

**U.S. Department of Labor**

Mine Safety and Health Administration  
201 12th Street South  
Arlington, Virginia 22202-5452



FEB 03 2016

MEMORANDUM FOR NEAL H. MERRIFIELD

Administrator for Metal and  
Nonmetal Mine Safety and Health

FROM:

JEFFREY A. DUNCAN

Committee Chair

Director for Educational Policy and Development

HEIDI W. STRASSLER

Associate Solicitor for Mine Safety and Health

WILLIAM J. FRANCOIS

Acting Director of Technical Support

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Reviewing Medical Officer, Contractor

Federal Occupational Health

Program Support Center

U.S. Department of Health & Human Services

SYED HAFEEZ

Director, Program Evaluation and Information

SUBJECT:

Chargeability Review Committee Decision

**Case No.:** 2015-M-25- [REDACTED]

**Deceased:** [REDACTED]

**Operator:** Cemex Construction  
Materials Pacific, LLC.

**Mine:** Eliot Plant

**Date of Incident:** February 23, 2015

**Date of Death:** February 23, 2015

**Corner's Report Issued:** February  
24, 2015

**Death Certificate Released:** August  
05, 2015

**Decision:** Not chargeable

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In a unanimous decision, the Chargeability Review Committee has determined that the death of [REDACTED] should not be charged to the mining industry. On February 23, 2015 [REDACTED], a 30-year old trespasser with a history of mental illness, was found by miners and a Deputy Sheriff lying on the ground outside his vehicle. He was later pronounced dead at the scene by paramedics.

The MSHA investigation conducted on February 23, 2015 concluded that [REDACTED] was not authorized to be at the mine site. An autopsy report concluded that [REDACTED]'s death was caused by blunt trauma to the head and chest. Review of the Alameda County Sheriff's investigative documentation indicates that they found the death to be caused by a vehicular accident with the victim ejected from his SUV while not wearing a seatbelt. However, the manner of death has not yet been conclusively documented. As noted by the death certificate, which was not released until August 05, 2015, the death remains under investigation.

Based on these findings, the Committee members concluded that [REDACTED]'s death should not be charged to the mining industry.

cc: Joseph A. Main  
Patricia W. Silvey  
Laura V. McClintock