



201111150132
Skagit County Auditor

11/15/2011 Page

1 of

13 12:02PM

Land Title

Document Title:

Amendment to Deed of Trust

Reference Number:

2008 0730 6095

Grantor(s):

☐ additional grantor names on page ____

1. Sierra Pacific Industries

2.

Grantee(s):

☐ additional grantee names on page ____

1. American Agcredit, FICA

2. Stewart Title Guaranty

Abbreviated legal description:

☐ full legal on page(s) ____

Assessor Parcel / Tax ID Number:

☐ additional tax parcel number(s) on page ____

I, Kelly Ogata Land Title recording officer hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$62.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed

Dated

11-15-2011

AFTER RECORDING MAIL TO:

Name Brenda T. Dieck, Esq.
Address White & Case LLP
633 West Fifth Street, Suite 1900
City/State Los Angeles, California 90071-2007

LAND TITLE OF SKAGIT COUNTY

129978-5

Document Title(s): (or transactions contained therein)

FIRST AMENDMENT TO LINE OF CREDIT DEED OF TRUST, SECURITY AGREEMENT,
ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (SKAGIT COUNTY,
WASHINGTON) FINANCING STATEMENT COVERING TIMBER TO BE CUT AND AS
EXTRACTED COLLATERAL

Reference Number(s) of Related Documents:

200807300095

Grantor:

SIERRA PACIFIC INDUSTRIES, a California corporation
(successor by merger to Sierra Pacific Holding Company)

Grantee (Trustee):

STEWART TITLE GUARANTY COMPANY

Grantee (Beneficiary):

AMERICAN AGCREDIT, FLCA, as Collateral Agent

NOTE: *The auditor/recorder will rely on the information on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.*



201111150132

Skagit County Auditor

PREPARED BY, RECORDING REQUESTED
BY, AND WHEN RECORDED RETURN TO:

White & Case LLP

633 West Fifth Street, Suite 1900

Los Angeles, California 90071

Attention: Brenda T. Dieck, Esq.

Reference # 1448012/0005

This document is intended to be recorded
in Skagit County, Washington

**FIRST AMENDMENT TO LINE OF CREDIT DEED OF TRUST, SECURITY
AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING
(SKAGIT COUNTY, WASHINGTON) FINANCING STATEMENT COVERING
TIMBER TO BE CUT AND AS EXTRACTED COLLATERAL**

THIS FIRST AMENDMENT TO LINE OF CREDIT DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (SKAGIT COUNTY, WASHINGTON) FINANCING STATEMENT COVERING TIMBER TO BE CUT AND AS EXTRACTED COLLATERAL (as amended, supplemented or otherwise modified from time to time, this "First Amendment"), is made as of November 15, 2011, by and between SIERRA PACIFIC INDUSTRIES, a California corporation (successor by merger to Sierra Pacific Holding Company) ("Grantor"), having an address at P.O. Box 496028, Redding, California 96049, and AMERICAN AGCREDIT, FLCA, in its capacity as Collateral Agent (together with its successors and assigns, "Collateral Agent") for and representative of the Secured Creditors (as defined in the Intercreditor Agreement (as hereinafter defined)) (Collateral Agent, together with its successors and assigns, "Beneficiary") having an address at 5560 South Broadway, Eureka, California 95503. All initially capitalized terms used in this First Amendment but not otherwise defined herein shall have the respective meanings ascribed thereto in the Intercreditor Agreement.

WITNESSETH:

WHEREAS, Grantor (for itself and as successor by merger to Sierra Pacific Holding Company), Wetsel-Oviatt Lumber Co., a California corporation ("Guarantor"), Collateral Agent and the other Secured Creditors have entered into that certain Collateral Agency and Intercreditor Agreement dated as of June 11, 2008 (the "Original Intercreditor Agreement"), to establish certain rights with respect to the Collateral and the sharing of proceeds thereof among the Secured Creditors;



201111150132

Skagit County Auditor

WHEREAS, Grantor is the owner of fee simple title to the Mortgaged Property, subject to Permitted Liens (as such terms are defined in the Deed of Trust (as hereinafter defined));

WHEREAS, in connection with the execution of the Original Intercreditor Agreement and certain amendments and extensions of credit under the Senior Debt Documents, Grantor executed a Line of Credit Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing (Skagit County, Washington) Financing Statement Covering Timber To Be Cut and As Extracted Collateral, dated as of July 21, 2008, to Stewart Title Guaranty Company, a Texas corporation, as Trustee for the benefit of Beneficiary, as Collateral Agent for the benefit of the Secured Creditors, and recorded on July 30, 2008, as Document Number 200807300095, in the Office of the Recorder of Skagit County, Washington (the "Deed of Trust") encumbering certain real property as more particularly described therein;

WHEREAS, (i) Grantor has entered into that certain Third Amended and Restated Credit Agreement dated as of November 15, 2011 (as amended, restated, extended, supplemented, renewed, replaced, refinanced or otherwise modified from time to time, the "WF Credit Agreement") by and among Grantor, Guarantor, the WF Facility Lenders, the WF Facility Agent, the WF L/C Issuer and the WF Swing Line Lender, in order to amend and restate the Prior WF Credit Agreement (as defined in the First Amendment to Intercreditor Agreement (as defined below)) and pursuant to which the WF Facility Lenders have agreed, from time to time, subject to the terms and conditions of the WF Credit Agreement, (a) to make revolving loans to Grantor, (b) to participate in letters of credit issued for the account of Grantor by the WF L/C Issuer, and (c) to participate in swing line loans made to Grantor by the WF Swing Line Lender, which loans and letters of credit have been guaranteed by the guarantors referred to therein, and (ii) each WF Facility Lender that is not a party to the Prior WF Credit Agreement has executed a Counterpart to the Intercreditor Agreement in order to become a Secured Creditor under the Intercreditor Agreement;

WHEREAS, (i) Grantor, Guarantor, the other guarantors referred to therein, the lenders from time to time party thereto and American AgCredit, PCA, as administrative agent for such lenders, have entered into that certain Credit Agreement dated as of November 15, 2011 (as amended, restated, extended, supplemented, renewed, replaced, refinanced or otherwise modified from time to time, the "2011 AAC Credit Agreement") providing for the making of senior secured term loans to Grantor, and (ii) American AgCredit, PCA and the lenders under the 2011 AAC Credit Agreement have executed a Counterpart to the Intercreditor Agreement in order to become Additional Creditors under the Intercreditor Agreement in accordance with Section 5.07 thereof;

WHEREAS, Grantor, Guarantor, the other guarantors referred to therein, Collateral Agent and the other Secured Creditors have entered into that certain Amendment No. 1 to Collateral Agency and Intercreditor Agreement dated as of November 15, 2011 (the "First Amendment to Intercreditor Agreement") to (i) acknowledge that the WF Credit Agreement refinances and replaces the Prior WF Credit Agreement and increases the aggregate revolving loan commitments of the WF Facility Lenders from the aggregate revolving loan commitments available under the Prior WF Credit Agreement, (ii) acknowledge the senior secured term loans



provided to Grantor under the 2011 AAC Credit Agreement, and (iii) further establish certain rights with respect to the Collateral and the sharing of proceeds thereof among the Secured Creditors. The Original Intercreditor Agreement, as amended by the First Amendment to Intercreditor Agreement, as the foregoing may hereafter be amended, restated, supplemented or otherwise modified from time to time, are collectively referred to herein as the "Intercreditor Agreement";

WHEREAS, the Deed of Trust, as amended by this First Amendment, remains in full force and effect and the security interest and the priority of such security interest granted to the Secured Creditors continues (without interruption) thereunder; and

WHEREAS, Grantor desires to execute this First Amendment pursuant to the terms of the First Amendment to Intercreditor Agreement to (i) give notice of the execution and delivery of the WF Credit Agreement and the 2011 AAC Credit Agreement, each of which is a Senior Debt Document, and (ii) confirm that the Deed of Trust, as amended by this First Amendment, shall continue to secure the Obligations (as defined in the Deed of Trust, as amended by this First Amendment).

NOW, THEREFORE, in consideration of the execution and delivery by Beneficiary of the First Amendment to Intercreditor Agreement and other benefits provided therein to Grantor, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby makes the following representations and warranties and hereby covenants and agrees with Beneficiary as follows:

1. It is hereby acknowledged and agreed that each reference in the Deed of Trust to the "Intercreditor Agreement" shall mean and be a reference to the Intercreditor Agreement, as defined in this First Amendment.

2. It is hereby acknowledged and agreed that the WF Credit Agreement and the 2011 AAC Credit Agreement constitute Senior Debt Documents for all purposes under the Deed of Trust, including, without limitation, the definition of "Obligations" set forth in Section 1.01 of the Deed of Trust.

3. Section 3.07 of the Deed of Trust is hereby amended and restated in its entirety as follows:

3.07 Application of Foreclosure Proceeds. The proceeds of any foreclosure sale pursuant to this Deed of Trust shall be applied in accordance with Section 3.02 of the Intercreditor Agreement.

4. Section 4.04 of the Deed of Trust is hereby amended by replacing the addresses set forth therein with the following addresses:

If to Grantor:

Sierra Pacific Industries
P.O. Box 496028
Redding, CA 96049



Attention: Chief Financial Officer

with a copy to:

Dun & Martinek LLP
2313 I Street
Eureka, CA 95501
Attention: David H. Dun

If to Beneficiary:

American AgCredit, FLCA
5560 South Broadway
Eureka, CA 95503
Attention: Gary Van Schuyver

with a copy to:

White & Case LLP
633 West Fifth Street, Suite 1900
Los Angeles, CA 90071-2007
Attention: Brenda T. Dieck

5. The following sections are hereby inserted into the Deed of Trust as Section 4.14 and Section 4.15, respectively:

4.14 Multisite Real Estate Transaction. Grantor acknowledges that this Deed of Trust is one of a number of other deeds of trust and security documents that secure the Obligations. Grantor agrees that the lien of this Deed of Trust shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Beneficiary, and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Beneficiary of any security for or guarantees of any of the Obligations hereby secured, or by any failure, neglect or omission on the part of Beneficiary to realize upon or protect any Obligation or indebtedness hereby secured or any collateral security therefor including the other deeds of trust and other security documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Obligations secured or of any of the collateral security therefor, including the other deeds of trust and other security documents or of any guarantee thereof, and Beneficiary may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other deeds of trust and other security documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Beneficiary's rights and remedies under any or all of the other deeds of trust and other security documents shall not in any manner impair the Obligations or indebtedness hereby secured or the lien of this Deed of Trust and any exercise of the rights or remedies



of Beneficiary hereunder shall not impair the lien of any of the other deeds of trust and other security documents or any of Beneficiary's rights and remedies thereunder. Grantor specifically consents and agrees that Beneficiary may exercise its rights and remedies hereunder and under the other deeds of trust and other security documents separately or concurrently and in any order that it may deem appropriate and waives any rights of subrogation.

4.15 Future Advances. This Deed of Trust is given to secure the Obligations under, or in respect of, the Senior Debt Documents and, without limitation to the definition of "Obligations" set forth herein, it is hereby acknowledged and agreed that this Deed of Trust shall secure not only Obligations with respect to presently existing indebtedness under the Senior Debt Documents but also any and all other obligations which may hereafter be owing to the Secured Creditors under the Senior Debt Documents, however incurred, whether interest, discount or otherwise, and whether the same shall be deferred, accrued or capitalized, including future advances and issuances of notes, whether such advances, issuances or obligations are obligatory or to be made at the option of the Secured Creditors, or otherwise, to the same extent as if such future advances, issuances or obligations were made on the date of the execution of this Deed of Trust. The lien of this Deed of Trust shall be valid as to all Obligations secured hereby, including future issuances, advances and obligations, from the time of its filing for record in the recorder's office of the county in which the Mortgaged Property is located. This Deed of Trust is intended to and shall be valid and have priority over all subsequent Liens and encumbrances, including statutory Liens, excepting solely taxes and assessments levied on the real estate, to the extent of the maximum amount secured hereby and Permitted Liens related thereto. Although this Deed of Trust is given to secure all future issuances of notes and all future obligations incurred by Grantor to Beneficiary and/or the other Secured Creditors, and all future advances made by Beneficiary and/or the other Secured Creditors to or for the benefit of Grantor and any guarantor and/or the Mortgaged Property, whether obligatory or optional, Grantor and Beneficiary hereby acknowledge and agree that Beneficiary and the other Secured Creditors are obligated by the terms of the Senior Debt Documents to make certain future issuances, advances or obligations, subject to the fulfillment of the relevant conditions set forth in the Senior Debt Documents.

6. Subsection 5.02(a) of the Deed of Trust is hereby amended and restated in its entirety as follows:

(a) The name of the Debtor (Grantor) is: SIERRA PACIFIC INDUSTRIES, a California corporation, having an address as set forth in the first paragraph of this Deed of Trust, whose organizational number is C1994162.

7. Section 6.01 of the Deed of Trust is hereby amended as follows:

(i) The title thereof shall be "**Assignment of Rents and Leases**";



- (ii) The text "and Leases" shall be inserted between the word "Rents" and "to" in the third line thereof;
- (iii) The text "the Rents are" shall be inserted between the words "whether" and "now" in the third line thereof;
- (iv) The text "and Leases" shall be inserted after the phrase "for all such Rents" in the ninth line thereof;
- (v) The text "and Leases" shall be inserted between the word "Rents" and "to" in the ninth line thereof; and
- (vi) The last sentence thereof shall be amended and restated in its entirety as follows:

"This assignment is a present and absolute assignment and not an assignment for additional security only and Beneficiary shall be entitled to all of the rights and benefits available under the Revised Code of Washington (RCW) Section 7.28."

8. Grantor hereby reaffirms to the Secured Creditors each of the representations, warranties, covenants and agreements of Grantor set forth in the Deed of Trust with the same force and effect as if each were separately stated herein and made as of the date hereof.

9. Grantor hereby ratifies, affirms, reaffirms, acknowledges, confirms and agrees that the Deed of Trust, as amended by this First Amendment, and each and every other document and/or instrument which evidences and/or secures payment of the Obligations represent the valid, enforceable and collectible obligations of Grantor and Grantor further acknowledges there are no existing claims, defenses, personal or otherwise, or rights of set-off whatsoever with respect to any of the aforementioned instruments and/or documents known to Grantor and further acknowledges and represents that, to Grantor's knowledge no event has occurred and no condition exists which would constitute an Event of Default (as defined in the Deed of Trust) either with or without notice or lapse of time or both.

10. Except as specifically modified herein, all of the terms and provisions of the Deed of Trust and all other documents executed by the parties hereto or binding upon the parties hereto in connection with the Deed of Trust are ratified and reaffirmed by the parties hereto, and are incorporated herein by reference, Grantor specifically acknowledging the validity and enforceability thereof.

11. Grantor agrees to pay all costs in connection herewith, including, but without limitation, recordation and filing fees, taxes, reasonable attorneys' fees and expenses, and, to the extent incurred in connection with updating Beneficiary's existing title policy on the Mortgaged Property, charges for title examination and title insurance premiums.



12. The Obligations secured by the Deed of Trust, as amended by this First Amendment, are continuing obligations and nothing contained herein shall be deemed to release, terminate or subordinate any lien, security interest or assignment created or evidenced by the Deed of Trust and all such liens, security interests and assignments created or evidenced by the Deed of Trust and the priority thereof shall relate back to the date that the Deed of Trust was filed as referenced in the recitals above. This First Amendment is not intended and shall not be deemed or construed to in any way affect the enforceability or priority of the Deed of Trust or constitute a novation, termination or replacement of all or any part of the Obligations.

13. This First Amendment is limited as specified and other than the specific amendments contained herein shall not constitute an amendment, modification or waiver of, or otherwise affect, in any way, any other provisions of the Deed of Trust. As modified hereby, the Deed of Trust is ratified and confirmed in all respects.

14. Grantor agrees to execute and deliver, or cause to be executed and delivered, to the Beneficiary all other instruments, certificates, agreements and consents as Beneficiary may reasonably require in order to confirm the terms of this First Amendment.

15. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

16. This First Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

17. It is hereby acknowledged and agreed that any reference to the "Deed of Trust" in the Deed of Trust shall be deemed to mean the Deed of Trust as amended by this First Amendment and as it may hereafter be further amended, restated, supplemented or otherwise modified from time to time.

18. The use of the singular shall include the plural when the context requires and vice versa; the use of "a" shall include "an" when the context requires and vice versa.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]



IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed and delivered by their duly authorized officers as of the date first above written.

Grantor:

SIERRA PACIFIC INDUSTRIES,
a California corporation

By: 

Name: M.D. Emmerson

Title: C.F.O.

Beneficiary:

AMERICAN AGCREDIT, FLCA,
as Collateral Agent

By: _____

Name:

Title:



STATE OF CALIFORNIA)
)
COUNTY OF Shasta)

On the 2nd day of November, 2011, before me, Susan E. Witherspoon, notary public, personally appeared M.D. Emmerson, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/~~she~~-executed the same in his/~~her~~-authorized capacity, and that by his/~~her~~ signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. Signature Susan E. Witherspoon (Seal)



IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed and delivered by their duly authorized officers as of the date first above written.

Grantor:

SIERRA PACIFIC INDUSTRIES,
a California corporation

By: _____

Name:

Title:

Beneficiary:

AMERICAN AGCREDIT, FLCA,
as Collateral Agent

By: *Gary Van Schuyver* _____

Name: GARY VAN SCHUYVER

Title: VICE PRESIDENT



201111150132

Skagit County Auditor

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Monterey

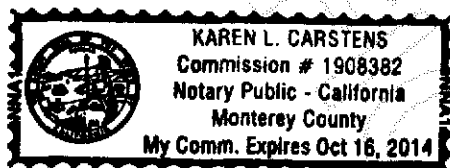
On November 2, 2011

before me, Karen L. Carstens, Notary Public,

personally appeared Gary Van Schuyver

Name(s) of Signer(s)

Who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Gary Van Schuyver

- ☐ Individual
☒ Corporate Officer
Title(s): Vice President
☐ Partner - ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT
THUMBPRINT
OF SIGNER
Top of thumb
here

Signer is Representing:

American AgCredit, FLCA

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer
Title(s): _____
☐ Partner - ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

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Signer is Representing:



201111150132
Skagit County Auditor