

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,)
STATE OF COLORADO,)
STATE OF MARYLAND,)
STATE OF NEVADA, and)
COMMONWEALTH OF VIRGINIA,)
)
Plaintiffs,) Civil Action No.
)
vs.)
)
KB HOME,)
)
Defendant.)

CONSENT DECREE



**Appendix A:
Site List and Project List**



Site List

Site Name	Name of Permit Holder	County and State	Specific Site Location (e.g., information from NOI, street address, nearby intersections, or latitude/longitude)	Estimated Number of Acres to be Disturbed	Date PCIR Form Signed	Date NOT Signed (if applicable)

Number of Sites owned or operated by an entity in which KB Home has an interest other than a wholly-owned interest: _____.



Project List

Project Name	Project Address (including County or State)

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Whereas, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), has filed the Complaint in this matter alleging that KB Home has violated the Clean Water Act (“CWA”), 33 U.S.C. §§ 1251-1387, and the regulations promulgated pursuant to that statute, including the conditions and limitations of the Federal General Permit, and the Colorado CDPS General Permit for Stormwater Discharges Associated with Construction Activity, the Maryland General Permit for Construction Activity, the Nevada Stormwater General Permit, and the Virginia General Permit for Discharges of Stormwater from Construction Activities;

Whereas, the State of Colorado, the State of Maryland, the State of Nevada, and the Commonwealth of Virginia are co-Plaintiffs and have joined in the filing of the Complaint in this matter alleging that KB Home has violated state clean water laws, including the following, respectively: the Colorado Water Quality Control Act, the Maryland Water Pollution Control Act, the Nevada Water Pollution Act, and the Virginia Stormwater Management Act, and the regulations promulgated pursuant to those statutes including, respectively, the terms and conditions of the Colorado CDPS General Permit for Stormwater Discharges Associated with Construction Activity, the Maryland General Permit for Construction Activity, the Nevada Stormwater General Permit, and the Virginia General Permit for Discharges of Stormwater from Construction Activities;

Whereas, the Parties recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid litigation among the Parties and that this Consent Decree is fair, reasonable, and in the public interest;

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided in Section II, and with the consent of the

Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

I. DEFINITIONS

1. Definitions. Except as specifically provided in this Consent Decree the terms used in this Decree shall be defined in accordance with definitions in the Clean Water Act and the regulations promulgated pursuant to the Clean Water Act. Whenever the terms listed below are used in this Decree, the following definitions apply:

a. Action Item – a condition that requires action to be taken to achieve or maintain compliance with Storm Water Requirements.

b. Applicable Permit – whichever of the following permits is applicable to a particular Site: (i) the Federal General Permit for Storm Water Discharges from Construction Activities; or (ii) in the case of an Authorized State, the Authorized State’s National Pollutant Discharge Elimination System (“NPDES”) construction general permit; or (iii) an individual NPDES permit issued by EPA or an Authorized State for storm water discharges associated with construction. This term applies to that permit in its current form or as it may be amended in the future.

c. Authorized State – a state with an NPDES Program that has been authorized by EPA under Section 402(b) of the CWA, 33 U.S.C. § 1342(b), and 40 C.F.R. Part 123 to issue individual or general NPDES permits including those for storm water discharges associated with construction activity.

d. Best Management Practices (“BMPs”) – the definition in 40 C.F.R. § 122.2, in its current form or as it may be amended in the future. That definition currently is “schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of ‘waters of the United States.’”

BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.”

e. Builder – KB Home and its wholly-owned subsidiaries that own or operate Projects or Sites. For purposes of this definition, “wholly-owned subsidiaries” includes entities where KB Home owns a majority interest in the entity and an entity having a common parent with KB Home owns the remaining interest. Builder does not include any subsidiary that does not engage in any residential construction.

f. Business Day – any day other than a Saturday, Sunday, or State or Federal legal holiday. If a stated time period in the Decree expires on a Saturday, Sunday, or State or Federal legal holiday, it shall be extended to include the next Business Day.

g. Clean Water Act (“CWA”) – the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251-1387.

h. Complaint – shall mean the complaint filed by the United States, the State of Colorado, the State of Maryland, the State of Nevada, and the Commonwealth of Virginia in this action.

i. Consent Decree or Decree – shall mean this Decree and all Appendices attached hereto (listed in Section XXI).

j. Contractor – any contractor (other than a Storm Water Consultant, a utility company or its contractor, or a contractor hired at the behest of a governmental entity or a utility company) that has a contract with Builder to perform work on a Site.

k. Contractor Representative – a person with the authority and responsibilities described in Paragraph 20.c. (Contractor and Storm Water Consultant

Compliance).

l. Date of Entry – the date the Court-approved Decree is entered in the civil docket under Federal Rule of Civil Procedure 79(a).

m. Designee – a Builder employee who is Storm Water Trained, pursuant to Paragraph 18 (Storm Water Training Program), or a “Storm Water Consultant” as that term is defined in Paragraph 1.uu.

n. Division – Builder’s mid-level management unit (the management level between national management and Site-level management) that manages multiple Sites and Projects. Builder may modify its divisional structure to meet its business needs.

o. Division Storm Water Compliance Representative – a Builder employee designated pursuant to Paragraph 8 (Designation of Storm Water Compliance Representatives) to oversee storm water compliance activities for a Division (or for a comparable business unit if Builder or Division renames or reorganizes its internal structure).

p. Division-Wide Compliance Summary Report – a report in the form attached at Appendix F and as required by Paragraph 16 (Division-Wide Compliance Summary Report).

q. EPA – the U.S. Environmental Protection Agency.

r. Federal Plaintiff – the United States of America, acting on behalf of EPA.

s. Federal General Permit – the federal “NPDES General Permit for Storm Water Discharges from Construction Activities” issued by EPA on July 1, 2003 (68 Fed. Reg. 39087), as modified and amended, and any subsequent amendments or modifications thereto or other permits subsequently issued by EPA to implement the

requirements of 40 C.F.R. Parts 122, 123 and 124 for storm water discharges from construction activities.

t. Government Inspection – a state or federal inspection conducted to evaluate compliance with Storm Water Requirements. This term also includes local inspections conducted by a local government entity to enforce an Applicable Permit if that entity has been delegated inspection or enforcement authorities for that permit.

u. List of Projects and Sites – a list of Projects and Sites as required by Paragraph 9 (Notice to EPA of List of Projects and Sites).

v. Listed Contractor – any Contractor in a category identified in Appendix K.

w. National Compliance Summary Report – a report in the form attached at Appendix G and as required by Paragraph 17 (National Compliance Summary Report).

x. National Reporting Period – the time periods covered by the National Compliance Summary Report shown on the table set out in Paragraph 17.

y. National Storm Water Compliance Representative – a Builder employee designated pursuant to Paragraph 8 (Designation of Storm Water Compliance Representatives).

z. Notice of Intent (“NOI”) – a request for coverage under an Applicable Permit.

aa. Notice of Termination (“NOT”) – notification that coverage under an Applicable Permit is ready for termination.

bb. Paragraph – shall mean a portion of this Decree identified by an Arabic numeral.

cc. Parties – the Federal Plaintiff, the State Plaintiffs, and Builder.

- dd. Pre-Construction Inspection and Review – the inspection and review required by Paragraph 12 (Pre-Construction Inspection and Review).
- ee. Pre-Construction Inspection and Review Form (“PCIR Form”) – the form attached at Appendix C and as required by Paragraph 12 (Pre-Construction Inspection and Review).
- ff. Project – any area where Builder engages in construction activity that includes residences, or other construction associated with those residences, and where coverage under an Applicable Permit is not required. Non-contiguous areas that are not part of a common plan of development are not considered part of a Project.
- gg. Quarterly Compliance Inspection – an inspection of a Site, as required by Paragraph 15 (Site Storm Water Compliance Review and Oversight).
- hh. Quarterly Compliance Inspection Form – the form attached at Appendix E-1 and as required by Paragraph 15 (Site Storm Water Compliance Review and Oversight).
- ii. Quarterly Compliance Review – a compliance review of a Site as required by Paragraph 15 (Site Storm Water Compliance Review and Oversight).
- jj. Quarterly Compliance Review Form – the form attached at Appendix E-2 and as required by Paragraph 15 (Site Storm Water Compliance Review and Oversight).
- kk. Quarterly Reporting Period (or “QRP”) – the first Quarterly Reporting Period shall be from the Date of Entry until the end of the first three (3) full calendar months following the Date of Entry. Thereafter, the Quarterly Reporting Period shall be each successive period of three (3) calendar months. The last day of the last Quarterly Reporting Period will be three (3) years after the Date of Entry, even if this results in a

Quarterly Reporting Period that is less than three (3) full calendar months.

ll. Record – any record, report, document, or photograph required to be created or maintained pursuant to Storm Water Requirements.

mm. Responsive Action – an action taken or that is necessary to be taken to achieve or maintain compliance with Storm Water Requirements.

nn. Section – shall mean a portion of this Decree identified by a Roman numeral.

oo. Site – any area where Builder engages in construction activity that includes residences, or other construction associated with those residences, and where coverage under an Applicable Permit is required. Builder may treat non-contiguous areas that are part of a common plan of development as a single Site.

pp. Site Inspection – an inspection of a Site, as required by Paragraph 13 (Inspections).

qq. Site Inspection Report – a form attached at Appendix D and as required by Paragraph 13 (Inspections).

rr. Site Storm Water Compliance Representative – a Builder employee designated pursuant to Paragraph 8 (Designation of Storm Water Compliance Representatives) to oversee storm water compliance activities at a Site.

ss. State Plaintiff(s) – the State of Colorado, the State of Maryland, the State of Nevada, and the Commonwealth of Virginia.

tt. Storm Water Compliance Representatives – Site Storm Water Compliance Representatives, Division Storm Water Compliance Representatives and the National Storm Water Compliance Representative.

uu. Storm Water Consultant – a person or company who provides professional or expert assistance to Builder in complying with Storm Water Requirements. Each person who is a Storm Water Consultant shall: (i) possess the skills to assess conditions at a Site that could impact the quality of storm water and non-storm water discharges and compliance with Storm Water Requirements; and (ii) be knowledgeable in the principles and practices of sediment and erosion control and other BMPs. The term “Storm Water Consultant” does not include, for example, Contractors hired exclusively to install, maintain, or repair BMPs. Such Contractors are not Designees.

vv. Storm Water Consultant Representative – a person with the authority and responsibilities described in Paragraph 20.c. (Contractor and Storm Water Consultant Compliance).

ww. Storm Water Orientation Program – this term includes all of the orientation requirements set forth in Paragraphs 19 and 20 (Storm Water Orientation Program and Contractor and Storm Water Consultant Compliance).

xx. Storm Water Plan (“SWP”) – a plan for controlling pollutants in storm water and non-storm water discharges that meets Storm Water Requirements.

yy. Storm Water Requirements – the terms and conditions of this Decree and the Applicable Permit for the particular Site, and the laws and regulations that apply, interpret, or enforce the Applicable Permit, in their current form or as any of the foregoing requirements may be amended in the future.

zz. Storm Water Trained – an individual who: (i) is certified under the Storm Water Training Program pursuant to Paragraph 18.a.(ii) and (iii) (Storm Water Training Program); or (ii) is certified by CPESC, Inc. under the Certified Professional in Erosion

and Sediment Control (“CPESC”) program, maintains a current CPESC certification, and receives the Builder-specific orientation described in Paragraph 19 (Storm Water Orientation Program); or (iii) is certified under another training program agreed to by the Federal Plaintiff after a request made to the Office of Enforcement and Compliance Assurance (“OECA”) representative(s) listed in Section XIII (Notices).

aaa. Storm Water Training Program – this term includes all of the training required by Paragraph 18 (Storm Water Training Program).

bbb. United States – shall mean the United States of America, acting on behalf of EPA.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, 1355, and 1367, and Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b), and over the Parties. For purposes of this Decree, or any action to enforce this Decree, Builder consents to the Court’s jurisdiction over Builder, this Decree, and any action to enforce this Decree. Builder also consents to venue in this judicial district for this action and any action to enforce this Decree.

3. In accordance with Section 309(b) of the CWA, 33 U.S.C. § 1319(b), the United States has notified the States of Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Nevada, New Mexico, North Carolina, South Carolina, Texas, and Wisconsin, and the Commonwealth of Virginia of the commencement of this action.

III. APPLICABILITY

4. Parties Bound. The obligations of this Decree apply to and are binding upon the United States and the State Plaintiffs, and upon Builder and any successor or assign to all or

substantially all of its business (but only to the extent of the Projects and Sites acquired). This Decree shall not be binding on any purchaser of real property who is not an entity otherwise covered by this Decree.

5. Responsibility for Acts of Others. Builder shall be responsible for complying with Storm Water Requirements at Builder's Sites. In any action to enforce this Decree, Builder shall not assert as a defense the failure by any officer, director, trustee, servant, successor, assign, employee, agent, Contractor, sub-contractor or Storm Water Consultant to comply with Paragraphs 8 through 22 of this Decree.

6. Builder shall not alter its general corporate structure or enter into agreements with third parties for the primary purpose of directly or indirectly circumventing the requirements of this Consent Decree.

IV. BUILDER'S COMPLIANCE PROGRAM

7. Compliance. Builder shall comply with all applicable Storm Water Requirements at Builder's Sites and shall not violate the prohibition in Section 301(a) of the CWA by discharging pollutants in storm water without an Applicable Permit, or by making prohibited non-storm water discharges, to waters of the United States at any of Builder's Sites or Projects.

8. Designation of Storm Water Compliance Representatives.

a. Builder shall designate at least one Site Storm Water Compliance Representative for each Site prior to signing the Pre-Construction Inspection and Review Form for that Site or within sixty (60) days of the Date of Entry, whichever is later. If Builder designates more than one Site Storm Water Compliance Representative at a Site, Builder shall create a document ("Transition Document") that specifies how transitions between Site Storm Water Compliance Representatives shall be handled and how

responsibility for non-delegated duties will be coordinated. This document shall be located as provided by Paragraph 11.h. Each Site Storm Water Compliance

Representative shall:

- (i) be a Builder employee;
- (ii) be Storm Water Trained;
- (iii) be authorized by Builder and have the responsibility to supervise all work necessary to meet Storm Water Requirements at the Site, including work performed by Contractors, sub-contractors and Storm Water Consultants;
- (iv) be authorized by Builder and have the responsibility to order employees, Contractors, sub-contractors and Storm Water Consultants to take appropriate Responsive Action to comply with Storm Water Requirements, including requiring any such person to cease or correct a violation of Storm Water Requirements, and to order or recommend such other actions or sanctions as necessary to meet Storm Water Requirements;
- (v) be familiar with and have the authority and responsibility to update the Site's SWP;
- (vi) be the point of contact at the Site for regulatory officials, Builder employees, Contractors, sub-contractors and Storm Water Consultants regarding Storm Water Requirements; and
- (vii) report to the Division Storm Water Compliance Representative regarding compliance with Storm Water Requirements.

b. Builder shall designate one Division Storm Water Compliance

Representative (who must be Storm Water Trained not later than sixty (60) days after the

Date of Entry) for each Site prior to signing the Pre-Construction Inspection and Review Form for that Site or within thirty (30) days of the Date of Entry, whichever is later.

Builder may designate the same Division Storm Water Compliance Representative for more than one Site or Division or designate multiple such Representatives for a single Division. The Division Storm Water Compliance Representative shall:

(i) be a Builder employee;

(ii) be Storm Water Trained;

(iii) be authorized by Builder and have the responsibility to supervise all work necessary to meet Storm Water Requirements in the Division including work performed by Contractors, sub-contractors and Storm Water Consultants;

(iv) be authorized by Builder to order employees, Contractors, sub-contractors and Storm Water Consultants to take appropriate Responsive Action to comply with Storm Water Requirements, including requiring any such person to cease or correct a violation of Storm Water Requirements, and to order or recommend such other actions or sanctions as necessary to meet Storm Water Requirements; and

(v) be familiar with and have the authority to certify and amend SWPs.

c. Builder shall designate one National Storm Water Compliance

Representative not later than seven (7) days after the Date of Entry of this Decree. The National Storm Water Compliance Representative shall:

(i) be a Builder employee;

(ii) be Storm Water Trained not later than thirty (30) days after the Date of Entry;

(iii) oversee the development and maintenance of the List of Projects and Sites established pursuant to Paragraph 9 (Notice to EPA of List of Projects and Sites);

(iv) submit the National Compliance Summary Report to the Federal Plaintiff, and submit to each of the State Plaintiffs the National Compliance Summary Report or the portion of the report that is relevant to the respective State pursuant to Paragraph 17 (National Compliance Summary Report); and

(v) serve as Builder's point of contact for State and Federal Plaintiffs for Builder-wide compliance matters related to Storm Water Requirements.

d. If a Storm Water Compliance Representative must be replaced and Builder replaces him or her within thirty (30) days of the vacancy, the gap in designation shall not be deemed a violation of Paragraph 8.a., b., c. or g. of this Decree. However, the gap in designation shall not excuse non-compliance with any other Storm Water Requirement. During the gap a Storm Water Trained Builder employee shall fulfill the signature requirements of Paragraphs 13.b., 15.c. and 16.

e. Except as expressly provided in the Decree, Storm Water Compliance Representatives may delegate the performance of storm water compliance duties required under this Decree to Designees. Any such delegation does not relieve Builder of responsibility for the proper performance of any delegated task or for compliance with Storm Water Requirements.

(i) Designees shall have sufficient authority to perform the delegated tasks; and

(ii) The Quarterly Compliance Inspection shall not be conducted by

the same person who conducted a Site Inspection under Paragraph 13 (Inspections) (other than a Quarterly Compliance Inspection under Paragraph 15 that also serves as a Site Inspection under Paragraph 13) at the Site during that quarter.

f. Storm Water Compliance Representatives may also hire Contractors to install, maintain or repair BMPs. Such Contractors need not be Designees to perform such tasks. Any such use of Contractors does not relieve Builder of responsibility for the proper performance of any delegated task or for compliance with Storm Water Requirements.

g. Builder shall post the name and contact information for all Site Storm Water Compliance Representatives for a Site at a conspicuous location at that Site, such as at the construction office, or at an entrance or exit if the Site does not have a construction office.

9. Notice to EPA of List of Projects and Sites.

a. Not later than sixty (60) days after the Date of Entry, Builder shall provide a List of Projects and Sites (“the List”) to the OECA representative listed in Section XIII (Notices) in searchable electronic form or in hardcopy, in the format attached as Appendix A as described below.

(i) The initial List shall include all Sites and Projects where Builder has initiated construction activity and final stabilization has not occurred as of the Date of Entry.

(ii) The List shall provide: (A) the State and County in which the Site is located; and (B) the Site name.

(iii) Builder shall also provide on the List the following additional information for each Site: (A) the location information from the NOI (if the location information in the NOI does not contain a Site's street address or the latitude and longitude, then specific information regarding the Site's location – for example, a street address, nearby intersections, or the latitude and longitude – must be provided); (B) the date that the Pre-Construction Inspection and Review Form was signed, for Sites where Builder commenced construction activity after the Date of Entry; (C) the estimated number of acres that will be disturbed at the Site; (D) the name of the permit holder; and (E) when applicable, the date the NOT was signed. This additional information about each Site shall be provided either by adding the information to the List or by providing it by a hyperlink in the List to documents that contain the information (e.g., NOI, PCIR Form, NOT).

(iv) For each of Builder's Projects, the List shall include the Project's name and address.

(v) Builder shall also include on the List the number of Sites owned or operated by any entity in which Builder has an interest other than a wholly-owned interest.

b. Builder shall provide to the OECA representative listed in Section XIII (Notices) an updated List on or before the 30th day after the end of each Quarterly Reporting Period. The updated List shall include the information provided in Paragraph 9.a. for each Site and Project, including new Sites and Projects. New Sites or Projects are those where commencement of construction activity occurred during the prior Quarterly Reporting Period. For previously listed Sites, Builder is required to update only the

permittee name and the date the NOT was signed, and this information shall be provided by either adding the information to the List or by providing it by a hyperlink in the List to documents that contain the information (e.g., NOI, PCIR Form, NOT). Builder may remove Sites from the updated List after the date permit coverage was terminated under the Applicable Permit, but only after the date of permit coverage termination has appeared on at least one quarterly updated version of the List.

c. For purposes of this Paragraph 9, construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of storm water controls that are not sediment basins, provided that none of these activities involves significant soil disturbance.

10. Permits. Solely for the purposes of compliance with this Decree, at a Site where coverage under an Applicable Permit is or will be required, Builder shall obtain permit coverage at that Site prior to signing the Pre-Construction Inspection and Review Form, or within the time required by the Applicable Permit, whichever is earlier. This provision is not an admission by either Party as to the requirements for obtaining an Applicable Permit under the Clean Water Act.

11. Storm Water Plans and Records.

a. For each Site, Builder shall prepare a site-specific SWP prior to signing the Pre-Construction Inspection and Review Form, or within the time required by the Applicable Permit, whichever is earlier. This Paragraph 11 only applies to Sites at which the Pre-Construction Inspection and Review Form is signed after the Date of Entry.

b. Builder shall provide a copy of the National SWP Criteria attached as Appendix B to the persons who prepare each of its SWPs. The development of all SWPs

after the Date of Entry shall be guided by the National SWP Criteria.

c. All SWPs and SWP amendments shall comply with the terms and conditions of the Applicable Permit and this Decree. Each SWP shall:

(i) be site specific;

(ii) identify the BMPs that will be used for each anticipated major phase of construction;

(iii) incorporate the inspection frequency and routine maintenance deadlines under the Applicable Permit; and

(iv) include clear, concise descriptions of site-specific BMPs to implement the requirements of the Applicable Permit and to guide those responsible for overseeing implementation of the SWP at each stage of construction.

d. Each SWP shall contain a statement by the preparer that its development was guided by the requirements of Paragraph 11.c. and the National SWP Criteria attached hereto as Appendix B.

e. SWPs shall be revised or amended in accordance with the Applicable Permit.

f. All SWPs and SWP amendments shall be certified as required by the Applicable Permit.

g. All Site Storm Water Compliance Representatives shall review the SWP, and such review shall not be delegated.

h. The SWP and any Records required to be maintained at individual Sites by the Applicable Permit or Paragraphs 8.a. (“Transition Document”), 12 (Pre-Construction

Inspection and Review), 13 (Inspections), and 14 (Maintenance) shall be maintained at the relevant Site construction office if the Site has one. If there is no construction office, the location of the SWP and these Records shall be posted along with, or adjacent to, the contact information of the Site Storm Water Compliance Representative(s) required by Paragraph 8.g.

12. Pre-Construction Inspection and Review.

a. For Sites where Builder commences construction activity more than thirty (30) days after the Date of Entry, a Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall perform a Pre-Construction Inspection and Review prior to Builder's commencement of construction activity at that Site.

b. For purposes of this Paragraph 12, the commencement of construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of BMPs that are not sediment basins, provided none of these activities involve significant soil disturbance.

c. The Pre-Construction Inspection and Review shall include an inspection of the entire Site and completion of the Pre-Construction Inspection and Review Form attached at Appendix C. Prior to the commencement of Builder's construction activity, a Responsive Action shall be completed for each Action Item on the Pre-Construction Inspection and Review Form, identified during the Pre-Construction Inspection and Review.

d. A Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall review and sign the

Pre-Construction Inspection and Review Form, a task that may not be delegated. The Pre-Construction Inspection and Review Form shall be located as provided by Paragraph 11.h.

e. Where any entity other than Builder commenced construction activity at a Site and Builder takes title to all or a portion of that Site after the Date of Entry, Builder shall determine no later than ten (10) Business Days after taking title whether that portion of that Site has unstabilized soils. If so, Builder shall, as soon as practicable, install and maintain appropriate erosion and sediment control BMPs or assume responsibility for maintaining any existing appropriate erosion and sediment control BMPs for those portions of the Site with unstabilized soils.

13. Inspections.

a. At a minimum, the Site Storm Water Compliance Representative shall inspect each Site at the frequency required by the Applicable Permit. The Site Inspection requirements for each Site shall go into effect on the date the Pre-Construction Inspection and Review Form is signed, or on the date required by the Applicable Permit, whichever is earlier.

b. Commencing thirty (30) days after the Date of Entry, the Site Storm Water Compliance Representative (who must be Storm Water Trained not later than sixty (60) days after the Date of Entry) shall record Site Inspections on the Site Inspection Report form attached as Appendix D-1. If a Designee conducts an inspection, the Site Storm Water Compliance Representative shall review and sign the completed Site Inspection Report, a task that may not be delegated. The Site Inspection Report shall be certified in accordance with the terms of the Applicable Permit.

c. The final Site Inspection Report generated prior to the submittal of a NOT shall be clearly labeled as such.

d. The Site Inspection Reports shall be kept with the SWP.

14. Maintenance.

a. Builder shall maintain each Site in accordance with Storm Water Requirements.

b. For every Action Item on the Site Inspection Report that is identified during a Site Inspection required by Paragraph 13 (Inspections) or on the Quarterly Compliance Inspection Form that is identified during a Quarterly Compliance Inspection as required by Paragraph 15 (Site Storm Water Compliance Review and Oversight), the Site Storm Water Compliance Representative or a Contractor whose work is supervised by the Site Storm Water Compliance Representative shall record the information required on the applicable forms (Appendices D-1, E-1 and E-2) or in another single, identifiable document or database. The information required includes: a specific reference to the Action Item including the date of the inspection, a brief description of the Responsive Action taken, and the date the Responsive Action was completed. The Site Storm Water Compliance Representative need not (but may) record Responsive Actions completed during the inspection when the Action Item was discovered. The Responsive Action Log, Site Inspection Report, or the single identifiable document or database referenced above shall be kept on Site as per Paragraph 11.h.

15. Site Storm Water Compliance Review and Oversight.

a. Builder shall provide for Site oversight and review by following the procedures in the subparagraphs below.

b. At least once during each Quarterly Reporting Period, beginning on the first full Quarterly Reporting Period after the Date of Entry or the first full Quarterly Reporting Period after the date the Pre-Construction Inspection and Review is signed, whichever is later, the Division Storm Water Compliance Representative shall conduct a Quarterly Compliance Inspection of each Site in the Division. The results shall be recorded on a Quarterly Compliance Inspection Form attached at Appendix E-1. The Quarterly Compliance Inspection shall not be conducted by the same person who conducted a Site Inspection under Paragraph 13 (Inspections) (other than a Quarterly Compliance Inspection under this Paragraph 15 that also serves as a Site Inspection under Paragraph 13) at the Site during that Quarterly Reporting Period.

c. No later than seven (7) days after the Quarterly Compliance Inspection, the Division Storm Water Compliance Representative shall complete a Quarterly Compliance Review in accordance with the form attached at Appendix E-2. The Division Storm Water Compliance Representative shall review the Quarterly Compliance Review Form with the Site Storm Water Compliance Representative(s) for that Site, all of whom shall sign the Quarterly Compliance Review Form. No task in this subparagraph may be delegated except as provided in Appendix E-2.

d. The Site Storm Water Compliance Representative(s) shall be responsible for managing the completion of a Responsive Action for each Action Item on the form and identified during the Quarterly Compliance Inspection or Quarterly Compliance Review in the same manner as required under Paragraph 14 (Maintenance).

e. If a Quarterly Compliance Inspection and Review is missed, then the next Quarterly Compliance Review must also include the information required by the Review

for the missed Quarterly Reporting Period.

16. Division-Wide Compliance Summary Report. Within thirty (30) days of the end of each Quarterly Reporting Period, the Division Storm Water Compliance Representative shall prepare a Division-Wide Compliance Summary Report in accordance with the form attached at Appendix F. The Division-Wide Compliance Summary Report shall be reviewed and signed by the Division Storm Water Compliance Representative, a task that may not be delegated. Copies shall be sent to all Site Storm Water Compliance Representatives within the Division and any other persons identified in Appendix F. If a Division-Wide Compliance Summary Report is missed, then the next Division-Wide Compliance Summary Report must also include the information for the missed report.

17. National Compliance Summary Report. The National Storm Water Compliance Representative shall submit the National Compliance Summary Report to the Federal Plaintiff pursuant to Section XIII (Notices), and submit to each of the State Plaintiffs the National Compliance Summary Report or the portion of the report that is relevant to that State, in accordance with the form attached as Appendix G. The National Storm Water Compliance Representative, or a Builder executive at a higher corporate level, shall certify the report. The tasks in this Paragraph may not be delegated. The National Compliance Summary Report shall be due as set forth in the following Table:

National Compliance Summary Report	Report Coverage Period (“National Reporting Period”)	Report Due Within 60 Days after the Last Day of the Following Period
1	1 st & 2 nd Quarterly Reporting Periods	2 nd Quarterly Reporting Period
2	3 rd & 4 th Quarterly Reporting Periods	4 th Quarterly Reporting Period
3	5 th , 6 th , 7 th & 8 th Quarterly Reporting Periods	8 th Quarterly Reporting Period
4	9 th , 10 th , 11 th & 12 th Quarterly Reporting Periods	12 th Quarterly Reporting Period

Copies shall be sent to the persons identified in Appendix G.

18. Storm Water Training Program.

a. Builder shall implement the Storm Water Training Program set forth in Appendices H, I and J. The Storm Water Training Program shall include: employee storm water training; Storm Water Compliance Representative training; and annual refresher training. Training under this program may be live or provided through electronic media.

(i) Builder shall provide employee storm water training to all Builder employees who, in the field at a Site, primarily and directly supervise (or who primarily and directly assist in the supervision of) construction activity at a Site and who are not covered by subparagraph 18.a.(ii). Builder employees must complete the employee storm water training no later than sixty (60) days after the Date of Entry, or no later than thirty (30) days after beginning work at a Site, whichever is later. The employee storm water training syllabus is attached at Appendix H. Employee storm water training that meets the requirements of this Consent Decree may be completed prior to the Date of Entry. The employee storm water training program may be the same as the Storm Water Compliance Representative training program.

(ii) Builder shall provide Storm Water Compliance Representative training to all Storm Water Compliance Representatives and any Designee of such representative, who is a Builder employee, pursuant to the syllabus attached as Appendix I. To be certified as Storm Water Trained under this subparagraph, all Storm Water Compliance Representatives and Designees, who are Builder

employees, must complete the Storm Water Compliance Representative training and pass a written, on-line, or computer-based test, which is equivalent to the test attached as Appendix J. All Storm Water Compliance Representatives and Designees, who are Builder employees, shall be certified as Storm Water Trained no later than sixty (60) days after the Date of Entry, or prior to being a designated Storm Water Compliance Representative or Designee at a Site, whichever is later. Storm Water Compliance Representative training that meets the requirements of this Consent Decree may be completed prior to the Date of Entry. Employees who have completed Storm Water Compliance Representative training within fifteen (15) months prior to the Date of Entry may be certified in compliance with this subparagraph by passing the test within sixty (60) days after the Date of Entry. A certification under this subparagraph shall be valid for up to fifteen (15) months.

(iii) Builder shall provide annual refresher training for Storm Water Compliance Representatives and Builder employee Designees who were previously certified under subparagraph 18.a.(ii) and who continue to work as Storm Water Representatives or Designees. Each such person shall complete the annual refresher training, pursuant to the syllabus attached as Appendix I, and pass a written test which is equivalent to the test attached as Appendix J. The renewal certification shall be valid for up to fifteen (15) months.

(iv) Builder shall maintain records of each Storm Water Compliance Representative's and Designee's certification. Builder shall provide such records to the Federal Plaintiff within thirty (30) days of Federal Plaintiff's request, or

within another period of time agreed to by the Builder and Federal Plaintiff in light of the size of the request.

b. Every instructor presenting Builder's Storm Water Training Program shall be either: (i) a Storm Water Consultant or (ii) a Storm Water Trained Builder employee.

c. Builder shall evaluate Builder's Storm Water Training Program annually and determine whether any changes to the Storm Water Training Program are necessary. A written evaluation of the Storm Water Training Program and a description of any significant proposed changes for EPA's approval shall be included in the second semi-annual National Compliance Summary Report, and each annual National Compliance Summary Report thereafter.

19. Storm Water Orientation Program.

a. Not later than sixty (60) days after the Date of Entry or prior to a Listed Contractor or Storm Water Consultant beginning work for Builder, whichever is later, Builder shall provide either by posting on an internet site or otherwise delivering to each Listed Contractor or Storm Water Consultant: an overview of the Builder's storm water program; information explaining how to contact a Site Storm Water Representative as required by Paragraph 20.c.(iv); and a description of the potential consequences for failure to comply with Storm Water Requirements.

b. Not later than seven (7) days after the Site Pre-Construction Inspection and Review Form is signed or prior to a Listed Contractor or Storm Water Consultant beginning work at a Site, whichever is later, Builder shall provide all Listed Contractors and Storm Water Consultants at the Site the following information: Builder's compliance expectations; how to obtain additional storm water compliance information; and the

potential consequences of non-compliance. This information may be provided by posting it in the same location as the information required by Paragraph 8.g. or it may be provided by alternative means of delivery.

20. Contractor and Storm Water Consultant Compliance.

a. After the Date of Entry, written requests for bids from Listed Contractors and Storm Water Consultants for work at a Site shall notify the bidding Listed Contractors and Storm Water Consultants that any successful bidder must comply with the Applicable Permit.

b. Within sixty (60) days of the Date of Entry or prior to a Listed Contractor or Storm Water Consultant beginning work for Builder, whichever is later, Builder shall provide either by posting on an internet site or otherwise delivering to each Listed Contractor or Storm Water Consultant the applicable “Dos & Don’ts List” included in Appendix L.

c. Builder’s master contracts entered into or modified after the Date of Entry with Listed Contractors and Storm Water Consultants shall: (i) require compliance with the Applicable Permit and with instructions by Builder’s Storm Water Compliance Representatives to comply with Storm Water Requirements; (ii) require all Listed Contractors to circulate the “Dos and Don’ts List” to their employees and sub-contractors who will be working at a Site; (iii) require designation of a Contractor Representative or Storm Water Consultant Representative, respectively, with the authority to oversee, instruct, and direct their respective employees and sub-contractors at a Site regarding compliance with Storm Water Requirements; (iv) require the Contractor Representative or Storm Water Consultant Representative to contact a Builder’s Site Storm Water

Compliance Representative to obtain any additional storm water compliance information; (v) where the information required by Paragraph 19.a. or 20.b. is provided through an internet site, identify the internet site and require the Listed Contractor Representative or Storm Water Consultant Representative to review the posted information; and (vi) describe the consequences for failure to comply with the Applicable Permit.

21. Corporate Acquisition. In the event that Builder acquires the business or all or substantially all of the assets of another company by purchase or merger after the Date of Entry, Paragraphs 8-20 of the Consent Decree shall apply to all of the acquired Projects and Sites owned or operated by the acquired company, or by one of its “wholly-owned subsidiaries” (as that term is defined in Paragraph 1.e. above, substituting the acquired company for Builder). Builder’s obligation to comply with Paragraphs 8-20 of this Consent Decree with respect to Projects and Sites owned or operated by the acquired company or one of its wholly-owned subsidiaries shall begin 180 days from the date of closing the transaction, or after a longer period of time if agreed to in writing by the Builder and Federal Plaintiff in light of the size of the acquisition. If a Site already has an existing SWP, then Builder does not need to comply with Paragraph 11 (Storm Water Plans and Records) or respond to Question 10 on Appendix C (Pre-Construction Inspection and Review Form) at such Site. If construction activity has commenced (as defined in Paragraph 12) at a Site of the acquired company, then Builder need not comply with the requirements of Paragraph 12 (Pre-Construction Inspection and Review) at that Site. Nothing in this Paragraph shall affect Builder’s obligation to comply with Applicable Permits at the newly acquired Sites.

22. Submission of Records.

a. Within thirty (30) days of Federal Plaintiff’s request for a Record, or

within a longer period of time agreed to in writing by the Builder and Federal Plaintiff in light of the size of the request, Builder shall provide a copy to Federal Plaintiff at the address set forth in the request of any Record required under this Decree. This Paragraph does not apply to Record requests concerning a specific Site made during or after a Government Inspection of that Site.

b. The submittal of any Record to OECA under Paragraph 9 (Notice to EPA of List of Projects and Sites), Paragraph 17 (National Compliance Summary Report), and in response to a request made pursuant to Paragraph 22.a. shall be accompanied by a certification that meets the requirements of 40 C.F.R. § 122.22(b)-(d).

V. CIVIL PENALTY

23. Not later than thirty (30) days after the Date of Entry, Builder shall pay the sum of \$1,185,000 as a civil penalty. Failure to pay the civil penalty shall subject Builder to interest accruing from the first day after the 30-day period has run until the date payment is made, or until the 14th day after the 30-day period has run, whichever occurs first, at the rate specified in 28 U.S.C. § 1961. Failure to pay the civil penalty for more than fourteen (14) days after the 30-day period has run shall subject Builder to the stipulated penalty set forth in Paragraph 30.1.

24. Builder shall pay \$1,106,000 of the civil penalty by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice in accordance with written instructions to be provided to Builder following lodging of the Consent Decree by the Financial Litigation Unit of the U.S. Attorney’s Office for the Eastern District of Virginia, 101 West Main Street, Suite 8000, Norfolk, VA 23510, (757) 441-6331. At the time of payment, Builder shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in

United States et al. v. KB Home, and shall reference the civil action number and DOJ case number 90-5-1-1-08057, to the United States in accordance with Section XIII of this Decree (Notices); by email to acctsreceivable.CINWD@epa.gov; and to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268.

25. Builder shall pay the civil penalty due to each State Plaintiff in the manner described below. Each payment shall be accompanied by a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in United States et al. v. KB Home, and shall reference the civil action number and DOJ case number 90-5-1-1-08057.

a. Payment of \$28,000 of the civil penalty due the State of Colorado shall be made by check made out to the Colorado Department of Public Health and Environment and mailed to:

Enforcement Work Group Leader
Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive, South, Bldg. B
Denver, CO 80246-1530

Builder shall send a copy of the check and cover letter to the OECA addressee and the State of Colorado in accordance with Section XIII (Notices).

b. Payment of \$7,000 of the civil penalty due the State of Maryland shall be made by check made out to the Maryland Clean Water Fund and mailed to:

Maryland Department of the Environment
P.O. Box 2057
Baltimore, MD 21203-2057

Builder shall send a copy of the check and cover letter to the OECA addressee and the

State of Maryland in accordance with Section XIII (Notices).

c. Payment of \$39,000 of the civil penalty due the State of Nevada shall be made by check made out to NDEP and mailed to:

NDEP Water Pollution Control
c/o Cliff Larson, Suite 3003
901 South Stewart Street
Carson City, NV 89701

Builder shall send a copy of the check and cover letter to the OECA addressee and the State of Nevada in accordance with Section XIII (Notices).

d. Payment of \$5,000 of the civil penalty due the Commonwealth of Virginia shall be made by check, money order or cashier's check made out to Treasurer of Virginia including a notation "For VA Stormwater Management Fund," and mailed to:

Joseph H. Maroon
Director
Commonwealth of Virginia
Department of Conservation and Recreation
203 Governor Street, Suite 302
Richmond, VA 23219

Builder shall send a copy of the check, money order or cashier's check and cover letter to the OECA addressee and the Commonwealth of Virginia in accordance with Section XIII (Notices).

26. Builder shall not deduct the civil penalty paid under this Section in calculating its federal income tax.

VI. REPORTING REQUIREMENTS

27. All National Compliance Summary Reports shall be submitted to the Federal Plaintiff as designated in Section XIII of this Consent Decree (Notices). A response to a request under Paragraph 22 (Submission of Records) shall be submitted to the federal official making the

request.

28. The reporting requirements of this Consent Decree do not relieve Builder of any reporting obligations required by the Clean Water Act or its implementing regulations, or by any other federal, state, or local law, regulation, permit, or other requirement.

VII. STIPULATED PENALTIES

29. Stipulated Penalty Amounts for Reported Violations. Builder shall submit National Compliance Summary Reports as required by Paragraph 17 (National Compliance Summary Report) to the Federal Plaintiff that will identify violations listed in this Paragraph. State Plaintiff(s) or Federal Plaintiff may also use other information gathered by State or Federal Plaintiff(s) to identify violations for which stipulated penalties may be assessed by the Federal Plaintiff under this Paragraph 29. Except for subparagraph 29.a., stipulated penalties under this Paragraph will not begin to accrue until after the end of the second Quarterly Reporting Period. Federal Plaintiff may demand stipulated penalties pursuant to this Paragraph within one (1) year after the violation is reported to the Federal Plaintiff, or within six (6) months after termination of this Consent Decree pursuant to Section XVII (Termination), whichever is earlier. For each of the instances listed below, upon written demand of Federal Plaintiff, Builder shall pay stipulated penalties in the following amounts:

a. Discharge(s) of pollutants from a Site to a water of the United States prior to obtaining coverage as required under an Applicable Permit: \$2,500 per day of such discharge(s).

b. Failure to perform (including completion of all Responsive Actions) or, if performed, a material failure to document a Pre-Construction Inspection and Review as required by Paragraph 12 (Pre-Construction Inspection and Review): \$2,500 per Site.

c. Failure to perform or, if performed, a material failure to document a Site

Inspection as required by Paragraph 13 (Inspections):

<u>Percentage of Inspections Missed/Undocumented Per National Reporting Period</u>	<u>Stipulated Penalty Per Period</u>		
	<u>3rd & 4th QRP</u>	<u>5th-8th QRP</u>	<u>9th-12th QRP</u>
0.01 to 5%	0	0	0
5.01 to 8%	\$2,500	\$10,000	\$15,000
8.01 to 12%	\$6,750	\$25,000	\$30,000
12.01 to 20%	\$12,500	\$50,000	\$100,000
20.01 to 25%	\$25,000	\$100,000	\$200,000
>25%	\$62,500	\$250,000	\$500,000

d. Failure to perform or, if performed, a material failure to document a

Quarterly Compliance Inspection or Review as required by Paragraph 15 (Site Storm

Water Compliance Review and Oversight):

<u>Percentage of Quarterly Inspections or Reviews Undocumented Per National Reporting Period</u>	<u>Stipulated Penalty</u>
For each undocumented Inspection or review from 0.01 to 5% of required inspections or reviews:	\$100
For each additional undocumented Inspection or review from 5.01 to 10% of required inspections or reviews:	\$200
For each additional undocumented Inspection or review > 10% of required inspections or reviews:	\$300

If a Quarterly Compliance Review is missed, then the next Quarterly Compliance Review must also include the information required by the Review for the missed Quarterly

Reporting Period.

e. Failure to prepare a Division-Wide Compliance Summary Report as required by Paragraph 16 (Division-Wide Compliance Summary Report):

<u>Days</u>	<u>Stipulated Penalty</u>
1 st through 7 th day	\$250 per Report
8 th through 30 th day	\$500 per Report
31 st through 90 th day	\$5,000 per Report

If a Division-Wide Compliance Summary Report is missed, then the next Division-Wide Compliance Summary Report must also include the information for the missed report.

f. Failure to have trained and certified Site Storm Water Compliance Representatives as required by Paragraph 18.a.(ii) and (iii) at the time of an inspection required by Paragraph 15 (Site Storm Water Compliance Review and Oversight): \$100 per person.

30. Stipulated Penalty Amounts for Non-Self-Reported Violations. Builder shall not be obligated to report the following violations to Federal Plaintiff. Except for subparagraph 30.l., stipulated penalties under this Paragraph will not begin to accrue until six (6) months after the Date of Entry. Federal Plaintiff may demand stipulated penalties pursuant to this Paragraph within one (1) year after the date the violation is discovered by Federal Plaintiff, or within six (6) months after the termination of this Consent Decree pursuant to Section XVII (Termination), whichever is earlier. For each of the instances listed below, upon written demand of Federal Plaintiff, Builder shall pay stipulated penalties in the following amounts:

a. Material failure to submit the initial List of Projects and Sites or an updated List of Projects and Sites as required by Paragraph 9 (Notice to EPA of List of

Projects and Sites): \$500 per day.

b. Failure to designate Storm Water Compliance Representatives:

(i) Failure to designate Site Storm Water Compliance Representatives as required by Paragraph 8 (Designation of Storm Water Compliance Representatives): \$500 per person.

(ii) Failure to designate Division Storm Water Compliance Representative(s) as required by Paragraph 8 (Designation of Storm Water Compliance Representatives): \$250 per Site.

(iii) Failure to designate a National Storm Water Compliance Representative as required by Paragraph 8 (Designation of Storm Water Compliance Representatives): \$1,000 per person.

c. Failure to train employees as required by Paragraph 18.a.(i) or failure to train and certify Storm Water Compliance Representatives and Builder-employed Designees as required by Paragraph 18.a.(ii) – (iii) (Storm Water Training Program): \$250 per person.

d. Failure to provide Storm Water Orientation as required by Paragraph 19.a. (Storm Water Orientation Program) shall be subject to the following stipulated penalties:

(i) if Builder chooses to satisfy the requirements of Paragraph 19.a. by posting such information on an internet site, and fails to timely post such information:

<u>Days</u>	<u>Stipulated Penalty</u>
1 st through 30 th days	\$100 per day
31 st through 60 th days	\$250 per day
61 st day and beyond	\$500 per day;

or

(ii) if Builder chooses to satisfy the requirements of Paragraph 19.a. by delivering such information in a manner other than through posting it on the internet, and fails to timely provide such information: \$50 per each affected Listed Contractor or Storm Water Consultant.

e. Failure to comply with the bid requirements of Paragraph 20.a.: \$50 per each affected Listed Contractor or Storm Water Consultant.

f. Failure to provide the information required by Paragraph 20.b. shall be subject to the following stipulated penalties:

(i) if Builder chooses to satisfy these requirements by posting such information on an internet site, but fails to timely post such information:

<u>Days</u>	<u>Stipulated Penalty</u>
1 st through 30 th days	\$100 per day
31 st through 60 th days	\$250 per day
61 st day and beyond	\$500 per day;

or

(ii) if Builder chooses to satisfy the requirements of Paragraph 20.b. by delivering such information in a manner other than through posting it on the

internet, and fails to timely provide such information: \$50 per each affected Listed Contractor or Storm Water Consultant.

g. Failure to include the provisions required by Paragraph 20.c. in Builder's master contracts entered into or modified after the Date of Entry with Listed Contractors or Storm Water Consultants: \$50 per each affected Listed Contractor or Storm Water Consultant.

h. Failure to certify any submittal as required by Paragraph 22.b.: \$1,000 per violation.

i. Failure to prepare an initial SWP, or, if prepared, a material failure of the initial SWP to comply with the Applicable Permit or this Decree: \$2,500 per SWP.

j. At the time of a Government Inspection, failure to be in compliance with Paragraph 8.g. or 11.h.: \$500 per Government Inspection.

k. Failure to submit a National Compliance Summary Report as required by Paragraph 17 (National Compliance Summary Report):

<u>Days</u>	<u>Stipulated Penalty</u>
1 st through 14 th days	\$250 per day
15 th through 30 th days	\$500 per day
31 st day and beyond	\$1,000 per day

l. Failure to pay the civil penalty and any accrued interest required to be paid under Section V (Civil Penalty), Paragraph 23 when due: \$1,000 per day commencing fifteen (15) days after the due date.

31. Payment of Stipulated Penalties.

a. Builder shall provide information regarding violations under Paragraph 29

(Stipulated Penalty Amounts for Reported Violations) to the Federal Plaintiff in the National Compliance Summary Report in the form attached as Appendix G.

b. All penalties owed to the Plaintiffs under Paragraphs 29 and 30 above shall be due and payable within thirty (30) days of Builder's receipt from EPA of a demand for payment of the penalties (on behalf of the Federal and State Plaintiffs), unless Builder invokes the procedures under Section IX (Dispute Resolution).

(i) All payments of stipulated penalties owed to the Federal Plaintiff shall be made by Electronic Funds Transfer ("EFT") to the United States Department of Justice lockbox bank referencing DOJ case number 90-5-1-1-08057 and the civil action number. Payment shall be made in accordance with the instructions provided by the United States upon entry of the Decree. Any EFTs received at the United States Department of Justice lockbox bank after 11:00 a.m. (Eastern Time) will be credited on the next Business Day. After payment, Builder shall mail a cover letter specifying the amount and date of payment, civil action number, DOJ case number 90-5-1-1-08057 and a reference to the demand letter, to the United States in accordance with Section XIII (Notices).

(ii) All payments of stipulated penalties owed to a State Plaintiff shall be made in the manner described below. Each payment shall be accompanied by a transmittal letter specifying the amount and date of payment, civil action number, DOJ case number 90-5-1-1-08057 and a reference to the demand letter.

(A) Payment of stipulated penalties due the State of Colorado shall be made by check made out to the Colorado Department of Public Health and Environment and mailed to:

Enforcement Work Group Leader
Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive, South, Bldg. B
Denver, CO 80246-1530

Builder shall send a copy of the check and cover letter to the OECA addressee and the State of Colorado in accordance with Section XIII (Notices).

(B) Payment of stipulated penalties due the State of Maryland shall be made by check made out to the Maryland Clean Water Fund and mailed to:

Maryland Department of the Environment
P.O. Box 2057
Baltimore, MD 21203-2057

Builder shall send a copy of the check and cover letter to the OECA addressee and the State of Maryland in accordance with Section XIII (Notices).

(C) Payment of stipulated penalties due the State of Nevada shall be made by check made out to NDEP and mailed to:

NDEP Water Pollution Control
c/o Cliff Larson, Suite 3003
901 South Stewart Street
Carson City, NV 89701

Builder shall send a copy of the check and cover letter to the OECA addressee and the State of Nevada in accordance with Section XIII (Notices).

(D) Payment of stipulated penalties due the Commonwealth of Virginia shall be made by check, money order or cashier's check made out

to Treasurer of Virginia including a notation “For VA Stormwater Management Fund,” and mailed to:

Joseph H. Maroon
Director
Commonwealth of Virginia
Department of Conservation and Recreation
203 Governor Street, Suite 302
Richmond, VA 23219

Builder shall send a copy of the check, money order or cashier’s check and cover letter to the OECA addressee and the Commonwealth of Virginia in accordance with Section XIII (Notices).

c. State Plaintiffs shall receive 50% of the stipulated penalties collected for violations of subparagraphs 30.b.(i), 30.b.(ii), 30.c., 30.i., and 30.j. that are attributable to violations occurring in their state and are discovered by Plaintiffs. State Plaintiffs shall receive 50% of the stipulated penalties collected for violations of subparagraph 29.a. that are attributable to violations occurring in their state. Stipulated penalties reported by Builder pursuant to Paragraph 29 (with the exception of subparagraph 29.a.) shall be paid in full to the Federal Plaintiff.

32. Stipulated penalties shall accrue as provided in Paragraphs 29 and 30 above. For stipulated penalties that are assessed “per day,” penalties shall begin to accrue on the day after performance is due or on the day a violation occurs, whichever is applicable, and shall continue to accrue until performance is completed or until the violation ceases. Stipulated penalties shall accrue simultaneously for separate violations of the Consent Decree. Penalties shall accrue regardless of whether Federal Plaintiff has notified Builder of a violation, but need not be paid until a demand is made. However, if a penalty would otherwise accrue because the List of Projects and Sites (Paragraph 9) or the Quarterly Compliance Inspection and Review (Paragraph

15) is deemed by the Federal Plaintiff to contain a material deficiency, stipulated penalties shall not begin to accrue until the Federal Plaintiff has notified Builder of any such deficiency.

33. The Federal Plaintiff may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due it under this Consent Decree.

34. Stipulated penalties shall continue to accrue as provided in Paragraph 32, above, during any Dispute Resolution, but need not be paid until the following:

a. If the dispute is resolved by agreement or by a decision of the Federal Plaintiff that is not appealed to the Court, Builder shall pay penalties agreed upon or accepted to the Federal Plaintiff within thirty (30) days of the effective date of the agreement or the receipt of Federal Plaintiff's decision or order.

b. If the dispute is appealed to the Court and the Federal Plaintiff prevails in whole or in part, Builder shall pay all penalties awarded by the Court within sixty (60) days of receiving the Court's decision or order, except as provided in subparagraph c, below.

c. If any Party appeals the District Court's decision, Builder shall pay all penalties awarded by the Court, together with interest as provided in Paragraph 36 running from the 61st day after the District Court's decision, within fifteen (15) days of receiving the final appellate court decision.

d. Notwithstanding Paragraph 32, during judicial review by this Court under Section IX (Dispute Resolution) of this Decree, stipulated penalties shall not accrue, during the period, if any, beginning on the 31st day after the Court's receipt of the motion provided for by Paragraph 45 until the date that the Court issues a final decision regarding such dispute.

35. Builder shall not deduct stipulated penalties paid under this Section in calculating its federal income tax.

36. If Builder fails to pay stipulated penalties according to the terms of this Decree, Builder shall be liable for interest on such penalties, as provided for in 28 U.S.C. § 1961, accruing as of the date payment became due pursuant to Paragraph 31.b. or Paragraph 34.

37. Except as provided in this Paragraph, the Federal and State Plaintiffs reserve the right to pursue any other remedies for violations of this Consent Decree, the Clean Water Act, or equivalent state law to which they are entitled. Any such action shall not be considered a “Covered Dispute” under Section IX (Dispute Resolution). The Federal and State Plaintiffs will not seek stipulated penalties and civil or administrative penalties for the same violation; provided, however, the Federal and State Plaintiffs expressly reserve the right to seek injunctive relief against Builder for violations of this Decree, the Clean Water Act, or equivalent state law even if a stipulated penalty has been collected pursuant to this Decree.

VIII. FORCE MAJEURE

38. A “force majeure event,” for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Builder, its contractors, or any entity controlled by Builder that prevents or delays the performance of any obligation of this Consent Decree despite all reasonable efforts by Builder to fulfill the obligation. “All reasonable efforts” includes using all reasonable efforts to anticipate any potential force majeure event (where such event can be anticipated) and using all reasonable efforts to address the effects of any such event: (a) as it is occurring; and (b) after it has occurred, to prevent or minimize any resulting failure to perform or delay in performing any obligation of this Consent Decree. “Force majeure event” does not include Builder’s financial inability to perform any obligation under this Consent

Decree.

39. Builder shall retain all rights granted under the Applicable Permit concerning a force majeure event.

40. Builder shall provide notice to the OECA representative listed in Section XIII (Notices) orally or by electronic or facsimile transmission (“initial notice”) as soon as practicable, but not later than ten (10) days after the time Builder first knew of, or by the exercise of due diligence, should have known of, a claimed force majeure event. Builder shall also provide written notice (“subsequent written notice”), as provided in Section XIII of this Consent Decree (Notices), within thirty (30) days of the time Builder first knew of, or by the exercise of due diligence, should have known of, the event. The Federal Plaintiff may, in its unreviewable discretion, extend the time within which initial notice or subsequent written notice must be given. No such extension shall be effective unless in writing. The subsequent written notice shall state the anticipated duration of any failure to comply or delay in compliance with any obligation of this Consent Decree; the cause(s) of such failure or delay; Builder’s past and proposed actions to prevent or minimize such failure or delay; a schedule for carrying out those actions; and Builder’s rationale for attributing any failure to comply or delay in compliance to a force majeure event. Except as may be provided in Paragraph 39, failure to provide initial notice and subsequent written notice as required by this Paragraph shall preclude Builder from asserting any claim of force majeure.

41. If the Federal Plaintiff agrees that a force majeure event, as defined by this Section, has occurred, the Federal Plaintiff shall agree to extend the time for Builder to perform the affected requirements for the time necessary to complete those obligations. An extension of time to perform the obligations affected by a force majeure event shall not, by itself, extend the

time to perform any unaffected obligation. Failures resulting from a force majeure event shall not be considered a breach of this Consent Decree, and Builder shall not be liable for any stipulated penalties occurring as a direct result of the event, provided Builder complies with the terms of this Section.

42. If the Federal Plaintiff does not agree that a force majeure event, as defined by this Section, has occurred, or does not agree to the length of the extension of time sought by Builder, the Federal Plaintiff's position shall be binding, unless Builder invokes Dispute Resolution under Section IX of this Consent Decree. In any such dispute, Builder bears the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event, that Builder gave the notice required by Paragraph 40, that the force majeure event caused any failure to comply or delay in compliance with an obligation of this Consent Decree that Builder claims was attributable to that event, and that Builder exercised all reasonable efforts to prevent or minimize any failure or delay in compliance caused by the event.

IX. DISPUTE RESOLUTION

43. Unless otherwise expressly provided for in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve a dispute arising under or with respect to this Consent Decree ("Covered Dispute"). A Covered Dispute shall be considered to have arisen when Builder serves on Federal Plaintiff a written notice of dispute, in accordance with Section XIII of this Consent Decree (Notices). Such notice of dispute shall state clearly the matter in dispute.

44. Dispute Resolution.

a. Any Covered Dispute shall first be the subject of informal negotiations. Informal negotiations shall proceed from the date the notice of dispute is served, as

follows, unless these periods are modified by written agreement.

b. If Builder invokes dispute resolution procedures, within fifteen (15) days of service of written notice of the dispute, Builder shall serve on the Federal Plaintiff a written Statement of Position regarding the Covered Dispute, in accordance with Section XIII of this Consent Decree (Notices). The Statement of Position shall include, but need not be limited to, a concise statement of the Covered Dispute, the Builder's position, and an explanation of that position.

c. The Federal Plaintiff shall serve its Statement of Position within thirty (30) days of receipt of Builder's Statement of Position, in accordance with Section XIII of this Consent Decree (Notices). The Federal Plaintiff's Statement of Position shall include, but need not be limited to, a concise statement of the Covered Dispute, the Federal Plaintiff's position, and an explanation of that position.

d. Upon Builder's receipt of Federal Plaintiff's Statement of Position, Federal Plaintiff and Builder may work towards resolving the Covered Dispute. If no resolution is reached within fifteen (15) days, or such longer period as may be agreed to in writing by the Parties, the Federal Plaintiff's Statement of Position shall be binding on Builder, unless Builder files a motion for judicial resolution of the Covered Dispute within thirty (30) days after the conclusion of informal negotiations in accordance with the following Paragraph.

45. Judicial Resolution. Builder may seek judicial resolution of the Covered Dispute by filing with the Court and serving on the Federal Plaintiff, in accordance with Section XIII of this Consent Decree (Notices), a motion requesting judicial resolution of the Covered Dispute.

46. The Federal Plaintiff shall respond to Builder's motion within the time period

allowed by the Local Rules of this Court. Builder may file a reply memorandum, to the extent permitted by the Local Rules.

47. Except as otherwise provided in this Consent Decree, Builder shall bear the burden of establishing its position on the Covered Dispute by a preponderance of the evidence under applicable law.

48. Subject to Paragraph 34.d., the invocation of dispute resolution procedures under this Section shall not, by itself, extend, postpone, or affect in any way any obligation of Builder under this Consent Decree, unless and until final resolution of the dispute so provides. Subject to Paragraph 34.d., stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in Paragraph 34. If Builder does not prevail on the disputed issue, stipulated penalties awarded by the Court shall be paid as provided in Section VII (Stipulated Penalties).

X. INFORMATION COLLECTION AND RETENTION

49. The Federal Plaintiff, State Plaintiffs and their authorized representatives acting on their behalf, upon presentation of credentials and at all reasonable times, shall have the right of entry onto all Sites and Projects and have the right to access Records located at Sites or Projects or at any offsite location where Records pertaining to a Site or Project are located, for the purpose of assessing Builder's compliance with this Consent Decree.

50. Until one (1) year after the termination of this Consent Decree, Builder shall retain, and shall instruct its Storm Water Consultants to preserve, all Records. This information-retention requirement shall apply regardless of any contrary corporate or institutional policies or procedures.

51. At any time during the applicable retention period for a Record and upon request

by the Federal Plaintiff, Builder shall provide to Federal Plaintiff a copy of any Record required to be maintained under this Section. Builder shall provide Records requested by Federal Plaintiff pursuant to this Paragraph consistent with the procedures set forth in Paragraph 22 (Submission of Records). This Paragraph does not apply to Record requests made during a Government Inspection.

52. Builder may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Builder asserts a privilege, it must identify the privilege being asserted and describe the nature of the Record not being produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable the Federal Plaintiff to assess the applicability of the privilege or protection; provided, however, that no Records required to be created or maintained by this Consent Decree shall be withheld on grounds of privilege.

53. With respect to any Records provided to Federal Plaintiff, Builder may also assert that information required to be provided under this Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to any information that Builder seeks to protect as CBI, Builder shall follow the procedures set forth in 40 C.F.R. Part 2.

54. Nothing in this Consent Decree shall be construed to limit any right of entry or access or other information gathering authority held by Federal or State Plaintiffs pursuant to any federal, state or local law, permit, or regulation, nor shall it be construed to limit any duty or obligation of Builder to maintain documents, records, or other information imposed by applicable federal or state laws, regulations or permits.

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

55. Federal Plaintiff. In consideration of the payment of the penalty required by

Paragraph 23, Federal Plaintiff hereby releases its claims and covenants not to sue or take administrative action against Builder for civil violations or alleged civil violations at the Sites listed in Appendix M, through the date of lodging, of: (i) Section 308 of the Clean Water Act as it relates to Storm Water Requirements; (ii) the prohibition in Section 301(a) of the Clean Water Act against discharging pollutants without an Applicable Permit; or (iii) the conditions, limitations and requirements of an Applicable Permit. The provisions of this Paragraph shall survive the termination of this Decree.

56. State Plaintiffs. In consideration of the payment of the penalty required by Paragraph 23, State Plaintiffs hereby release their claims and covenant not to sue or take administrative action against Builder for civil violations or alleged civil violations at the Sites listed in Appendix M, through the date of lodging, of: (i) state law equivalent to Section 308 of the Clean Water Act as it relates to Storm Water Requirements; (ii) the prohibition in Section 301(a) of the Clean Water Act against discharging pollutants without an Applicable Permit and any state law equivalent to this prohibition; (iii) the conditions, limitations and requirements of an Applicable Permit; or (iv) any state law, regulation or permit regulating discharges of storm water. The provisions of this Paragraph shall survive the termination of this Decree.

57. Plaintiffs' Reservation of Rights.

- a. Each Plaintiff reserves all rights not expressly waived in this Decree.
- b. Each Plaintiff reserves all rights and remedies, legal and equitable, available to enforce the provisions of this Decree.
- c. Each Plaintiff reserves the right to seek and obtain criminal sanctions against any person, including Builder.
- d. Each Plaintiff reserves the right to undertake any action for injunctive

relief against any person, including Builder, in response to conditions which may present an imminent and substantial endangerment to the public health or welfare or the environment.

58. Builder's Reservation of Rights. Except as expressly stated herein, Builder reserves all defenses and all rights and remedies, legal and equitable, available to it in any action brought by any Plaintiff or by Builder under this Decree, an Applicable Permit, the Clean Water Act, or any other federal or state statutes, regulations or rules. This Decree shall not be construed as a waiver of any defenses or remedies that Builder may have to any future alleged violations of an Applicable Permit, or of the federal and state laws and regulations governing an Applicable Permit.

59. Not a Permit Modification. This Consent Decree is neither a permit, nor a modification of any permit, under any federal, state, or local laws or regulations, and this Decree does not relieve Builder of its responsibilities to comply with all applicable federal, state, and local laws, regulations, and permits. The Federal and State Plaintiffs do not, by their consent to the entry of this Consent Decree, warrant or aver in any manner that Builder's compliance with any aspect of this Consent Decree will result in compliance with provisions of the Clean Water Act, 33 U.S.C. §§ 1251-1387, or with any other provisions of federal, state, or local laws, regulations, or permits.

60. Third Parties. This Consent Decree does not limit or affect the rights of Builder or of the Federal and State Plaintiffs against any third parties, not party to this Consent Decree, nor does it limit the rights of third parties, not party to this Consent Decree, against Builder, except as otherwise provided by law. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party that is not a party to this Consent Decree.

61. No Admission. Builder does not admit any liability to the United States or the State Plaintiffs arising out of the transactions or occurrences alleged in the Complaint.

XII. COSTS

62. The Parties shall bear their own costs of this action, including attorneys' fees.

XIII. NOTICES

63. Unless otherwise specified herein, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and addressed as follows:

To the Federal Plaintiff:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Box 7611 Ben Franklin Station
Washington, DC 20044-7611
Re: DOJ Case No. 90-5-1-1-08057

and

Director, Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. EPA
Mail Code 2243A
Room 3102
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001

For Force Majeure and Modification Purposes Only:

Everett Volk
U.S. EPA
Mail Code 2243A
1200 Pennsylvania Ave, NW
Washington, DC 20460-0001
202-564-2828
202-564-0018 (fax)
volk.everett@epa.gov

To the State of Colorado:

Scott Klarich
Enforcement Work Group Leader
Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive, South, Bldg. B
Denver, CO 80246-1530

To the State of Maryland:

Principal Counsel
Office of the Attorney General
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

Chief
Enforcement Division, Compliance Program
Water Management Administration
Maryland Department of the Environment
1800 Washington Boulevard
Baltimore, MD 21230

To the State of Nevada:

Janet Hess, Deputy Attorney General
State of Nevada
100 N. Carson Street
Carson City, NV 89701-4717

To the Commonwealth of Virginia:

Joseph H. Maroon, Director
Commonwealth of Virginia
Department of Conservation and Recreation
203 Governor Street, Suite 302
Richmond, VA 23219

Elizabeth Andrews
Assistant Attorney General
Commonwealth of Virginia
Environmental Section
Office of the Attorney General
900 East Main Street
Richmond, VA 23219

To Builder:

Ross A. Kay
Vice President, Assistant General Counsel
KB Home
10990 Wilshire Boulevard
Los Angeles, CA 90024

With a copy to:

Richard E. Schwartz
Crowell & Moring LLP
1001 Pennsylvania Ave, NW
Washington, DC 20004-2595

64. Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above.

65. Notices provided pursuant to this Section will be deemed to have been submitted: (1) on the Business Day sent if provided by facsimile; (2) on the date postmarked if provided by mail; and (3) on the date picked up by the overnight delivery service if provided by overnight delivery. The Parties may, by written mutual agreement, provide for an alternative method of delivery of notice.

XIV. EFFECTIVE DATE

66. The Effective Date of this Consent Decree shall be the Date of Entry.

XV. RETENTION OF JURISDICTION

67. The Court shall retain jurisdiction over this case until termination of this Consent Decree for the purpose of resolving disputes arising under this Decree or entering orders modifying this Decree pursuant to Sections IX (Dispute Resolution) and XVI (Modification), or effectuating or enforcing compliance with the terms of this Decree. The Court shall retain jurisdiction after termination only for the purposes set forth in Paragraph 75 below.

XVI. MODIFICATION

68. Except as otherwise set forth in Paragraph 69 below, the terms of this Consent Decree, including any attached appendices, may be modified by a written agreement signed by Builder and Federal Plaintiff (after consultation with State Plaintiffs) without approval of the Court.

69. Any modification which constitutes a material change to the terms of the Consent Decree, including any material change to an Appendix, shall be effective only upon approval by the Court.

70. Builder may propose minor modifications to the Appendices to this Consent Decree for the purposes of adding information, changing formatting as necessary to align the Appendices with an Applicable Permit or Builder's management needs, or adding or changing questions on the training tests in Appendix J for purposes of improving the test ("Minor Appendix Modification"). Builder may begin using a modified Appendix after submitting it to the OECA representative listed in Section XIII (Notices). If Federal Plaintiff determines that a Minor Appendix Modification does not comply with the terms of this Consent Decree, it shall notify Builder and provide a list of changes required to bring the submitted Appendix into compliance with this Decree. Builder has thirty (30) days after receipt of the list of changes to incorporate Federal Plaintiff's list of changes. The resulting Appendix shall supersede the original form or report and be considered a minor modification.

71. If a Site that meets the criteria articulated in Appendix M is inadvertently left off of Appendix M, Builder may submit, through the 60th day after lodging of the Consent Decree, a revised list with the additional Site(s) included. Any revised list shall be submitted for review to the OECA representative listed in Section XIII (Notices). If the Federal Plaintiff, after

consultation with the State Plaintiffs, agrees that the revision to the list meets the criteria articulated in Appendix M, and if Builder and Federal Plaintiff sign a written agreement pursuant to Paragraph 68, the parties shall file a joint stipulation with the Court, seeking approval of the modified Appendix M and approval of the Court to amend Appendix A of the Complaint accordingly.

XVII. TERMINATION

72. The following conditions (“Conditions of Termination”) are the exclusive conditions for termination of this Decree and all of Builder’s obligations hereunder. This Decree shall terminate under the procedures set forth in this Section when these Conditions of Termination have been met:

- a. the passing of three years since the Date of Entry (“the Third Anniversary”);
- b. Builder has paid all civil penalties and related interest due under this Decree;
- c. Builder has paid all stipulated penalties and related interest demanded through the Third Anniversary by Federal Plaintiff under Paragraph 31, excluding any stipulated penalties or interest that are subject to Dispute Resolution, as to which this Court shall retain jurisdiction under Paragraph 75, below;
- d. Builder has established and implemented a management system designed to fulfill its obligations under Paragraphs 8, 11, 12, 13, 14, 15 and 16;
- e. Builder has established and implemented a Training and Orientation Program designed to fulfill its obligations under Paragraphs 18, 19 and 20;
- f. Builder has submitted all Lists of Sites required by Paragraph 9 as of the

Third Anniversary;

g. Builder has acquired or applied for coverage under an Applicable Permit for all Sites existing as of the Third Anniversary; and

h. Builder has submitted all National Reports required by Paragraph 17, including the National Compliance Summary Report submitted following the Third Anniversary.

73. The following procedures for terminating this Decree shall govern (and the Parties intend that this process shall be resolved at the earliest possible time):

a. Any time subsequent to the date forty-five (45) days prior to the Third Anniversary, Builder may submit to Federal Plaintiff a proposed motion to terminate the Decree (“Proposed Motion”). The Proposed Motion shall include a draft certification, that meets the requirements of 40 C.F.R. § 122.22, that Builder has fulfilled the Conditions of Termination. Following receipt by Federal Plaintiff of the Builder’s Proposed Motion, the Builder and Federal Plaintiff shall confer informally concerning the proposal and any disagreement that these parties may have as to whether Builder has met the Conditions of Termination.

b. No sooner than forty-five (45) days after delivery of the Proposed Motion to Federal Plaintiff, Builder may file a motion to terminate this Decree. This motion shall contain a final certification, that meets the requirements of 40 C.F.R. § 122.22, that Builder has fulfilled the Conditions of Termination as of the date of the filing of the motion.

(i) If the Federal Plaintiff, after consultation with the State Plaintiffs, agrees that the Conditions of Termination have been met, it shall join in the

motion to terminate. In that event, the Court shall enter an order terminating this Decree effective as of the filing of said motion.

(ii) If the Federal Plaintiff, after consultation with the State Plaintiffs, does not agree that the Conditions of Termination have been met, it shall serve its opposition to the motion in accordance with the local rules of the Court. Builder may reply in accordance with the local rules of the Court. If the Court finds based upon the preponderance of the evidence that Builder has met the Conditions of Termination, it shall order this Decree terminated effective as of the date of filing the motion to terminate.

(iii) If Federal Plaintiff neither joins in the motion to terminate nor files a timely opposition, upon Builder's request the Court shall enter an order terminating the Decree effective as of the date of filing the motion to terminate.

74. If the initial motion to terminate is denied by the Court, one or more renewed motion(s) to terminate may be filed. The Court shall decide a renewed motion to terminate based on the Conditions of Termination set forth in Paragraph 72, reviewed for fulfilling the requirements as of the Third Anniversary date, except that if the Court has previously found that conditions 72.d. (management systems) and 72.e. (training and orientation programs) had not been met, then Builder's compliance with such unmet conditions shall be determined as of the date of filing of the renewed motion. If Builder has met the Conditions of Termination, the Court shall order this Decree terminated effective as of the date of filing of the renewed motion.

75. After the Consent Decree has been terminated in accordance with Paragraphs 72 - 74, this Court shall retain jurisdiction over this Decree only for the following purposes:

- a. to resolve any dispute concerning unresolved matters subject to dispute resolution pursuant to Section IX (Dispute Resolution);
- b. to resolve any enforcement action pending on the termination date under this Decree; and
- c. to resolve any outstanding stipulated penalties demanded and owing based on the National Compliance Summary Report submitted following the Third Anniversary;

provided that this Paragraph applies only to matters arising prior to termination: it does not authorize the reopening of this Decree or any extension of the compliance program imposed by this Decree.

XVIII. PUBLIC PARTICIPATION

76. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The Federal Plaintiff reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations indicating that the Consent Decree is inappropriate, improper, or inadequate. Builder consents to entry of this Consent Decree, in its present form, without further notice and agrees not to withdraw from or oppose entry of this Consent Decree, in its present form, by the Court or to challenge any provision of the Decree, unless the Federal Plaintiff has notified Builder in writing that it no longer supports entry of the Decree.

XIX. SIGNATORIES/SERVICE

77. The undersigned representative of each Party certifies that he or she is authorized to execute this Consent Decree and to legally bind the Party he or she represents.

78. This Consent Decree may be executed in any number of counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

79. Builder agrees to waive summons and the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable Local Rules of this Court and agrees to accept service of the complaint by mail.

XX. INTEGRATION

80. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than the Appendices, which are attached to and incorporated in this Decree, and deliverables that are subsequently submitted and approved pursuant to this Decree, no other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree. The Parties further acknowledge that the Appendices may be modified pursuant to Section XVI (Modification).

XXI. APPENDICES

81. The following appendices are attached to and incorporated into this Consent Decree:

Appendix A: Site List and Project List

Appendix B: National Storm Water Plan Criteria

Appendix C: Storm Water Pre-Construction Inspection and Review Form

Appendix D-1: Storm Water Site Inspection Report

Appendix D-2: User Instructions for the Storm Water Site Inspection Report

- Appendix E-1: Storm Water Quarterly Compliance Inspection Report
- Appendix E-2: Storm Water Quarterly Compliance Review and Summary
- Appendix F: Division-Wide Storm Water Compliance Summary Report
- Appendix G: National Storm Water Compliance Summary Report
- Appendix H: Employee Storm Water Compliance Training Program Outline
- Appendix I: Compliance Representative Storm Water Compliance Training Program Outline
- Appendix J: Storm Water Compliance Training Program Exam
- Appendix K: List of Contractors
- Appendix L: Storm Water Pollution Prevention and Control: List of Contractor Dos & Don'ts
- Appendix M: List of Sites Subject to Covenant Not to Sue

XXII. FINAL JUDGMENT

82. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment of the Court as to the Federal Plaintiff, the State of Colorado, the State of Maryland, the State of Nevada, the Commonwealth of Virginia and Builder. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Federal Rules of Civil Procedure 54 and 58.

IT IS HEREBY SO ORDERED this _____ day of _____, 2008.

UNITED STATES DISTRICT JUDGE

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES OF AMERICA:

RONALD J. TENPAS
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice
950 Pennsylvania Ave., NW
Room 2603
Washington, DC 20530
202-514-2701
202-514-0557 (fax)
Ronald.Tenpas@usdoj.gov

JAMES D. FREEMAN
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CHUCK ROSENBERG
United States Attorney

By _____
GERARD MENE
Assistant U.S. Attorney
2100 Jamieson Avenue
Alexandria, Virginia 22314
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703-299-3983 (fax)
Gerard.Mene@usdoj.gov

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES (Continued):

GRANTA Y. NAKAYAMA
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Suite 3204
Washington, DC 20460
202-564-2440
202-501-3842 (fax)
nakayama.grant@epa.gov

EVERETT E. VOLK
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
MC 2243A Room 3120
Washington, DC 20460
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202-564-0018 (fax)
volk.everett@epa.gov

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES (Continued):

WAYNE NASTRI
Regional Administrator
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-947-8702
415-947-3588 (fax)
nastri.wayne@epa.gov

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE UNITED STATES (Continued):

DONALD S. WELSH
Regional Administrator
U.S. Environmental Protection Agency, Region III
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Philadelphia, PA 19103-2029
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215-814-2901 (fax)
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WILLIAM C. EARLY
Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
215-814-2626
215-814-2603 (fax)
early.william@epa.gov

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE STATE OF COLORADO

JOHN W. SUTHERS
Attorney General of Colorado

WILLIAM C. ALLISON, V
First Assistant Attorney General
Environmental Quality Unit
Natural Resources and Environment Section
Colorado Office of the Attorney General
1525 Sherman Street, 5th Floor
Denver, CO 80203
303-866-4500
303-866-3558 (fax)
william.allison@state.co.us

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE STATE OF MARYLAND:

DOUGLAS F. GANSLER
Attorney General of Maryland

JENNIFER L. WAZENSKI
Assistant Attorney General
Office of the Attorney General
Maryland Department of the Environment
1800 Washington Boulevard, Suite 6048
Baltimore, MD 21230
410-537-3058
410-537-3943 (fax)
jwazenski@mde.state.md.us

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE STATE OF NEVADA:

CATHERINE CORTEZ MASTO
Attorney General of Nevada

JANET HESS
Deputy Attorney General
State of Nevada
100 N. Carson St.
Carson City, NV 89701
775-684-1270
775-684-1108 (fax)
jhess@ag.nv.gov

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home, subject to the public notice requirements of 28 C.F.R. § 50.7.

FOR THE COMMONWEALTH OF VIRGINIA:

ROBERT F. McDONNELL
Attorney General
Commonwealth of Virginia

ELIZABETH A. ANDREWS
Assistant Attorney General
Commonwealth of Virginia
900 E. Main Street
Richmond, VA 23219
804-786-6957
804-786-0034 (fax)
eandrews@oag.state.va.us

WE HEREBY CONSENT to the entry of the Consent Decree in United States et al. v. KB Home.

FOR KB HOME:

ROSS A. KAY
Vice President, Assistant General Counsel
KB Home
10990 Wilshire Boulevard
Los Angeles, CA 90024
310-231-4284
310-231-4290 (fax)
rkay@kbhome.com

RICHARD E. SCHWARTZ
Crowell & Moring LLP
1001 Pennsylvania Ave, NW
Washington, DC 20004-2595
202-624-2905
202-628-5116 (fax)
rschwartz@crowell.com



**Appendix A:
Site List and Project List**



Site List

Site Name	Name of Permit Holder	County and State	Specific Site Location (e.g., information from NOI, street address, nearby intersections, or latitude/longitude)	Estimated Number of Acres to be Disturbed	Date PCIR Form Signed	Date NOT Signed (if applicable)

Number of Sites owned or operated by an entity in which KB Home has an interest other than a wholly-owned interest: _____.



Project List

Project Name	Project Address (including County or State)



**Appendix B:
National Storm Water Plan Criteria**



NATIONAL STORM WATER PLAN CRITERIA: INSTRUCTIONS FOR STORM WATER PLAN PREPARATION

These guidelines are intended to aid division personnel in contracting for consulting services for the preparation of Storm Water Plans (SWP). They are also intended to act as a checklist by which consultants and KB Home (KB) personnel can define the scope of work expected. These instructions shall be provided to the SWP preparer.

Abbreviations

EPA	Environmental Protection Agency
NPDES	National Pollutant Discharge Elimination System
SWP	Storm Water Plan
NOI	Notice of Intent
NOT	Notice of Termination
MS4	A municipal separate storm water collection system
BMP	Best Management Practice

Performance Guidelines

There are three performance guidelines to which SWPs should conform. They should:

1. **Meet legal requirements.** The SWP must satisfy both the regulatory requirements set forth in the Applicable Permit and the requirements of the 2008 Consent Decree entered in *United States of America et al. v. KB Home*.
 - a. **Regulatory requirements.** In states where EPA has approved the state program to issue storm water discharge permits for construction activities in lieu of the federal Clean Water Act NPDES permitting program, the relevant “regulatory requirements” are set forth in the state’s NPDES permit (general or individual) that applies to the particular site. In states where EPA has retained administrative control over the Clean Water Act NPDES permitting program, the relevant “regulatory requirements” are set forth in the “National Pollution Discharge Elimination System (NPDES) General Permit for Discharge from Large and Small Construction Activities” or the individual NPDES permit that applies to the particular site.
 - b. **Consent Decree requirements.** The preparation of the SWP should also be guided by the requirements of Paragraph 11(c) of the Consent Decree and other relevant provisions in that Decree. Paragraph 11(c) of the Consent Decree requires that each SWP:
 - (i) be site-specific;
 - (ii) identify the BMPs that will be used for each anticipated major phase of construction;
 - (iii) incorporate the inspection frequency and routine maintenance deadlines under the Applicable Permit; and
 - (iv) include clear, concise descriptions of site-specific BMPs to implement the requirements of the Applicable Permit and to guide those responsible for overseeing implementation of the SWP at each stage of construction.
2. **Be easy to follow and implement.** Although it is important that the SWP be easy for state or federal inspectors to follow and understand, it is equally or more important that the SWP be written in such a manner that it is easy for KB’s operational personnel to understand and implement. The SWP should not be prepared in a vacuum, but should reflect discussions and agreements that have been made between the preparer and KB operational personnel. These discussions and agreements should include such things as construction sequencing and types of BMPs that each individual KB division feels are the most cost effective and easiest to maintain.

3. **Be efficient.** There are many ways in which the reduction of pollutants from storm water discharges can be achieved. It is the goal of KB to do so in the most efficient and affordable manner. When analyzing affordability, maintenance costs must be considered with installation and material costs to determine the proper solution for each situation.

Contents of the SWP (Checklist)

Refer to the requirements of Paragraph 11(c) of the Consent Decree when preparing each SWP. Each SWP shall include the following statement from the SWP preparer:

“The development of this SWP was guided by the requirements of Paragraph 11(c) of the Consent Decree.”

In addition, check the Applicable Permit to see which of the following are required. **IF** they are, they should be included in the SWP:

I. A Copy of the NOI and Other Storm Water Related Permits That Are Required for the Site

Copies of any federal, state or local storm water related permits should also be included. Careful consideration should be given to ensuring that all relevant permits have been or will be obtained, including whether there are any contractors or subcontractors that need separate storm water permits.

II. Storm Water Pollution Prevention Plan (SWP) Certification

Refer to the Applicable Permit for SWP certification requirements. For example, the Applicable Permit may include a requirement that the SWP be:

- a) Signed by the owner of the site;
- b) Signed by the operator of the site; and/or
- c) Signed by the person who is responsible for the preparation of the SWP.

The Applicable Permit may also include a requirement to maintain a log to record all amendments to the SWP and corresponding certifications.

An example of a Title Block for a SWP certification is provided below:

ABC XYZ 123 HOMES,
A Delaware corporation,

By: _____
Name: _____
Title: _____

III. Contact Information

The SWP should include the names, phone numbers and a description of the duties for each person who is responsible for ensuring compliance with storm water requirements at a particular site. In addition, the Consent Decree requires each SWP to include the name of the Site Storm Water Compliance Representative(s) and Division Storm Water Compliance Representative.

IV. Notice and Recordkeeping

- a) Posting NOI: The SWP should set forth the locations where the NOI is to be posted.
- b) Location of SWP and Inspection Reports: The SWP should set forth where the SWP and related records, including Inspection Reports, should be maintained. The Consent Decree requires the SWP to be maintained at the construction office if the site has one. If not, its location shall be posted along with, or adjacent to, the contact information for the Site Storm Water Compliance Representative.
- c) Retention of Records: The SWP should set forth the retention requirements for the SWP and site-related storm water documents.

V. Responsibilities of Owners and Operators

A list of activities that must be completed by the owner(s) or operator(s) and who is responsible for each activity.

VI. Definition of Area

- a) Site name and address (including county or governmental subdivision) or other available location information, including any location information required by the Applicable Permit or NOI.
- b) Name of any water of the United States or MS4 into which the site discharges storm water.
- c) Name of the agency or agencies that have jurisdictional authority for storm water pollution prevention.
- d) The function of the site (i.e., single family detached residential, townhouse, condo development).
- e) A description of any other activities such as dedicated crusher plants, asphalt plants, equipment staging areas, or material storage areas that may operate on the site.
- f) Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including off-site borrow pits and fill areas.
- g) A general location map (e.g., USGS quadrangle map, a portion of a city or county map or other map with enough detail to show the location of the construction site and waters of the United States within one mile of the site).

VII. Site Plan and BMP Map

- a) Direction of storm water flow and approximate slopes anticipated after major grading activities.
- b) Areas of soil disturbance and areas that will not be disturbed.
- c) Locations of major structural and non-structural BMPs.
- d) Locations where stabilization practices are expected to occur.
- e) Locations of off-site material, waste, borrow or equipment storage areas.
- f) Locations of all waters of the United States required to be mapped under state or federal regulations.
- g) Locations on the site, if applicable, where storm water discharges to waters of the United States.
- h) Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

VIII. Endangered and Threatened Species and Critical Habitat Protection

IX. Historic Properties Protection

X. Statement and Description of Storm Water Discharge Management Controls to Reduce Pollutants

- a) A description of all pollutant control measures (i.e. BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. Each major activity in the site construction process should be clearly defined and the BMPs related to that activity should be listed.
- b) A description of interim and permanent stabilization practices for the site, including the stage of construction when the practices will be implemented.
- c) Dates when major grading activities occur.
- d) Dates when construction activities temporarily or permanently cease on a portion of the site.
- e) Dates when stabilization measures are initiated.
- f) A description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and/or the discharge of pollutants from exposed areas of the site.
- g) A description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed.

- h) A description of the measures to prevent the discharge of solid materials, including building materials, to the waters of the United States.
- i) A description of the measures to minimize, to the extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.
- j) A description of controls and measures that will be implemented to control the storm water discharges from on-site crusher and asphalt plants.

XI. Description of Non-Storm Water Discharge Management Controls to Reduce Pollutants

- a) Discharges from fire fighting activities.
- b) Fire hydrant flushing.
- c) Waters used to wash vehicles where detergents are not used.
- d) Water used to control dust.
- e) Water used to flush waterlines and wash down buildings.
- f) Air conditioning condensate.
- g) Uncontaminated spring water, groundwater and discharges from foundation drains.
- h) Uncontaminated excavation dewatering.
- i) Landscape irrigation.

XII. Procedures for Dealing with Spills and Releases in Excess of Mandated Reportable Quantities

- a) A list of emergency contact numbers.
- b) A table listing types of listed materials expected to be on-site and the reportable quantity of each.
- c) Procedures for dealing with and reporting spills and releases.

XIII. Maintenance of Storm Water Discharge Management Controls

A description of the maintenance requirements for the BMPs that are installed.

XIV. Inspections

- a) Frequency of inspection.
- b) Standardized forms for inspection reports.

XV. Procedures for Updating and Modifying the SWP

- a) A statement explaining when the SWP must be amended.
- b) A statement of the procedure that should be followed to update and modify the SWP.

XVI. Notice of Termination

- a) When a NOT is filed.
- b) Procedure for filing a NOT.



**Appendix C:
Storm Water Pre-Construction
Inspection and Review Form**



Storm Water Pre-Construction Inspection and Review Form

[] Division

Name of Permittee: _____

Date: _____

Site Name: _____

State: _____

Division Storm Water Compliance Representative: _____

County: _____

Site Storm Water Compliance Representative(s) ("SSWCR"): _____

City: _____

Note: Keep this completed form at the construction office if the Site has one. If not, its location should be posted with, or adjacent to, the contact information for the SSWCR. It should not be kept with the Storm Water Plan ("SWP").

Permit Coverage	Yes	No	N/A	Permit No. / Identifier	Date of Coverage
1. Federal / State (circle one) permit application filed and accurate?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
2. County Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3. City Permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
4. Special District (other)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
5. Are there multiple plans, including erosion and sediment control plans?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If yes, check plans for consistency.	

Storm Water Plan Information	Yes	No	N/A	Deficiency Identified	Date Fixed
6. If required, is the SWP properly certified?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
7. Has the SSWCR reviewed the SWP?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
8. Does the SWP identify the stages of construction and the controls called for at each stage?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
9. Does the SWP identify the site inspection frequency and routine maintenance deadlines required by the Applicable Permit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
10. Does the SWP contain a statement by the preparer that its development was guided by the requirements of paragraph 11(c) of the Consent Decree and the National SWP Criteria attached as Appendix B to the Decree?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		



Storm Water Pre-Construction Inspection and Review Form

[] Division

Site Status	Site Status			Deficiency Identified	Date Fixed
	Yes	No	N/A		
11. Has the SSWCR(s) received training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
12. Are storm water controls called for in the current phase of construction properly located and installed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
13. As applicable, do the installed storm water controls appear to be working properly and are they appropriate for existing conditions at the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

A Storm Water Compliance Representative must review and sign this Pre-Construction Inspection and Review Form. Do not sign this form until the responsive action has been completed for each deficiency identified on this form and the completion date of the responsive action is noted. Do not commence construction activity until this form has been signed. For purposes of this form, construction activity does not include geotechnical investigations, surveying, environmental testing, plant (vegetation) salvage, or the initial installation of BMP's that are not sediment basins, provided that none of these activities involve significant soil disturbance. This form must be kept on-site but should not be placed in the SWP. If the Site does not have a construction office, the location of this form and other records must be posted on-site.

Name and Title

Signature

Date



Appendix D



**Appendix D-1:
Storm Water Site Inspection Report**



Storm Water Site Inspection Report

Division
Site

Inspection Date: _____

Inspector: _____ Phone #: _____ Last Inspection Date: _____

Inspection Type: (circle one) Regular Rain Event Final

Weather: (circle one) Dry Rain Snow Icy

Note: Keep this completed Report and accompanying Responsive Action Log with the Storm Water Plan ("SWP").

Outfalls, Entrances and Streets

A. <u>Outfalls</u> : Excess sediment or other pollutants controlled per SWP from leaving the Site?	Y	N	N/A
B. <u>Vehicle Tracking</u> : Installed and maintained per SWP?	Y	N	N/A
C. <u>Streets</u> : Excess soil kept off streets?	Y	N	N/A

Storm Water Controls

D. <u>Erosion and Sediment Controls</u> : Installed and maintained per SWP?	Y	N	N/A
E. <u>Soil Stabilization</u> : Implemented and maintained per SWP?	Y	N	N/A
F. <u>Stock Piles</u> : Properly located and stabilized per SWP?	Y	N	N/A

Non-Storm Water Controls

G. <u>Concrete, Stucco, Paint (etc.) Washouts</u> : Located, installed and maintained per SWP?	Y	N	N/A
H. <u>Solid & Hazardous Wastes</u> : Trash, debris and hazardous materials properly managed?	Y	N	N/A
I. <u>Sanitary Waste</u> : Portable toilets properly located and maintained?	Y	N	N/A

Storm Water Plan and Related Documents

J. Is the Site Storm Water Compliance Representative ("SSWCR") contact information provided on Site as required; if so, is it current?	Y	N	N/A
K. If required, is the Applicable Permit and/or NOI on Site?	Y	N	N/A
L. Is the SWP available on Site or its location posted as required?	Y	N	N/A
M. Does the SWP match current Site conditions?	Y	N	N/A
N. Are BMPs required by the SWP appropriate for existing Site conditions?	Y	N	N/A
O. If there have been any government inspections evaluating compliance with the Applicable Permit (NPDES only) since the last Site Inspection, have all issues been addressed in response to that government inspection?	Y	N	N/A
P. Was the Site Inspection Report from the last Site Inspection (1) signed by the SSWCR and (2) certified if and as required by the Applicable Permit?	Y	N	N/A



**Appendix D-2:
User Instructions for the
Storm Water Site Inspection Report**



User Instructions for the Storm Water Site Inspection Report

Background

- The Storm Water Site Inspection Report form consists of the Site Inspection Report and any additional sheets that are needed to describe responsive actions taken to maintain compliance with the applicable federal or state storm water program and permit (referred to on the form as the “Applicable Permit”).
- Only the Site Storm Water Compliance Representative (“SSWCR”) or a designee acting on behalf of the SSWCR (usually a storm water consultant) is permitted to undertake the inspection required by the form. If the inspector is not a SSWCR or designee, then he or she may not conduct the inspection.
- The inspector must sign and date the completed Site Inspection Report in the signature block. If the inspector is not the SSWCR, then the SSWCR must review and sign the completed form in the space provided. The report should be certified if required by the Applicable Permit using the certification language required by that Permit.
- All completed Site Inspection Reports must be kept with the SWP. A copy of these instructions should also be kept with the SWP, although a copy need not be attached to each individual Site Inspection Report.
- Identify all responsive actions and needed maintenance items (i.e., answering “N” to any question on the Site Inspection Report) that you find. It is important to identify all deficiencies and then correct them in a timely manner.

Procedures

- You must record the following information on each and every Site Inspection Report.
 - **Site Name:** Insert the name that is recorded on the Notice of Intent if that name has not already been imbedded in the top margins of the report form.
 - **Inspector:** Enter the name of the person performing the inspection.

- **Contact:** Enter the phone number of the inspector.
- **Inspection Type:** Circle the inspection type that represents the purpose of the inspection. Only one inspection type may be circled. An inspection is required in each of the following circumstances: (1) periodic as required by the Applicable Permit, (2) applicable precipitation event, or (3) the final inspection prior to filing of the Notice of Termination. Quarterly compliance inspections are also required by the Consent Decree and shall be recorded on a separate form.
- **Inspection Date:** Insert the date on which the inspection was performed on each page of the report form.
- **Last Inspection Date:** Insert the date the last inspection was performed, regardless of inspection type.
- **Weather:** Record the weather conditions at the time the inspection is performed, with a focus on precipitation.
- If you circle “N” in response to any question on the Site Inspection Report, you must explain the responsive action needed in the boxes provided on the last page of the form. If more space is needed to explain all responsive actions, attach additional pages as necessary, using reference numbers that correspond to that particular category. For example, A3 would refer to the 3rd responsive action item needed at an outfall. D7 would refer to the 7th item needed to address erosion and sediment control maintenance issues.

Outfalls, Entrances, and Streets

- A. Outfalls:** Excess sediment or other pollutants controlled per SWP from leaving the Site?

You must verify that excess sediment or excess pollutants are not leaving the Site. You should check applicable BMPs at outfalls and other site perimeter controls, receiving water courses, and adjacent offsite areas for excessive sediment or other pollutants. Also note whether sediment or other pollutants in the outfalls are entering the Site from other sources.

- B. Vehicle Tracking:** Installed and maintained per SWP?

You must verify that exit/entrance controls are properly located, in working condition, and no repairs are necessary. You should check that exit/entrance controls (such as stone pads and rumble grates) for the construction entrances and other access points are in place and maintained as required by the SWP.

C. Streets: Excess soil kept off streets?

You must verify that the roads and gutters on or adjacent to the Site are free of excessive dirt and mud. You should also record excessive dirt and mud in any road or gutter from offsite sources.

Storm Water Controls

D. Erosion & Storm Water Controls: Installed and maintained per SWP?

You must verify that erosion and sediment controls are properly located and in working condition and that no repairs are necessary. You should check that erosion and sediment controls, such as, by way of illustration, linear barriers, soil stabilization techniques, sediment ponds/traps and inlet protection, are properly placed, appear to be working, and are maintained in accordance with the SWP.

E. Soil Stabilization: Implemented and maintained per SWP?

You must verify that exposed soil areas are stabilized as required. You should check that areas where construction activity has ceased or has been temporarily suspended are stabilized in accordance with the SWP.

F. Stock Piles: Properly located and stabilized per SWP?

You must verify that stockpiles are located and stabilized as required. You should check that stockpiles are located in areas where runoff to and from those stockpiles can be appropriately controlled and that they have been stabilized if required by the SWP.

Non-Storm Water Controls

G. Concrete, Stucco, Paint (etc.) Washouts: Located, installed, and maintained per SWP?

You must verify that concrete, paint, and other washouts are properly located, appear to be working, and are used and maintained in accordance with the SWP.

H. Solid & Hazardous Wastes: Trash, debris and hazardous materials properly managed?

You must verify that trash, construction debris, and other solid wastes and hazardous materials are managed as required. You should check that controls for the collection and storage of trash, construction debris and other solid and hazardous materials are properly placed, appear to be effective, and are maintained in accordance with the SWP.

- I. **Sanitary Waste**: Portable toilets properly located, installed and maintained?

You must verify that portable toilets are provided and properly located. You should check that portable toilets are located off roads and away from gutters and inlets, and that they are properly anchored and maintained.

Storm Water Plan and Related Documents

- J. **Is the SSWCR contact information provided on Site as required? If so, is it current?**

Check that the SSWCR's contact information is posted at a conspicuous location at the Site, such as the construction office, or at an entrance or exit if the Site does not have a construction office. The contact information should be current and accurate.

- K. **If required, is the Applicable Permit and/or NOI on Site?**

Check to make sure that a copy of the Applicable Permit and/or Notice of Intent is available on Site if the Applicable Permit requires that information to be maintained on Site.

- L. **Is the SWP available on Site or its location posted as required?**

Is the SWP at the construction office if the Site has one? If not, is the location of the SWP posted with or near the contact information for the SSWCR?

- M. **Does the SWP match current Site conditions?**

Verify that the BMPs shown in the SWP for the applicable stage of construction are in place as required, and that the BMPs in the field match the SWP. This is best accomplished by reviewing the SWP before each Site Inspection and then comparing the BMPs described in the SWP with actual field conditions. If Site conditions or the SWP have changed, then the SWP or the BMPs in the field, respectively, must also be updated. It is not uncommon for minor updates to be required.

- N. **Are BMPs required by the SWP appropriate for the existing Site conditions?**

Do the installed storm water controls appear to be working properly or do the field conditions require additional or different controls?

O. If there have been any government inspections evaluating compliance with the Applicable Permit (NPDES) since the last Site Inspection, have all issues been addressed in response to those government inspections?

If there has been an inspection by a federal, state or local official to evaluate a Site's compliance with the Applicable Permit, attach a copy of the inspection report if available and identify any maintenance issues or alleged violations that have yet to be addressed. Please note that this question is not directed at inspections conducted by local government officials pursuant to local ordinances or MS4 program requirements. This question applies only to inspections conducted by government officials pursuant to the federal NPDES storm water program (as implemented by the states in most instances).

P. Was the Site Inspection Report from the last Site Inspection signed by the SSWCR and certified if and as required by the Applicable Permit?

Did the SSWCR and the inspector (if the inspection was performed by someone other than the SSWCR) sign the last Site Inspection Report? In addition, if the Applicable Permit requires the Site Inspection Report to be certified by a duly authorized KB Home representative, confirm that the certification was provided in the form required by the Applicable Permit.

Q. Have all Responsive Actions from past Site Inspections been timely addressed?

You must review the last Site Inspection Report to determine if all Responsive Actions have been completed. For those actions that have not been completed, list the reference number and date of inspection for those actions on the current inspection form. You must also explain why those actions have not been completed, and indicate which of those items were not completed within the time allowed by the Applicable Permit. For example, identify weather delays, material shortages or subcontractor problems, if applicable, or other reasons why those actions have not been completed within the time allowed by the Applicable Permit.

Once a responsive action item from a prior inspection has been listed under Section Q, it should remain in Section P on future Site Inspection Report forms until completed; it should not be listed again as a new responsive action in Sections A thru P on the current or future inspection forms.



Appendix E



**Appendix E-1:
Storm Water Quarterly Compliance
Inspection Report**



Storm Water Quarterly Compliance Inspection Report

[] Division

[] Site

Quarter: (Month/Year - Month/Year)

Inspection Date: _____

Inspector: _____

Phone #: _____

Last Inspection Date: _____

Weather: (circle one) Dry Rain Snow Icy

Note: If this inspection is intended to take the place of a routine Site Inspection, keep this Quarterly Compliance Inspection Report and accompanying Responsive Action Log with the Storm Water Plan ("SWP").

Outfalls, Entrances and Streets

A. <u>Outfalls</u> : Excess sediment or other pollutants controlled per SWP from leaving the Site?	Y	N	N/A
B. <u>Vehicle Tracking</u> : Installed and maintained per SWP?	Y	N	N/A
C. <u>Streets</u> : Excess soil kept off streets?	Y	N	N/A

Storm Water Controls

D. <u>Erosion and Sediment Controls</u> : Installed and maintained per SWP?	Y	N	N/A
E. <u>Soil Stabilization</u> : Implemented and maintained per SWP?	Y	N	N/A
F. <u>Stock Piles</u> : Properly located and stabilized per SWP?	Y	N	N/A

Non-Storm Water Controls

G. <u>Concrete, Stucco, Paint (etc.) Washouts</u> : Located, installed and maintained per SWP?	Y	N	N/A
H. <u>Solid & Hazardous Wastes</u> : Trash, debris and hazardous materials properly managed?	Y	N	N/A
I. <u>Sanitary Waste</u> : Portable toilets properly located and maintained?	Y	N	N/A

Storm Water Plan and Related Documents

J. Is the Site Storm Water Compliance Representative ("SSWCR") contact information provided on Site as required; if so, is it current?	Y	N	N/A
K. If required, is the Applicable Permit and/or NOI on Site?	Y	N	N/A
L. Is the SWP available on Site or its location posted as required?	Y	N	N/A
M. Does the SWP match current Site conditions?	Y	N	N/A
N. Are BMPs required by the SWP appropriate for existing Site conditions?	Y	N	N/A
O. If there have been any government inspections evaluating compliance with the Applicable Permit (NPDES only) since the last Site Inspection, have all issues been addressed in response to that government inspection?	Y	N	N/A
P. Was the Site Inspection Report from the last Site Inspection (1) signed by the SSWCR and (2) certified if and as required by the Applicable Permit?	Y	N	N/A



**Appendix E-2:
Storm Water Quarterly Compliance
Review and Summary**

Quarterly Compliance Review

Site Name: _____

Date of Quarterly Compliance Inspection: _____

Quarterly Compliance Inspector: _____

Division Storm Water Compliance Representative: _____

Site Storm Water Compliance Representative(s): _____

INSTRUCTIONS

This Quarterly Compliance Review Form and accompanying Quarterly Compliance Summary Form should be maintained at the Division offices; they should not be kept with the Storm Water Plan ("SWP").

If the Division Storm Water Compliance Representative conducts the Quarterly Compliance Inspection, complete only boxes 1 and 2 for each of the topics listed below. If a Designee (e.g., storm water consultant) of the Division Storm Water Compliance Representative conducts the Quarterly Compliance Inspection, the Designee must complete boxes 1 and 2 and the Division Storm Water Compliance Representative must complete box 3 for each of the topics listed below.

Upon completion of the Quarterly Compliance Inspection, each of the following topics should be reviewed with all of the Site Storm Water Compliance Representatives for the Site. When that review is completed, the Division and all of the Site Storm Water Compliance Representatives shall sign the form in the space provided on the last page of this form.

Physical Condition of the Site and BMPs

1. Are there compliance issues related to the physical condition of the site or BMPs? If yes, what are the causes?	<input type="checkbox"/>	<input type="checkbox"/>	
2. If yes is checked in Question 1, recommended actions to address these issues include:			
3. If yes is checked in Question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Division Storm Water Compliance Representative have additional recommendations? If yes, list the recommendations:	<input type="checkbox"/>	<input type="checkbox"/>	



[] Division

Storm Water Quarterly Compliance Review and Summary

Quarter: (Month/Year - Month/Year)

Adequacy of the Site Storm Water Plan and Recordkeeping Procedures

1. Are there inadequacies in the Storm Water Plan or the recordkeeping procedures? Y N
If yes, describe the inadequacies.

2. If yes is checked in Question 1, recommended actions to address these issues include:

3. If yes is checked in Question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Division Storm Water Compliance Representative have additional recommendations? Y N
If yes, list the recommendations:

Contractor Compliance with Storm Water Requirements

1. Are there any storm water compliance issues being caused by contractors or subcontractors? Y N
If yes, what are the causes?

2. If yes is checked in Question 1, recommended actions to address these issues include:

3. If yes is checked in Question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Division Storm Water Compliance Representative have additional recommendations? Y N
If yes, list the recommendations:



Storm Water Quarterly Compliance Review and Summary

Quarter: (Month/Year - Month/Year)

[] Division

Number of Responsive Actions Not Performed in the Time and Manner Required by the Applicable Permit

1. Are there any compliance issues with the number of Responsive Actions not performed in the time and manner required by the Applicable Permit? Y N
If yes, what are the causes?

2. If yes is checked in Question 1, recommended actions to address these issues include:

3. If yes is checked in Question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Division Storm Water Compliance Representative have additional recommendations? Y N
If yes, list the recommendations:

Recurring Compliance Issues at the Site

1. Are there recurring compliance issues at this Site? Y N
If yes, what are they and what are the causes?

2. If yes is checked in Question 1, recommended actions to address these issues include:

3. If yes is checked in Question 1 and the Quarterly Compliance Inspection was conducted by a Designee, does the Division Storm Water Compliance Representative have additional recommendations? Y N
If yes, list the recommendations:

Quarterly Compliance Review Summary

Discharges of pollutants prior to obtaining coverage under an Applicable Permit (if applicable during this quarterly review period):	Yes No N/A
If yes, total number of days: _____	
Failure to perform or material failure to document the Pre-Construction Inspection and Review (if applicable during this quarterly review period):	Yes No N/A
Had the Site Storm Water Compliance Representative(s) been trained in accordance with KB Home's storm water training program as of this Quarterly Compliance Inspection and Review?	Yes No
Site Inspections:	
Total number of all Site Inspections required during the quarter:	_____
Total number of documented Site Inspections:	_____
Percentage Non-Compliance:	_____
Total number of times a SWP was not available or its location posted during a Site Inspection:	_____
Percentage Non-Compliance:	_____
Responsive Actions:	
Total number of Responsive Actions identified during quarter:	_____
Total number of Responsive Actions not addressed within the time allowed by the Applicable Permit:	_____
Percentage Non-Compliance:	_____

The Division Storm Water Compliance Representative shall review the Quarterly Compliance Review Form with all of the Site Storm Water Compliance Representatives for the Site. When that review is complete, the Division Representative and each of the Site Storm Water Compliance Representatives shall sign the form here:

<u>Title</u>	<u>Signature</u>	<u>Date</u>
Division Storm Water Compliance Representative:	_____	_____
Site Storm Water Compliance Representative(s):	_____	_____
	_____	_____



**Appendix F:
Division-Wide Storm Water Compliance
Summary Report**



Division-Wide Storm Water Compliance Summary Report for (Month/Year to Month/Year)

_____ Division

Site Name	Discharges	PCIR	Quarterly Inspection	Quarterly Review	Trained SSWCR	Site Inspection		SWP On Site		Responsive Actions	
						Total Required Inspections	Undocumented Inspections	Total Inspections	Times Unavailable	Total Responsive Actions	Number Not Completed or Recorded
List the Name of Each Site in the Division and Identify the Total Number of Sites Below	Discharge of Pollutants Prior to Coverage Under an Applicable Permits (Number of Days or N/A)	Failure to Perform or Document the PCIR (Yes or N/A)	Failure to Perform or if Performed to Document the Quarterly Compliance Inspection (Yes or No)	Failure to Perform or if Performed to Document the Quarterly Compliance Review (Yes or No)	Failure to Have a Trained SSWCR at the Time of the Quarterly Compliance Inspection (Yes or No)	Failure to Perform or if Performed to Document a Site Inspection		Failure to Have SWP on Site or its Location Posted at Time of Site Inspection		Failure to Complete a Responsive Action Within Timeframe Required by Applicable Permit (or if Completed, Failure to Document)	
Totals											
Percent Non-Compliance											

Once completed, this report must be sent to: (1) all Site Storm Water Compliance Representatives within this Division; (2) the Division President; and (3) the National Storm Water Compliance Representative.

Division Storm Water Compliance Representative: _____
Name
Signature
Date



**Appendix G:
National Storm Water Compliance
Summary Report**



National Storm Water Compliance Summary Report

I. Overview

[Provide a brief and general discussion of the data presented in this report.]

II. Information for Categories of Self-Reported Stipulated Penalties

_____ Number of days of discharge of pollutants from a Site to a water of the United States prior to obtaining coverage under an Applicable Permit

<u>Name of Site</u>	<u>State</u>	<u>Days</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ Number of failures to perform or, if performed, a material failure to document a required Pre-Construction Inspection and Review

_____ Percentage failure to perform or, if performed, a material failure to document a required Site Inspection

_____ Total number of required Site Inspections

_____ Percentage failure to perform or, if performed, a material failure to document a required Quarterly Compliance Inspection or Review

_____ Total number of required Quarterly Compliance Inspections and Reviews

_____ Number of Division Wide Compliance Summary Reports prepared 1 to 7 days after deadline

_____ Number of Division Wide Compliance Summary Reports prepared 8 to 30 days after deadline

_____ Number of Division Wide Compliance Summary Reports prepared 31 to 90 days after deadline

_____ Number of failures to have a Storm Water Trained Site Storm Water Compliance Representative at the time of a Quarterly Compliance Inspection and Review

III. Responsive Actions/SWPs on Site

A. Responsive Actions

_____ Total number of required Responsive Actions

_____ Number of failures to complete a Responsive Action within the time period required by the Applicable Permit or, if completed, a material failure to record the information

_____ Percentage failure to complete a Responsive Action within the time period required by the Applicable Permit or, if completed, a material failure to record the information

B. SWP on Site

_____ Percentage failure to have, at the time of a Site Inspection, the SWP on Site or its location posted

IV. Training Program

[Provide a written evaluation of KB Home's storm water training program and a description of any significant proposed changes for EPA approval.]

V. Signature and Certification

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

National Storm Water Compliance Representative

Name

Signature

Date

VI. Distribution

Once completed, this report must be sent to the following:

- (1) The Chief Executive Officer of KB Home;
- (2) All KB Home Division Presidents;
- (3) All KB Home Division Storm Water Compliance Representatives;
- (4) The Federal Plaintiff, as provided in Paragraphs 17, 27 and 63 of the Consent Decree; and
- (5) The States of Colorado, Maryland, Nevada and Virginia, as provided in Paragraphs 17 and 63 of the Consent Decree.



**Appendix H:
Employee Storm Water Compliance
Training Program Outline**



Storm Water Compliance Training Program

Introductory Training:

- Given to:** Any KB Home employee who primarily and directly supervises construction activity in the field.
- Format:** Approximately 2-hour on-line training course followed by an on-line exam.¹
- Certificate:** Successful completion of the course will result in the attainment of a Storm Water Compliance Training Certificate.
- Contents:** The basics of a successful Introductory Storm Water Compliance Training Program for the homebuilding industry, from a field perspective:
- *Regulatory Overview* (10 minutes)
 - Brief overview of the Clean Water Act and EPA's Storm Water Regulations, and their relationship with the State Storm Water Programs
 - Background on the Consent Decree
 - *Storm Water 101* (20 minutes)
 - Storm water pollutants and discharges
 - Storm water controls and practices
 - Non-storm water pollutants and discharges
 - Non-storm water controls and practices

¹ The projected timeframes for each training module in this syllabus are based on the approximate time needed to cover each topic in an e-learning environment. Actual times may vary depending on each individual trainee. If presented in a live setting, the actual times may be two to three times longer.

- *Storm Water Permitting Basics* (20 minutes)
 - Regulated jobsites and discharges
 - Regulatory authorities and their permits
 - Notices of Intent (or similar forms)
 - Consent Decree requirements (pre-construction inspection review)

- *Contents of a Storm Water Plan* (20 minutes)
 - KB Home development guidance
 - Maps
 - Storm water BMP's
 - Non-storm water controls and practices
 - Signatures

- *Jobsite Inspections* (20 minutes)
 - Forms
 - Frequency
 - Signatures
 - Maintenance
 - Recordkeeping
 - Government inspections (federal, state and local)
 - Consent Decree requirements (inspection form, maintenance tracking program, and signature requirements)

- *Quarterly Compliance Inspections and Reporting* (10 minutes)
 - Quarterly Compliance Inspections by the Division
 - Internal reporting
 - National Compliance Summary Report
 - Sanctions for non-compliance

- *Contractor Oversight* (10 minutes)
 - Contracts
 - Educational material
 - Signage
 - Sanctions for non-compliance

- *Winding Down a Jobsite* (5 minutes)
 - Final inspection
 - Notice of Termination (or similar form)

- *Where to Get Help?* (5 minutes)
 - KB University
 - Internet resources
 - National, Division, and Site Storm Water Compliance Representatives
 - Storm Water Consultants



**Appendix I:
Compliance Representative Storm Water
Compliance Training Program Outline**



Storm Water Compliance Training Program

Introductory Training:

Given to: The National Storm Water Compliance Representative, all Division Storm Water Compliance Representatives, all Site Storm Water Compliance Representatives, and all KB Home employees designated to perform storm water compliance functions on behalf of a Division or Site Representative.

Format: Approximately 2-hour on-line training course followed by an on-line exam.¹

Certificate: Successful completion of the course will result in the attainment of a Storm Water Compliance Training Certificate, valid for 15 months.

Contents: The basics of a successful Introductory Storm Water Compliance Training Program for the homebuilding industry, from a field perspective:

- *Regulatory Overview* (10 minutes)
 - Brief overview of the Clean Water Act and EPA's Storm Water Regulations, and their relationship with the State Storm Water Programs
 - Background on the Consent Decree
- *Storm Water 101* (20 minutes)
 - Storm water pollutants and discharges
 - Storm water controls and practices
 - Non-storm water pollutants and discharges
 - Non-storm water controls and practices

¹ The projected timeframes for each training module in this syllabus are based on the approximate time needed to cover each topic in an e-learning environment. Actual times may vary depending on each individual trainee. If presented in a live setting, the actual times may be two to three times longer.

- *Storm Water Permitting Basics* (20 minutes)
 - Regulated jobsites and discharges
 - Regulatory authorities and their permits
 - Notices of Intent (or similar forms)
 - Consent Decree requirements (pre-construction inspection review)

- *Contents of a Storm Water Plan* (20 minutes)
 - KB Home development guidance
 - Maps
 - Storm water BMP's
 - Non-storm water controls and practices
 - Signatures

- *Jobsite Inspections* (20 minutes)
 - Forms
 - Frequency
 - Signatures
 - Maintenance
 - Recordkeeping
 - Government inspections (federal, state and local)
 - Consent Decree requirements (inspection form, maintenance tracking program, and signature requirements)

- *Quarterly Compliance Inspections and Reporting* (10 minutes)
 - Quarterly Compliance Inspections by the Division
 - Internal reporting
 - National Compliance Summary Report
 - Sanctions for non-compliance

- *Contractor Oversight* (10 minutes)
 - Contracts
 - Educational material
 - Signage
 - Sanctions for non-compliance

- *Winding Down a Jobsite* (5 minutes)
 - Final inspection
 - Notice of Termination (or similar form)

- *Where to Get Help?* (5 minutes)
 - KB University
 - Internet resources
 - National, Division, and Site Storm Water Compliance Representatives
 - Storm Water Consultants

Annual Refresher Training:

Given to: KB Home employees who have been trained and certified pursuant to the Introductory Storm Water Training Program described above.

Format: Approximately 1-hour on-line training course followed by an on-line exam.

- *Regulatory Overview* (5 minutes)
- *Storm Water 101* (5 minutes)
- *Storm Water Permitting Basics* (5 minutes)
- *Contents of a Storm Water Plan* (5 minutes)
- *Jobsite Inspections* (10 minutes)
- *Quarterly Compliance Inspections and Reporting* (10 minutes)
- *Contractor Oversight* (5 minutes)
- *Lessons Learned* (10 minutes)
- *Where to Get Help?* (5 minutes)



**Appendix J:
Storm Water Compliance Training Program Exam**



Storm Water Compliance Training Program Exam

1. Discharges of storm water from KB Home construction sites require a federal or state permit:
 - a. True
 - b. False

2. Which federal regulatory agency is responsible for overseeing and enforcing storm water compliance?
 - a. NRA
 - b. EPA
 - c. NPDES
 - d. FEMA

3. Some states are authorized to issue storm water permits under the NPDES program.
 - a. True
 - b. False

4. Federal and State administrative agencies can impose monetary penalties for discharges of storm water from a construction site without proper permit coverage.
 - a. True
 - b. False

5. Intentional and willful violation of a storm water permit may result in criminal prosecution and imprisonment.
 - a. True
 - b. False

6. In addition to the conditions of a storm water general permit, KB Home is also subject to additional conditions pursuant to:
 - a. the Consent Decree
 - b. applicable local programs
 - c. both
 - d. neither

7. According to EPA, construction activity can be a potential source of storm water pollution because:
 - a. Construction activities disturb soil. When it rains on a construction site, rainwater typically wears away (erodes) the disturbed soil faster than if construction were not occurring. Rainwater that does not soak in where it lands gathers the silt and sediment, which may then make its way into creeks, streams and rivers.
 - b. Construction involves other types of loose materials that can be transported by storm water into our nation's waters. For example, the construction process can produce trash, cement dust, sawdust, etc., all of which might be swept up in storm water.
 - c. Construction activities also may involve using motor oil, hydraulic fluid, solvents, oil-based paints, machine oil, port-a-potties and their contents, and other chemicals.
 - d. All of the above.

8. Erosion can be caused by:
 - a. Rainfall
 - b. Wind
 - c. Snowmelt
 - d. All of the above

9. SWP stands for:
 - a. Storm Water Plan
 - b. Statewide Water Protection
 - c. Surface Water Plan
 - d. Storm Water Protection

10. Drawings are an optional component of the SWP.
 - a. True
 - b. False

11. For each site, KB Home must provide timely notification to the permitting agency:
 - a. Before any construction begins
 - b. After construction ends
 - c. Continually during construction
 - d. A & B only

12. Each KB Home division must understand the process for obtaining permit coverage in the particular state and localities where they do business.
 - a. True
 - b. False

13. Most states require a storm water permit applicant to file an NOI. NOI stands for:
- National Operating Instruction
 - Notice of Inspection
 - Notice of Intent
 - Never Our Intention
14. Most NOIs and similar applications are sworn statements of the applicant's intent to meet all prospective permit obligations, which means:
- Implement a SWP
 - Maintain BMPs
 - Conduct regular inspections
 - Keep the records
 - All of the above
15. Which of the following tasks must be completed before beginning construction:
- Obtain permit coverage for the site
 - Prepare a SWP
 - Install BMPs as required by the SWP
 - Complete a Pre-Construction Inspection and Review
 - All of the above
16. A Pre-Construction Inspection and Review is not necessary as long as BMPs are installed before starting construction activities.
- True
 - False
17. BMP is a an acronym for:
- Broad Measure Prevention
 - Best Monitoring Possible
 - Best Management Practice
 - Basic Municipal Protection
 - Better Maintenance Practice
18. BMPs may be
- Structural and Permanent
 - Structural and Temporary
 - Non Structural
 - All of the above

19. Determining the best management practices for any given construction site will depend on which of the following:
- Regional climate
 - Expected rainfall
 - Topography
 - Soil type
 - All of the above and more
20. Stabilized entrances are important because:
- The rip rap keeps the riff raff out of the construction site
 - They help reduce vehicle tracking
 - They serve as a place to deposit rocks and debris dug up during land development
 - All of the above
21. A subcontractor is allowed to wash out concrete at a storm drain inlet if there is inlet protection installed.
- True
 - False
22. The proper location for porta potties is:
- On top of a storm drain inlet
 - At the site entrance
 - Behind a curb or roadway and anchored to the ground
 - Inside the construction trailer
23. It is okay to litter on the lots as long as it doesn't go into the storm drains.
- True
 - False
24. Unless the applicable general permit or the SWP requires otherwise, most manufacturer guidelines require sediment to be removed from behind silt fences when buildup exceeds:
- 30% of the height of the silt fence
 - 50% of the height of the silt fence
 - 60% of the height of the silt fence
 - 75% of the height of the silt fence
25. For each site, KB Home must conduct routine inspections of BMPs, and must retain a written record of each inspection.
- True
 - False

26. If a self-inspection reveals a problem with a BMP, KB Home must promptly:
- Repair, replace or maintain the BMP or document why the work cannot be done
 - Create a written record showing what was done and when
 - Keep the record on file throughout the site's life
 - All of the above
27. During construction, inspections shall be conducted:
- Every 7 days
 - Every 14 days and within 24 hours of a 0.5 inch rain event
 - At the frequency set forth in the SWP
 - At the frequency set forth in the applicable permit
 - Pursuant to the most frequent schedule established by C or D
28. When noting corrections on the Responsive Action Log, the date that should be entered is:
- The date of the inspection that identified the needed correction
 - The date of the inspection where it was observed that the correction was made
 - The date that the correction was made
 - There is no requirement to enter the date of correction
29. The allowable time frame for action items to be addressed is:
- Immediately upon discovery
 - Within 14 days of discovery
 - Whenever the BMP contractor is available
 - Within the time period described in the SWP
30. Why is it important to address and document action items?
- It will help protect against excess sediment or pollutants leaving the site
 - It is required by the government
 - Ignoring action items and documentation can lead to stipulated penalties
 - Ignoring action items and documentation may lead to regulatory enforcement action
 - All of the above
31. Inspection reports shall be signed and dated by:
- The Field Manager
 - The Division President
 - The consultant who prepared the Storm Water Plan
 - The person conducting the inspection and the Site Storm Water Compliance Representative

32. Each site will undergo a quarterly compliance inspection and review designed to:
- Identify and rectify recurring compliance issues
 - Collect data regarding site storm water performance
 - Provide coaching to Site Storm Water Compliance Representatives
 - All of the above
 - None of the above
33. As warranted by changing circumstances, a SWP should be amended from time to time during construction to reflect:
- The addition of BMPs
 - Relocation of BMPs
 - Substitution of BMPs
 - All of the above
34. Who would normally approve an amendment to a SWP?
- Any KB Home construction employee
 - An EPA inspector
 - The Site Storm Water Compliance Representative or Division Storm Water Compliance Representative
 - None of the above
35. When there is a reportable hazardous spill on site, the SSWCR or DSWCR must be notified
- Immediately
 - Within 48 hours
 - Within 7 days
 - The next time the DSWCR is on site
36. Typically, "final stabilization" occurs when all exposed soil is uniformly vegetated at a level equal to at least what percent of the natural "background" level of vegetation?
- 30%
 - 50%
 - 70%
 - 90%

37. An NOT should be filed only:
- a. 14 days before construction is completed.
 - b. When absolutely all parcels are transferred (all houses completely finished and delivered, and all infrastructure improvements are certified complete and delivered to a local government or homeowner association)
 - c. Some parcels remain under KB Home's ownership, but no construction whatsoever – not even on-site construction – is occurring anywhere on the remaining parcels, and the remaining parcels are sufficiently vegetated to be considered “finally stabilized.”
 - d. Any of the above
 - e. B or C only
38. Copies of which of the following documents should be kept on site with the SWP or their location posted if there is no construction trailer or office on site?
- a. A site map (or a chronological series of site maps) showing the location of BMPs
 - b. Site Inspection Reports
 - c. Responsive Action Logs
 - d. All of the above
39. During construction, the SWP must be maintained or its location posted:
- a. On site
 - b. At the sales office
 - c. In your vehicle
 - d. All of the above
40. For help understanding how to achieve and maintain strict compliance with storm water obligations, you may contact:
- a. Any Site Storm Water Compliance Representative
 - b. Any Division Storm Water Compliance Representative
 - c. The Storm Water Training Materials
 - d. Any of the above



**Appendix K:
List of Contractors**



List of Contractors

- 1) Earthmoving Contractors
- 2) Storm Drain Installation Contractors
- 3) Water and Sewer Installation Contractors
- 4) Paving Contractors (including curb and gutter installation)
- 5) Masonry Contractors
- 6) Interior and Exterior Painting and Staining Contractors
- 7) Stucco Contractors
- 8) Landscape Installation Contractors
- 9) Framing/ Siding Contractors
- 10) Drywall Contractors
- 11) Latrine Contractors



**Appendix L:
Storm Water Pollution Prevention and Control –
List of Contractor Dos & Don'ts**



Storm Water Pollution Prevention and Control: List of Contractor Dos & Don'ts

DO:

- **DO** go to the Site Storm Water Compliance Representative with any questions regarding storm water pollution prevention or this list.
- **DO** place all trash and debris in the receptacles provided.
- **DO** use designated washout areas for (and only for) cleaning equipment (e.g., concrete trucks must use the designated concrete washout area).
- **DO** immediately report any spills of petroleum or other chemicals to the Site Storm Water Compliance Representative.
- **DO** immediately comply with instructions given by the Site Storm Water Compliance Representative or other KB Home personnel.

DON'T:

- **DON'T** allow any solvents or chemicals to drain into a street, storm drain, creek, waterway, or other water body.
- **DON'T** disable, damage, or interfere with any silt fence or similar erosion control.
 - For example, **DON'T** run over a silt fence or straw wattle or forget to replace any silt fence or straw wattle you temporarily relocate, damage or dislodge.
- **DON'T** disable, damage, or interfere with any inlet controls.
 - For example, **DON'T** remove inlet controls (unless an action is needed to prevent flooding) or place dirt or debris in or adjacent to inlet controls.
- **DON'T** disable, damage, evade or interfere with any storm water pollution prevention controls at construction entrances.
 - For example, **DON'T** evade stone construction entrances.
- **DON'T** disable, damage, drive over, or interfere with any geotextile, matting, or mulch.
- **DON'T** disable, damage, or interfere with any other storm water pollution prevention controls.

Remember: The failure to comply with storm water requirements at this Site is a breach of your contractual obligations and may result in economic sanctions or termination.



**Appendix M:
List of Sites Subject to Covenant Not to Sue**



List of Sites Subject to Covenant Not to Sue

The following list is intended to include all of the Sites:

- a. where based on record review conducted during Fall 2007 Plaintiffs have knowledge, through inspections conducted by Plaintiffs or Plaintiffs' consultant, responses to information requests issued by a Plaintiff pursuant to Section 308 of the Clean Water Act ("CWA") or equivalent state law, or information obtained from a non-Party, of an alleged violation of: (i) Section 308 of the CWA or a state law equivalent to Section 308, relating to Storm Water Requirements; (ii) the prohibition in Section 301(a) of the CWA or an equivalent prohibition under state law, against discharging pollutants without an Applicable Permit; or (iii) the conditions, limitations and requirements of an Applicable Permit; or
- b. that Builder owned or operated at any time on or between September 30, 2007 and March 31, 2008.

This description of the list is provided for explanatory purposes and does not modify the list. The release and covenant not to sue is only applicable to the Sites on this list. The list may be modified pursuant to Paragraph 71 of the Consent Decree to add Sites that were inadvertently omitted, but that meet the above criteria.

State	City or County	Site	Division
Arizona	Gilbert	Cameron Ranch	Phoenix
Arizona	Gilbert	Copper Ranch	Phoenix
Arizona	Gilbert	Villas at Spectrum	Phoenix
Arizona	Glendale	Tarrington Place	Phoenix
Arizona	Goodyear	Canyon Trails	Phoenix
Arizona	Goodyear	Sin Lomas	Phoenix
Arizona	Marana	Saguaro Springs	Tucson
Arizona	Maricopa	Smith Farms	Phoenix
Arizona	Mesa	Muirfield Village	Phoenix
Arizona	Oro Valley	Rancho Vistoso	Tucson
Arizona	Phoenix	Avalon Village	Phoenix
Arizona	Phoenix	Camelback Ranch	Phoenix
Arizona	Phoenix	Daravante	Phoenix
Arizona	Phoenix	Hunter Ridge	Phoenix
Arizona	Phoenix	Summit at South Mountain	Phoenix
Arizona	Phoenix	Weston Park I	Phoenix
Arizona	Pima County	Desert Meadows	Tucson
Arizona	Pima County	Mariposa Trail	Tucson
Arizona	Pima County	Rancho Valencia	Tucson
Arizona	Pima County	San Lorenzo	Tucson
Arizona	Pima County	Santa Rita Ranch II	Tucson
Arizona	Pima County	Sonoran Ranch Estates II	Tucson
Arizona	Queen Creek	Indigo Trails	Phoenix
Arizona	Queen Creek	Rittenhouse Ranch	Phoenix
Arizona	Queen Creek	Villages at Queen Creek	Phoenix
Arizona	Sahuarita	Presidio del Cielo	Tucson
Arizona	Sahuarita	Santo Tomas	Tucson
Arizona	Surprise	Bell Point	Phoenix
Arizona	Surprise	Cortana	Phoenix
Arizona	Surprise	Desert Oasis	Phoenix
Arizona	Surprise	Sycamore Farms	Phoenix
Arizona	Tucson	Arroyo Vista	Tucson
Arizona	Tucson	Pantano Overlook	Tucson

State	City or County	Site	Division
Arizona	Tucson	Pantano Ridge	Tucson
Arizona	Tucson	Terra Vista	Tucson
Arizona	Tucson	The Sanctuary at Tucson Mountain	Tucson
California	Alameda	Marina Cove	Southbay
California	Anaheim	Magnolia	Orange County
California	Antioch	Del Vina	Southbay
California	Antioch	Renaissance at Bluerock	Southbay
California	Antioch	Stanford Place II	Southbay
California	Atwater	Seitsema	Central Valley
California	Bakersfield	Harvest Moon	Southbay
California	Bakersfield	Meadowbrook	Southbay
California	Bakersfield	Olympia	Southbay
California	Beaumont	California Vista	Riverside
California	Beaumont	Seneca Springs I & II	Riverside
California	Beaumont	Sundance	Riverside
California	Campo	Campo Hills	San Diego
California	Carlsbad	Avellino	San Diego
California	Carlsbad	Dolcetto	San Diego
California	Castaic	Hasley Hills II	North LA
California	Chino Hills	Evergreen at The Preserve	Inland Valley
California	Chula Vista	Capria	San Diego
California	Coachella	Aventine	Riverside
California	Coachella	Somerset	Riverside
California	Corona	Canyon Oaks - I & II	Inland Valley
California	Corona	Cloverdale III Harvest	Inland Valley
California	Corona	Sienna Ridge	Orange County
California	Corona	Weathervane	Inland Valley
California	Cucamonga	Cambridge	Inland Valley
California	Danville	Vernazza and Levanto at Monterosso	Southbay
California	Dos Palos	Lexington Park	Southbay
California	East Palmdale	Discovery Trails	North LA
California	East Palmdale	Vineyards	North LA
California	El Centro	Sienna Trails	San Diego
California	Fair Oaks	Gold River Station Unit 7	Sacramento
California	Fallbrook	Shady Grove	San Diego
California	Fillmore	The Meadows	North LA
California	Fontana	Bonita Ridge	Inland Valley
California	Fontana	Bonita Ridge II	Inland Valley
California	Fontana	Meadowood	Inland Valley
California	Fountain Valley	Tremont	Orange County
California	Fremont	Pacific Pointe Chaplin Series	Southbay
California	French Valley	Briggs Road	Riverside
California	Fresno	Maple Glen	Southbay
California	Fresno	Oakville Grove	Southbay
California	Fresno	Olive Lane	Southbay
California	Hemet	Autumn Ridge	Riverside
California	Hemet	Schaffer Extension	Riverside
California	Hesperia	Hesperia Belmont	Inland Valley
California	Hesperia	La Serena	Inland Valley
California	Hesperia	Lexington I	Inland Valley
California	Hollister	Valley View	Southbay
California	Imperial	Tesora	San Diego
California	Indio	Foxstone	Riverside
California	Irvine	Bougainvillea	Orange County
California	La Quinta	Palizada	Riverside
California	Lake Elsinore	Serenity	Riverside
California	Lancaster	Grandiflora	North LA
California	Lancaster	Heirloom Rose	North LA
California	Lancaster	Terreno Vista	North LA
California	Lancaster	Tierra Del Sol	North LA
California	Lathrop	Autumnwood	Central Valley

State	City or County	Site	Division
California	Lathrop	Autumnwood Crossing	Central Valley
California	Lathrop	Autumnwood Estates II	Central Valley
California	Lathrop	Clusters	Central Valley
California	Lathrop	Mossdale II	Central Valley
California	Lathrop	Vallentyne	Central Valley
California	Lincoln	Lincoln Crossing	Sacramento
California	Live Oak	Pennington Ranch	Sacramento
California	Loma Linda	Mission Creek	Inland Valley
California	Los Banos	Meadow Glen & Meadow Vista	Southbay
California	Madera	Orchard Pointe	Central Valley
California	Menifee	Cimarron	Riverside
California	Mentone	Silver Springs I	Inland Valley
California	Mentone	Silver Springs II	Inland Valley
California	Merced	5 Bridges	Central Valley
California	Merced	Sierra Vista	Central Valley
California	Milpitas	Terra Serena	Southbay
California	Moorpark	Sterling Heights	North LA
California	Murrieta	Hunter Point	Riverside
California	Murrieta	Monticello I & II	Riverside
California	North Richmond	Bella Flora	Southbay
California	Oakley	Teal Cove @ Cypress Grove	Southbay
California	Oceanside	Taylor Estates	San Diego
California	Oceanside	Wilmont Ranch	San Diego
California	Olivehurst	Mapleton	Sacramento
California	Palmdale	Anaverde	North LA
California	Perris	May Ranch	Riverside
California	Pittsburg	Stanford Place I	Southbay
California	Placentia	Clementine	Orange County
California	Plumas Lake	Plumas Lakes	Sacramento
California	Rancho Cucamonga	Church and Haven	Inland Valley
California	Rancho Cucamonga	Sterling Heights	Inland Valley
California	Rancho Cucamonga	Woodside	Inland Valley
California	Reno	Calabria	Sacramento
California	Reno	Ravenna	Sacramento
California	Riverside	Alicante	Riverside
California	Riverside	Camden Place	Riverside
California	Riverside	Cimarron Ranch	Inland Valley
California	Riverside	La Rivera	Riverside
California	Riverside	La Sierra	Riverside
California	Riverside	Mockingbird Canyon	Riverside
California	Riverside	North Victorville Cambridge	Inland Valley
California	Riverside	Willow Ranch	Inland Valley
California	Roseville	Bella Terra at Fiddymont	Sacramento
California	Sacramento	Hampton Village	Sacramento
California	Sacramento	The Hamptons	Sacramento
California	San Diego	Skyline Hills	San Diego
California	San Diego	Vista Colina	San Diego
California	San Jacinto	The Cove	Riverside
California	San Jose	Autumn Terrace at William	Southbay
California	San Jose	Madison Place @ Monte Vista	Southbay
California	San Jose	Montclair Townhomes	Southbay
California	San Jose	Tuscany Hills	Southbay
California	Santa Clarita Valley	Canyon Country	North LA
California	Simi Valley	Casablanca	North LA
California	Stockton	Riverbend	Central Valley
California	Stockton	Springbrook	Central Valley
California	Sunnyvale	Evelyn Glen	Southbay
California	Sylmar	Cascades	North LA
California	Tehachapi	Orchard Glen	North LA
California	Temecula	Valdemosa	Riverside
California	Tustin	Madison in Columbus Grove	Orange County

State	City or County	Site	Division
California	Union City	Pacific Terrace	Southbay
California	Victorville	Creekside	Inland Valley
California	Victorville	Las Haciendas	Inland Valley
California	Victorville	Saratoga Lexington	Inland Valley
California	Victorville	Sedona Belmont	Inland Valley
California	Victorville	Somerset	Inland Valley
California	West Palmdale	Bella Vista	North LA
California	West Palmdale	Calico Terrace	North LA
California	West Sacramento	Bridgeway Island	Sacramento
California	Woodland	Woodshire	Sacramento
California	Yuba City	Walnut Park Estates	Sacramento
California	Yucaipa	Iris Gardens	Inland Valley
Colorado	Adams County	Brittany Ridge II	Colorado
Colorado	Adams County	Fronterra Village Subdivision	Colorado
Colorado	Adams County	Springvale Development	Colorado
Colorado	Aurora	Somerset Village	Colorado
Colorado	Centennial	Villages at Centennial	Colorado
Colorado	Colorado Springs	Bluffs at Spring Creek	Colorado
Colorado	Commerce City	River Oaks	Colorado
Colorado	Denver	First Creek	Colorado
Colorado	Denver	Parkfield	Colorado
Colorado	Denver	Parkfield II	Colorado
Colorado	Denver	Quincy Lake	Colorado
Colorado	Denver	Stapleton	Colorado
Colorado	Douglas County	Castlewood Ranch	Colorado
Colorado	Erie	Grandview	Colorado
Colorado	Fort Collins	Provincetowne	Colorado
Colorado	Golden	Canyon View	Colorado
Colorado	Lochbuie	Berkshire	Colorado
Colorado	Longmont	Harvest Junction	Colorado
Colorado	Longmont	Idaho Creek	Colorado
Colorado	Parker	Prairie Meadows	Colorado
Colorado	Westminster	Walnut Grove	Colorado
Florida	Apopka	Arbor Ridge	Orlando
Florida	Bradenton	Willowbrook	Tampa / FM
Florida	Brandon	Brussels Bay II	Tampa / FM
Florida	Brandon	Mirror Lake	Tampa / FM
Florida	Brandon	Northgate	Tampa / FM
Florida	Brandon	Stillwater	Tampa / FM
Florida	Brandon	The Gates	Tampa / FM
Florida	Cape Coral	Cape Coral	Tampa / FM
Florida	Clearwater	Sunset	Tampa / FM
Florida	Clermont	Southern Fields	Orlando
Florida	Dade City	Abbey Glen	Tampa / FM
Florida	Davenport	Bella Toscana	Orlando
Florida	Daytona Beach	Bayberry Lakes	Gold Coast
Florida	Deltona	Deltona	Gold Coast
Florida	Elkton	Cypress Lakes	Jacksonville
Florida	Fort Myers	Bayshore Commons	Tampa / FM
Florida	Fruit Cove	Millcreek Landing	Jacksonville
Florida	Jacksonville	Adams Lake III	Jacksonville
Florida	Jacksonville	Cedar Glen	Jacksonville
Florida	Jacksonville	Dunns Creek	Jacksonville
Florida	Jacksonville	Meadow Downs	Jacksonville
Florida	Jacksonville	Summer Lakes	Jacksonville
Florida	Kissimmee	Amber Pointe	Orlando
Florida	Kissimmee	Compass Bay	Orlando
Florida	Kissimmee	Crestwynd	Orlando
Florida	Kissimmee	Hammock Trails	Orlando
Florida	Kissimmee	Paradise Cay	Orlando
Florida	Lake Mary/Sanford	Sliverleaf	Orlando

State	City or County	Site	Division
Florida	Lakeland	Bridgewater	Orlando
Florida	Lakeland	Sundance III	Orlando
Florida	Lehigh Acres	Lehigh Acres Scattered Lots	Tampa / FM
Florida	Lehigh Acres	Town Lakes	Tampa / FM
Florida	Middleburg	Woodbridge	Jacksonville
Florida	Mt. Dora	Loch Leven	Orlando
Florida	New Port Richey	Monarch	Tampa / FM
Florida	New Port Richey	Viceroy	Tampa / FM
Florida	New Smyrna Beach	Isles of Sugar Mills	Gold Coast
Florida	New Smyrna Beach	Sugarmill Gardens	Gold Coast
Florida	New Smyrna Beach	Venetian Bay	Gold Coast
Florida	North Port	North Port	Tampa / FM
Florida	Orange County	Mable Bridge	Orlando
Florida	Orlando	Stratford Pointe	Orlando
Florida	Orlando	Timbercreek [Avalon Park] *	Orlando
Florida	Ormond Beach	Deer Creek	Gold Coast
Florida	Oviedo	Copper Chase	Orlando
Florida	Palm Bay	Palm Bay	Orlando
Florida	Palm Coast	Avalon	Gold Coast
Florida	Palm Coast	Palm Coast	Gold Coast
Florida	Pasco County	Legends Point	Tampa / FM
Florida	Poinciana	Poinciana - Polk	Orlando
Florida	Ponte Vedra	Florentine	Jacksonville
Florida	Port St. Lucie	Pine Trace	Orlando
Florida	Port St. Lucie	Port St. Lucie	Orlando
Florida	Punta Gorda	Creekside	Tampa / FM
Florida	Punta Gorda	Deep Creek	Tampa / FM
Florida	Punta Gorda	Oak Harbour	Tampa / FM
Florida	Punta Gorda	Pembroke	Tampa / FM
Florida	Punta Gorda	Tortuga Reserve	Tampa / FM
Florida	Punta Gorda	Tuscany Isles	Tampa / FM
Florida	Punta Gorda	Vistanna Villas	Tampa / FM
Florida	Riverview	Magnolia Trails	Tampa / FM
Florida	Riverview	Moss Landing	Tampa / FM
Florida	Riverview	St. Charles	Tampa / FM
Florida	Ruskin	Blackstone	Tampa / FM
Florida	Ruskin	Harbour Isles	Tampa / FM
Florida	Sanford	The Preserve at Eagle Lake	Orlando
Florida	Sebastian	Sebastian Landing	Orlando
Florida	Seffner	Mango	Tampa / FM
Florida	Seminole County	Cameron Heights	Orlando
Florida	St. Augustine	Grand Cay	Jacksonville
Florida	St. Augustine	Samara Lakes	Jacksonville
Florida	St. Augustine	Serenity Bay	Jacksonville
Florida	St. Augustine	Tuscany Village	Jacksonville
Florida	St. Cloud	Blackstone	Orlando
Florida	St. Cloud	Mallard Pond	Orlando
Florida	St. Cloud	Stevens Plantation	Orlando
Florida	Tampa	Asbel Estates	Tampa / FM
Florida	Tampa	Freedom Ridge	Tampa / FM
Florida	Tampa	Grey Pines	Tampa / FM
Florida	Tampa	Palm River	Tampa / FM
Florida	Tampa	Sheldon Shores	Tampa / FM
Florida	Tampa	Tierra del Sol	Tampa / FM
Florida	Valrico	Wedgewood	Tampa / FM
Florida	Venice	Stoneybrook	Tampa / FM
Florida	Wesley Chapel	New River	Tampa / FM
Florida	Wesley Chapel	Watergrass	Tampa / FM
Florida	Windermere	Lake Burden	Orlando
Florida	Windermere	Sharp Property	Orlando
Florida	Windermere	The Vineyards	Orlando

State	City or County	Site	Division
Florida	Winter Garden	Black Lake	Orlando
Florida	Winter Garden	Cobblestone	Orlando
Florida	Winter Garden	Emerald Ridge	Orlando
Florida	Winter Garden	Orchard	Orlando
Florida	Winter Haven	Old Lake Lucerne	Orlando
Florida	Yulee	Timber Creek	Jacksonville
Florida	Yulee	Timber Creek II	Jacksonville
Florida	Yulee	Timber Creek III	Jacksonville
Georgia	Atlanta	Waterford	Atlanta
Georgia	Buford	Lanier Springs	Atlanta
Georgia	Canton	Magnolias	Atlanta
Georgia	Dallas	Cedarcrest	Atlanta
Georgia	Dekalb County	Redan Road	Atlanta
Georgia	Fairburn	Cedar Grove	Atlanta
Georgia	Fairburn	Hampton Oaks	Atlanta
Georgia	Grayson	Hawthorn Farms	Atlanta
Georgia	Lawrenceville	Sweetwater Crossing	Atlanta
Georgia	Lithia Springs	Groovers Lake	Atlanta
Georgia	Lithia Springs	Parkside	Atlanta
Georgia	Marietta	Briarfield	Atlanta
Georgia	Newnan	Heritage Ridge	Atlanta
Georgia	Smyrna	Oakdale Road	Atlanta
Georgia	Union City	Sable Glen	Atlanta
Georgia	Woodstock	Wynchase	Atlanta
Illinois	Aurora	Lincoln Prairie	Chicago
Illinois	Crystal Lake	Park Place at Crystal Lake	Chicago
Illinois	Inverness	Creekside - Inverness	Chicago
Illinois	Naperville	Tramore	Chicago
Illinois	Plainfield	Streams of Plainfield	Chicago
Illinois	Woodstock	Savanna Grove	Chicago
Indiana	Avon	Glenfield	Indiana
Indiana	Avon	Ian's Point	Indiana
Indiana	Camby	Heartland Crossing	Indiana
Indiana	Carmel	Ridge at Hayden Run	Indiana
Indiana	Fishers	Sand Creek Farms	Indiana
Indiana	Greenfield	Copeland Farms	Indiana
Indiana	Indianapolis	Autumn Creek East	Indiana
Indiana	Indianapolis	Autumn Glen	Indiana
Indiana	Indianapolis	Brookfield Place	Indiana
Indiana	Indianapolis	Cedar Park	Indiana
Indiana	Indianapolis	Cumberland Lakes V	Indiana
Indiana	Indianapolis	Raymond Park	Indiana
Indiana	Indianapolis	River's Edge Townhome	Indiana
Indiana	Lawrence	Lawrence Woods I	Indiana
Indiana	New Whiteland	Oakville IV	Indiana
Indiana	New Whiteland	Tracey Commons	Indiana
Indiana	Noblesville	Monarch Springs	Indiana
Indiana	Pittsboro	North Park	Indiana
Indiana	Plainfield	Glen Haven West	Indiana
Indiana	Westfield	Oak Ridge Crossing	Indiana
Indiana	Westfield	The Lakes of Towne Road	Indiana
Indiana	Zionsville	Cass Estates	Indiana
Maryland	Charles County	Middletown South	Mid-Atlantic
Maryland	Montgomery County	Whetstone	Mid-Atlantic
Maryland	Prince George's County	Broad Creek Hollow [Xander Property] *	Mid-Atlantic
Maryland	Prince George's County	Cherry Tree Estates	Mid-Atlantic
Nevada	Henderson	Inspirada Village 1	Las Vegas
Nevada	Henderson	La Vita	Las Vegas
Nevada	Henderson	Mosaic	Las Vegas
Nevada	Las Vegas	Alturas	Las Vegas
Nevada	Las Vegas	Blue Diamond Springs	Las Vegas

State	City or County	Site	Division
Nevada	Las Vegas	Cambridge	Las Vegas
Nevada	Las Vegas	Chaco Canyon	Las Vegas
Nevada	Las Vegas	Desert Willows - 3B	Las Vegas
Nevada	Las Vegas	Duranto Village	Las Vegas
Nevada	Las Vegas	Gold Rush V(A)	Las Vegas
Nevada	Las Vegas	Huntington Villages/Villas [Huntington @ Rhodes Range Village A] *	Las Vegas
Nevada	Las Vegas	Huntington Villas	Las Vegas
Nevada	Las Vegas	Ladera Summerlin [Ladera Phase 1] *	Las Vegas
Nevada	Las Vegas	Manchester Park	Las Vegas
Nevada	Las Vegas	Mariposa Place	Las Vegas
Nevada	Las Vegas	Mayfield Estates	Las Vegas
Nevada	Las Vegas	Montecito	Las Vegas
Nevada	Las Vegas	Oxford Commons	Las Vegas
Nevada	Las Vegas	Parma Hills	Las Vegas
Nevada	Las Vegas	Quintessa	Las Vegas
Nevada	Las Vegas	Silver Hills	Las Vegas
Nevada	Las Vegas	Silverado Pines	Las Vegas
Nevada	Las Vegas	Sterling Ridge	Las Vegas
Nevada	Las Vegas	Sunset Ridge	Las Vegas
Nevada	Las Vegas	Sunset Ridge North	Las Vegas
Nevada	Las Vegas	Terracina III [Terracina/Terra Linda] *	Las Vegas
Nevada	Las Vegas	Westwind Unit 2	Las Vegas
Nevada	Moapa Valley	Logandale	Las Vegas
Nevada	North Las Vegas	Amarillo	Las Vegas
Nevada	North Las Vegas	La Vellia @ Akiante	Las Vegas
Nevada	North Las Vegas	Sierra Ranch [Villages @ Sierra Ranch 1,2,4,5&6] *	Las Vegas
New Mexico	Albuquerque	Anderson Heights	New Mexico
New Mexico	Albuquerque	Desert Pines II and III	New Mexico
New Mexico	Albuquerque	Menaul School	New Mexico
New Mexico	Albuquerque	Montecito	New Mexico
New Mexico	Albuquerque	Park Hill	New Mexico
New Mexico	Albuquerque	Vista Manzano	New Mexico
New Mexico	Rio Rancho	Northern Meadows	New Mexico
North Carolina	Cary	Amberly	Raleigh
North Carolina	Cary/Morrisville	Twin Lakes	Raleigh
North Carolina	Charlotte	Evanton	Charlotte
North Carolina	Charlotte	Hamilton Lakes	Charlotte
North Carolina	Charlotte	Harwood Landing	Charlotte
North Carolina	Charlotte	Kingstree I & II	Charlotte
North Carolina	Charlotte	Prosperity Ridge	Charlotte
North Carolina	Charlotte	Timberlands	Charlotte
North Carolina	Clayton	Cobblestone	Raleigh
North Carolina	Durham	Ravenstone	Raleigh
North Carolina	Durham	Ravenstone II	Raleigh
North Carolina	Durham	Ridgefield	Raleigh
North Carolina	Durham	Stonehill	Raleigh
North Carolina	Fuquay Varina	Park Grove	Raleigh
North Carolina	Garner	Bingham Station	Raleigh
North Carolina	Hillsborough	Kenion Grove	Raleigh
North Carolina	Mint Hill	Versage	Charlotte
North Carolina	Monroe	St. John's Forest	Charlotte
North Carolina	Mooresville	Waterlynn	Charlotte
North Carolina	Raleigh	Battle Ridge	Raleigh
North Carolina	Raleigh	Chastain	Raleigh
North Carolina	Raleigh	Eagle Ridge	Raleigh
North Carolina	Raleigh	Jamison's Run	Raleigh
North Carolina	Raleigh	Wynbrooke	Raleigh
North Carolina	Ranlo	Mountain View	Charlotte
South Carolina	Bluffton Park	Bluffton Park	South Carolina
South Carolina	Columbia	Indigo Springs	South Carolina
South Carolina	Columbia	Indigo Springs II	South Carolina

State	City or County	Site	Division
South Carolina	Columbia	Rivendale	South Carolina
South Carolina	Columbia	Sassafras Springs	South Carolina
South Carolina	Elgin	Spears Creek Village	South Carolina
South Carolina	Fort Mill	Catawba Village	Charlotte
South Carolina	Fort Mill	English Trails	Charlotte
South Carolina	Fort Mill	Madison Green	Charlotte
South Carolina	Hanahan	Eagle Bluff	South Carolina
South Carolina	Hanahan	Gardens at Tanner Plantation	South Carolina
South Carolina	Hanahan	Tanner Commons	South Carolina
South Carolina	Ladson	Eagle Run	South Carolina
South Carolina	Ladson	Eagle Run II	South Carolina
South Carolina	Lexington	Charter Oak Road	South Carolina
South Carolina	Lexington	Millstream	South Carolina
South Carolina	Lexington	Riverchase Way	South Carolina
South Carolina	Lexington	Settlers Pointe	South Carolina
South Carolina	Moncks Corner	Foxbank	South Carolina
South Carolina	North Charleston	Charleston Park	South Carolina
South Carolina	Summerville	Blackberry Creek	South Carolina
Texas	Austin	Circle C Ranch	Austin
Texas	Austin	Los Arboles	Austin
Texas	Austin	McKinney Heights	Austin
Texas	Austin	McKinney Meadows	Austin
Texas	Austin	Oak at Twin Creeks	Austin
Texas	Austin	Springfield	Austin
Texas	Balch Springs	Spring Ridge	Dallas-Fort Worth
Texas	Boerne	Stage Run	San Antonio
Texas	Cedar Hill	Cedar Crest	Dallas-Fort Worth
Texas	Cedar Hill	High Pointe East	Dallas-Fort Worth
Texas	Cedar Park	Silverado	Austin
Texas	Cibolo	Spring Tree	San Antonio
Texas	Converse	Fields of Dover	San Antonio
Texas	Cypress	Cypress Ridge	Houston
Texas	Cypress	Westgate	Houston
Texas	Cypress	Cypress Springs	Houston
Texas	Cypress	Stablewood Farms	Houston
Texas	Dallas	College Terrace	Dallas-Fort Worth
Texas	Dallas	Harbor Glen	Dallas-Fort Worth
Texas	Dallas	Morada Ranch	Dallas-Fort Worth
Texas	Dallas	Prairie Creek	Dallas-Fort Worth
Texas	Dallas	St. Augustine Park Estates	Dallas-Fort Worth
Texas	Dallas	Sunrise Creek	Dallas-Fort Worth
Texas	Dallas	Sunset Point	Dallas-Fort Worth
Texas	Dallas	Trinity Forest	Dallas-Fort Worth
Texas	Dallas	Woodberry Creek	Dallas-Fort Worth
Texas	De Soto	Summer Meadows	Dallas-Fort Worth
Texas	Del Valle	Berdoll Farms	Austin
Texas	Del Valle	Meadows at Berdoll	Austin
Texas	Edinburg	Los Lagos	Rio Grande Valley
Texas	Edinburg	Los Lagos IV	Rio Grande Valley
Texas	Edinburg	Sugarland Estates	Rio Grande Valley
Texas	Euless	Midway Square	Dallas-Fort Worth
Texas	Fort Worth	Amber Trails	Dallas-Fort Worth
Texas	Fort Worth	Caballito Del Mar	Dallas-Fort Worth
Texas	Fort Worth	Hidden Meadows	Dallas-Fort Worth
Texas	Fort Worth	Rolling Hills	Dallas-Fort Worth
Texas	Fort Worth	Trail Lake Estates	Dallas-Fort Worth
Texas	Fort Worth	Weldon Meadows	Dallas-Fort Worth
Texas	Georgetown	Terraces at Woodlake	Austin
Texas	Georgetown	University Park	Austin
Texas	Grand Prairie	Lake Park	Dallas-Fort Worth
Texas	Grand Prairie	Monterrey Park	Dallas-Fort Worth

State	City or County	Site	Division
Texas	Haltom City	Spring Lake	Dallas-Fort Worth
Texas	Houston	Autumn Glen	Houston
Texas	Houston	Crescent Park Village	Houston
Texas	Houston	Enclave at Bridgewater I	Houston
Texas	Houston	Fairway Villas	Houston
Texas	Houston	Forest Ridge	Houston
Texas	Houston	Legends Run	Houston
Texas	Houston	Remington Ranch	Houston
Texas	Houston	Sierra Vista	Houston
Texas	Houston	Sky View Park	Houston
Texas	Houston	Twin Lakes	Houston
Texas	Houston	Westgreen	Houston
Texas	Houston	Willow Springs	Houston
Texas	Humble	Kenswick	Houston
Texas	Humble	Liberty Lakes	Houston
Texas	Katy	Woodcreek Reserve	Houston
Texas	Kyle	Waterleaf	Austin
Texas	League City	Bay Colony	Houston
Texas	League City	Leisure Lakes	Houston
Texas	Leander	Westwood	Austin
Texas	Live Oak	Woodcrest [Woodcrest Unit 12A/12B] *	San Antonio
Texas	McAllen	Meadow Ridge	Rio Grande Valley
Texas	McAllen	Northgate	Rio Grande Valley
Texas	McKinney	Harvest Bend	Dallas-Fort Worth
Texas	Pasadena	Deer Creek I	Houston
Texas	Pflugerville	Greenridge	Austin
Texas	Pflugerville	Meadow Park	Austin
Texas	Pflugerville	Northtown	Austin
Texas	Pflugerville	Spring Trails	Austin
Texas	Pharr	Woodcrest/El Dorado Estates	Rio Grande Valley
Texas	Plano	Oakpoint	Dallas-Fort Worth
Texas	Red Oak	Quail Run	Dallas-Fort Worth
Texas	Round Rock	Chisholm Crossing	Austin
Texas	San Antonio	Cambridge	San Antonio
Texas	San Antonio	Cobblestone	San Antonio
Texas	San Antonio	Falcon Heights	San Antonio
Texas	San Antonio	Fox Grove	San Antonio
Texas	San Antonio	Fox Grove II	San Antonio
Texas	San Antonio	Greenway Terrace	San Antonio
Texas	San Antonio	Herff Ranch	San Antonio
Texas	San Antonio	Heritage Park	San Antonio
Texas	San Antonio	Highland Park	San Antonio
Texas	San Antonio	Hunt Crossing	San Antonio
Texas	San Antonio	Iron Mountain Ranch	San Antonio
Texas	San Antonio	Meadows of Bridgwood	San Antonio
Texas	San Antonio	Mesa Creek	San Antonio
Texas	San Antonio	Mystic Park	San Antonio
Texas	San Antonio	Quarry at Iron Mountain	San Antonio
Texas	San Antonio	Raintree Subdivision Unit 8	San Antonio
Texas	San Antonio	Retreat at Ingram Hills	San Antonio
Texas	San Antonio	Saddle Mountain (Oakstone)	San Antonio
Texas	San Antonio	Spring Tree IV and V	San Antonio
Texas	San Antonio	Sundance	San Antonio
Texas	San Antonio	Sunset Unit 3	San Antonio
Texas	San Antonio	The Links at Scenic Hills	San Antonio
Texas	San Antonio	Triana	San Antonio
Texas	San Antonio	Walzen Farm (Rosewood)	San Antonio
Texas	San Antonio	Woods of Alon	San Antonio
Texas	San Antonio	Zarzamora	San Antonio
Texas	San Marcos	El Camino Real	Austin
Texas	Spring	Springbrook	Houston

State	City or County	Site	Division
Texas	Taylor	Summerfield	Austin
Texas	Temple	Sage Meadows	Austin
Texas	Temple	Village of Sage Meadows	Austin
Texas	The Colony	Cascades	Dallas-Fort Worth
Texas	Tomball	Lakewood Place	Houston
Texas	Tomball	Northern Point	Houston
Texas	Watauga	Parkside Estates	Dallas-Fort Worth
Virginia	Fairfax County	Huntington Mews	Mid-Atlantic
Virginia	Fairfax County	Townes at Madison Lane	Mid-Atlantic
Virginia	Loudoun County	Martin's Chase	Mid-Atlantic
Wisconsin	Kenosha	Tyler's Ridge	Chicago

Total Number of Sites = 532

* The additional name in brackets is included because Plaintiffs have referred to a particular Site or portion of that Site by a name that is different from the name used by KB Home, which is listed first. The inclusion of both names in this Appendix is intended to assure that all areas referred to by either the bracketed or the unbracketed name are subject to the release and covenant not to sue.