



MAY 11 2010

MEMORANDUM FOR NEAL H. MERRIFIELD

Acting Administrator for Metal and
Nonmetal Mine Safety and Health

FROM:

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SUBJECT:

Fatality Review Committee Decision on Chargeability

Case No.: 2009-M-44-[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 a passenger in a pickup truck that went over 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 MSHA investigation found that alcohol, speeding and reckless driving were factors in the incident. The driver and two passengers were killed but the surviving passenger was able to confirm that both speeding and alcohol were involved in the accident. The occupants of the vehicle were not authorized to be on mine property. They were neither miners nor 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.

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
Gregory R. Wagner, M.D.
Michael A. Davis