

# OHIO MINE SUBSIDENCE INSURANCE

## UNDERWRITING ASSOCIATION

### ANNUAL REPORT

*January 2011 Through December 2011*

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This report is submitted by the board members of the Ohio Mine Subsidence Insurance Underwriting Association, James Zehringer, Director of Natural Resources, Chairman; Josh Mandel, Treasurer of State; Mary Taylor, Lt. Governor and Department of Insurance Director; and Michele Lilly, insurance industry representative from an Ohio domiciled carrier, Nationwide Insurance.

#### ABANDONED UNDERGROUND MINES

##### How they impact Ohioans

In the United States, approximately 100,000 underground mines are known to exist, of which 90% are inactive or abandoned. Approximately one-fourth of the total surface area overlying these mines has been affected by subsidence. An estimated 99% of the subsided land overlies underground voids created by coal mining, while the remaining 1% is attributed to the underground extraction of metallic and nonmetallic minerals.

For more than a century and a half, underground mining, mainly for coal, has been an active industry in Ohio. During this period, over 7,600 underground coal and other mineral mines have been abandoned (see Exhibit 1). These mines range in size from small "doghole" mines utilized by individuals for home heating to huge operations extending for several square miles.

Several generations of mining have left us with both a tradition of mining and a legacy of abandoned mines. Now, with an expanding population and its demand on space, the problems involved with abandoned underground mines are being fully realized. One such problem is that of mine subsidence loss and/or damage caused by the collapse or the lateral or vertical movement of structures resulting from the caving in of underground mines.

Geologic and mining factors that directly affect the extent of subsidence include the following: the mining method; the vertical and lateral dimension of the mine cavity; the depth of the mine void below ground surface; overburden characteristics; size, distribution and nature of support pillars; surface topography; location of ground water; and the method and quantity of backfilling used, if any. Prediction of when and where mine subsidence occurs is in its infancy state of development and research.

Two types of subsidence occur in Ohio. The first type, referred to as room and pillar subsidence occurs when the mine roof (substrata rock) collapses into a void created by the removal of coal. Shaft collapse, the second type of subsidence, takes place when

an air or coal haulage shaft, which has been inadequately sealed, collapses. Shaft collapse can occur suddenly and is considered the most hazardous type of subsidence.

#### MINE SUBSIDENCE INSURANCE

##### Background

The Mine Subsidence Insurance Program in Ohio has undergone various changes since its inception. This section of the annual report will indicate the evolution of the program since its inception in 1987.

The Ohio Legislature enacted Ohio Revised Code sections 3929.50 to 3929.53 and 3929.55 to 3929.61 in January of 1985. This Act authorized the establishment of the Mine Subsidence Insurance Governing Board, the Mine Subsidence Insurance Fund (MSIF), and the Ohio Mine Subsidence Insurance Underwriting Association (OMSIUA).

The Governing Board originally consisted of the Director of Natural Resources or designee as chairperson, the Treasurer of State or designee, and one representative from an Ohio domiciled insurance company. The MSIF is administered by the Governing Board and the Treasurer of State is the custodian of the Fund. The MSIF was initially funded with state and federal government appropriations. The premium for mine subsidence insurance coverage was initially established at a level intended to cover all foreseeable claims, normal operating expenses, a reserve for unexpected contingencies, and to provide for repayment of all government funds.

The Governing Board has entered into a contract with the Ohio FAIR Plan Underwriting Association (OFPUA) for administrative duties since the inception of the program. The contract provides for OFPUA to perform administrative and claim services for the OMSIUA. OFPUA personnel are trained to handle necessary administrative duties and mine subsidence insurance claims.

Insurance companies who write basic property or multi-peril policies on a direct basis for 1-4 family dwellings in the 37 eligible counties are required to become members of the OMSIUA and offer the mine subsidence coverage to all eligible applicants. Companies can be exempted from active participation if approved by the Department of Insurance.

In April of 1992, the Ohio Legislature recognized that the program was not sufficiently populated to provide necessary funds for claims and operating expenses, for appropriate reserves, and for repayment of State and Federal monies. The Ohio Revised Code was amended to provide:

1. The addition of the Superintendent of Insurance or designee to the Mine Subsidence Insurance Governing Board.

2. The designation of 26 Ohio counties as counties in which mine subsidence coverage is automatically added to dwelling fire, homeowners, or commercial fire policies for which dwelling/non-commercial/personal lines rates are applicable. The premium for the coverage, since 7/1/99, is \$1.00 for these 26 "mandatory" counties.

3. The designation of additional Ohio counties as "optional" counties. Owners of eligible properties in these counties must be offered the mine subsidence coverage and decide whether or not to buy the coverage. The premium for these insureds, since 7/1/99, is \$5.00.

This legislative change has provided sufficient revenue for claims and operating expense payments, appropriate reserves, and repayment of government funds.

In December 2004, the Ohio General Assembly passed House Bill 425, legislation initiated by the Ohio Department of Insurance and the Ohio Department of Natural Resources. This legislation was signed by the Governor in early 2005 and provided for changes to the Mine Subsidence Insurance Program in Ohio.

This legislation allowed the Mine Subsidence Insurance Governing Board to

review and make changes to the coverage amounts, limits, and structure types. In addition, the legislation provided the Governing Board the flexibility to increase coverage up to a maximum limit of \$300,000. Proposed changes were addressed in 2005 via amendments to Ohio Administrative Rule 3901-1-48 and ultimately to the mine subsidence insurance coverage form effective January 1, 2006.

The mine subsidence insurance coverage form changes for 2006 included:

1. Increasing the maximum limit on the dwelling structure to \$100,000 from \$50,000. This increased limit was applicable unless the dwelling coverage amount provided on the insurance policy to which the mine subsidence insurance coverage form attached was less than \$100,000.

2. Loss adjustment was expanded to a replacement cost basis from an actual cash value basis provided repairs caused by Mine Subsidence were made.

3. An additional coverage amount of up to 10% of the mine subsidence coverage limit of liability for the insured dwelling was provided for detached private garages.

4. An additional coverage amount of up to 10% of the mine subsidence coverage limit of liability for the insured structure was provided for driveways and sidewalks damaged by the same subsidence occurrence that damaged the dwelling structure.

5. An additional coverage amount of up to \$5,000 for additional living expense and/or fair rental value if the insured structure was not fit to live in due to a mine subsidence occurrence.

On July 1, 2009, the Mine Subsidence Insurance Governing Board voted to increase the maximum limit of liability for mine subsidence insurance coverage to \$300,000, which is the maximum allowable under the current Ohio Revised Code.

#### Program Funding

The Controlling Board approved an appropriation of \$200,000 as an initial reserve

for the Fund on January 17, 1986. This initial reserve was to be used to pay subsidence claims resulting from active coal mining, from salt or industrial mineral extraction, and from post-August 3, 1977 abandoned coal mines. Repayment of these funds was completed in 1997.

#### What is Mine Subsidence Insurance?

Mine subsidence insurance provides coverage for loss caused by the collapse or lateral or vertical movement of structures resulting from the caving in of underground mines, including underground coal mines, clay mines, limestone mines and salt mines. It does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of strip mines, any surface mines, or storm and sewer drains, or rapid transit tunnels.

For structures to be eligible for mine subsidence insurance, the following eligibility requirements must be met:

1. The primary structure must be an occupied 1-4 family dwelling and at least 50% of the total living area must be occupied. Seasonal properties are considered eligible for coverage as are properties under construction (if the property will become a 1-4 family occupied dwelling structure when completed).

2. The dwelling structure may have incidental occupancy if the occupancy does not cause the structure to be rated under commercial rating plans and if the structure qualifies for a homeowners, a farm owners, a dwelling fire, or other personal lines policy.

3. The dwelling structure must be located in one of the designated "mandatory" or "optional" counties.

4. The dwelling and detached private garages must be covered by a valid homeowners, farm owners, dwelling fire, or other personal lines insurance contract.

Additionally, coverage will be denied if a material misrepresentation of facts or circumstances concerning mine subsidence is made and/or if there is any increase in hazard within the control or knowledge of the insured.

What counties are insurable under the program?

Thirty-seven (37) Ohio counties are eligible for mine subsidence coverage under the mine subsidence program. Twenty-six (26) of these counties are mandatorily provided the coverage with their homeowners, farm owners, dwelling fire, or other personal lines insurance policies by attachment of the Mine Subsidence Insurance Coverage form. These 26 counties are: Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and Washington counties.

The optional counties are Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne counties. Insurance companies must offer coverage in these counties and property owners may purchase the mine subsidence coverage if they choose.

Whether in a "mandatory" or an "optional" county, the mine subsidence insurance coverage cannot be purchased separately. The insurance company providing the coverage will process the coverage attachment, collect the premium, and process any claims notices for OMSIUA. All responsibility for claims rests with OMSIUA and not with any individual member company.

The dwelling coverage provided is equal to that of the dwelling only or \$300,000.00, whichever is less. Additional limited coverage for driveways, sidewalks, private garages, and additional living expense/fair rental value may be applicable as provided in the Mine Subsidence Insurance Coverage form. The maximum limit of liability under the policy is \$300,000. A minimum deductible of \$250.00 and a maximum of \$500.00 will apply per occurrence. Coverage does not extend to industrial/commercial buildings, barns, land,

trees, crops, plants, or contents/personal property.

OUTREACH PROGRAM

Since 1997, the Ohio FAIR Plan, with the approval of the Mine Subsidence Insurance Governing Board, has partnered with the Ohio Department of Natural Resources (ODNR) Division of Mineral Resource Management's (MRM) AML Section to undertake an outreach program that addresses the hazards of constructing residential housing above abandoned underground mines in the counties where mine subsidence coverage is available.

In 2002, ODNR expanded the outreach initiative to include all types of abandoned mine land problems and initiated a comprehensive outreach effort to all coal bearing counties by mailing an AML Development Guide to local officials every two years. In addition, MRM has partnered with the ODNR Division of Soil & Water as well as the Soil and Water Conservation Districts (SWCD) resulting in local distribution of the guides to the public at the county level. Since 2002, copies of the guide have been made available to legislators, township trustees, county commissioners, county engineers and the SWCDs in 37 counties. The Ohio FAIR Plan is referenced in the guide as a resource for information on past subsidence complaints.

In an effort to enhance this outreach effort, the Ohio FAIR Plan and ODNR collaborated on a web based abandoned underground mine locator to assist the public and local officials in identifying the location of abandoned underground mines before development begins. In addition, a 17-minute video was initially released in 2004 and updated in 2011, has been made available along with the AML Development Guide to educate perspective developers, contractors and other local government agencies on the dangers of building over abandoned mines. Two brochures titled "*How Mine Subsidence Insurance Protects Your Home*" and "*Community Leaders: You Can Protect Ohio*

*Citizens From Mine Subsidence*" have been updated and were included in the 2011 distribution of the AML Development Guide.

In calendar year 2011, 2583 copies of the updated AML Development Guide and 82 copies of the video were distributed for a total of 9574 AML Development Guides and 753 videos distributed since 2002. In addition to township trustees, county commissioners, county engineers and the SWCDs in 37 counties, the mailing was expanded to include county planning commissions, auditors, health departments, watershed groups, homebuilders association and realtors association.

### CLAIM HANDLING

Mine Subsidence is different from any other catastrophe that damages structures. A fire to a building is usually extinguished in minutes and repairs can be started shortly after settlement with the insurance company. A mine subsidence event causes ground movement and this process can last for several weeks, months, or years. Because of the ongoing movement, structures damaged by subsidence cannot be repaired until this movement ceases.

#### Reporting of a Claim

Property owners, who have mine subsidence coverage and suspect that their structure has been damaged by mine subsidence, are to notify their insurance agent or company as soon as possible. The agent or company will then send written notification to the OMSIUA informing them of the date of loss, the date that the mine subsidence coverage was effective for the property owner, and the location suffering the loss. OMSIUA will assign an adjuster to perform the initial investigation.

#### Investigation of Cause

The adjuster's initial inspection consists of an interview of the property owner and examination of damage. Typical suspected subsidence damage might be:

- Cracks in basement walls, floor, and foundation.
- Separation of porches, patios, and chimneys from the main structure.
- Doors and windows that are "jammed" shut.
- Cracks in the exterior walls.
- Tilting of the structure.

OMSIUA's adjusters work in close cooperation with the Ohio Department of Natural Resources to investigate a suspected mine subsidence claim. State mine maps, maintained by the Division of Geological Survey, are carefully reviewed to determine if the property in question is undermined. The Division of Mineral Resource Management - Abandoned Mine Lands Program - is consulted to secure any additional mining information. Unfortunately, in many cases, there are no mining company records that indicate prior mining activity.

If the structure is in an area of Ohio known for its coal resources and if subsidence is suspected as a possible cause of loss by the adjuster, OMSIUA will utilize the services of trained geologists and engineers to further aid the investigation. These experts are familiar with the "finger print" of subsidence damage and have extensive knowledge of Ohio's geology.

#### Stabilization of the Abandoned Mine

If the investigators believe there is an emergency situation with respect to the structure being damaged by ongoing mine subsidence, the Ohio Department of Natural Resources, Division of Mineral Resource Management (DMRM), is informed so that their office can take the appropriate action. The DMRM administers the Abandoned Mine Lands (AML) Program, which includes the stabilization of mine subsidence areas. The AML Program also oversees the Emergency Program, which allows for the immediate response to a subsidence event that poses a direct threat to the safety of the public. The subsidence can be halted in some cases through the "grouting" of underground mine

voids. Grouting is the injection of concrete into specific areas of the abandoned underground mine to halt the subsidence.

#### Temporary Repairs to the Structure

OMSIUA will make temporary repairs to damaged structures if warranted. In some cases, it is necessary for extensive shoring procedures to be performed so that the building will not collapse. Extensive shoring efforts to protect the structure from collapse can cost several thousands of dollars.

#### Surveying

In certain cases of suspected mine subsidence, OMSIUA monitors the ground movement by surveying the structure. This technique involves establishing a survey line with monitoring points on the structure and the surrounding neighborhood. Initial benchmark measurements are taken with additional measurements occurring at intervals ranging from two to six months.

This investigation technique serves two purposes. First, if there is consistent and significant downward movement of the structure, it is probable that a subsidence event is ongoing. Secondly, when that

downward movement has stopped for an acceptable period of time, permanent repairs can be made to the structure.

#### Claims Payments

OMSIUA makes partial payments of claims to enable the property owner to have adequate funds for temporary repairs.

All claims are settled on a replacement cost basis, if repairs caused by a Mine Subsidence event are made. Dwelling coverage is limited to the amount of insurance being provided on the dwelling structure, or \$300,000.00, whichever is less.

#### Ohio Mine Subsidence Insurance Claims

In 2011, 64 claims were reported while in 2010, 88 claims were reported. In 2011, 78 claims were closed with payments of \$601,734.78 in paid losses and adjustment expenses. Reserves totaled \$1,031,247 at the end of 2011. In 2010, 79 claims were closed with payments of \$975,854.36 in paid losses and adjustment expenses. Reserves totaled \$698,817 at 2010's year-end. Exhibit 2 details the 2011 claims activity by county.

**FINANCIAL STATEMENTS AND STATISTICAL INFORMATION**

**OHIO MINE SUBSIDENCE INSURANCE FUND STATEMENT OF RECEIPTS,  
DISBURSEMENTS, AND FUND BALANCE ACTUAL FOR 2010 AND 2011**

<i>Fund Balance (12/31/09)</i>	\$14,664,037.08
<i>2010 Income (Premiums et al)</i>	777,144.19
<i>2010 Disbursements</i>	<u>1,730,796.14</u>
<i>Fund Balance (12/31/10)</i>	\$13,710,385.13
<i>2011 Income (Premiums et al)</i>	758,204.21
<i>2011 Disbursements</i>	<u>1,337,586.75</u>
<b><i>Fund Balance (12/31/11)</i></b>	<b>\$13,131,002.59</b>

## EXHIBIT 1

NUMBER OF ABANDONED AND ACTIVE MINES

COUNTY	ABANDONED MINES*	ACTIVE MINES-2011
ATHENS	359	0
BELMONT	566	2
BUTLER	3	0
CARROLL	269	1
COLUMBIANA	451	0
COSHOCOTON	304	0
CUYAHOGA	1	0
DELAWARE	1	0
ERIE	1	0
GALLIA	177	0
GEauga	7	0
GUERNSEY	178	0
HAMILTON	1	0
HARRISON	165	1
HOCKING	236	0
HOLMES	109	0
JACKSON	441	0
JEFFERSON	502	3
LAKE	1	0
LAWRENCE	356	0
LICKING	1	0
LUCAS	3	0
MAHONING	186	0
MEDINA	41	0
MEIGS	233	1
MONROE	70	0
MORGAN	120	1
MUSKINGUM	455	0
NOBLE	210	0
OTTAWA	6	0
PERRY	454	1
PIKE	14	0
PORTAGE	16	0
PREBLE	1	0
SCIOTO	81	0
STARK	431	0
SUMMIT	75	0
TRUMBULL	97	0
TUSCARAWAS	583	1
VINTON	277	0
WASHINGTON	85	0
WAYNE	98	0
<b>TOTAL</b>	<b>7,665</b>	<b>11</b>

Source of mine information: Ohio Department of Natural Resources Division of Geological Survey.

\*The number of Abandoned Underground Mines (AUM) was derived by counting known mine maps (both from paper and mylar maps) as well as locations where mining activity has taken place, but the boundaries of the mined area are unknown.

**EXHIBIT 2**

**OMSIUA CLAIM ACTIVITY-2011**

COUNTY	REPORTED CLAIMS	CLOSED CLAIMS	OPEN CLAIMS	RESERVES	CLAIM PAYMENTS	LOSS ADJ. EXP.
ATHENS	5	6	2	\$10,000	0	\$10,729.25
BELMONT	11	20	12	\$36,017	\$10,694.94	\$78,032.11
CARROLL	0	0	0	0	0	0
COLUMBIANA	2	2	0	0	0	\$2,985.61
COSHOCOTON	0	1	0	0	0	\$3,059.46
DELAWARE	1	1	0	0	0	0
ERIE	0	0	0	0	0	0
GALLIA	0	0	0	0	0	0
GEauga	0	0	0	0	0	0
GUERNSEY	4	3	3	\$30,000	0	\$31,684.51
HARRISON	5	3	2	\$75,000	0	\$9,224.81
HOCKING	0	0	0	0	0	0
HOLMES	1	1	0	0	0	\$2,479.24
JACKSON	6	10	5	\$198,600	\$127,447.71	\$43,350.98
JEFFERSON	1	4	2	0	0	\$9,932.61
LAKE	0	0	0	0	0	0
LAWRENCE	1	1	0	0	0	\$2,363.94
LICKING	0	0	0	0	0	0
MAHONING	2	1	1	0	0	\$6,333.43
MEDINA	2	2	0	0	0	\$191.40
MEIGS	2	1	1	0	0	0
MONROE	0	0	2	0	0	\$155.05
MORGAN	1	0	1	0	0	0
MUSKINGUM	0	0	0	0	0	0
NOBLE	0	0	0	0	0	0
OTTAWA	0	0	0	0	0	0
PERRY	3	3	1	\$50,000	0	\$14,309.27
PORTAGE	0	0	0	0	0	0
PREBLE	0	0	0	0	0	0
SCIOTO	0	0	0	0	0	0
STARK	10	12	3	\$165,000	\$1,196.89	\$56,884.26
SUMMIT	1	1	0	0	0	\$252.30
TRUMBULL	2	1	3	\$166,630	\$121,369.97	\$23,374.53
TUSCARAWAS	4	5	4	\$300,000	0	\$45,682.51
VINTON	0	0	0	0	0	0
WASHINGTON	0	0	0	0	0	0
WAYNE	0	0	0	0	0	0
<b>TOTALS</b>	<b>64</b>	<b>78</b>	<b>42</b>	<b>\$1,031,247</b>	<b>\$260,709.51</b>	<b>\$341,025.27</b>

**EXHIBIT 3****OMSIUA POLICIES AND PREMIUM WRITTEN-2011**

COUNTY	POLICIES 2010	POLICIES 2011	PREMIUM 2010	PREMIUM 2011
ATHENS	17,187	16,295	\$17,187.25	\$16,294.81
BELMONT	22,319	22,446	\$22,318.70	\$22,446.46
CARROLL	10,633	10,404	\$10,633.39	\$10,403.85
COLUMBIANA	34,940	34,218	\$34,940.26	\$34,217.97
COSHOCOTON	12,401	12,388	\$12,401.38	\$12,387.71
DELAWARE	4,387	4,467	\$15,356.51	\$15,632.77
ERIE	863	925	\$3,020.01	\$3,238.78
GALLIA	9,540	8,641	\$9,539.78	\$8,640.85
GEAUGA	2,074	2,130	\$7,258.52	\$7,454.43
GUERNSEY	14,059	13,470	\$14,059.66	\$13,469.40
HARRISON	5,931	5,624	\$5,930.42	\$5,624.44
HOCKING	10,580	10,131	\$10,580.00	\$10,130.94
HOLMES	8,065	7,664	\$8,064.80	\$7,663.86
JACKSON	10,576	10,344	\$10,575.80	\$10,343.39
JEFFERSON	23,531	22,655	\$23,531.17	\$22,655.33
LAKE	4,545	4,625	\$15,905.01	\$16,186.60
LAWRENCE	20,070	18,745	\$20,069.13	\$18,745.21
LICKING	2,513	2,570	\$8,795.91	\$8,998.88
MAHONING	78,202	75,091	\$78,202.63	\$75,090.35
MEDINA	5,655	5,792	\$19,792.11	\$20,270.96
MEIGS	7,363	6,917	\$7,363.27	\$6,916.99
MONROE	5,973	5,373	\$5,973.38	\$5,372.61
MORGAN	5,883	4,830	\$5,882.27	\$4,829.30
MUSKINGUM	28,789	27,196	\$28,789.23	\$27,196.52
NOBLE	4,440	4,056	\$4,440.01	\$4,056.22
OTTAWA	1,450	1,515	\$5,074.83	\$5,303.85
PERRY	13,007	11,098	\$13,007.47	\$11,098.30
PORTAGE	3,567	3,670	\$12,486.66	\$12,846.59
PREBLE	547	572	\$1,914.26	\$2,001.98
SCIOTO	21,417	21,361	\$21,416.85	\$21,360.88
STARK	125,717	123,529	\$125,716.05	\$123,529.39
SUMMIT	15,616	16,157	\$54,659.77	\$56,547.08
TRUMBULL	70,471	67,996	\$70,471.29	\$67,995.74
TUSCARAWAS	31,592	31,040	\$31,592.92	\$31,040.07
VINTON	4,053	3,722	\$4,052.86	\$3,721.42
WASHINGTON	21,341	21,156	\$21,341.00	\$21,155.70
WAYNE	4,498	4,519	\$15,742.51	\$15,817.78
<b>TOTALS</b>	<b>663,795</b>	<b>643,332</b>	<b>\$778,087.07</b>	<b>\$760,687.41</b>