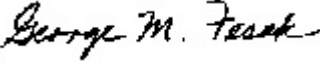


MEMORANDUM FOR FELIX A. QUINTANA

Administrator for Metal and Nonmetal
Mine Safety and Health

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

SUBJECT: Fatality Review Committee Decision on Chargeability

Case No.: M-2007-25

Date of accident: April 3, 2007

Date of death: April 19, 2007

Mine: Hays Pit No. A-3

Operating Co.: APAC Kansas, Inc. Shears Division

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. The death certificate finding that the decedent succumbed to an "Aorta aneurysm dissection" was a decisive factor in the final committee decision. The employee, a 37 year old front end loader operator, was overweight and took medications for both diabetes and hypertension. He had complained of chest pain and nausea just prior to being transported to a local hospital. The employee was performing his normal work duties at the time of the incident and research by a committee member found it not likely that the aorta aneurysm could be caused by work activity.

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