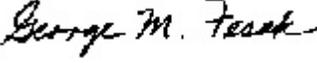


MEMORANDUM FOR KEVIN G. STRICKLIN
Administrator for Coal
Mine Safety and Health

FROM: GEORGE M. FESAK 
Chairman, MSHA Fatality Review Committee

SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: C-2007-22

Date of accident: February 19, 2007

Date of death: February 19, 2007

Mine: Brookside Loadout

Operating Co.: Nally and Hamilton Enterprises

Decision: non-chargeable

In a unanimous decision the Fatality Review Committee has determined that the death of the decedent should be non-chargeable to the mining industry. An important factor in the decision was the finding of the cause of death. The death certificate stated that the immediate cause of death was "acute cardiac dysrhythmia" with the underlying cause being "hypertensive cardiovascular disease". Gas readings and additional bottle samples were taken in the bulldozer cab he had been operating and showed results within the expected range. The committee members felt the cause of death was natural and not related to an accident on mine property.

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