

**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION
POLICY
UTILIZATION OF FUNDING THROUGH THE STATE
WATER PLAN PROGRAM**

**KDHE POLICY # 94-001
BER POLICY#BER-RS-011
DATE: 2001
PAGES: 3**

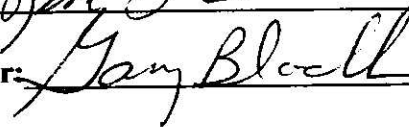
Section Chief:



Date:

12/28/05

Bureau Manager:



Date:

12/30/05

REVISIONS

Reviser: Frank Arnwine

Date of Revision: 2001

ORIGINATOR

Originator: Rick Bean

Date: 1994

**BUREAU OF ENVIRONMENTAL REMEDIATION/REMEDIAL SECTION
POLICY
UTILIZATION OF FUNDING THROUGH THE STATE
WATER PLAN PROGRAM**

**KDHE POLICY # 94-001
BER POLICY#BER-RS-011
DATE: 2001
PAGES: 3**

BACKGROUND:

The State Water Resources Planning Act (K.S.A. 82a-901 et seq.) was drafted to provide a mechanism to ensure the supply of water in sufficient quantity and quality to meet the current and future needs of the citizens of the State of Kansas. In 1986, the Kansas Water Authority approved the policy subsection entitled "Water Pollution-Remediation," which makes the following policy recommendation: "Require the state to initiate remedial procedures when a responsible party is unknown or cannot or will not undertake necessary action. Any person determined responsible would still be responsible for repayment of the cost of the cleanup work."

KDHE strongly supports the Water Authority's recommendation and has developed this policy statement to provide a consistent approach for utilization of funding authorized through the State Water Plan. Moreover, the purpose of this policy is to strike an appropriate balance between the need to hold parties responsible for the investigation and remediation of contamination they have caused, while at the same time avoiding pointless delays and further environmental damage when no responsible party can be found, or when such parties are recalcitrant and uncooperative.

POLICY:

The objective of this policy is to provide a consistent approach for utilization of funding authorized through the State Water Plan. The procedures outlined below will be used by staff to identify and select eligible contaminated sites for further investigation and/or corrective action utilizing State Water Plan funding.

PROCEDURES:

Upon discovery of a contaminated site, KDHE staff investigates the problem to determine a) the existence of pollution; b) affected health and environmental receptors; c) the source of the pollution and/or responsible party/ies; and d) priority of the polluted site.

Utilization of State Water Plan Funds

- I. If a source and/or a responsible party cannot be readily identified by KDHE, a preliminary site evaluation will be conducted by KDHE using the appropriate funds, which could include State Water Plan funds. The purpose of the evaluation is to simply identify the likely source or responsible party.

- II. If the preliminary site evaluation fails to identify the source or responsible party, State Water Plan funding may be used by KDHE to complete a contamination assessment. The purpose of the contamination assessment is to fully determine the extent and nature of contamination.

If, based upon the contamination assessment:

- a) A source is identified, but a responsible party is not, State Water Plan funding will be used to conduct further investigation and/or a potentially responsible party search;

- b) The responsible party is identified, the agency will take the following course of action based upon the ability and willingness of the responsible party to adequately address the situation:
 - 1) If the responsible party is willing and financially able to complete the remaining activities, and the site qualifies for the Kansas Voluntary Cleanup and Property Redevelopment (VCPRP) program, the site will be recommended as an applicant for the VCPRP program.

 - 2) If the responsible party is willing and financially able to complete the remaining activities, then proceed with negotiation of a Consent Order -- to reimburse the agency for past expenses and pay for needed investigation and remediation -- under the State Cooperative program.

 - 3) If the responsible party is willing but financially unable to entirely complete all remaining activities, remaining activities may be completed by KDHE using State Water Plan funds.

 - 4) If the responsible party is able but unwilling to perform the remaining activities or to enter into a Consent Agreement with the Agency, KDHE will take appropriate administrative and civil action necessary to recover expended funds and to compel needed site investigation and remediation. KDHE may expend State Water Plan funds for remedial purposes in order to protect public health and environment and limit environmental damage.

Utilization of State Water Plan Funds

- III. In keeping with this policy, State Water Plan funds may be used to determine sources of contamination, identify responsible parties, conduct corrective action activities, conduct emergency response activities, determine the financial status of responsible parties, take legal or administrative actions tied to sites where State Water Plan Funds have been expended, cost recovery, and administration.

- IV. All efforts will be made to recover funds expended from the Water Plan from responsible parties who --
 - a) have been identified either initially or throughout the investigative activities and/or the responsible party identified in the PRP search.
 - b) fall within the guidelines of the State Cooperative Program but are unwilling to execute the Consent Order.
 - c) are unwilling, but financially able to complete all of the necessary activities.