April 25, 2007

Report of a Fatal Accident
(Quarry)

Capitol Cement Corporation
Martinsburg Plant
Permit No. Q-111-73

Region One – Fairmont Office
205 Marion Square
Fairmont, West Virginia 26554
Alan Lander, Inspector-at-Large
### MINE INFORMATION

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>Capitol Cement Corporation</th>
</tr>
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<tbody>
<tr>
<td>MINE NAME</td>
<td>Martinsburg Plant</td>
</tr>
<tr>
<td>WV PERMIT NO.</td>
<td>Q-111-73</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>1826 South Queen St., Martinsburg, WV 25401</td>
</tr>
<tr>
<td>LOCATION</td>
<td>Martinsburg, West Virginia</td>
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<table>
<thead>
<tr>
<th>UNION</th>
<th>X</th>
<th>NON-UNION</th>
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<table>
<thead>
<tr>
<th>DAILY PRODUCTION</th>
<th>4,931 Metric Tons</th>
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<td>ANNUAL PRODUCTION TO DATE</td>
<td>369,857 Metric Tons</td>
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<tr>
<th>TOTAL EMPLOYEES</th>
<th>17</th>
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<table>
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<tr>
<th>NAME OF COAL BED</th>
<th>N/A</th>
<th>SEAM THICKNESS</th>
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<tr>
<th>TYPE OF HAULAGE</th>
<th>Truck</th>
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<tr>
<th>WV OMHST INSPECTOR</th>
<th>Thomas Shingleton No. 61</th>
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<th>DATE OF LAST INSPECTION</th>
<th>April 18, 2007</th>
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<tr>
<th>NOTIFIED BY</th>
<th>Keith Whetsel</th>
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<th>DATE / TIME OF NOTIFICATION</th>
<th>April 25, 2007 at approximately 3:00 p.m.</th>
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GENERAL INFORMATION

A fatal accident occurred on Wednesday, April 25, 2007, at approximately 2:45 p.m. at Capitol Cement Corporation, Martinsburg Plant, Q-111-73, in Berkeley County, West Virginia.

Mr. Charles A. Wroe was fatally injured when the truck he was operating drifted off the haul road and fell approximately 125 feet from the 980 level to the 870 level of the quarry.

DESCRIPTION OF EVENTS

The day shift began operation at 7:00 a.m. on April 25, 2007 at the Capitol Cement Corporation quarry located in Martinsburg, West Virginia in Berkeley County. A 992D Caterpillar front end loader, operated by Mr. Todd Greenfield, and (2) two 777C Caterpillar dump trucks, operated by Mr. K.C. McMeans and Mr. Charles Wroe (victim), were assigned to excavate materials on the 870 level in the quarry pit. This entailed loading the materials at the 870 level and hauling the material to the Klondike Dump, located on the 980 level, approximately ¾ mile.

The shift proceeded normally and without incident through out the morning. After the noon lunch break, the crew resumed excavating materials. At approximately 2:30 p.m., Mr. Wroe, operating the 777 Caterpillar truck #235, was loaded with waste material and began the trip to the dump. This was to be his last trip for the shift.

Mr. Wroe was traveling on the haulage road that connects the quarry pit to the dump site on the second level. Mr. Wroe was ascending a section of the haulage road that was on a slight uphill grade.

As his truck was ascending the slight uphill grade on the haul road, it began to drift to the right, toward the berm. Evidence indicates the right front tire struck the 5-1/2 feet high berm and climbed over the berm. The truck continued to straddle the berm for approximately sixty (60) feet when the left side tires ran atop of the berm. The truck began to slide down the outer side of the berm and began to roll. The truck rolled several times before coming to rest on the 870 level below, a distance of approximately 125 feet. Mr. Wroe was ejected from the truck at some point during this sequence of events. Mr. Wroe was found near the center of the haulage road on the 870 level, approximately sixty (60) feet from the truck.

Mr. Wroe was pronounced dead at the scene by Mr. Jacobs, the Berkley County Coroner. His remains was transported by Brown’s Funeral Home to Charleston, West Virginia Medical Examiner for an autopsy.
INVESTIGATION

Onsite investigations, interviews, tests and re-enactments were conducted at the quarry on April 25th, 26th, and May 1st, 2nd, 3rd, 2007. The following persons were present during onsite investigations, informal interviews, tests and re-enactments.

Thomas Shilling
Eugene D, Hennien
Victor Lescznske
Reede C. Horn
James Young
Donald Mabin
Willa Perlmutter
Bruce Springer
Danny Lowe
Thomas Singleton
Alan Lander
John Meadows
Ronald Wooten
Johnny Hilton
Daniel Wren
Derek Nicholls
Mark Fleming
Vic Coffinbager
* Charles Kursey
* Scott Donaldson
* Jeff Ripple
* John Kinkead
* Walter Wootum Jr.
* Keith Whetsel
* Todd Greenfield

MSHA
MSHA, Tech Support
MSHA
MSHA
MSHA
Miners Representative
Patton Boggs LLP
Capitol Cement Corp.
Capitol Cement Corp.
MHS&T Surface Inspector
MHS&T Inspector-at-Large
MHS&T Asst. Inspector-at-Large
MHS&T Director
CTG USA LLC
ESSROC VP Manufacturing
Capitol Cement Corp. Plant Manager
Packer Engineering
Capitol Cement Corp.
Capitol Cement Corp. Loader Operator
Capitol Cement Corp. Loader Operator (Afternoon Shift)
Leadman (Afternoon Shift)
Truck Driver (Afternoon Shift)
D-9 Dozer Operator (Day Shift)
Foreman (Day Shift)
Loader Operator (Day Shift)

* Denotes persons interviewed.
FINDING OF FACTS

1. Mr. Wroe showed no evidence of a medical problem during the shift. Mr. Wroe appeared normal.

2. Equipment check listed no defects.

3. Usable seat belts were provided.

4. Road conditions were dry and well maintained.

5. The berm was constructed of earthen material and rock. The berm maintained a height of approximately 5-1/2 feet.

6. Visible tire tracks were evident after the accident, showing the truck gently veering into the right berm.

7. The truck was jointly inspected by state and federal agencies after the accident. No defects were detected.

8. The afternoon shift truck driver of truck # 234 was interviewed, he reported no complaints or defects to the truck.

9. The vims or black box contained no useful information.

10. Mr. Wroe received annual refresher training on March 14, 2007.

11. The Caterpillar dump truck, Model #777C, serial # 4XJ00946 was the truck Mr. Wroe was operating at the time of the accident.

12. The victim had made several trips on the haulage road prior to the accident, without incident.

13. Interview of Keith Whetsel, foreman on day shift – He stated everything was normal during the shift. Towards the end of the shift he signaled Pete to ask him if he wanted to work overtime. Pete laughed and signaled ‘No’.

14. CPR was administered after the accident by a classified EMT-Miner in an attempt to revive the victim.

15. Mr. Wroe was pronounced dead at the accident site by Mr. Jacobs, the Berkley County Coroner.

16. Initial examination of the accident site by state, federal agencies, emergency response personnel, and the Berkley County Sheriff Department Deputy, lead investigators to believe the accident resulted from natural causes. Not until this agency was notified by the state medical examiner of the autopsy result, the death was then classified accidental.
NOTICE OF VIOLATION

Notice of Violation No.1   Title 36, series 27, section 10.2
Evidence indicates that Mr. Charles Wroe was not wearing a seat belt on April 25, 2007 at approximately 2:38 p.m., when he was ejected from the operator’s cab of a Caterpillar 777C dump truck. The truck drifted off of the haulage road on the 980 level, through a berm and landed approximately 125 feet on the 870 level. The truck rolled several times during this sequence of events, ejecting the victim. Mr. Wroe was found near the center of the 870 level haulage road, approximately 60 feet from the dump truck. Usable and operative seat belts were provided.

ACKNOWLEDGEMENT

The West Virginia Office of Miners’ Health, Safety and Training gratefully acknowledges the cooperation of the employees and management of Capitol Cement Corporation and the Mine Safety and Health Administration.

______________________________
Thomas Shingleton, Surface Mine Inspector

______________________________
Alan Lander, Inspector-at-Large

______________________________
John Meadows, Assistant Inspector-at-Large
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Mine Accident and Injury Report
West Virginia Office of Miners' Health, Safety & Training

City: MARTINSBURG  County: Berkeley  State: WV

WV PERMIT NUMBER: 9-111-73  MSHA ID NUMBER: 46-00007
Company Name (Injured's Employer): CAPITOL CEMENT  COUNTY (MINE LOCATION): Berkeley

10:00 AM 02-Serious Injury 05-Fatal Injury 04-Explosion 05-Strikes 03-Electrical 03-Contact
24-Unknown 01-Propulsion 04-Blast 04-Explosion 06-Mine Fire 08-Suffocation 02-Fall
11-Inability to Perform Duties 17-Temp Assignment 18-Transfer to Another Job

Date of Accident: 4-26-07  Time of Accident: 14:48  Time Shift Started: 7:00

Specific Location / Section: QUARRY HAUL ROAD

7. Describe fully the conditions contributing to the accident and explain any injuries that occurred (be specific):

For persons unknown, the HAUL TRUCK DRIFTED OFF THE HAUL ROAD AND FELL APPROXIMATELY 125 FEET FROM THE TOP LEVEL TO THE SECOND LEVEL OF THE QUARRY. THE HAUL TRUCK DRIVER WAS EJECTED FROM THE HAUL TRUCK AND WAS FOUND ON THE SECOND LEVEL HAUL ROAD.

8. Name of Injured Employee: CHARLES ARTHUR WISE

14. Date of Birth: 06/20/1941

15. Social Security Number (last four digits): ENTR

16. Regular Job Title: EQUIPMENT OPERATOR

17. Check if injury resulted in permanent disability: (including amputation, loss of use, and permanent total disability) FATAL


21. Nature of Medical Treatment: NA

22. Employee's Work Activity When Injury Occurred: TRUCK DRIVER

25. Experience in This Mine: 43 Yrs.

26. Total Mining Experience: 43 Yrs.

27. Permanently Transferred or Terminated: Y

28. Date Returned to Regular Job at Full Capacity: 07/22/07

30. Number of Days Restricted Work Activity: 0

Signature: DANIEL LOWE  Date: 4-30-2007

Phone Number (Area Code): 304-702-2036  Email Address: DLOWE@ESSROC.COM

Date this Report Prepared: 07/22/07  Month/Day/Year

Person Completing Form (Please Print Name and Title): DANIEL LOWE, SAFETY MANAGER