

ATTACHMENT 1

DRAFT MINUTES

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

December 10, 2009

A meeting of the Mine Subsidence Insurance (MSI) Board (Board) was called to order at 10:00 a.m. on December 10, 2009, in the 10th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania.

Board Members present at the meeting: William Allen, Acting Director, Bureau of Mining and Reclamation, Designated Chair for John Hanger, Secretary of the Department of Environmental Protection (DEP); Chuck Romberger, Director, Property and Casualty Bureau, and Designated Representative for Board Member Joel Ario, Commissioner of Insurance; and Gerald S. Smith, Esq., Assistant Counsel and Alternate for Karen Spencer Kelly, Esq., Chief Counsel and Designated Representative for Board Member Robert McCord, State Treasurer.

Also in attendance were the following employees from Treasury: Andrea Etter, Manager of Financial Analysis; and John Small, Deputy State Treasurer for Cash Management and Investments. The following DEP employees were also in attendance: Jonathan L. Price, Director, Legislative Affairs; Michelle Moses, Esq., Assistant Counsel; Paul Pocavich, Chief, Division of Environmental Analysis and Support; Ed Motycki, Chief, Mine Subsidence Section; James Welsh, Acting MSI Technical Services Manager; Lawrence Ruane, MSI Program Administrator; Amy Berrios, MSI Management Technician; and Nicholle Harman, MSI Board Recording Secretary.

Issues discussed and actions taken at the meeting:

1. Approval of the July 29, 2009 Meeting Minutes

The Board reviewed and unanimously approved the minutes of the July 29 Board Meeting.

2. Review of Operational and Financial Performance Reports

DEP staff reviewed charts and graphs prepared by DEP and the Comptroller's Office that summarized the operational and financial performance of the MSI Program and MSI Fund (Fund). The performance during Fiscal Year (FY) 2008-09 was characterized as being relatively good during difficult economic times. Applications were up slightly, policies in force were at a record 58,177, and although premium rates had been cut by about 25% overall in January of 2009, Fund equity rose from approximately \$64 million to approximately \$69 million. A separate accounting for "Reserves in Lieu of Reinsurance" was provided for the first time in the FY 2008-09 Comptroller's Office documents. This practice provides a proper accounting for the reserves that have been historically retained to provide a reliable source of compensation for losses resulting from monumental events such as earthquakes or massive floods. Failure to hold sufficient reserves in lieu of reinsurance would prudently require the purchase of very costly reinsurance, the reliability of which is not assured.

Mr. Romberger noted that the titles for documents related to claims be revised to better describe their function, that mathematical errors on them be evaluated and corrected and that in addition to footnotes, further information be provided when it is indicated. He also requested that an exhibit be provided that details the calculation of “Reserves in Lieu of Reinsurance.”

3. Review of Investment Report

Mr. Small provided a summary of the return on the investments of the MSI or 86 Fund. He noted that although the Pool 98 Fund investments, which include equities, had a negative return of about 2%, it was minimal when compared to the 30% or more losses incurred by many similar types of funds. The Pool 99 Fund, which is comprised of short term investments (Cash Equivalents), had a positive return of 1%. In closing, he noted that, just prior to this board meeting, the combined 98 and 99 Pools for the 86 Fund amounted to slightly over \$75 million.

4. Review of Demonstration Inflation Factor Report

DEP staff reported that building costs, since last reported for October 2008, have not increased but have declined. As a result, the inflation factor used to provide policyholders with coverage options that maintain their coverage at amounts commensurate with increased repair costs will be zero. The “Projected Inflation Factor for Calendar Year 2010” was calculated using the most recent data available from the Marshall and Swift / Boeckh Index, the cost index selected by the MSI Board for inflation factor calculations. MSI billing systems will be updated with a new inflation factor of 0% on January 1, 2010 unless more recent data is available prior to December 31 that would modify the factor. Note: Subsequent to the meeting, Mr. Romberger informed DEP staff of errors in the date ranges that were identified in the demonstration calculation. Those dates will be corrected. The errors in the dates, which are the titles of the indexes, did not affect the accuracy of the inflation factor calculation.

5. Consideration of Premium Rates, Coverage Limits, Commission Rates & Premium Distribution Back to Subscribers

After review of the Fund’s financial position, the Board unanimously adopted the following: the business rules and practices related to premium rate reductions and the distribution of premium back to subscribers, as proposed by DEP and made part of the source notes for the December 10, 2009 Board Meeting; that premium and commission rates would be maintained at calendar year 2009 levels; that \$1 million would be distributed to those who were subscribers during FY 2008-09; and, that the maximum coverage amount for both residential and nonresidential coverage would be raised to \$500,000.

6. Program Costs Reimbursement

After review of proposed expenditures to administer the MSI Program during FY 2010-11, Gerald Smith motioned to accept costs and Chuck Romberger seconded the motion.

The Board unanimously approved an expenditure of up to \$3,265,335 from the MSI Fund to reimburse DEP for MSI Program administrative costs that DEP may incur during FY 2010-11.

7. Review of MSI Marketing Campaign

DEP staff reviewed the Marketing Campaign and informed the Board of MSI's intention to discontinue the routine use of mass marketing (TV, radio and newsprint) and to develop marketing campaigns that focus on the use of direct marketing. The direct marketing will primarily consist of mailers that inform potential policyholders of the risk of damage caused by mine subsidence, and which include personalized graphics (maps) generated from Geographic Information Systems (GIS) that demonstrate the relationship between the location of their property to underground mining. To be effective statewide, the majority of the marketing budget (\$400,000 of the proposed \$500,000) will be used to develop the underground coal mine mapping that is required to produce the personalized graphics in the direct marketing mailers. Approximately \$100,000 per year over the next 5 years would then be used to cover printing and mailing costs for the roughly 200,000 documents that would be mailed.

8. Updates on Chapter 401 Amendments and HB 523

Lawrence Ruane introduced Michelle Moses as the new Regulatory Counsel for MSI. Michelle Moses informed the Board that the New Chapter 401 Regulations will be published on December 19, 2009.

Jonathan Price, DEP Legislative Liaison informed the Board that the General Assembly of Pennsylvania is seeking funding from the Coal and Clay Mine Subsidence Insurance Fund for House Bill 523 to establish the Landslide Insurance and Assistance Program.

9. Other Business, Next Meeting and Adjournment

There was no further business conducted by the Board other than to establish that the next annual meeting would be held on December 9, 2010. The meeting was adjourned at 11:30 a.m.

SUMMARY OF ACTIONS TAKEN BY THE BOARD:

1. Approved the minutes of the July 29, 2009 MSI Board Meeting.
2. Maintained premium and commission rates at their 2009 levels.
3. Authorized a \$1 million premium disbursement.
4. Increased residential and nonresidential maximum coverage amounts to \$500,000.
5. Adopted the Business Rules and Practices for changing premium rates and the disbursement of premiums back to subscribers, as provided in the source documents of the December 10, 2009 Board Meeting.
6. Agreed to provide up to \$3,265,335 from the MSI Fund to reimburse DEP for the costs it incurs administering the MSI Program.

KEY OBLIGATIONS:

DEP will do the following:

1. Correct errors and improve footnotes and titles in the operational graphs.
2. Correct the “Inflation Factor Report.”
3. Provide the “Reserves in Lieu of Reinsurance” calculation.