

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

**December 14, 2006**

A meeting of the Mine Subsidence Insurance (MSI) Board (Board) was called to order at 10:00 a.m. on December 14, 2006 in the 5<sup>th</sup> Floor Conference Room 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; Robert W. Agnew, Chief, Division of Environmental Analysis and Support; Edward Motycki, Chief, Mine Subsidence Section; Joseph Taranto, Mine Subsidence Insurance Technical and Services Supervisor; James Holden, Mine Subsidence Insurance Program Supervisor; Lawrence Ruane, Mine Subsidence Insurance 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 December 16, 2005 MSI Regular Board Meeting. After making editorial revisions, Ms. Ulrich made a motion to approve amended minutes, which was seconded by Mr. Romberger and passed unanimously.

2. Review of Operational and Financial Performance Reports

The Board reviewed reports prepared by DEP staff and its Comptroller that are relevant to the operational and financial performance of the MSI Fund (Fund). They demonstrated that during Fiscal Year (FY) 2005-06 the number of applications, policies in force, new policies, and underwritten value, which also represents the potential for losses, all increased over the previous FY, while claim incidences and values decreased. They also demonstrated that income, especially interest income, was up for the year while expenses remained at low levels. The Unreserved Fund Balance had a record yearly increase of \$7,688,893, bringing the total Unreserved Fund Balance to a record \$46,034,617. During general discussion of the Fund's performance, Mr. Romberger recommended providing pending claim data and had three questions that needed to be researched and answered. Following are the questions and their answers:

1. How is the "Reserve for Outstanding Claims" line item calculated?  
Answer: The estimated amount for a new claim in the Anthracite Region is \$1,400 and \$6,500 for a claim in the Bituminous Region. Those initial amounts are replaced with the cost to repair for valid claims and with zero for denied claims.
2. Has an actuary reviewed the outstanding claim reserve amounts?  
Answer: The reserves for outstanding claims have not been reviewed by an actuary.
3. What does the line item "Reserved Non-Lapsable Balances" mean and how is it derived? Answer: It is the amount that is left in the MSI appropriation at the end of a fiscal year that can be used to pay for expenditures that are incurred during the fiscal year but have yet to be processed for payment.

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. He noted that the Federal Rates increased from last year and the returns on investments were up. The annualized monthly rate of return on MSI's investments during FY 2005-06 was 5.86%, which was up from 4.53% during the previous FY. The equity portion of the MSI investment portfolio was primarily responsible for the increased returns.

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 increased repair costs. The projected inflation factor for Calendar Year (CY) 2007 is 7.17%. The actual inflationary factor to be used during CY 2007 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 CY, 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. After discussion of the rates and coverage, the Board decided that they would all remain unchanged.

6. Review of DEP Report for the Legislature

DEP provided the Board with an advanced copy of the annual report which it is to provide to the Pennsylvania 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 summarizes some of the data provided

to the Board in its annual meeting. There were editorial changes to the document provided by Ms. Ulrich that will be reflected in the final report.

7. Review of MSI Marketing Campaign

Mr. Taranto presented the marketing report for FY 2005-06. It began with a summary of the spending efforts and results for the marketing conducted in FY 2005-06. Next it provided proposals and plans prepared by Harmelin Media, the MSI Fund's current media buyer. The report contained recommendations for an increase to the marketing spending during FY 2006-07 from \$200,000 to \$400,000, providing an additional \$100,000 in both the first and second halves of that FY. However, DEP recommended an increase of only \$100,000 to the spending for marketing in FY 2006-07 because only about \$100,000 had been spent in the first half of the FY. Harmelin proposed a marketing plan for FY 2007-08 that recommended a \$500,000 expenditure, with \$400,000 in media buys and \$100,000 for the development and redevelopment of marketing materials. DEP supported Harmelin's proposal. Ms. Ulrich made a motion to authorize up to \$500,000 for marketing efforts during FY 2007-08. Mr. Romberger seconded it, and the Board passed it unanimously.

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

The Board reviewed estimated administrative costs for the MSI Program in FY 2007-08. DEP estimated that up to \$3,725,296 should be authorized to reimburse it for administrative costs it might incur in FY 2007-08. There was a general discussion of the funding for an actuarial study. The study was originally planned to be conducted over two fiscal years, from FY 2006-07 through FY 2007-08. However, the contract will not be finalized until the end of FY 2006-07. As a result the Board revised the funding amount for the study in FY 2007-08 from \$100,000 to \$200,000 to cover the total contract amount. Mr. Romberger then moved that the Board authorize up to \$3,825,296 from the MSI Fund to reimburse DEP for the administrative costs of the MSI Program during FY 2007-08. Ms. Ulrich seconded the motion, and the Board approved the motion unanimously. Ms. Ulrich recommended that a schedule be established to plan and track the contracting efforts needed to acquire the actuarial study, which DEP agreed to establish. Ms. Ulrich committed to having a member of the Treasury's staff participate as a member of the contract evaluation committee.

9. Consideration of Coverage for Appurtenances

The Board reviewed a proposal by DEP to modify the definition of a "Structure" that is contained in the Insuring Agreement. The new definition would extend coverage to the appurtenances to a structure. Appurtenances are defined as fences, retaining walls, paved or improved patios, walks, driveways, and in ground

swimming pools. During the discussion of the proposal, Ms. Ulrich expressed a concern that changing the definition of "Structure" in the Insuring Agreement would make it inconsistent with its definition in the regulations (Title 25, Chapter 401). However, when asked by Mr. Romberger, Mr. Roda did not share this concern. After further discussion, Mr. Romberger moved to amend the Insuring Agreement as proposed by DEP. Mr. Pizarchik seconded the motion. Mr. Romberger and Mr. Pizarchik voted in favor of and Ms. Ulrick voted against this motion. Ms. Ulrick then motioned to amend the definition in the regulations. Mr. Romberger seconded the amended motion, and the Board approved it unanimously.

10. Update on Program Improvements

DEP staff provided the Board with an summary of program improvements that are under development. The improvements are intended to enhance the efficiency and economy of the program's operations by providing thoroughly developed eCommerce capabilities that will allow for online and phone applications with credit and credit/debit card payments. These improvements will provide for real-time operations. In addition, insurance producers will be able to retain their commissions at the point of sale instead of submitting invoices for payment. This will also provide for real-time operations and eliminate the time intensive payment operations that are required when invoicing through the Comptroller's Office and Treasury while still providing an accurate accounting of the commission payments.

11. Consideration of Other Business

The Board established that the next annual meeting would take place on December 11, 2007. With no other business before the Board, the meeting was adjourned at 11:55 a.m.

SUMMARY OF ACTIONS TAKEN BY THE BOARD:

1. Approved the minutes of the December 16, 2005 MSI Board Meeting, as amended.
2. Authorized that that an adjusted inflation factor be used to provide policyholders with a coverage option that keeps pace with inflation.
3. Established that premium rates and coverage limits would not change from those that were effective in the previous year.
4. Authorized that up to \$3,825,296 of MSI Funds may be used to reimburse DEP for the administrative costs of the MSI Program that will be incurred during FY 2007-08.
5. Modified the Insuring Agreement to most importantly amend the definition of Structure to include appurtenances.
6. Authorized changes to the Title 25, Chapter 401 Regulations to make them consistant with the revised Insuring Agreement.

## KEY OBLIGATIONS:

1. DEP will contact the Comptroller and provide the Board with answers to its financial questions (see Section 2 of these minutes).
2. DEP will expand the Operational and Financial Reports to provide data relevant to pending claims.
3. DEP will develop a tracking system for the Request for Proposal (RFP) for an actuarial study of the Fund.
4. The Treasury will provide a staff member to sit on the committee that will review actuarial proposals.
5. DEP will draft changes to Title 25, Chapter 401.