

2 Execs Indicted In 2007 Tunnel Deaths

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DENVER (AP) — Two companies and two executives have been indicted on federal charges in the deaths of five workers in a 2007 fire inside a tunnel at a Colorado hydroelectric plant.

Xcel Energy, RPI Coating Inc. and two RPI executives face criminal charges in the deaths in a federal indictment that alleges they knew about the danger and did nothing about it. The 17-page indictment, made public Friday, accuses RPI of trying to cover up shortfalls by altering, destroying, or concealing the cameras, journals and cell phones of two of the dead workers.

Four people survived the fire at the Xcel Cabin Creek hydroelectric plant in Georgetown, Colo., about 35 miles west of Denver. All five of the workers killed worked for Santa Fe Springs, Calif.-based RPI.

In a statement, Xcel said it was a tragic accident.

"We reject any attempt to characterize the Cabin Creek events in any other way," Xcel said.

Calls to RPI were referred to Denver attorney Larry Pozner, who echoed Xcel's statement and said the five men weren't simply employees, but "friends" who were highly trained industrial painters.

On Oct. 2, workers bringing a solvent into the tunnel to clean a sprayer noticed the solvent had vaporized into the air, "causing employees to suffer irritation and complain to their managers."

Later, vapor from the solvent ignited. Workers deep inside the tunnel survived the initial fire and were in radio contact with rescuers as crews tried lowering air tanks to them. The workers were overcome by smoke and fumes and died from asphyxiation.

Killed were Donald Dejaynes, 43, Dupree Holt, 37, James St. Peters, 52, Gary Foster, 48, Anthony Aguirre, 18, all of California.

Previous events, including multiple evacuations due to high levels of carbon monoxide and damage to electrical equipment, made the companies and RPI executives aware that employees faced serious health and safety hazards working in the tunnel, the indictment said.

Five of the charges involve the violation of Occupational Safety and Health Administration regulations by Xcel, RPI and RPI executives Philippe Goutagny and James Thompson.

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RPI faces one count of obstruction for allegedly altering, destroying and concealing records, documents and others items belonging to a surviving worker and two deceased workers, the indictment said.

Pozner said neither Goutagny or Thompson was at the scene at the time of the fire, and that RPI never had any of the items belonging to the deceased workers.

"I don't know what their thinking is on this," Pozner said of the obstruction charge, "but we will go to court and we will try to figure out what they're saying."

The companies failed to get a permit for the work or assess the tunnel for danger, according to the indictment. Local fire authorities had asked permission to conduct training in the tunnel before the work began, but the companies never followed up.

In March 2008, OSHA proposed \$845,100 in penalties against RPI and \$189,900 against Xcel, saying the "catastrophe could have been avoided."

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