

RESOLUTION NUMBER 95-03

A RESOLUTION PROVIDING FOR RECOVERY BY CERTAIN GOVERNMENTAL ENTITIES OF EXPENSES INCURRED IN AN EMERGENCY ACTION IN RESPONSE TO RELEASE OR THREATENED RELEASE OF MATERIAL INTO OR UPON THE ENVIRONMENT.

BE IT RESOLVED by the Governing Body of the County of Woodson, State of Kansas:

EMERGENCY ACTION IN RESPONSE TO A RELEASE OR THREATENED RELEASE OF MATERIAL INTO OR UPON THE ENVIRONMENT.

Definitions:

- (a) Emergency action shall mean all of the concerted activities conducted in order to prevent or mitigate injury to human health or the environment into or upon the environment.
- (b) Governmental entities shall include Woodson County, the Woodson County Emergency Preparedness, and any entity responding under a mutual aid agreement with Woodson County.
- (c) Person shall include any individual, corporation, association, partnership, firm, trustee or legal representative.
- (d) Recoverable expenses. In general, recoverable expenses are those expenses that are reasonable, necessary and allowable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing routine firefighting. Expenses allowable for recovery may include, but are not limited to:
 - (1) Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
 - (2) Compensation for employees for the time and efforts devoted specifically for the purpose of emergency action that is not otherwise provided for in the governmental entities' operating budget.
 - (3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment.)

Resolution No. 95-03 (con't)

- (4) Replacement costs for equipment owned by the governmental entity that is contaminated beyond reuse or repair, if the governmental entity can demonstrate that the equipment was a total loss and that the loss occurred during the emergency action (e.g., self-contained breathing apparatus irretrievable or contaminated during the response.
 - (5) Decontamination of equipment contaminated during the response.
 - (6) Special technical services specifically required for the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the governmental entity.)
 - (7) Other special services specifically required for the emergency action.
 - (8) Laboratory costs for purposes of analyzing samples taken during, or as a result of, the emergency action.
 - (9) Any costs of cleanup, storage or disposal of the released material.
 - (10) Costs associated with the services, supplies and equipment procured for a specific evacuation.
 - (11) Medical expenses that may be incurred as a result of response activities.
 - (12) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this Article.
- (e) Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, infecting, escaping, leaching, dumping or disposing into or upon the environment.

Purpose:

This Article provides a means for the governmental entities to recover, through civil suit, the recoverable expenses they incur in taking an emergency action.

Liability:

Any and all persons responsible for a release or threatened release which results in any emergency action shall be liable to the governmental entities for the recoverable expenses resulting from the emergency action.

Resolution No. 95-03 (con't)

Recovery of Expenses:

The staffs of the governmental entities involved in the emergency action shall keep a detailed record of its recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify those expenses to the appropriate legal counsel and shall request that legal counsel bring a civil action for the recovery of the recoverable expenses against any and all persons responsible for the emergency action. Not less than thirty (30) days before filing the civil suit, legal counsel shall submit a written, itemized claim for the total certified expenses incurred by the governmental entities for the emergency action to the responsible party and a written notice that, unless the amounts are paid in full to the respective governmental entities within thirty (30) days after the date of the mailing of the claim and notice, legal counsel will file a civil action for the stated amount. Moneys recovered under this Resolution shall be credited to the appropriate funds of the governmental entity from which moneys were expended in performing the emergency action.

This Resolution shall be in full force and effect from and after its adoption and publication once in the official county newspaper (i.e., The Yates Center News).

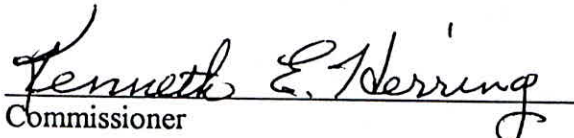
ADOPTED THIS 15th DAY OF AUGUST, 1995, BY THE BOARD OF COUNTY COMMISSIONERS OF WOODSON COUNTY, KANSAS

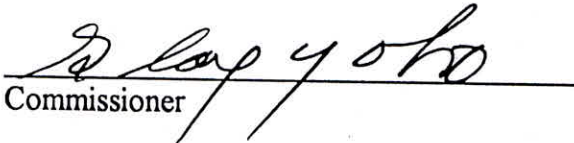
ATTEST:

BOARD OF COUNTY COMMISSIONERS,
WOODSON COUNTY, KANSAS


County Clerk


Chairman


Commissioner


Commissioner