

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

**In re**

**BUILDING MATERIALS HOLDING  
CORPORATION, et al.**

**Reorganized Debtors.**

**Case No. 09-12074 (KJC)**

**Chapter 11**

**Jointly Administered**

**THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY'S RESPONSE TO  
REORGANIZED DEBTORS' EIGHTH NOTICE OF CLAIMS AND SCHEDULED  
AMOUNTS PREVIOUSLY SATISFIED [Docket No. 1640]**

Building Materials Holding Corporation and its affiliates (BMHC) filed its Eighth Notice of Claims and Scheduled Amounts Previously Satisfied (Eighth Notice) on July 23, 2010. The Eighth Notice states that the State of Washington, Department of Ecology's (Ecology) Claim No. 2844 for \$834.50 has been previously satisfied. This is an error. Ecology's claim has not been satisfied.

On January 27, 2009, Ecology billed BMC West Truss & Components \$834.50 for fees related to Permit No. SO3009729. On the same day, it also billed BMC West Millwork \$834.50 for fees related to Permit No. SO3009896.

On March 6, 2009, Ecology received payment from BMHC for \$834.50.<sup>1</sup> Ecology processed it on March 6, 2009, and applied it to fees owed on Permit No. SO3009729. *See* Exhibit A. The invoice that BMHC submitted along with its \$834.50 payment indicated that the payment was for Permit No. SO3009729. *See* Exhibit C. However, BMHC also typed

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<sup>1</sup> BMHC paid the permit fee with check number 1000130857, dated March 2, 2009. The check number is incorrectly stated as 1000138057 on the BMHC's Eighth Notice.

“SO3009896” on the check. *See* Exhibit B. Ecology followed BMHC’s instructions on the invoice, and applied the payment to Permit No. SO3009729.

On June 16, 2009, BMHC filed its petition for relief under Chapter 11. At that time, Ecology’s January 27, 2009, bill for \$834.50 related to Permit No. SO3009896 remained unpaid. On Dec. 14, 2009, Ecology submitted a claim for \$834.50 for fees related to Permit No. SO3009896. BMHC’s noticing agent, Garden City Group, Inc., received the claim on December 15, 2009, and assigned it Claim No. 2844.

On July 27, 2010, Ecology received the Eighth Notice, which states that Ecology’s claim had been identified by BMHC as having been satisfied on March 2, 2009. BMHC may have believed it was making payment on Permit No. SO3009896. However, Ecology credited the March 2, 2009, payment to the account of Permit No. SO3009729 because that was what BMHC had indicated should be done on the permit invoice submitted with their check.

The Department of Ecology respectfully asserts that its Claim No. 2844 has not been satisfied and therefore should be allowed as part of the bankruptcy.

Dated: August 11, 2010

Respectfully submitted,

ROBERT M. MCKENNA  
Attorney General

/s/ Lee Overton  
Lee Overton, WSBA # 38055  
Assistant Attorney General  
Attorneys for State of Washington  
2425 Bristol Court SW, 2nd Floor  
P.O. Box 40117  
Olympia, WA 98504-0117  
(360) 586-2668  
(360) 586-6760 (fax)

CERTIFICATE OF SERVICE

I certify that on August 11, 2010, a true copy of the foregoing State of Washington, Department of Ecology's Response to the Reorganized Debtors' Eighth Notice of Claims and Scheduled Amounts Previously Satisfied was served on the Clerk of the United States Bankruptcy Court for the District of Delaware, and counsel for the Reorganized Debtors.

/s/ Lee Overton

Lee Overton

**RECEIPT**

Department of Ecology (4610)  
 PO Box 47611  
 Olympia, WA 98504-7611  
 (360) 407-7095

Receipt Number  
 Manual Receipt

09CJ016947

Document Number 461P1547 CJ Date 03/06/2009 FM 21

Remitter Name BMHC Receipt Name BMC WEST

Check/Draw Number 1000130857

Document Amount 834.50

Method of Payment Check

Comment Description WWD

REF DOC NR	REF DOC SFX	INV NR	ID NR	SUB ID NR	T C	R FUND	MAJ GRP SRC	SUB SRC	CNTY WORK CLS	AI	ORG PRJ	SUB PRJ	SUB PHS	SUB OBJ	SUB VAR GIL	SUB DR	SUB SID CR	ALLOC AMT
2009-SC03009729					001	-176	02 86	000196										834.50

BMHC Corporation  
P.O. Box 70006  
Boise, Idaho 83707-0106  
(208) 331-4340

WASHINGTON STATE  
DEPT ECOLOGY CASH UNIT  
OLYMPIA, WA 98504-7611

88135

Check NO.:1000130857  
02-MAR-09

Invoice Date	Invoice No.	P.O. Number	Comment	Invoice Amount	Discounts	Net Payabl
Jan 27, 2009	2009SO3009896A	7253	SO3009896	834.50	0.00	834.50



Stormwater Industrial General Permit Invoice

3.12.09

BMC WEST TRUSS & COMPONENTS
Attn: BEVERLY ENGLISH
9721 - 40TH AVENUE SW
TACOMA, WA 98499

Remit w/envelope

Invoice #: 2009-SO3009729
Permit: SO3009729
Fee Type: Stormwater Industrial Gp
Category: 6. \$10,000,000 gross revenue and greater

Table with 7 columns: Date, Description, Annual Fee, Amount Billed, Amount Paid, Amount Due, Due Date. Rows include Annual Fee Amount, Billing Amount, Payment, and Total Annual Fee.

This invoice reflects any previously-billed charges for the first half, and any NEW charges for the second half of Fiscal Year 2009 (July 1, 2008, through June 30, 2009).

- \* Permit fees will continue until the permit has been terminated by Ecology regardless of when the permitted activity ceased.
\* Delinquent accounts will be turned over for collection.

TACOMA
240-02
Date Due 3/13/09
Amount Due 834.50
Discount Amt. 0
Account No. 8640-0000
Approval [Signature]

\* Stormwater Discharge Permit Fee Questions should be addressed to: Shirley Rollins, 360/407-7530 (SR01461@ecy.wa.gov).

Please send check or money order payable to:
Department of Ecology
Cashiering Unit
PO Box 47611
Olympia WA 98504-7611

(DO NOT SEND CASH!)

1/27/2009 7:38:01AM 60.00

Detach and return this portion with your check. PLEASE INCLUDE THE INVOICE NUMBER ON YOUR CHECK.

Printed: Jan 27, 2009

Stormwater Industrial General Fee Billing Notice

Past Due Amount This Fiscal Year: \$0.00
Current Amount Due: \$834.50
Total Amount Due: \$834.50

This Amount Due By 03/13/2009

MAR 5 - 2009

BMC WEST TRUSS & COMPONENTS
Attn: BEVERLY ENGLISH
9721 - 40TH AVENUE SW
TACOMA, WA 98499

Invoice #: 2009-SO3009729
Permit: SO3009729
Coding: 176 - WWD - 02-86-000196
ECY 010-72b (6/99)