

**UNITED STATES  
DEPARTMENT OF LABOR  
MINE SAFETY AND HEALTH ADMINISTRATION  
Metal and Nonmetal Mine Safety and Health**

**REPORT OF INVESTIGATION**

**Surface Nonmetal Mine  
(Sand and Gravel)**

**Fatal Powered Haulage Accident  
October 1, 2008**

**Hueni Plant  
Hallett Materials  
Porter, Montgomery County, Texas  
Mine ID No. 41-04217**

**Investigators**

**Laurence M. Dunlap  
Supervisory Mine Safety and Health Inspector**

**Ronald Medina, P. E.  
Mechanical Engineer**

**Originating Office  
Mine Safety and Health Administration  
South Central District  
1100 Commerce Street, Room 462  
Dallas, TX 75242-0499  
Edward E. Lopez, District Manager**



## **OVERVIEW**

On October 1, 2008, Martimiano Torres, front-end loader operator, age 37, was fatally injured when the pickup truck he was driving left a mine road on a curve and traveled into a dredge pond. The accident occurred at the end of Torres' 12-hour shift. He was checking the plant discharge line and plant makeup water pump before signing out for the shift.

The accident occurred because the victim did not maintain control of the pickup truck; however, investigators were unable to determine the cause. The inspection of the pickup truck did not reveal any defects and the mine road was in good condition.

## **GENERAL INFORMATION**

Hueni Plant, a surface sand and gravel operation, owned and operated by Hallett Materials, was located near Porter, Montgomery County, Texas. The principal operating official was Frank S. Johnson, vice-president. The mine operated two 12-hour shifts per day, five days per week. Total employment was 9 persons.

Sand and gravel was removed by a dredge. The material was screened and dewatered at an on-site plant. Finished materials were loaded into trucks by front-end loaders for delivery to local construction projects.

The last regular inspection at this operation was completed on June 18, 2008.

## **DESCRIPTION OF THE ACCIDENT**

On September 30, 2008, Martimiano Torres reported for work at the mine office trailer about 6:00 p.m., his normal starting time. He met briefly with Fausto Palomo, dredge operator, and Simon Olivares, plant operator, before starting to feed material to the plant with a front-end loader.

About midnight, Torres helped Olivares unplug a classifier pump. Later, they met for lunch from 1:00 a.m. until 1:30 a.m. About 4:00 a.m., Olivares observed Torres servicing his front-end loader. Torres then went into the mine office trailer for a few minutes and left the area in his personal pickup truck, presumably to make a routine end-of-shift check of the plant discharge line and plant makeup water pump.

Enrique Gaytan, dayshift supervisor, was at home when he missed a cell phone call from Torres at 5:29 a.m. Torres did not leave a message. Gaytan returned the missed call from Torres at 6:10 a.m. but there was no answer.

About 6:00 a.m., Olivares noticed that Torres' pickup truck was not at the mine office trailer and he thought Torres had gone home. Olivares left the mine a few minutes later. About 6:30 a.m., Palomo went to the mine office trailer, did not see anyone, and left the mine, assuming that Olivares and Torres had also gone home.

About 7:00 a.m., Gaytan arrived at the mine. At 8:18 a.m., he received a telephone call from Marta Errera, Torres' girlfriend, who stated Torres had not yet returned home. Gaytan called Jose Garcia, lead man, who confirmed that Torres had not clocked out at the end of his shift. A search was then started to find Torres.

About 8:30 a.m., Garcia found tire tracks leading into the dredge pond but there was no sign of Torres or his pickup truck. Gaytan phoned for emergency medical services. Divers from the Lake Conroe rescue team arrived and searched the dredge pond. The divers dragged the dredge pond with a magnet and found the pickup truck. Torres was found about 15 feet from the pickup truck at 2:45 p.m. Judge James Metts, justice of the peace, pronounced the victim dead at 2:54 p.m. The cause of death was drowning.

## **INVESTIGATION OF THE ACCIDENT**

On the day of the accident, the Mine Safety and Health Administration (MSHA) was notified at 12:52 p.m. by a telephone call from Frank Johnson, vice-president, to MSHA's emergency hotline. Elwood Burriss, staff assistant, was notified and an investigation was started the same day. An order was issued pursuant to section 103(k) of the Mine Act to ensure the safety of miners.

MSHA's accident investigation team traveled to the mine, made a physical inspection of the accident scene, interviewed employees, and reviewed documents and work procedures relevant to the accident. MSHA conducted the investigation with the assistance of mine management and employees.

## **DISCUSSION**

### **Location of the accident**

The accident occurred at a curve on a mine road adjacent to the dredge pond. The road had a sandy dirt surface and several turns. There were no indications of skidding, braking, or sudden corrective steering at the location of the accident. The pickup tire tracks led directly into the dredge pond. The berms along the road were more than mid-axle height of the pickup truck.

It was dark at the time of the accident because the sun did not rise until 7:15 a.m. that day. The weather was warm and clear and was not considered to be a factor in the accident.

### **Pickup Truck**

The pickup truck involved in the accident was a 1998 Dodge Ram 1500. The vehicle was equipped with a 5.9 liter gasoline engine, an automatic transmission, and a two-wheel drive power train. The pickup truck had valid Texas inspection and registration stickers on the front windshield. The braking system, steering system, and throttle pedal linkage on the pickup were inspected and tested.

The service brake system consisted of disc brakes on the front axle and drum brakes on the rear axle. The parking brake was cable operated by a foot pedal and connected to the rear axle drum brake trailing shoes. Both brake systems were inspected and no defects were found.

The steering system was operated through its full range of motion with the engine off and no defects were found. The throttle pedal and linkage operated without sticking or binding. The rear bumper of the pickup truck and the plastic cowl under the front bumper were damaged during the recovery from the pond. No other body damage was evident on the pickup truck.

The pickup truck was found about 80 feet from the bank of the dredge pond in 35 feet of water. It was facing the direction of travel but was submerged in sediment at a 45-degree downward angle. The driver's side window was found open when the pickup truck was recovered.

### **Training and Experience**

Martimiano Torres (victim) had three years and three weeks of mining experience including 26 weeks at this operation. He had received all required training in accordance with 30 CFR, Part 46.

Simon Olivares had two years of mining experience, all at this operation, and had received training in accordance with 30 CFR, Part 46.

Fausto Palomo had six years and six months of mining experience, all at this operation, and had received training in accordance with 30 CFR, Part 46.

## **ROOT CAUSE ANALYSIS**

A root cause analysis was conducted and the following root cause was identified:

**Root Cause:** The victim did not maintain control of the pickup truck he was operating.

**Corrective Action:** Procedures should be established to ensure that persons operate mobile equipment safely.

## **CONCLUSION**

The accident occurred because the victim did not maintain control of the pickup truck; however, investigators were unable to determine the cause. The inspection of the pickup truck did not reveal any defects and the mine road was in good condition.

## **ENFORCEMENT ACTIONS**

**ORDER No. 6314990** was issued on October 1, 2008, under the provisions of Section 103 (k) of the Mine Act:

A fatal accident occurred at this operation on October 1, 2008, when a miner's privately owned vehicle drove into a dredge pond. This order is issued to assure the safety of all persons at this operation. It prohibits all activity on the road leading up to the accident until MSHA has determined that it is safe to resume normal operations in the area. The mine operator shall obtain prior written approval from an authorized representative for all actions to recover and/or restore operations to the affected area.

This order was terminated on October 2, 2008, after conditions that contributed to the accident no longer existed.

**CITATION No. 6314992** was issued on October 20, 2008, under the provisions of Section 104(a) of the Mine Act for a violation of 30 CFR, Part 56.9101:

A fatal accident occurred at this operation on October 1, 2008, when a miner drowned after driving his pickup truck into a dredge pond. The miner did not maintain control of the pickup while it was in motion.

This citation was terminated on October 20, 2008, after it was determined that no safety defects contributed to the accident and all employees were instructed in safe driving procedures.

Approved: \_\_\_\_\_

Edward E. Lopez  
District Manager

Date: \_\_\_\_\_

## APPENDIX A

### PERSONS PARTICIPATING IN THE INVESTIGATION

#### **Hallett Materials**


|                  |                |
|------------------|----------------|
| Frank S. Johnson | vice-president |
| Enrique Gaytan   | supervisor     |

#### **Mine Safety and Health Administration**

|                      |  |
|----------------------|--|
| Laurence M. Dunlap   | supervisory mine safety and health inspector |
| Ronald Medina, P. E. | mechanical engineer                          |



## APPENDIX B

| Accident Investigation Data - Victim Information  |           |          |                                       |   |                              |  |  |   |                       | U.S. Department of Labor              |   |  |
|---|-----------|----------|---------------------------------------|---|------------------------------|--|--|---|-----------------------|---------------------------------------|---|---|
| Event Number: 1 0 9 4 4 4 8   |           |          |                                       |   |                              |  |  |   |                       | Mine Safety and Health Administration |   |   |
| <b>Victim Information: 1</b>  |           |          |                                       |   |                              |  |  |   |                       |                                       |   |   |
| 1. Name of Injured/Ill Employee:<br><i>Martimiano Torres</i>                              |           |          | 2. Sex<br><i>M</i>                    |   | 3. Victim's Age<br><i>37</i> |  | 4. Degree of Injury:<br><i>01 Fatal</i>      |   |                       |                                       |   |   |
| 5. Date(MM/DD/YY) and Time(24 Hr.) Of Death:<br><i>a. Date: 10/01/2008 b. Time: 14:54</i> |           |          |                                       |   |                              | 6. Date and Time Started:<br><i>a. Date: 09/30/2008 b. Time: 18:00</i> |  |   |                       |                                       |   |   |
| 7. Regular Job Title:<br><i>182 front-end loader operator</i>                             |           |          |                                       | 8. Work Activity when Injured:<br><i>072 operate pickup truck</i> |                              |  |  | 9. Was this work activity part of regular job?<br>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |                       |                                       |   |   |
| 10. Experience  |           |          |                                       |   |                              |  |  |   |                       |                                       |   |   |
| a. This   |           |          | b. Regular                            |   |                              | c. This  |  |   | d. Total              |                                       |   |   |
| Years   | Weeks     | Days     | Years                                 | Weeks   | Days                         | Years  | Weeks  | Days  | Years                 | Weeks                                 | Days                                      |   |
| <i>0</i>  | <i>36</i> | <i>0</i> | <i>0</i>                              | <i>36</i>   | <i>0</i>                     | <i>3</i>   | <i>3</i>                                     | <i>0</i>  | <i>3</i>              | <i>3</i>                              | <i>0</i>                                  |   |
| 11. What Directly Inflicted Injury or Illness?<br><i>126 water</i>                        |           |          |                                       |   |                              | 12. Nature of Injury or Illness:<br><i>110 drowning</i>                |  |   |                       |                                       |   |   |
| 13. Training Deficiencies   |           |          |                                       |   |                              |  |  |   |                       |                                       |   |   |
| Hazard:   |           |          | New/Newly-Employed Experienced Miner: |   |                              | Annual:  |  | Task:   |                       |                                       |   |   |
| 14. Company of Employment: (if different from production operator)<br><i>Operator</i>     |           |          |                                       |   |                              |  | Independent Contractor ID: (if applicable)   |   |                       |                                       |   |   |
| 15. On-site Emergency Medical Treatment   |           |          |                                       |   |                              |  |  |   |                       |                                       |   |   |
| Not Applicable:   |           |          | First-Aid:                            |   | CPR:                         |  | EMT:   |   | Medical Professional: |                                       | None: <input checked="" type="checkbox"/> |   |
| 16. Part 50 Document Control Number: (form 7000-1)  |           |          |                                       |   |                              |  | 17. Union Affiliation of Victim: <i>9999</i> |   |                       |                                       | <i>None (No Union Affiliation)</i>        |   |