



JAN 5 2009

MEMORANDUM FOR FELIX A. QUINTANA

Administrator for Metal and
Nonmetal Mine Safety and Health

FROM:

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EDWARD P. CLAIR *by Howard Strick for EPC*
Associate Solicitor for Mine Safety and Health

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SUBJECT:

Fatality Review Committee Decision on Chargeability

Case No.: M-2008-35- [REDACTED]

Deceased: [REDACTED]

Date of Incident: Found September
03, 2008

Date of Death: Found September 03,
2008

Operator: Vulcan Construction
Materials, LLC.

Mine: Lakeside Quarry

Decision: Not Chargeable

In a unanimous decision, the Fatality Review Committee has determined that the death of an unidentified person should not be charged to the mining industry. According to MSHA's investigation, the deceased was found by mine personnel at the base of the 790 level highwall of the Lakeside Quarry. He was discovered during a check of the property after the Labor Day holiday. The deceased was not a mine employee, he was not authorized to be on mine property, and his identity could not be determined.

The committee members concluded that this death should not be charged to the mining because the deceased was not authorized to be on mine property and he was not performing mining related work at the time of his death.

cc: Richard E. Stickler
John Pallasch
Robert M. Friend