5/049/036

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

Department of Natural Resources

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas & Mining

JOHN R. BAZA
Division Director

October 31, 2005

TO: Minerals File

THRU: Susan White, Mining Coordinator SMW

THRU: Lynn Kunzler, Reclamation Specialist BQ for Lynn Kunzler

FROM: Beth Ericksen, Surety Coordinator BQ

SUBJECT: Recommendation for Acceptance of Name, PABCO Building Products, LLC dba Interstate Brick Company, for Active Status Permits: M/049/004, M/049/005, M/049/027 M/049/029, M/049/030, Utah County, Utah, M/043/027, Summit County, Utah
Inactive and Bonded Permits: M/003/004, M/045/006, M/049/002, S/049/003
Exploration Active permits: E/049/044, E/049/051, Utah County, Utah

During the month of July 2005, Peck Rock Products initiated transfer of the Powell mine to PABCO Building Products, LLC dba Interstate Brick Company. Numerous inconsistencies with the titling of the surety bond and errors in the reclamation contract delayed the finalization of this transfer. Email and telephone discussions with Interstate Brick attorney, Randy Coke resulted in him partially addressing the requested name change with the Utah Department of Commerce. Originally the dba owner was Pacific Coast Building Supply Inc. PABCO Building Products, LLC dba Interstate Brick Company submitted more than one filing change to the Utah Department of Commerce, which introduced several inconsistencies that weren't fully understood until September 2005.

Mr. Coke required further clarity regarding the dba owner name change since the name change transfer had been accepted by the Utah Department of Commerce. Since it had been accepted, he thought there were no further concerns. Through emails and phone calls, I expressed that the dba owner transfer was required and acceptable, however, the dba name of Interstate Brick as registered with the Utah Department of Commerce was not the name being used on Division contracts and bonds. The dba name used with the Division was

'Interstate Brick Company'. Several conversations with the Utah Department of Commerce took place, and during the month of September, I spoke with Annie Boyer about the dba status. Since Annie had already spoken to Mr. Coke she was at the understanding that the primary concern was the change of dba ownership name. Once Annie understood the unresolved problem was the dba name and not the dba ownership, she agreed that action was required to remedy the dba name with the Utah Department of Commerce. She said she would call Mr. Coke and advise him accordingly.

In October 2005, I received an email from Mr. Coke suggesting that the Division drop the word 'company' from all contracts and bonds with the Division. I made another inquiry to the Utah Department of Commerce and spoke with Director Kathy Berg. She indicated that PABCO Building Products, LLC is a California company and this state allows the use of the word 'company' under assumed names. In the state of Utah, only a corporation can use the word 'company' as part of their name. The Utah Department of Commerce required the dba name simplification to Interstate Brick. However, it does not dismiss the fact that this company can rightfully use dba Interstate Brick Company when conducting business. This exception is made because of the designations enabled by California statute.

From the information I have been able to obtain, it appears in 2003 Interstate Brick Company reorganized from a single corporate entity to the parent company PABCO Building Products, LLC. This company wholly owns Interstate Brick Company. PABCO Building Products, LLC and dba Interstate Brick are both in good standing with the Utah Department of Commerce. Principal names and positions are clear and identify there is a relationship between PABCO Building Products, LLC and dba Interstate Brick. Since PABCO Building Products, LLC is the dba owner; Interstate Brick is registered under the assumed name (dba) because it is not a Limited Liability Company, LLC, nor a Corporation. As long as Interstate Brick Company uses the dba designation in all of its transactions with the Division, it avoids any confusion in how they are organized to do business. In addition, signature authority rests only with the dba owner PABCO Building Products, LLC resulting in this LLC accepting full liability and responsibility for any and all Division contracts and bonds. Under these conditions, it is my recommendation that the Division allow the use of the name PABCO Building Products, LLC dba Interstate Brick Company on all Division transactions.