME 12:05 PM APPROX.
DATE OF ACCIDENT 10/13/06 TIME OF ACCIDENT 11:20 AM
NUMBER OF PERSONS IN MINE AT TIME OF ACCIDENT N/A (SURFACE MINE)
NUMBER OF PERSONS UNACCOUNTED FOR NONE
NUMBER OF NONFATAL INJURIES ONE (1)
NUMBER OF FATALITIES ONE (1)
INVESTIGATION

The following persons were present during the on-site investigation conducted on October 13, 2006.

FRASURE CREEK MINING, LLC

Danny Adams -------------------------------- Superintendend
Charles Sparks--------------------------------- Mine Foreman

RASNAKE TRUCKING

Stevie Rasnake --------------------------------- Truck Driver

T & C TRUCKING

Larry Ray Wolford-------------------------------- Truck Driver

MINE SAFETY AND HEALTH ADMINISTRATION

Dennis Holbrook ---------------------------------- Inspector/Investigator
Clark Blackburn ---------------------------------- Supervisor
Dave Thompson ------------------------------------ Inspector

WEST VIRGINIA OFFICE OF MINERS HEALTH, SAFETY, AND TRAINING

Terry Farley------------------------------------- Administrator of Enforcement
Eddie Miller-------------------------------------- Surface Inspector
Bobby J. Thornsbury----------------------------- Electrical Inspector