

UNITED STATES
DEPARTMENT OF LABOR
MINE SAFETY AND HEALTH ADMINISTRATION

REPORT OF INVESTIGATION

Surface
(Sand and Gravel)

Fatal Handling Material Accident
October 1, 2021

Ovyn #1 Pit
Dennis Ovyn Trucking Inc
Withee, Taylor County, Wisconsin
ID No. 47-03016

Accident Investigators

Duane Hongisto
Mine Safety and Health Inspector

Rufus Taylor
Mine Safety and Health Inspector

Originating Office
Mine Safety and Health Administration
Central Region – Duluth District
515 West First Street, Room 323
Duluth, Minnesota 55802-1302
Christopher Hensler, District Manager

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OVERVIEW

On October 1, 2021, Nickolas Peleschak, a 25 year-old plant operator with over four years of mining experience, died when he was engulfed by material in a surge bin feed hopper.

Based on evidence gathered during the investigation, investigators could not determine how Peleschak entered the surge bin feed hopper.

GENERAL INFORMATION

Dennis Ovyn Trucking Inc owns and operates the Ovyn #1 Pit mine, a surface construction sand and gravel operation located in Withee, Taylor County, Wisconsin. Ovyn #1 Pit employs three miners and operates one 12-hour shift five days a week. Ovyn #1 Pit operates both a crusher and a wash plant. Ovyn #1 Pit produces a variety of products used in the construction industry.

The principal management officials at Ovyn #1 Pit at the time of the accident were:

William Ovyn
Joel Ovyn
Darren Ovyn

President
Vice President
Treasurer

The Mine Safety and Health Administration (MSHA) completed the last regular health and safety inspection, which included the wash plant, at this mine on May 13, 2021. The 2020 nonfatal days lost incident rate for Dennis Ovyn Trucking Inc was zero, compared to the national average of 1.09 for mines of this type.

DESCRIPTION OF THE ACCIDENT

On October 1, 2021, at 6:00 a.m., Peleschak arrived at the company office/maintenance shop to begin his day of work. While at the office/maintenance shop, William Ovyn, President, and Aidan Ovyn, Foreman, informed Peleschak that he would be operating the wash plant that day. At approximately 6:15 a.m., Peleschak, A. Ovyn, and Jordan Ovyn, Equipment Operator, traveled to the wash plant to begin processing material. The wash plant began operation at approximately 6:30 a.m.

At approximately 9:00 a.m., Timothy Geldernick, Truck Driver, drove into the wash plant for a load of material. Geldernick looked for Peleschak to ask him to load the truck and could not locate him. Geldernick then used a front-end loader to load his truck and two other trucks. When Geldernick left the wash plant, he contacted A. Ovyn on the company radio. Geldernick told A. Ovyn that he could not find Peleschak and asked A. Ovyn to inform Peleschak that a hose on the front-end loader was leaking. A. Ovyn, who was loading the crusher, went to the wash plant to look for Peleschak. W. Ovyn and Joel Ovyn, Vice President, after hearing on the company radio that Peleschak could not be located, traveled from the nearby office to the wash plant.

When A. Ovyn arrived at the wash plant, he observed a shovel sticking up in the northwest side of the surge bin feed hopper. A. Ovyn walked up the feed ramp, looked into the surge bin feed hopper, and saw Peleschak engulfed in material. A. Ovyn immediately returned to the crusher and got Jordan Ovyn to assist in removing Peleschak from the surge bin feed hopper, but they were unsuccessful. Dennis Ovyn, former president of Dennis Ovyn Trucking Inc called 911 at 9:23 a.m. Taylor County Sheriff's Office and Owen-Withee-Curtis Emergency Medical Services arrived on the scene and removed Peleschak from the surge bin feed hopper. Edward Miller, Deputy Medical Examiner for Taylor County Medical Examiner's Office, arrived at the mine at 10:40 a.m., and pronounced Peleschak dead on October 1, 2021, at 10:45 a.m., at the mine.

INVESTIGATION OF THE ACCIDENT

On October 1, 2021, at 9:45 a.m., Dennis Ovyn, called the Department of Labor National Contact Center (DOLNCC). The DOLNCC contacted Gerald Holeman, Assistant District Manager, who sent Rufus Taylor and Duane Hongisto, Mine Safety and Health Inspectors, to the mine. Taylor arrived at the mine at 5:20 p.m. Taylor issued an order under the provision of Section 103(k) of the Mine Act to assure the safety of miners and preservation of evidence. Taylor took accident scene photographs, gathered witness information, and obtained contact information for the emergency services that responded to the scene.

At 8:00 a.m. on October 2, 2021, Hongisto and Taylor arrived on-site to conduct an examination of the accident scene, interview miners and other personnel, and review conditions and work procedures relevant to the accident. See Appendix A for a list of persons who participated in the investigation.

DISCUSSION

Location of the Accident

The accident occurred at the wash plant, located on the south side of the mine (see Appendix B).

Weather

The weather at the time of the accident was 59 degrees Fahrenheit. Investigators determined that weather did not contribute to the accident.

Equipment Involved

The equipment involved in the accident was a UNECO 417X54 surge bin and belt conveyor that the mine operator modified for use as a feed hopper (see Appendix C). The top opening of the surge bin feed hopper is ten and a half feet by 11 feet and tapers to a one and a half feet by three inch opening at the bottom. The distance from the top opening to the bottom opening is between seven and eight feet. The mine operator installed automated vibratory equipment on the surge bin feed hopper to help minimize material obstructions. Investigators tested the automated vibratory equipment and found that it operated properly.

The surge bin feed hopper had a work platform that provided safe access when material was required to be removed manually. Although there were no guard rails, the edge of surge bin feed hopper sidewall was 36 inches above the work platform. The edge of the surge bin feed hopper served as a barrier to prevent access to the bin. Tools to remove material that obstructs the flow through the surge bin feed hopper were provided. Obstruction removal tools included a three-foot and 5/8-inch long spade nose D-handled shovel, a 1½-inch wide by 3/8-inch thick by six-foot long metal strap, and an eight-foot metal poker with a “T” handle 3/4-inch in diameter (see Appendix D). The shovel and strap were typically stored on the work platform and were found with Peleschak inside the surge bin feed hopper. The poker was stored at ground level next to the surge bin feed hopper. Information obtained by investigators during interviews indicate that the miners would dislodge materials from the surge bin feed hopper from the access platform using the tools provided.

Training and Experience

Nickolas Peleschak had over four years of mining experience, all with Dennis Obyn Trucking Inc. Peleschak received training on April 5, 2021, on the safe operation of Obyn #1 Pit. Peleschak received training in accordance with MSHA Part 46 training regulations. The training included how to safely operate the wash plant and instruction on use of the tools provided to safely remove material blockages in a surge bin feed hopper. Peleschak’s training also included an instruction to never enter the surge bin feed hopper. Interviews with miners revealed that no miner had previously entered the surge bin feed hopper to remove material blockage.

Workplace Examinations

The day of the accident was the first time the wash plant had been in operation since July 25, 2021, which was also the date of the last documented workplace examination. Investigators could not determine if Peleschak conducted a workplace examination on the day of the accident. Investigators did not observe any hazards at the wash plant that would have contributed to the accident.

ROOT CAUSE ANALYSIS

Based on evidence gathered during the investigation, investigators could not determine how Peleschak entered the surge bin feed hopper. However, the mine operator developed and implemented written procedures when miners have to access bins, hoppers, silos, and tanks. The mine operator's procedures require that no person shall enter the facility until the supply and discharge of materials have ceased, and the supply and discharge equipment is locked out. Persons entering the facility shall wear a safety belt or harness equipped with a suitably fastened lifeline. A second person, similarly equipped, shall be stationed near where the lifeline is fastened and shall constantly adjust it or keep it tight as needed, with minimum slack. The mine operator trained miners on these procedures and will maintain handrail heights sufficient to prevent incidental falls into the feed hopper.

CONCLUSION

On October 1, 2021, Nickolas Peleschak, a 25 year-old plant operator with over four years of mining experience, died when he was engulfed by material in a surge bin feed hopper.

Based on evidence gathered during the investigation, investigators could not determine how Peleschak entered the surge bin feed hopper.

Approved By:

Christopher Hensler
District Manager

Date

ENFORCEMENT ACTION

1. A 103(k) order was issued to Dennis Ovyn Trucking Inc.

A fatal accident occurred on October 1, 2021. This order is being issued under the authority of the Federal Mine Safety and Health Act of 1977, under Section 103(k) to insure the safety of all persons at the mine, and requires the operator to obtain the approval of an authorized representative of MSHA of any plan to recover any person in the mine or to recover the mine or affected area. This order prohibits any activity in the affected area. The operator is reminded of the obligation to preserve all evidence that would aid in investigating the cause or causes of the accident in accordance with 30 CFR 50.12.

2. A 104(a) citation was issued to Dennis Ovyn Trucking Inc for a violation of 30 CFR 56.16002(c).

A fatal accident occurred at this operation on October 1, 2021, when a miner entered a surge bin feed hopper and was engulfed by material. The miner that entered the surge bin feed hopper was not wearing a safety belt or harness, there was not a second miner attending the lifeline when the miner entered the surge bin feed hopper, and the discharge equipment was not locked out. These unsafe practices allowed the miner to be engulfed by the material that was in the surge bin feed hopper.

APPENDIX A – Persons Participating in the Investigation

Dennis Ovyn Trucking Inc

Dennis Ovyn	Former President
William Ovyn	President
Joel Ovyn	Vice President
Aidan Ovyn	Foreman
Jordan Ovyn	Equipment Operator
Timothy Geldernick	Truck Driver

Taylor County Sheriff's Office

Chad Kowalczyk	Detective
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Owen-Withee-Curtis Emergency Medical Services

Robert Wilczek	Captain
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Taylor County Medical Examiner's Office

Scott Perrin	Medical Examiner
Edward Miller	Deputy Medical Examiner

Mine Safety and Health Administration

Gerald Holeman	Assistant District Manager
Duane Hongisto	Mine Safety and Health Inspector
Rufus Taylor	Mine Safety and Health Inspector

APPENDIX B – Aerial View of the Wash Plant Where the Accident Occurred



APPENDIX C – Photograph of the Equipment Involved



APPENDIX D – Obstruction Removal Tools

