

U.S. Department of Labor

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



MAR 28 2011

MEMORANDUM FOR NEAL H. MERRIFIELD  
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-65-Fuoss

**Deceased:** Michael L. Fuoss

**Date of Incident:** September 11,  
2009

**Date of Death:** September 11, 2009

**Operator:** Fuoss Gravel Company

**Mine:** Fuoss Pit

**Decision:** Not chargeable

In a unanimous decision, the Fatality Review Committee has determined that the death of Michael L. Fuoss should not be charged to the mining industry. Mr. Fuoss, the mine owner, was found deceased at his desk in the mine office. According to MSHA's investigation, Mr. Fuoss had been shot multiple times by an individual who was not employed by the mine. The assailant had apparently committed another homicide in the area and was later apprehended. The death certificate indicated that the cause of death was due to multiple gunshot wounds.

Based on the certificate of death and the results of MSHA's investigation, the committee members concluded that Mr. Fuoss died as a result of a homicide and that his death should not be charged to the mining industry.

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