

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Complaint No. 01-84
)	for
KB Home Greater Los Angeles, Inc.)	Administrative Civil Liability
801 Corporate Center Dr., Suite 201)	(Revised: Nov. 26, 2001)
Pomona, CA 91768-2641)	
)	
<u>Attn: Ms. Marsha Hayes</u>)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. KB Home Greater Los Angeles, Inc. (KB Home), is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter will be scheduled for the Board's regular meeting on September 14, 2001, at the Orange County Water District, 10500 Ellis Avenue, in the City of Fountain Valley. KB Home or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. KB Home's construction site, located near the I-15 Freeway, at the corner of East Avenue and Gettysburg Street in Fontana, is regulated under the State's General Permit for Storm Water Runoff Associated with Construction Activities, Order No. 99-08-DWQ, NPDES No. CAS000002 (General Permit), WDID No. 836S310561.
5. KB Home is alleged to have violated Provisions A.2 and C.2 of the General Permit. KB Home failed to properly develop and implement an effective Storm Water Pollution Prevention Plan (SWPPP) and Monitoring and Reporting Requirements, and discharged pollutants to waters of the United States from the construction site. Pursuant to Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.
6. This complaint is based on the following facts:

- a) On June 14, 2001, Board staff inspected the KB Home construction site and noted that no best management practices (BMPs) were implemented, debris and dirt were in the street, storm drain inlets (one at the cul-de-sac of Gettysburg Street, and two on Wilderness Way) were covered by dirt and trash, and unauthorized non-storm water discharge from a water hose was carrying sediments into inadequately protected storm drains. Approximately 100 gallons were discharged from the water hose at the time of inspection. There was no site superintendent or responsible person on site. Board staff contacted the telephone number provided on the Notice of Intent, but was unsuccessful in reaching anyone at that number.
 - b) On June 20, 2001, Board staff re-inspected the site and observed the same problems. Non-storm water from a sediment-laden puddle near the cul-de-sac continued to flow slowly into an inadequately protected storm drain near the intersection of Gettysburg Street and Wilderness Way. Sandbags deployed were deteriorated and had become sources of sediments. Board staff pointed out these problems to one of the site's personnel for immediate correction, and requested that the message be relayed to the site superintendent. Board staff contacted the number provided in the Notice of Intent several times and left several messages requesting a return call, but was again unsuccessful in reaching anyone responsible for the site.
 - c) On July 12, 2001, Board staff conducted a drive-through inspection of the site. Problems similar to those observed previously existed throughout the site. Storm drain inlets were not adequately protected. Sediment-laden water from the construction area at the corner of Gettysburg Street and Wilderness Way was observed flowing into the storm drain. Debris and sediment were accumulating and covering up the storm drain inlets. Board staff again left several messages at the contact phone number, but no one from KB Home returned staff's telephone calls.
7. KB Home is alleged to have violated Provisions A.2 and C.2. of the General Permit. KB Home violated Provision C.2 by failing to properly implement an effective SWPPP and violated Provision A.2 by discharging non-storm water, containing pollutants, to waters of the United States from the construction site.
 8. Section 13385 (a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons.
 9. Pursuant to Section 13385(c), KB Home is civilly liable in the amount of \$12,000 (\$10,000 per day for three days of violation) for the violations cited in Paragraph 7, above. The total maximum assessment is \$30,000.

10. Regional Board staff spent a total of 15 hours investigating this incident (@\$70.00 per hour), for a total staff time cost of \$1,050. KB Home saved approximately \$9,120 (\$800 per acre for 12% of 95 acres still unstabilized and under construction) by not implementing appropriate BMPs, including not sweeping the streets and not providing appropriate storm drain inlet protection. These factors were considered in assessing the penalty indicated in Paragraph 11, below.
11. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on KB Home by the Board in the amount of \$12,000 for the violations cited above.

WAIVER OF HEARING

KB Home may waive its right to a hearing. If KB Home chooses to do so, please sign the attached waiver and return it, together with a check or money order, payable to the State Water Resources Control Board, for the amount of civil liability proposed in Paragraph 11, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions, please contact Ms. Milasol Gaslan at (909) 782-4419 or Mr. Michael Adackapara at (909) 782-3238. All legal questions should be referred to the Regional Board's staff counsel, Mr. Jorge León, at (916) 341-5180.

Date

Gerard J. Thibeault
Executive Officer

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)
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KB Home Greater Los Angeles, Inc.) Administrative Civil Liability
801 Corporate Center Dr., Suite 201)
Pomona, CA 91768-2641)

WAIVER OF HEARING

The undersigned, on behalf of KB Home Greater Los Angeles Inc. (KB Home) (erroneously named herein as Kaufman & Broad of Southern California), waives KB Home's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-84. KB Home will forward a check, made payable to the State Water Resources Control Board, in the amount of \$12,000, to the Executive Officer by no later than close of business on November 21, 2001. KB home understands that it is giving up its right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed. KB Home further understands that with the payment of the \$12,000, it has fully settled and resolved its liability under Complaint No. 01-84.

October 23, 2001
Date

Original signed by David W. Burhenn – Burhenn & Gest LLP
for KB Home Greater Los Angeles Inc.