

MINE SUBSIDENCE INSURANCE FUND
BOARD MEETING
MINUTES
NOVEMBER 18, 2002

A regular meeting of the Mine Subsidence Insurance (MSI) Board was called to order at 10:05 a.m. on November 18, 2002 in the Department of Environmental Protection's Conference Room located on the 10th Floor of the Rachel Carson State Office Building, Harrisburg, Pa. Board members present at the meeting were: Joseph G. Pizarchik, Director, Bureau of Mining and Reclamation, Designated Chairman for David Hess, Secretary of the Department of Environmental Protection (DEP); Michael Burkett, Actuary, Designated Representative for Board Member M. Diane Koken, Commissioner of Insurance; and Kathleen N. Peterson, Associate General Counsel, Assistant Director of the Bureau of Human Resources, Designated Board Member for Barbara Hafer, State Treasurer. Also attending were: Tara Hines, Treasury; J. Scott Roberts, Deputy Secretary for Mineral Resources Management; Marc Roda, Assistant Counsel; Joseph Sieber, Environmental Policy Specialist; Robert W. Agnew, Chief, Division of Environmental Analysis and Support; Ed Motycki, Chief, Subsidence Section, District Mining Operations; Lawrence Ruane, MSI Program Administrator; Mark Frederick, Monitoring Permit and Compliance Specialist, District Mining Operations; and Patricia Woods, Secretarial Supervisor, Bureau of Mining and Reclamation.

The following is a summary of the issues discussed and the actions taken at the meeting:

1. Call to Order/Approval of December 18, 2001 Board Meeting Minutes

Mr. Pizarchik moved to approve the minutes from the last Board meeting as they are. Ms. Peterson seconded the motion, which was then unanimously approved.

2. Discussion of House Bill 401

The key provisions of House Bill (HB) 401, a bill that would amend the MSI Act, were reported to the Board by the DEP staff. In its current form, HB 401 would provide temporary emergency relocations grants for those whose residences are rendered uninhabitable, as determined by the MSI Program, and provide loans to pay for damages caused by mine subsidence that are not covered under a MSI policy. Such amendments to the act have been proposed many times in the past. However, DEP has not supported them because they would be a disincentive to the purchase of MSI.

The Board then reviewed a marked up copy of the bill that was provided to DEP by the bill's sponsors. It contained proposed provisions that would replace notifications required by the banking industry with provisions that would allow Pennsylvania licensed insurance producers to submit MSI applications and be paid commissions for those that become policies. Such a cooperative venture between the MSI Fund and the insurance industry would create a very efficient and economical application process. The bill also requires that a report about the MSI program be made to the legislature annually. The

Board determined that such reports should be made after the annual MSI Board meetings. They should consist of the documents that the Board has reviewed and approved at those meetings. The Board noted that they would assist DEP in its efforts to implement HB 401, should it pass. Such efforts would include the establishment of insurance producer commissions, business practices and systems needed to support the efforts of the insurance producers, and, possibly, the promulgation of implementing regulations.

3. Update of Mine Subsidence Insurance (MSI) Marketing Campaign

DEP staff discussed the current marketing campaign. MSI hired a new marketing firm in 2002, Catalyst Advertising. The new firm suggested that the Fund move away from campaigns based upon the distress created by mine subsidence and into campaigns based upon the delivery of information about mine subsidence and the need for coverage. An initial informational campaign using newspaper ads that were run in the Anthracite Coal Region produced very positive results. Should HB 401 with the proposed insurance producer amendments become law, the marketing efforts would be expanded from marketing campaigns targeting only potential policyholders to campaigns that also target insurance producers.

4. Review of Operational and Financial Performance

The Board reviewed documents that demonstrated the operational and financial performance of the MSI Fund and Program. Mr. Burkett commented that the documents provided by DEP have evolved over the years and have continually improved. During a brief discussion of the information, the Board inquired about the difference in the number of applications received and policies written. DEP staff responded that, in most cases, the difference was due to DEP's determination that structures were not undermined and coverage was not recommended. Most significantly, the number of policies increased from 52,395 to 53,309, the number of paid claims remained at 14 although the value of the claims fell to an a ten year low, \$208,062.50, the underwritten value of coverage rose to nearly \$5 billion, and the value of the MSI Fund's cash and investments rose to more than \$36.5 million.

5. Investment Review

Tara Hines, Special Assistant to the Treasurer, reviewed the investments of the MSI Board for Fiscal Year 2001-2002. She explained that, due to the new prudent person legislation laws governing the Treasury's investment practices, the Treasury is now able to invest in equities. As a result, the long-term performance of the Treasury's investments should improve when they are compared to the performance of other investment pools for similar periods of time. However, this new investment practice would occasionally result in significant month-to-month fluctuations in the MSI Fund's investment income, as occurred in February 2002. Ms. Peterson noted that future investment reports would be modified as needed to provide the Board with the information it needs to evaluate the performance of the MSI Fund's investments.

6. Premium Rates and Coverage Limits Review

The Board evaluated the current coverage limits with respect to the demand for higher limits of coverage and the Board's need to safeguard the solvency of the MSI Fund. Coverage limits are particularly important to the Fund's solvency because the MSI Fund is, in essence, the sole insurer against mine subsidence losses. The Board unanimously approved an increase to the residential coverage rates from their current limit of \$150,000 to a new limit of \$250,000. To better meet its responsibility to modify coverage limits as needed and to eliminate conflicting sources of information relative to coverage limits, the Board also resolved to amend the MSI Fund's implementing regulations by eliminating any coverage limit stipulations. It requested that DEP's staff provide the Board with a rulemaking package containing that change and other changes they deem to be appropriate.

7. Review of Proposed Budget and Consideration of FY 2003-2004 Authorization to Expend Resolution

The Board reviewed the MSI Program's proposed administrative budget for 2003-2004. Of special note was the potential for budget increases that might result if the previously discussed HB 401 became law. The Board then unanimously authorized that the MSI Fund would reimburse the Department of Environmental Protection for an amount not to exceed \$2,941,000 for the administration of the Coal and Clay Mine Subsidence Insurance Program during fiscal year 2003-2004.

8. Inflation Factor Calculation

The Board reviewed an estimate of the inflation factor that would be used to provide policyholders with an optional coverage amount adjusted for inflation. The factor to be used in Calendar Year 2003 would be approximately .027. The actual factor used during Calendar Year 2003 will be calculated from the most current Beck Index information available at the end of Calendar Year 2002.

9. Insuring Agreement

The Board considered changes to the MSI Insuring Agreement, the document that establishes the terms and conditions of coverage. Subsequently, it unanimously approved the following modifications to definitions contained in the Insuring Agreement:

MINE SUBSIDENCE refers to the movement of the ground surface as a result of the collapse of underground coal or clay mine workings.

MINE WORKINGS refers to the roof, floor, or pillars within an underground coal or clay mine.

COVERAGE. This policy covers only LOSS to the INSURED STRUCTURE which occurs during the POLICY PERIOD and which is caused by MINE SUBSIDENCE or which is caused by movement of the ground surface resulting

from a surface discharge due to a sudden and unexpected breakout of water directly emanating from underground coal or clay mine workings. This policy does not cover losses due to discharges from a man-made system designed to collect or convey mine water, or damages that are related in any way to surface mining activities.

SUBROGATION. This POLICY does not release any person, partnership, or corporation, from liability for any LOSS which the POLICY covers. If the Fund makes repairs or makes a payment for a LOSS, you agree that you assign whatever right you may have to recover that LOSS from another party, but only to the extent of the payment or repairs made by the Fund.

10. Sworn Statement of Loss

The Board evaluated a MSI business form prescribed by the MSI Board and titled “Sworn Statement of Loss” and a letter that would be used in its place. Although the “Sworn Statement of Loss” has been used in the claim payment process for many years, current business practices of the MSI Program make its use obsolete. Its elimination would also reduce the time it takes to process a claim payment by about three weeks. The Board unanimously approved the elimination of the “Sworn Statement of Loss” and the use of the letter.

11. Other Business/Adjournment

With no other business before the Board, a motion to adjourn the meeting was passed unanimously.

SUMMARY OF ACTIONS TAKEN BY THE BOARD

1. Unanimously approved the December 18, 2001 Board Meeting Minutes.
2. Unanimously agreed to increase the limit of residential coverage from \$150,000 to \$250,000 and to remove references to specific coverage limits in the regulations.
3. Unanimously agreed to reimburse DEP for to up to \$2,941,000 for the administrative cost of the MSI Program incurred during Fiscal Year 2003-2004.
4. Unanimously approved changes to the Insuring Agreement.
5. Unanimously approved the elimination of the Sworn Statement of Loss.

KEY OBLIGATIONS:

1. DEP staff will develop a regulation package for the MSI Board.
2. DEP staff will revise the inflation factor in its computer systems on December 31, 2002.