

U.S. Department of Labor

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



SEP 09 2011

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

FROM:

DENNIS RAYMOND *Dennis Raymond*
Acting Chief, Program Policy Evaluation Office

HEIDI W. STRASSLER *Heidi W. Strassler*
Associate Solicitor for Mine Safety and Health

JEFFREY A. DUNCAN
Director for Educational Policy and Development

LINDA F. ZEILER *Linda F. Zeiler*
Acting Director of Technical Support

NANCY M. SAHAKIAN, M.D.
Senior Program Management Consultant, Clinical Operations,
Federal Occupational Health Service, United States Public
Health Service *Nancy M. Sahakian*

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

Case No.: 2010-M-19-[REDACTED]

Deceased: [REDACTED]

Date of Incident: May 25, 2010

Date of Death: May 25, 2010

Operator: Shelly Materials, Inc.

Mine: Marble Cliff Quarry

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], a 16 year-old trespasser, was swimming with several friends in an inactive section of the quarry. When the deceased went under water but did not resurface, 911 was called. The water depth was 25 ft deep. His body was located some hours later by emergency responders.

The quarry was posted with "Dangerous" and "No Trespassing" signs. The trespassers were swimming after hours. The certificate of death indicated that the cause of death was drowning and the manner of death was accidental.

The committee members concluded that [REDACTED] was not a mine employee and was not engaged in mining related activity at the time of his death. The committee determined that the death should not be charged to the mining industry.

cc: Joseph A. Main
Gregory R. Wagner, M.D.
Patricia W. Silvey