

**SHERIFFDOM OF SOUTH STRATHCLYDE DUMFRIES AND GALLOWAY
AT DUMFRIES**

DETERMINATION

by

SHERIFF GEORGE JAMIESON

Sheriff of South Strathclyde Dumfries and Galloway at Dumfries

in

an Inquiry into the circumstances of the death of

LINDA ANNE MURDOCH or WEIR

held under

the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976

For the Crown: Miss Herald, Procurator Fiscal Depute

For the Family: Robert Wallace Weir, Husband of the deceased

DUMFRIES 19 JANUARY 2011

1. Linda Anne Murdoch or Weir, who was born on 25 February 1952, died on 5 April 2010 in a drowning accident at Burnsands burn, Crairieknowe Farm, Thornhill in Dumfriesshire while engaged in her occupation as a farmer.
2. The cause of her death was drowning and the accident resulting in her death was caused when she attempted to cross Burnsands burn in an ATV (All -Terrain Vehicle, popularly known as a “Quad bike”) when the stream was swollen with fast moving water.
3. Her death might have been avoided had she not attempted to cross the stream in the ATV while the burn was swollen with fast moving water.
4. There were no defects in any system of working which contributed to her death and the accident resulting in her death.
5. There are no other facts relevant to the circumstances of her death.

George Jamieson

Sheriff of South Strathclyde Dumfries and Galloway at Dumfries

Note:

Mrs Weir was a tenant farmer in partnership with her husband, Robert Wallace Weir, trading under the firm name of R&LWeir. They had farmed Crairieknowe Farm for 25 years and had been married for 38 years at the time of the accident. Their daughter Hazel Weir, now aged 31, was employed by the firm at the time of her mother's accident as a farm worker. There had been a heavy rain fall the night before the accident and it was still raining heavily on the morning of 5 April 2010. Mr and Mrs and Hazel Weir shared out farm duties that morning. Sometime between around 9 am and 10am Mrs Weir attempted to cross Burnsands burn in an ATV. She failed to return to the farmhouse at 10:00am for the family's customary tea break. Her husband and daughter set out in different directions to look for her. Her husband crossed Burnsands burn in his tractor. Looking back from the hill above, he saw the ATV lodged upright in the burn against a bush in the water, with the brake light sitting just above the surface of the water. He searched for but could not find his wife. She was reported missing to the police. On 22 April 2010 her body was discovered by two fishermen on an islet in the river Nith near to Carnsalloch House, Kirkton in an area called the Bluff's Pool, some 20 miles from Crairieknowe farm.

On the day of the accident, Mr Weir observed Burnsands burn travelling at a “fearsome speed”. Having crossed the burn in his tractor, he estimated its depth at around two or two and a half feet. The flow of water was very fast. When Hazel Weir observed the burn, she also noted it was flowing fast.

The Health and Safety Executive has issued guidance about the safe use of All Terrain Vehicles in agriculture and forestry. This guidance notes that most ATV accidents involve overturning, but as Mr Weir observed the ATV upright in the burn that is unlikely to have been the cause of Mrs Weir’s accident. It is more likely she was swept from the vehicle by the fast moving stream and carried downstream by the burn, with her body eventually lodging itself in the islet at Carnsalloch on the river Nith. It is likely she would have died on the day of the accident. The exact time of her death cannot be ascertained.

Mrs Weir was an experienced ATV driver. There were no defects in the ATV which could have contributed to the accident. She was recovering from breast cancer but was otherwise in good health and had no known worries. Normally the burn is about six inches deep and can easily be crossed in an ATV. Her husband was able to ascertain the true depth of the burn on the day of her accident only when he drove through it in his tractor. It is likely his wife misjudged the depth of the burn when attempting to cross it in her ATV. There are no reasonable precautions her family could have taken whereby her death and the accident resulting in her death might have been avoided.