

U.S. Department of Labor

Mine Safety and Health Administration
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JUN 18 2008

MEMORANDUM FOR FELIX A. QUINTANA
Administrator for Metal and
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FROM:

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SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: M-2007-56 [REDACTED] [REDACTED]

Date of Incident: September 22, 2007 Date of Death: September 23, 2007

Operator: L D Krause Construction Co., Inc. Mine: Portable Crusher #1

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. MSHA's investigation

revealed that [REDACTED] was fatally injured by a falling rock in the late night hours of September 22, 2007, while trespassing in the pit of the Portable Crusher #1 quarry. He was pronounced dead at the scene at 12:45 a.m. the following morning. [REDACTED] was an employee of L D Krause Construction Company, but did not work at the Portable Crusher #1 quarry and did not have permission to be there. The quarry was not in operation at the time of the incident. According to the Bexar County Sheriff's report, a witness stated that [REDACTED] was in the quarry with four other persons drinking beer, listening to the radio, and "having a good time."

Based on the results of MSHA's accident investigation, the committee members concluded that [REDACTED] death should not be charged to the mining industry because he was not authorized to be on mine property at the time he was fatally injured. Additionally, [REDACTED] injuries were not caused by mining activity and he was not performing mining-related work when he was injured.

cc: Richard E. Stickler
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