

Evaluation of MSI Claims Opened During Fiscal Year 2022

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Introduction

This report was prepared in response to the Mine Subsidence Insurance (MSI) Board's request to evaluate and summarize investigated MSI claims. The Board originally requested this evaluation during the January 2018 annual board meeting. Since then the report is prepared on an annual basis and provided to the MSI Board. All MSI claims opened during Fiscal Year 2022 (July 1, 2022 → June 30, 2023) were reviewed in detail. The MSI engineering reports prepared for each investigated claim were summarized and that data used to compile this report.

Background

One hundred and eight-five (185) claims were opened with the MSI Fund during FY 2022. A claim is considered 'opened' when a policyholder contacts the California District Office (CDO) and indicates that he or she wishes to file an MSI claim. At that time, a Damage Claim Form is sent to the policyholder via email and/or US Mail. Once the damage claim form is returned, the claim investigation process commences. The MSI Program's claim investigation process includes but is not limited to: a detailed review of available mining information, review of past issues in the area, and a structure investigation conducted by a licensed professional engineer and/or a subsidence investigator (unlicensed engineer). All investigations are conducted by a licensed professional engineer or under the responsible charge of a licensed professional engineer.

The following table summarizes the status of all claims opened in FY 2022.

Denied Claims	134
Supported Claims	24
Investigation Ongoing	6
Claims Abandoned by policyholder	16
Claims Withdrawn by policyholder	5
Total Claims Opened	185

- Denied Claims – Claimed and/or observed damages were not covered by terms of the insuring agreement. The damages were not caused by mine subsidence or an unexpected breakout of mine water during the policy period. Further explanation of denied claims is provided in the Discussion section of this report.
- Supported Claims – Claimed and/or observed damages were covered by terms of the insuring agreement.
- Investigation Ongoing – MSI's investigation is still ongoing. A final decision for the claim has not been made.

- Claim Withdrawn by policyholder – The policyholder requested either verbally or in writing that their claim be withdrawn. A claim investigation was not conducted.
- Claim Abandoned by policyholder – The policyholder failed to return the Damage Claim Form. The claim was closed without investigation.

Discussion

The total number of claims investigated during Fiscal Year 2022 were approximately 3.5 percent lower than in Fiscal Year 2021 (164 claims versus 170 claims), and the total number of claims opened during the same period decreased approximately 6.5 percent (185 claims versus 198 claims). The following discussed the details associated with the various claim statuses.

Abandoned or Withdrawn Claims

Of the 185 claims opened with the MSI Fund in FY 2022, 21 (or 11%) of the claims opened were either abandoned or withdrawn by the policyholder. Policyholders abandoned or withdrew their claims for various reasons. Some of these reasons include no longer wishing to proceed with a claim, further discussion with MSI staff alleviated their initial concerns, and no further communication from the policyholder to the MSI program.

As noted by the figures, policyholders simply failed to return their damage claim form in 16 cases and their claim was considered Abandoned. This does not prevent the policyholder from filing a new claim. The Insuring Agreement requires that policyholders return the Damage Claim Form within 60 days of receipt. However, as a business practice and courtesy to policyholders, MSI routinely provides policyholders at least 120 days to return Damage Claim Forms before a claim is considered Abandoned.

Subtracting the abandoned and withdrawn claims, Damage Claim Forms were received and claim investigations were conducted for 164 claims opened during FY 2022.

Open Claims

Two (2) claim opened during FY 2022 remains under investigation.

Supported Claims

Twenty-four (24) claims were supported during FY 2022. This is approximately fifteen (15) percent of all claims investigated. The damages observed by MSI investigators were covered by terms of the insuring agreement, i.e., the damages were caused by mine subsidence or were the result of a sudden, unexpected outbreak of mine drainage during the policy period. Supported claims also include cases where, in the professional judgement of the investigator, subsidence cannot be ruled out as a possible cause of the damage. As such, the 'benefit of the doubt' is given to the policyholder and the claim is supported.

Denied Claims

One hundred thirty-four (134) claims were denied during FY 2022. This amounts to 72% of the total claims opened (185) or 82% of the total claims investigated (181). In all 134 cases, the claimed damages and observed issues were not due to mine subsidence damage (or damage related to a mine water breakout) that occurred during the policy period.

Review of the engineering reports for each claim revealed the following:

- In all 134 of the denied claims, the investigator determined problems were not related to mine subsidence.

Undermined buildings are at risk of damage from mine subsidence and mine subsidence damage can be severe. However, there are numerous factors, unrelated to mine subsidence, that can cause damage to a building and many are far more common than mine subsidence. Some common causes of damage observed by MSI engineers and investigators, unrelated to mine subsidence, include:

- Lateral earth pressure.
- Poor surface water drainage conditions.
- Improperly routed downspouts.
- Structural fatigue.
- Corrosion of window lintels due to age and/or lack of maintenance.
- Expansion of concrete subbase.
- Shrinking and swelling of soils due to changing moisture conditions.
- Slope instability.
- Poor construction practices.
- Inadequate main beam support.
- Construction on fill and/or poor soils.

Often, there are multiple non-subsidence related factors damaging a home. Poor drainage conditions can exacerbate lateral earth pressure problems or lead to slope instability. Many older buildings exhibit signs of structure fatigue (sagging) that can be compounded by inadequate beam support. As illustrated by the statistics comparing denied claims versus claims investigated, most buildings MSI investigates are experiencing damages not related to mine subsidence.

There is no monetary cost or risk for policyholders to file an MSI claim. An MSI claim denial does not prevent policyholders from filing future claims. Policyholders often make statements to MSI staff like, "I just wanted to have someone inspect the damages" or "I just wanted to make sure it was not subsidence".

MSI commonly receives claims filed by homeowners at the recommendation of contractors. Homeowners routinely engage contractors to assess existing damages within their homes. Contractors may be unsure of the cause of the damages and suggest that homeowners file a claim with MSI. Mine subsidence damage investigations are a specialized discipline within engineering. MSI staff are trained and experienced in conducting these investigations. Generally, homeowners, contractors, and many other engineers are not trained or familiar with subsidence investigations and are unsure of the movement patterns and damages indicative of mine subsidence. This can lead to homeowner uncertainty regarding the cause of damages in their home. MSI engineers and investigators determine if

the damages are related to mine subsidence, and if not, often assist homeowners with finding the cause of the damages.

Appealed Claims

None of the denied claims processed during fiscal year 2022 were appealed.

Conclusion

The MSI fund conducts complete engineering investigations by experienced licensed professional engineers or under the responsible charge of an experienced licensed professional engineer. The percent of denied claims during FY 2022 was 72% of all opened claims and 82% of all investigated claims. The FY 2022 percentages are in-line with the previously analyzed FY 2021 percentages of 79% and 91%, and MSI's experience in investigating mine subsidence damage claims. Most of the structures investigated do not have mine subsidence damage. Numerous other and more common factors cause most of the damages the MSI program observes.

As noted above the number of claims opened and investigated during Fiscal Year 2022 have decreased over those opened and investigated during Fiscal Year 2021. It is anticipated that the number of claims opened and investigated during Fiscal Year 2023 will remain similar to the numbers of claims processed in previous fiscal years.