

U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939



MAR 28 2011

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

FROM:

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

Case No.: 2010-M-07-[REDACTED]

Deceased: [REDACTED]

Date of Incident: March 20, 2010

Date of Death: March 20, 2010

Operator: County Concrete Corp.

Mine: Kenvil Pit & Mill

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. [REDACTED], an 83 year old trespasser, suffered from dementia and wandered onto the mine property as he was taking a walk near his home. As he walked along a haul road he got stuck in mud up to his knees and fell backwards. The temperature overnight dropped considerably and [REDACTED] was not able to stand up. The next morning family members reported him missing and discovered his body later in the day.

The death certificate indicated that his death was accidental and was due to hypothermia. An autopsy was performed and also indicated that the cause of death was hypothermia. The MSHA investigation found that signage was posted to keep trespassers from entering the mine site and no hazards were found during an inspection of the area.

Based on the death certificate, the autopsy report and the MSHA investigation, the committee members concluded that [REDACTED] died as a result of an accident. He was not authorized to be on the property and was not performing mining related activity at the time of his death. The committee members determined that his death should not be charged to the mining industry.

cc: Joseph A. Main
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