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| <p>Title</p> <p><b>Administrative Appeal Rule for Challenges to the Issuance of Determinations of Nonsignificance (DNS) and to the Adequacy of Final Environmental Impact Statements (EIS) for Solid Waste Division and Wastewater Treatment Division Projects</b></p> | <p>RECEIVED FOR FILING AT KING COUNTY ARCHIVES &amp; RECORDS MANAGEMENT</p> <p>Document Code No.</p> <p><i>10-15-03</i></p> <p><i>Memo</i></p> <p><i>Per 7-4 (PR)</i></p> |
| <p>Department/Issuing Agency</p> <p>Natural Resources and Parks/Solid Waste and Wastewater Treatment Divisions</p>   | <p>Effective Date</p> <p>November 14, 2003</p> <p>File Date</p> <p>October 15, 2003</p>   |
| <p>Approved</p> <p><i>Paul Besonnetto</i></p>  |   |

- 1.0 SUBJECT TITLE: Administrative Appeal of Issuance of DNS and of Adequacy of Final Environmental Impact Statements**
- 1.1 EFFECTIVE DATE: November 14, 2003
- 1.2 TYPE OF ACTION: New
- 1.3 KEY WORDS: (1) Final Environmental Impact Statement (2) Administrative Appeal (3) Determination of Nonsignificance
- 2.0 PURPOSE:** To establish an administrative appeal procedure by the King County hearing examiner for the issuance of a DNS and for the adequacy of the EIS for any project or non-project action issued by the Solid Waste Division or the Wastewater Treatment Division after the effective date of this Rule. This rule creates a procedural administrative appeal under the State Environmental Policy Act that is conducted by the King County Hearing Examiner (pursuant to the applicable provisions of King County Code 20.24.080) whereby an interested party may appeal (1) the issuance of a DNS, or (2) the adequacy of a final EIS issued by the Solid Waste Division or the Wastewater Treatment Division of the King County Department of Natural Resources and Parks.
- 3.0 ORGANIZATIONS AFFECTED:**
- 3.1 Members of the public.
- 3.2 “Affected tribes” as that term is defined in WAC 197-11-710.
- 3.3 “Agencies,” “agencies with environmental expertise” and “agencies with jurisdiction” as those terms are defined in WAC 197-11-714.
- 3.4 “Consulted Agencies” as that term is defined in WAC 197-11-724.
- 3.5 The Solid Waste Division of the King County Department of Natural Resources and Parks.

- 3.6 The Wastewater Treatment Division of the King County Department of Natural Resources and Parks.

#### **4.0 REFERENCES:**

- 4.1 King County Code 2.98
- 4.2 King County Code 20.44
- 4.3 King County Code 20.44.075; 20.44.120
- 4.4 King County Code 20.24; 20.24.080; 20.24.098; 20.24.240B, 20.24.450
- 4.5 Revised Code of Washington 43.21C.060; 43.21C.075; 43.21C.080
- 4.6 Washington Administrative Code 197-11-680; 197-11-704; 197-11-710; 197-11-712; 197-11-714; 197-11-724

The King County Code can be found on-line at <http://www.metrokc.gov/mkcc/code/index.htm>  
Washington State codes can be found on-line at <http://www.mrsc.org>

#### **5.0 DEFINITIONS:**

- 5.1 Appellant. The party who is appealing the issuance of a Determination of Non-Significance or the adequacy of a final environmental impact statement pursuant to this rule.
- 5.2. Division. The Solid Waste Division or the Wastewater Treatment Division of the King County Department of Natural Resources and Parks.
- 5.3 DNS. A determination of non-significance; the written decision by the responsible official of the lead agency that a proposal is not likely to have a significant adverse environmental impact, and therefore an environmental impact statement is not required.
- 5.4 EIS. An environmental impact statement; a document that discusses the probable significant adverse environmental impacts of a development project or a planning proposal, reasonable mitigation of identified impacts and alternatives to the project and/or proposal.
- 5.5 Hearing Examiner. The King County Hearing Examiner or deputy Hearing Examiner.
- 5.6 Hearing Memorandum. An optional pre-hearing memorandum of legal points and authorities a party may wish to file on the appointed date prior to the appeal hearing.

- 5.7 Notice of Appeal. A written document which initiates the appeal. The Notice of Appeal must be filed with the SEPA Responsible Official for the county division issuing the DNS or final EIS at the address given in Section 6.2.4.5. The appeal period shall be fourteen (14) calendar days and shall commence on the third day after King County's publication, in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed, of a Notice of Issuance of a DNS or a Notice of Issuance of a final EIS.
- 5.8 Respondent. The Division (either the Solid Waste Division or the Wastewater Treatment Division) issuing the DNS or final EIS under appeal.
- 5.9 Statement of Appeal. The Statement of Appeal is usually consolidated and filed with the Notice of Appeal but may be filed separately. If filed separately, the Statement of Appeal must be filed within twenty-one (21) calendar days, commencing on the third day after King County's publication, in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed, of a Notice of Issuance of a DNS or in the case of a final EIS, a Notice of Issuance of a final EIS. The Statement of Appeal must comply with the requirements in section 6.2.4 of this rule and must identify specifically the errors contained in the SEPA decision being appealed.

## **6.0 APPEAL PROCEDURES:**

- 6.1 This rule creates an administrative appeal procedure for the appeal of a DNS or the adequacy of a final EIS, for any DNS or final EIS, which is issued by the Solid Waste Division or the Wastewater Treatment Division after the effective date of this rule. This rule also describes the general requirements and elements, which must be included in any administrative appeal of a DNS or of the adequacy of a final EIS.
- 6.2 General Requirements: The appeal of a DNS or of the adequacy of a final EIS must be filed within fourteen (14) calendar days, commencing on the third day after King County's publication of a Notice of Issuance of a DNS or in the case of a final EIS, King County's publication of a Notice of Issuance of a final EIS, in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed.

### Notice of Appeal

- 6.2.1 The appealing party must file a notice of appeal with the SEPA Responsible Official for the county division issuing the DNS or final EIS within fourteen (14) calendar days, commencing on the third day after King County's publication, in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed, of a Notice of Issuance of a DNS or in the case of a final EIS, the Notice of Issuance of a final EIS.

- 6.2.2 The Notice of Appeal must be accompanied by the appeal fee in the amount as set forth in King County Code Section 20.24.450. Failure to pay this fee within the fourteen day appeal period shall result in dismissal of the appeal.

Statement of Appeal

- 6.2.3 If a Notice of Appeal has been filed within the time period provided herein, then the appellant shall file a Statement of Appeal with the SEPA Responsible Official for the Division issuing the DNS or final EIS within a twenty-one (21) calendar day period, commencing on the third day after King County's publication in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed, of a Notice of Issuance of a DNS or in the case of a final EIS, the Notice of Issuance of a final EIS.
- 6.2.4 The Statement of Appeal must comply with all of the following:
- 6.2.4.1 It must identify the DNS which is being challenged or the final EIS whose adequacy is being challenged and specify the alleged errors contained in the final SEPA decision being appealed;
  - 6.2.4.2 In the case of an appeal of a DNS, it must state the specific reasons why an EIS is required. In the case of an appeal of a final EIS, it must state the specific reasons why the final EIS is inadequate;
  - 6.2.4.3 It must state the harm suffered or anticipated by the appellant and the relief sought by the appellant;
  - 6.2.4.4 It must contain the name, address and phone number of the appellant and the signature of the appellant or the appellant's attorney or other designated representative. It must also contain the name, address and phone number of the appellant's attorney or designated representative, if any;
  - 6.2.4.5 If mailed, the Statement of Appeal must be *received* by the Division issuing the DNS or the final EIS, at the Division address set forth below, within the time period set forth in section 6.2.3. If delivered, the Statement of Appeal must be delivered within the same time period to the Division issuing the DNS or final EIS as follows:

For the Solid Waste Division:

Solid Waste Division SEPA Responsible Official  
Attn: Division Director's Office  
201 South Jackson, KSC-NR-0701  
Seattle, WA 98104-3855

For the Wastewater Treatment Division:

Wastewater Treatment Division SEPA Responsible Official  
Attn: Division Director's Office  
201 South Jackson, KSC-NR-0501  
Seattle, WA 98104-3855

- 6.2.5 Failure to comply with the procedural requirements of section 6.0 is grounds for dismissal of an appeal.
- 6.2.6 The scope of the appeal shall be limited to the issues raised in the Statement of Appeal unless the Hearing Examiner finds that the appellant, in the exercise of reasonable diligence, could not have discovered those issues prior to filing the appeal.

#### Discovery

- 6.2.7 Limited discovery is authorized to assist the parties to the appeal in preparing for a hearing and to make the hearing more efficient, consistent with the policy of keeping the hearing process accessible to lay participants. The principal purpose of discovery is to give timely notice of the primary facts that will be relied on by the parties at the hearing.

Discovery by depositions upon oral and written examination, written interrogatories, production of documents or things, permission to enter upon land for inspection or investigation, and requests for admissions, may be made by a party to the appeal only if such request is previously approved by the Hearing Examiner. A request for discovery shall be made by written motion to the Hearing Examiner and served upon all other parties to the appeal at least 21 calendar days prior to the scheduled hearing date. Such request may be granted by the Hearing Examiner upon finding that (a) the moving party has demonstrated a substantial need for the information requested in the preparation of its case; and (b) the party to whom the request is directed will not be unreasonably inconvenienced, or incur unreasonable cost, by compliance therewith.

If any party fails to respond fully by the deadline established in a discovery order issued by the Hearing Examiner, without providing a satisfactory explanation therefor, then the hearing examiner may impose any of the following sanctions, as the Hearing Examiner deems appropriate:

- a. Continuance of a scheduled hearing to enable the information requested to be obtained by other means.
- b. Testimony or studies which concern matters within the scope of the failure to respond may be excluded, or terms and conditions may be placed upon the introduction of such evidence.
- c. Specific facts subject to the discovery order may be considered as having been admitted for purposes of the proceeding by the person who failed to respond.
- d. Payment of the costs incurred by other parties to establish discoverable facts may be required of the party or person who failed to provide discovery, as a condition of further participation in the proceeding.
- e. Dismissal of the appeal of a party who has failed to respond to a discovery order may be ordered by the hearing examiner.

#### Appeal Hearing Procedures

6.2.8 The procedures for the appeal hearing shall comply with this public rule and the applicable sections of King County Code Section 20.24.080 as set forth herein. The King County Code requires that appeals be processed by the Hearing Examiner as expeditiously as possible and that the appeal process, including a written decision from the Hearing Examiner, be completed within 90 days from the date the Hearing Examiner's office is notified of the filing of a Notice of Appeal. This time period may be extended only as described herein.

The time periods given below apply to the standard 90-day appeal process. If the Division issuing the DNS or final EIS determines that a longer schedule for the appeal process is warranted because of the complexity of the project, then, at the same time as the issuance of the DNS or final EIS, the Division may extend the schedule for the appeal process. In such cases, the Division shall provide public notice of the extended appeal timetable by publication, once, in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed.

### Pre-Hearing Conference

6.2.8.1 Pre-Hearing Conference. A pre-hearing conference shall occur within fourteen (14) calendar days from the date the Office of the Hearing Examiner is notified that a complete Statement of Appeal has been filed, unless a longer period has been designated in writing by the Division issuing the DNS or final EIS. The Hearing Examiner in his or her discretion may also extend the time period for the pre-hearing conference for not more than thirty (30) days if the Hearing Examiner determines that the size and scope of the project warrants a longer period. In such cases, the Hearing Examiner shall issue a written notice extending the time period for the pre-hearing conference and setting forth the reason for the extension.

If multiple appeals are filed concerning the same DNS or final EIS, then the pre-hearing conference date shall be set based upon the filing date of the last timely filed Statement of Appeal.

6.2.8.1.1 Time of Pre-Hearing Conference. The pre-hearing conference shall be held at the time set forth in Section 6.2.8.1 or as ordered by the Hearing Examiner on not less than seven (7) days notice to those who are then parties of record to the proceeding.

6.2.8.1.2 Purpose of pre-hearing conference. The purpose of a pre-hearing conference shall be to identify to the extent possible the facts in dispute, the issues, laws, parties and witnesses in the case. In addition, the pre-hearing conference is intended to establish a timeline for the presentation of the case. Each party shall bring to the prehearing conference a written list preliminarily designating the witnesses (both expert and lay) and exhibits that they intend to use in the appeal. For each witness identified, a short written summary of the witnesses' testimony, and in the case of expert witnesses, a short written summary of the expert's opinions shall be provided. At the prehearing conference, the Hearing Examiner shall include discussion of the

following in addition to other items he or she deems appropriate.

- a. Review of the Appellant's legal issues to, if possible, simplify them for hearing; and
- b. Procedures for the appeal, hearing date and schedules for prehearing submissions, including those prehearing filings required under these rules.

6.2.8.2 Administrative Record. At least seven (7) calendar days before the prehearing conference, the Division issuing the DNS or final EIS under appeal shall issue and serve on all, parties, then of record, the index to the administrative record of the SEPA determination under appeal. Within seven (7) calendar days after the Division's index has been filed, the Appellant may file and serve a request to supplement the record. The Hearing Examiner shall expeditiously rule on any requests for supplementation of the record.

6.2.8.3 Final Witness and Exhibit Lists. Within fourteen (14) calendar days after the pre-hearing conference, the appellant shall file, and serve on the parties to the appeal, its final witness and exhibit list. The witness list must include a summary of each witness's testimony.

Within twenty-one calendar (21) days after the prehearing conference, the Division issuing the DNS or final EIS under appeal shall file, and serve on the parties to the appeal, its final witness and exhibit list. The witness list must include a summary of each witness's testimony.

6.2.8.4 Expert Testimony/Hearing Memorandum

Within twenty-eight (28) calendar days after the pre-hearing conference, the Appellant shall file, and serve on the parties to the appeal, in writing at the same time all of the Appellant's direct expert testimony along with copies of any exhibits, including but not limited to, copies of any studies or reports, introduced through or relied upon by the Appellant's expert witnesses. Within this same time period, the Appellant may also file, and serve on the parties to the appeal, a hearing memorandum.

Within forty-two (42) calendar days after the pre-hearing conference, the Division issuing the DNS or final EIS under appeal shall file, and serve on the parties to the appeal, in writing at the same time all direct expert testimony along with copies of any exhibits including but not limited to, copies of any studies or reports, introduced through or relied upon by the Division's expert witnesses. Within this same time period the Division issuing the DNS or final EIS under appeal may also file and serve on the parties to the appeal, a hearing memorandum.

- 6.2.8.5 Production of Exhibits. Within forty six (46) calendar days after the prehearing conference, the parties to the appeal shall file with the Hearing Examiner and exchange a complete set of the exhibits they intend to use at the hearing. Absent a showing of good cause, no further exhibits shall be permitted at the hearing.
- 6.2.8.6 Prehearing Evidentiary Motion. Prehearing evidentiary motions must be filed and served on the parties to the appeal, seven (7) business days before the hearing date. Reply memoranda to any motions may be filed with the Hearing Examiner and served on the parties to the appeal four (4) business days before the hearing date. The Hearing Examiner will issue a decision on any prehearing evidentiary motions one day before the hearing date.
- 6.2.8.7 Appeal Hearing. When an appeal meets the filing rules contained herein, it shall be accepted and a date assigned for the hearing which shall be approximately fifty-six (56) calendar days after the prehearing conference. The appeal should be heard, to the extent practicable, at a location in the vicinity of the proposed project and on consecutive days until it is concluded. The hearing shall consist of the following:
- a. **Opening statements.**
  - b. **Appellant's case.** The appellant's case at the hearing shall be limited to presentation of lay testimony, the respondent's cross-examination of the expert testimony offered in writing by the appellant before the hearing and the appellant's redirect of any such expert witness.
  - c. **Respondent's case.** The respondent's case at the

hearing shall be limited to lay testimony, the appellant's cross-examination of the expert testimony offered in writing by the respondent before the hearing and the respondent's re-direct of any such expert witness.

- d. **Other Cross & Re-direct.** Cross and redirect examination of lay witnesses may occur at the discretion of the Hearing Examiner.
- e. **Appellant's Rebuttal.** The appellant's rebuttal may be permitted by the Hearing Examiner only upon an offer of proof showing: (1) the proposed testimony is strictly in rebuttal; (2) appellant could not reasonably have presented this testimony as part of its case; and (3) the proposed testimony is otherwise not duplicative or wasteful.
- f. **Closing argument.** The Hearing Examiner shall determine whether closing argument will be delivered orally or in writing. The parties will have the option of submitting proposed findings and conclusions along with their closing argument. Any post-hearing written argument allowed by the Hearing Examiner and any proposed findings or conclusions will be due three (3) business days after the hearing.
- g. **General.** The Hearing Examiner may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. Testimony shall be concise and non-repetitious.

- 6.2.8.8 **Consolidation of appeals.** All procedural SEPA appeals challenging a given DNS or the adequacy of a given final EIS shall be consolidated for all purposes, unless otherwise agreed to by all of the parties, and shall be heard by the Hearing Examiner in one single simultaneous appeal hearing.
- 6.2.8.9 **Burden of proof.** The burden of proof is on the appellant to show that the DNS or final EIS does not comply with SEPA.
- 6.2.8.10 **Standard of review.** Pursuant to RCW 43.21C.075, the procedural determinations made by the Division's SEPA responsible official shall be accorded substantial weight by the Hearing Examiner. A DNS shall be overturned only if found to

be clearly erroneous. A final EIS shall be overturned only if found to not be adequate under the rule of reason.

- 6.2.8.11 Scope of review. The evidentiary scope of review is de novo. However, the matters to be reviewed by the Hearing Examiner are limited to the validity of the challenged DNS (i.e. whether an EIS is required) or the adequacy of the challenged final EIS. The issues shall also be limited as specified in Section 6.2.6 above.
- 6.2.8.12 Hearing Examiner's decision. The appeal decision shall be in writing and shall include findings and conclusions based upon the issues and evidence in the record and shall be issued within 12 calendar days of the conclusion of the hearing and closing argument. The Hearing Examiner may affirm, reverse, remand or modify the responsible official's decision consistent with applicable state laws and regulations.
- 6.2.8.12.1 Notice of Hearing Examiner's Decision. Copies of the Hearing Examiner's decision shall be mailed to parties of record and to all persons who have requested notice.
- 6.2.8.13 Exhaustion of Administrative Appeal Procedures. A party seeking judicial review of a DNS or final EIS subject to appeal under this rule must, before seeking any judicial review, exhaust the appeal procedure of Section 6.2.
- 6.2.8.14 Record of Appeal. The appeal process in this section shall establish the record for use in any subsequent judicial appeal proceedings. Subsequent appeal proceedings shall be conducted on the record made before the Hearing Examiner, consistent with other applicable law. The Hearing Examiner's record shall include without limitation the Hearing Examiner's findings and conclusions, testimony under oath and a taped or written transcript. An electronically recorded transcript shall comply with this requirement.
- 6.2.8.15 Weekends/Holidays. If the last day for performance of any act provided by this rule to be performed within a specified period of time is a Saturday, Sunday or national holiday, then the last day for performance shall instead be the next business day.
- 6.2.9 No Appeal of Intermediate Steps. No administrative appeal is available of the

intermediate steps under SEPA, including, without limitation, lead agency determination, scoping or draft EIS adequacy (WAC 197-11-680).

- 6.2.10 One Appeal. There shall be only one administrative appeal of a DNS or the adequacy of a final EIS; successive administrative appeals on these issues are not allowed.
- 6.2.11 Lack of Jurisdiction. Failure to timely file a notice of appeal, appeal fee or statement of appeal shall deprive the Hearing Examiner of jurisdiction to consider the appeal. On the Hearing Examiner's own motion or on the motion of a party, the Hearing Examiner shall dismiss any such appeal for untimeliness or lack of jurisdiction.
- 6.2.12 Appeal to Superior Court. The Hearing Examiner's decision shall be appealable on the record to superior court.
- 6.2.13 Severability. If any provision of this rule is held invalid, then the remainder of this rule shall remain in effect.
- 6.2.14 Authority of Director to Provide for No Administrative Appeal. If the Director of the Department of Natural Resources and Parks determines, in his or her sole judgment and discretion, that providing for an administrative appeal under this rule would, for a given project or proposal, be likely to cause the Department of Natural Resources and Parks to violate a compliance, enforcement or other specific mandatory order or specific legal obligation, then the Director may specify that no administrative appeal will be allowed for that given project or proposal. In such case(s), the Director's determination that no administrative appeal shall be allowed, along with a reference to the compliance, enforcement or other specific mandatory order or specific legal obligation upon which the determination is based, shall be included in the notice of the SEPA determination for that project or proposal.

## 7.0 PROCEDURES

### **Action By:**

### **Action**

Appellant

7.1 Files a Notice of Appeal and filing fee with the Division issuing the DNS or final EIS within 14 calendar days of issuance of the DNS or final EIS. The fourteen day appeal period shall commence on the third day after King County's publication, once in a newspaper of general circulation both in King County and the county or counties in which the project is proposed, of a Notice of

- Issuance of a DNS or in the case of a final EIS, a Notice of Issuance of a final EIS.
- 7.2 If Notice of Appeal is timely, files Statement of Appeal with the Division issuing the DNS or the final EIS within 21 calendar days of the issuance of the DNS or the final EIS; the 21 day period shall commence on the third day after King County's publication, in a newspaper of general circulation both in King County and the county or counties in which the project is proposed, of a Notice of Issuance of a DNS or in the case of a final EIS, a Notice of Issuance of a final EIS.
- 7.3 Attends pre-hearing conference; submits preliminary witness lists and testimony as set forth in Section 6.2.8.
- 7.4 Submits final witness and exhibit lists, hearing memorandum (optional), expert testimony, produces exhibits, presents opening statement, appellant's case and closing argument, as directed by the Hearing Examiner, as set forth in Section 6.2.8.
- Division Issuing DNS or Final EIS
- 7.5 Publishes once in a newspaper of general circulation both in King County and in the county or counties within which the project is proposed, a Notice of Issuance of DNS or in the case of a final EIS, the Notice of Issuance of the final EIS.
- 7.6 Provides copies of all notices of appeal to the Office of the Hearing Examiner as set forth in Section 6.2.8.
- 7.7 Prepares index to administrative record; attends pre-hearing conference; submits preliminary witness lists and testimony as set forth in Section 6.2.8.
- 7.8 Submits final witness and exhibit lists, hearing memorandum (optional), expert testimony, produces exhibits, presents opening statement,

respondent's case and closing argument as directed by the Hearing Examiner, as set forth in Section 6.2.8.

Hearing Examiner

7.9 If notice of appeal, filing fee and statement of appeal are timely filed, conducts pre-hearing conference ; rules on pre-hearing motions, if any. Conducts appeal hearing and issues written decision, as set forth in section 6.2.8.

## 8.0 **RESPONSIBILITIES**

8.1 The Appellant is responsible as follows:

- 8.1.1. Submitting timely and complete Notice of Appeal, Statement of Appeal and appeal fee (in the amount set forth in King County Code Section 20.24.450) to Division issuing the DNS or final EIS under appeal.
- 8.1.2 Attending Pre-hearing conference; submitting preliminary witness lists and testimony as set forth at section 6.2.8.
- 8.1.3 Submitting final witness and exhibit lists, hearing memorandum (optional), expert testimony; producing exhibits; presenting opening statement, appellant's case and closing argument, as directed by the hearing examiner, all as set forth at section 6.2.8.
- 8.1.4 Complying with all procedures of Section 6.0.

8.2 King County Department of Natural Resources and Parks, Solid Waste Division or Wastewater Treatment Division is responsible as follows:

- 8.2.1 Publishing once in a newspaper of general circulation both in King County and in the county or counties in which the project is proposed, a Notice of Issuance of DNS or in the case of a final EIS, a Notice of Issuance of the final EIS.
- 8.2.2 Transmitting copies of Notice of Appeal, Statement of Appeal and appeal fee to the Office of the Hearing Examiner.
- 8.2.3 Preparing index to administrative record; attending Pre-hearing conference; submitting preliminary witness lists and testimony as set forth at section 6.2.8.
- 8.2.4 Submitting final witness and exhibit lists, hearing memorandum (optional), expert testimony; producing exhibits; presenting opening statement, respondent's case and closing argument, as directed by the hearing examiner all as set forth in Section 6.2.8.

8.3 The King County Office of Hearing Examiner is responsible as follows:

8.3.1 If Notice of Appeal, Statement of Appeal and appeal fee are timely filed, conducts pre-hearing conference; rules on pre-hearing motions, if any. Conducts appeal hearing and issues written decision, as set forth in section 6.2.8.