



NOV 04 2008

MEMORANDUM FOR FELIX A. QUINTANA

Administrator for Metal and
Nonmetal Mine Safety and Health

FROM:

GEORGE M. FESAK

Handwritten signature of George M. Fesak in black ink.

Director, Program Evaluation and Information Resources

EDWARD P. CLAIR

Handwritten signature of Edward P. Clair in black ink.

Associate Solicitor for Mine Safety and Health

JEFFREY A. DUNCAN

Handwritten signature of Jeffrey A. Duncan in black ink.

Director for Educational Policy and Development

MARK E. SKILES

Handwritten signature of Mark E. Skiles in black ink.

Director of Technical Support

SUBJECT:

Fatality Review Committee Decision on Chargeability

Case No.: M-2008-24 [REDACTED]

Deceased: [REDACTED]

Date of Incident: 05/20/2008 (est.)

Date of Death: 05/20/2008 (est.)

Operator: Scruggs Company

Mine: Montgomery Sand Mine

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. According to MSHA's investigation, an employee of the Montgomery Sand Mine found the body of [REDACTED] floating in the dredge pond at about 9:30 a.m. on May 27, 2008. The mine had been idle since May 23, 2008. [REDACTED] was not a mine employee and was not authorized to be on mine property. All entrances to the mine were posted with "No

Trespassing" signs and the gates were locked. The autopsy report indicates that [REDACTED] died as a result of asphyxia due to drowning. The certificate of death lists the manner of death as accidental. 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 authorized to be on mine property and was not involved in mining related activity at the time of his death.

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