



MAY 11 2010

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

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SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: 2009-M-48- [REDACTED]

Deceased: [REDACTED]

Date of Incident: August 27, 2009

Date of Death: August 27, 2009

Operator: Graymont Dolime (OH),
Inc.

Mine: Graymont Dolime (OH), Inc.

Contractor: BCA Express Co., LTD

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. The deceased was employed as a contractor truck driver and was at the site to pick up a load of hydrated lime. He was wearing a harness and was hooked to a retractable lanyard. He was found unconscious with his feet on top of the center trailer latch with his body and head face up draped down over the side of the tanker. He was held in position by his harness and lanyard. A thorough evaluation of the case found that he did not make an effort to extricate himself from his safety equipment and did not cry out for help. He did not attempt to pull himself up to the top of the tanker or lower himself to the ground.

The investigators found that [REDACTED] had not fallen from the top of the tanker but that his descent from the tanker had been gradual. It appears that he may have sat down on top of the tanker and slid down the side. The position he was found in would have required the lanyard to have spooled out 9 feet. The investigators determined that had he fallen, the lanyard would have arrested his fall within approximately 1.5 feet. The impact/fold indicator stitching was intact and the lifeline payout showed no signs of impact loading. The safety harness used by [REDACTED] was the proper size and was not defective. The autopsy report showed no indications of a fall. Since a death due to positional asphyxia is not instantaneous, it was concluded that [REDACTED] was already unconscious, deceased or unaware at the time he became suspended in his harness. During the autopsy, it was discovered that [REDACTED] had suffered a recent heart attack and suffered another heart attack just prior to his death. The toxicology report found amounts of cocaine indicating repeated and recent use. The reports indicated cocaine use within 36-48 hours of his death.

The committee members determined that this death should not be charged to the mining industry. The presence of cocaine and the evidence of a heart attack just prior to the incident precluded this death from being related to mining activity.

cc: Joseph A. Main
Gregory R. Wagner, M.D.
Michael A. Davis