

**MINUTES  
COMMONWEALTH OF PENNSYLVANIA  
COAL AND CLAY MINE SUBSIDENCE INSURANCE BOARD MEETING**

**December 16, 2005**

A meeting of the Mine Subsidence Insurance (MSI) Board (Board) was called to order at 10:15 a.m. on December 16, 2005 in the Department of Environmental Protection's Conference Room located on the 14<sup>th</sup> Floor of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania. Board Members present at the meeting were: Joseph G. Pizarchik, Esq., Director, Bureau of Mining and Reclamation, Designated Chair for Kathleen McGinty, Secretary of the Department of Environmental Protection (DEP); Chuck Romberger, Designated Representative for Board Member M. Diane Koken, Commissioner of Insurance; and Sally Ulrich, Assistant General Counsel, Designated Representative for Board Member Robert Casey, State Treasurer. Also attending were Lee Siegel, Chief Economist, State Treasury and the following DEP employees: Marc Roda, Assistant Counsel; Doug Brennan, Regulatory Coordinator; Robert W. Agnew, Chief, Division of Environmental Analysis and Support; Joseph Taranto, MSI Technical and Services Supervisor; Richard Palmer, Mine Subsidence Insurance Program Supervisor; Tracie Wilson, Bureau of Fiscal Management; Gay Kreiser, Bureau of Fiscal Management; Lawrence Ruane, MSI Program Administrator; and April Edwards, Mine Subsidence Insurance Board Recording Secretary.

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

1. Approval of the Minutes of Previous Meeting

The Board reviewed the minutes of the December 15, 2004 MSI Regular Board Meeting. After making editorial revisions, Mr. Romberger made a motion to approve the minutes, which was seconded by Ms. Ulrich and passed unanimously.

2. Review of Operational and Financial Performance Reports

The Board reviewed reports presented by DEP staff relevant to the operational and financial performance of the MSI Fund (Fund). They demonstrated that during Fiscal Year (FY) 2004-05 the number of applications, policies in force, new policies, and underwritten value, which also represents the potential for losses, all increased over the previous fiscal year, while claim incidences and values decreased. The dollar value of the Fund's reserves continued to grow, although reserves shrank as a percentage of underwritten value. The Board determined that the Fund remains solvent. It then discussed potential losses and reserves and the impacts that catastrophic losses might have on the solvency of the Fund.

3. Review of Investment Report

Mr. Siegel presented a report that demonstrated returns on the investments of the MSI Fund's reserves that are made by the State Treasury. MSI investments now include equities. He noted that as a result of the volatility in the equity markets, monthly returns might vary significantly when compared to the returns that were made under the less aggressive investment practices of the past that did not include equities. However, the addition of equities should improve the overall performance of the investments over time. The annualized average monthly rate of return on MSI's investments during FY 2004-05 was 4.53%, which was up from 3.76% during the previous FY. During a discussion of the investments, Mr.

Siegel also noted that the “Total Net Income/Gain” in the Treasury’s report is a different measure of financial performance from the “Interest Income” in the Comptroller’s report. The “Total Net Income/Gain” includes gains and losses to equities that are not included in the “Interest Income.”

4. Review Demonstration Inflation Factor Report

The Board reviewed a demonstration calculation for an inflation adjustment factor that is used to provide policyholders with an inflation coverage option as part of their policy renewal so that their coverage can keep pace with the increased repair costs. The demonstration factor for Calendar Year (CY) 2006 was 4.8%. The actual inflationary factor to be used during CY 2006 will be calculated using the most recent Marshall & Swift/Boeckh Building Cost Index Number for residences that is available prior to the end of the calendar year, which is the practice that has been established by the Board.

5. Consideration of Premium Rates, Coverage Limits and Commission Rates

The Board reviewed documents pertaining to the premium rates, coverage limits and commission rates. The premium rate document provided a formula that would modify the calculation of premiums to reduce the cost of coverage for the initial coverage amounts. After a discussion of premium rates, the Board determined that rates, coverage limits and commissions would remain unchanged. Mr. Romberger then made a motion to authorize up to \$250,000 from the Fund to pay for an actuarial study of the Fund, which would include analyses and recommendations regarding premium rates, coverage limits, commissions, and reinsurance against catastrophic losses. Ms. Ulrich seconded the motion, and the Board approved it unanimously.

6. Review of DEP Report for the Legislature

DEP provided the Board with an advanced copy of the annual report which it is required to provide to the Pennsylvania State Legislature. The report summarizes the operations of the MSI Program and the contributions to the MSI Fund that have been made by insurance producers. The data in the report summarize some of the data provided to the Board in its annual meeting.

7. Review of MSI Marketing Campaign

The Board reviewed reports that demonstrated the marketing efforts and results for FY 2004-05. The focus of the marketing was to encourage insurance producers to register to use the online application systems and submit the applications of their customers who are at risk from loss caused by mine subsidence. The systems provide an online mine inventory system to determine if coverage is needed. They also provide marketing materials that may be used by the insurance producers to encourage their customers who are at risk to apply for coverage. The marketing report contained a recommendation for an increase of \$100,000 to the FY 2005-06 marketing expenditure of \$200,000. The increased funds would be used to purchase media to encourage property owners to purchase coverage. Mr. Romberger made a motion to authorize up to \$100,000 from the Fund to reimburse DEP for additional marketing expense that it may incur during FY 2005-06. The motion was seconded by Ms. Ulrich and passed unanimously by the Board.

8. Consideration of Authorization to Expend MSI Funds for Administrative Costs

The Board reviewed estimated administrative costs for the MSI Program in FY 2006-07. After a general discussion of the proposed expenditures, Ms. Ulrich moved that the Board authorize an expenditure of up to \$3,316,000 from the MSI Fund to reimburse DEP for the administrative costs of the MSI Program during FY 2006-07. Mr. Romberger seconded the motion, and the Board approved the motion unanimously.

9. Status of House Bill (HB) 799 and Chapter 401 Regulations

The Board reviewed HB 799, which would provide loans for repairs of uninsured damages that were caused by mine subsidence and would provide emergency relocation grants for those who are displaced by mine subsidence. The bill was referred to the Insurance Committee on March 14, 2005 where it now resides. DEP has taken a position supporting the bill. Mr. Romberger recommended that DEP suggest a revision to proposed Section 19.1(5)(e) to replace the term "surplus" with "Unreserved Fund Balance," which is the term that is used in the MSI Balance Sheet for the amount the bill is referencing.

The Board then evaluated policy provisions it provides through regulations, through the insurance policy, and through policy that it establishes in its open meetings. The focus of the discussion was the need to establish policy that is subject to periodic change, such as limits of coverage and premium rating criteria, in open meetings so that changes can be quickly reflected in the insurance policy. Provisions of policy that are intended to be permanent or long standing should be established through regulations. Ms. Ulrich moved that administrative policies of the Board that are subject to periodic change be established by the Board in its open meetings and, as appropriate, reflected in the Insuring Agreement and other insurance policy and contractual documents. Mr. Romberger seconded the motion and the Board approved it unanimously.

10. Proposed Program Improvements

The Board reviewed four program revisions that are intended to improve the operations of the MSI Program and that affect the policies of the Fund and therefore require Board approval. The first revision was an authorization for insurance producers to retain their commissions when they submit completed applications and premiums. This practice is similar to commission payment processes used in the private insurance industry and would encourage producers to promote MSI coverage. The current process delays the payment of commissions for about 180 days from the date of an application. Ms. Ulrich moved to approve the retention of the commissions by producers. Mr. Romberger seconded the motion, and the Board approved it unanimously.

The second revision considered was the removal of the language in Section 1.B of the Insuring Agreement that excludes repairs required by ordinance, regulation, or law governing construction or repair. The MSI Program has for many years required repairs to be made to standard building code specifications, which standardizes repair methods and minimizes disputes over repair techniques. Mr. Romberger moved to approve the change and Ms. Ulrich seconded the motion, which the Board approved it unanimously.

The third revision considered was a premium payment option that would provide for incremental premium payments for policy renewals. The Board determined that this concept should be further studied and that it be incorporated into the actuarial study.

The fourth revision considered was that of expanding MSI coverage, which is now provided to only buildings, to also include coverage for appurtenances to buildings such as driveways and sidewalks. After reviewing reports that demonstrated repair costs for appurtenances, the Board recommended that a limit of loss for appurtenances be placed at 10% of the face amount of the policy and that the reports be updated prior to the next meeting when the issue would be again considered. The Board also authorized that a special meeting could be held to consider the issue.

11. Consideration of Other Business

There was no other business before the Board. The meeting was adjourned at 1:15 p.m.

SUMMARY OF ACTIONS TAKEN BY THE BOARD:

1. Approved the minutes of the December 15, 2004 MSI Board Meeting.
2. Authorized that that an adjusted inflation factor be used to provide policyholders with a coverage option that keeps pace with inflation.
3. Approved up to \$250,000 for an actuarial study of the Fund. Established that premium rates and coverage limits would not change from those that were effective in the previous year.
4. Approved an additional \$100,000 for marketing for FY 2005-06.
5. Authorized that up to \$3,316,000 of MSI Funds may be used to reimburse DEP for the administrative costs of the MSI Program that will be incurred during FY 2006-07.
6. The Board approved the practice of establishing provisions of the policy that are subject to periodic change in open Board meetings and not through regulations.
7. The Insuring Agreement was revised to eliminate the prohibition against repairs stipulated by building codes.

KEY OBLIGATIONS:

1. Further analysis will be made regarding the expansion of coverage to include appurtenances before the issue is again presented to the Board.
2. DEP will pursue a Request for Proposal (RFP) for an actuarial study of the Fund.