



**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-43- [REDACTED]

Deceased: [REDACTED]

Date of Incident: September 5, 2009

Date of Death: September 5, 2009

Operator: APAC Oklahoma, Inc.

Mine: East 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. The deceased was the driver of a vehicle with three passengers. The MSHA investigation found that alcohol, speeding and reckless driving lead to an accident in which [REDACTED] pickup truck went off a public roadway adjacent to a mine site and traveled into an abandoned pit. The mine entrance had been welded shut and a row of boulders reinforced the gate. The three decedents were not authorized to be on mine property. They were not miners or mine employees. Both the death certificate and autopsy report found that the causes of death in this case were internal injuries and blunt force trauma and confirmed that alcohol was a factor in the accident. The surviving passenger was also able to confirm that both speeding and alcohol were involved in the incident.

The committee made their decision based on the evidence provided by the MSHA investigation report. A determination was made that the deceased was not authorized to be on mine property and was not involved in mining activity at the time of the accident. As a result, the committee concluded that his death should not be charged to the mining industry.

cc: Joseph A. Main  
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