

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

**April 18, 2008**

A special meeting of the Mine Subsidence Insurance (MSI) Board (Board) was called to order at 10:00 a.m. on April 18, 2008, in the 10<sup>th</sup> Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania.

Board Members present at the meeting: Joseph Pizarchik, Esq., Director, Bureau of Mining and Reclamation, Designated Chair for Kathleen McGinty, Secretary of the Department of Environmental Protection (DEP); Chuck Romberger, Director, Property and Casualty Bureau, Designated Representative for Board Member Joel Ario, Commissioner of Insurance; and Deborah Eskin, Esq., Deputy Chief Counsel, Designated Representative for Board Member Robin Wiessmann, State Treasurer.

Others in attendance: Lee Siegel, Treasury; John Wade, Pinnacle Actuarial Resources, Inc.; and Paul Vendetti, Pinnacle Actuarial Resources, Inc. The following DEP employees were in attendance: Christina Simeone, Policy Specialist; Marc Roda, Esq. Assistant Counsel; Robert W. Agnew, Chief, Division of Environmental Analysis and Support; Edward Motycki, Chief, Mine Subsidence Section; Lawrence Ruane, MSI Program Administrator; and Nicholle Harman, MSI Board Recording Secretary.

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

1. Approval of the December 11, 2007 Meeting Minutes

The Board reviewed and made editorial revisions to the minutes of December 11, 2007, MSI Regular Board Meeting. Mr. Romberger then made a motion to approve the minutes, which was seconded by Ms. Eskin and passed unanimously.

2. Review of Draft Actuarial Report

The Board reviewed a draft report prepared by Pinnacle Actuarial Resources, Inc. that evaluated the operational and financial performance of the MSI Fund (Fund) and provided recommendations regarding the solvency of the Fund, premium rates, premium discounts, reserves, coverage limits and reinsurance. The Board discussed the report with Mr. John Wade and Mr. Paul Vendetti, the actuaries who authored the report. Mr. Wade noted that he would be addressing questions and comments made by the Board in the final report. Mr. Vendetti noted that rate reductions would not necessarily lead to increased subscriptions or increased underwritten coverage, that a lack of elasticity (the effect that one factor has on the outcome of another) between rates and subscriptions has been demonstrated in states that offer coverage at significantly lower rates than those offered in Pennsylvania.

Mr. Romberger made a motion to revise the premium rates as follows: Residential: First \$5,000 @ 0.0020, each subsequent dollar @ 0.0006; Non-Residential: First \$5,000 @ 0.0040, each subsequent dollar @ 0.0012. Ms. Eskin seconded the motion, which passed unanimously. The Board also resolved that the rate revisions would become effective on January 1, 2009.

The Board discussed multi-policy discounts, coverage limits and reinsurance and determined that they should not be acted on in this meeting but that they should continue to be evaluated and considered at future meetings. Mr. Romberger then made a motion to establish \$3,500 as the reserve amount for a reported claim, as recommended in the study. Ms. Eskin seconded the motion, which passed unanimously.

The draft study noted that “the Fund’s projected surplus is more than sufficient to see it through several years of significant underwriting loss and probably even withstand significant catastrophic losses.” The Board requests that the report be amended to include a recommendation concerning the appropriate level of surplus that should be maintained to address the Fund’s catastrophic loss exposure. That information would be needed for the Board to consider a distribution of surplus monies to the Fund’s subscribers, which is an option provided in the MSI Funds authorizing legislation, 52 P.S. § 3210 (c). Issues related to distributing surplus monies were then discussed. The Board asked Mr. Roda to analyze § 3210 (c) and identify the class of subscribers who would be eligible to receive any disbursed surplus monies and to provide an opinion regarding the Board’s authority to use its rulemaking authority to identify the class of subscribers. DEP staff will provide an analysis of program revisions needed to implement surplus distributions.

### 3. Review of Draft Chapter 401 Amendments

The Board reviewed draft amendments to 25 Pa. Code Chapter 401 regulations, which implement the administration of the MSI Fund and Program, and made editorial changes to them. In addition, proposed sections 401.44 and 401.45 will be revised to clarify that insurance producers appeal actions of the MSI Board or its agent, DEP, to the Environmental Hearing Board and not to the Insurance Department, the body to which the insurance producers normally make appeals. The revised regulatory package will be provided to the Board prior to the next meeting.

#### SUMMARY OF ACTIONS TAKEN BY THE BOARD:

1. Approved the minutes of the December 11, 2007 MSI Board Meeting with editorial revisions.
2. Modifications were made to premium rates and reserve amounts for pending claims.
3. Revisions were made to the proposed Chapter 401 regulations.

#### KEY OBLIGATIONS:

1. The actuarial report will be revised and include a recommendation concerning the appropriate level of surplus that should be maintained by the Fund.
2. Premium rates will be modified on January 1, 2009 and the reserve for pending claims will be modified as soon as computer systems can be adjusted.
3. DEP will provide an opinion regarding subscribers who are eligible to participate in any disbursement of surplus funds, an opinion as to the Board’s authority to classify those subscribers through regulations and an analysis of program revisions needed to distribute surplus.
4. The revised regulatory package will be provided to the Board prior to the next meeting.