

December 7, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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RESPONSE TO REQUEST FOR CLARIFICATION

SUBJECT: Department of Development and Environmental Services File No. **E9800568**

TONY AMBROSE / JOHN BREITHAUPT
Code Enforcement Appeal
(this Department file formerly identified with Michelle Larsen)

Location: 30400 NE Tolt Hill Road (approximately), Carnation

Appellant: Tony Ambrose, *represented by Ian Macrae*, PO Box 1329, Fall City, WA 98024

Appellant: **John Breithaupt**, 16648 NE 12th Street, Bellevue, WA 98008

SUBJECT: Department of Development and Environmental Services File No. **E9800569**

TONY AMBROSE / JOHN BREITHAUPT
Code Enforcement Appeal

Location: 30408 NE Tolt Hill Road, Carnation

Appellant: Tony Ambrose, *represented by Ian Macrae*, PO Box 1329, Fall City, WA 98024

Appellant: **John Breithaupt**, 16648 NE 12th Street, Bellevue, WA 98008

A. **CLARIFICATION.**

The Department Of Development And Environmental Services requests clarification of the Examiner's November 24, 1998 Decision and Order as indicated in Attachment A of this Response. This Response and Order will govern the conduct of the parties in the same manner as the original November 24, 1998 Order.

Breithaupt:

1. Paragraph 9 indicates that upon payment of a \$500 civil penalty (by March 19, 1999)

Appellant Breithaupt is free from these proceedings forever. If he doesn't, then he isn't.

Ambrose:

2. Paragraphs 1, 4, and 7 govern Appellant Ambrose's conduct. In a nutshell, Ambrose must, at his own cost, comply with the Department's order. Hearing testimony suggests that the cost of compliance may range from several hundred to a few thousand dollars depending upon the requirements of the Department.
3. Paragraph 7 indicates that Mr. Ambrose will pay \$100 each for missing any deadline contained in paragraphs 2 and 4.

Paragraph 7 also says that, if Mr. Ambrose fails to comply for any reason he will automatically be subject to the Department's Notice and Order (which authorizes, among other things, a \$25,000 civil penalty). However, no civil penalty is assessed at this time, due to the probable cost of compliance.

Department:

4. Paragraphs 1, 3, 5, 6 and 8 govern the conduct of the Department.
5. Paragraph 5 authorizes leniency at the Department's sole discretion, based upon its technical engineering and scientific judgments of on-site conditions.

Taking all of the November 24, 1998 Order paragraphs together, it is expected that both Mr. Ambrose and the Department will move as promptly as possible to complete whatever site restoration may be necessary. The hearing record is incomplete regarding the extent of restoration now required and the November 24, 1998 Order leaves that determination to the Department.

B. REQUEST FOR WAIVER OF RECONSIDERATION REQUEST DEADLINE.

The Examiner's Office accepts reconsideration requests until expiration of the appeal deadline, in this case December 20, 1998. Requests for reconsideration do not, in and of themselves, stay appeal deadlines. The Department's request for waiver of the deadline for submitting motions for reconsideration is DENIED.

ORDERED this 7th day of December, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 7th day of December, 1998, by certified and regular mail, to the following parties:

Tony Ambrose
John Breithaupt
Ian Macrae

TRANSMITTED this 7th day of December, 1998, by regular and/or interoffice mail, to the following:

Paul Carkeek
Susan Casey
Michelle Larsen

Ken Dinsmore
Jon Pederson
Randy Sandin

RST:vam
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