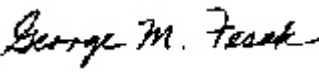


MEMORANDUM FOR KEVIN G. STRICKLIN
Administrator for Coal
Mine Safety and Health

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

SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: C-2007-28

Date of accident: May 27, 2007

Date of death: May 27, 2007

Mine: West Elk Mine

Operating Co.: Mountain Coal Company, L.L.C.

Decision: non-chargeable

In a unanimous decision the Fatality Review Committee has determined that the death of the decedent should non-chargeable to the mining industry. The committee members felt that the results of an autopsy and the findings of the certificate of death were persuasive factors in the decision. The cause of death was "Acute Fatal Cardiac Dysrhythmia" secondary to "Severe Coronary Artery Atherosclerosis". In addition, no electrical or physical hazards were found in the area. The employee was walking a short distance underground during a non-production shift to pick up parts needed for the repair of a boom truck. No signs were found of abnormally strenuous activity.

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