



JUL - 7 2010

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

FROM:

KENNETH A. BULLOCK *Kenneth A. Bullock*
Chief, Program Policy Evaluation Office

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

JEFFREY A. DUNCAN *Jeffrey A. Duncan*
Director for Educational Policy and Development

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

NANCY M. SAHAKIAN, MD
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.: 2009-M-57

Deceased:

Date of Incident: May 12, 2009

Date of Death: May 12, 2009

Operator: Cemex California Cement,
LLC

Mine: Black Mountain Quarry & Mill

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, the deceased and two other riders were operating their motorcycles on a quarry access road when [REDACTED] went off the shoulder of the road and over a 30 ft embankment. The motorcyclists believed they were operating their vehicles on a public road and apparently ignored both the speed limit and no trespassing signs visible along the roadway. [REDACTED] was determined to be driving at approximately 60 miles per hour when he left the roadway. The motorcyclists were not miners and had no connection to the mine. The roadway was paved and in good condition and the weather was dry and sunny.

[REDACTED] was pronounced dead at the scene. The county coroner determined that the cause of death was multiple blunt force injuries. MSHA and state investigators ruled that [REDACTED] death was accidental. Since the deceased was a trespasser on mine property and was not involved in any mining related activity at the time of the accident the committee members concluded that his death should not be charged to the mining industry.

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