IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE

IN RE:) Chapter 11
BUILDING MATERIALS HOLDING CORPORATION, et al., 1	Case No. 09-12074 (KJC)
Debtors.	Jointly Administered
	Ref. Docket No. <u>303</u>

ORDER AUTHORIZING THE DEBTORS TO (A) REJECT THAT CERTAIN LEASE WITH UNION PACIFIC RAILROAD COMPANY AND (B) ABANDON CERTAIN RELATED PROPERTY, NUNC PRO TUNC TO THE REJECTION EFFECTIVE DATE

Upon consideration of the motion (the "Motion") of Building Materials Holding
Corporation and its affiliates, as debtors and debtors in possession (collectively, the "Debtors")
for entry of an order authorizing the Debtors to (a) reject that certain lease by and between BMC
West Corporation and Union Pacific Railroad Company, dated as of September 26, 2007 (the
"Union Pacific Lease") for the use and occupancy of the premises identified located in Merced,
California that are identified on Exhibit A which is attached to the Union Pacific Lease, and (b)
abandon certain related property, as set forth in the Motion; and the Court having found that
venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. sections
1408 and 1409; and the Court having found that the relief requested in the Motion is in the best
interests of the Debtors' estates, their creditors, and other parties in interest; and notice of the
Motion and the opportunity for a hearing on the Motion was appropriate under the particular

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The Debtors, along with the last four digits of each Debtor's tax identification number, are as follows: Building Materials Holding Corporation (4269), BMC West Corporation (0454), SelectBuild Construction, Inc. (1340), SelectBuild Northern California, Inc. (7579), Illinois Framing, Inc. (4451), C Construction, Inc. (8206), TWF Construction, Inc. (3334), H.N.R. Framing Systems, Inc. (4329), SelectBuild Southern California, Inc. (9378), SelectBuild Nevada, Inc. (8912), SelectBuild Arizona, LLC (0036), and SelectBuild Illinois, LLC (0792). The mailing address for the Debtors is 720 Park Boulevard, Suite 200, Boise, Idaho 83712.

circumstances; and the Court having reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

- 1. The Motion is granted as set forth below.
- 2. Pursuant to section 365(a) of the Bankruptcy Code, the Debtors are authorized to reject the Union Pacific Lease, to the extent that the Union Pacific Lease may be determined at a later date to have been in effect as of the Petition Date.² Effective immediately, the Union Pacific Lease, to the extent that it remains in effect, is deemed rejected (the "Rejection"), with the Rejection being effective as of the Petition Date (the "Rejection Effective Date").
- 3. Notwithstanding the foregoing, nothing contained in this Order shall be deemed to be a finding that the Union Pacific Lease remained in effect as of the Petition Date.
- 4. Pursuant to section 554 of the Bankruptcy Code, the Debtors are authorized to abandon the Sheds.
- 5. Union Pacific Railroad Company shall have until the date fixed by this Court pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(3) to file any claim for damages arising from the rejection of the Union Pacific Lease.
- 6. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

² Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to them in the Motion.

- 7. The Debtors do not waive any claims they may have against Union Pacific Railroad Company, whether or not such claims arise under, are related to the rejection of, or are independent of the Union Pacific Lease.
- 8. Nothing herein shall prejudice the rights of the Debtors to argue that any claim for damages arising from the rejection of the Union Pacific Lease is limited to the remedies available under any applicable termination provision of the Union Pacific Lease, or that any such claim is an obligation of a third party, and not that of the Debtors or their estates.
- 9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and the requirements of Bankruptcy Rules 6006(c), 6007, and the Local Rules are satisfied by such notice.
- 10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.
- 11. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Date: Wilmington, Delaware

Kevin J. Carey Chief United States Bankruptcy Judge