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Skagit County Auditor
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AFTER RECORDING RETURN TO:

Joseph E. Delaney
Foster Pepper & Shefelman PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101

M12576

LAND TITLE COMPANY OF SKAGIT COUNTY

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

1. Declaration of Restrictive Covenant

Grantor(s): (last name first, then first name and initials)

1. Shared Healthcare Systems, Inc., a Delaware corporation (d.b.a., SHS.com) and formerly known as Sun Healthcare Systems, Inc.

Grantee(s): (last name first, then first name and initials)

1. State of Washington Department of Ecology

Abbreviated Legal Description:

Lot 2, Short Plat No. ANA-98-003, approved February 8, 1999, recorded February 17, 1999 in Volume 14 of Short Plats

Complete Legal Description can be found on Exhibit A

Assessor's Property Tax Parcel/Account Number(s):

Tax Account No. 32948

DECLARATION OF RESTRICTIVE COVENANT

Shared Healthcare Systems (Former Scott Paper Mill Site)

This Declaration of Restrictive Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by Shared Healthcare Systems, Inc. (SHS, d.b.a. "SHS.com"), a Delaware corporation, formerly known as Sun Healthcare Systems, Inc., its successors and assigns, and the State of Washington, Department of Ecology, its successors and assigns (hereafter, "Ecology").

An independent remedial action (hereafter referred to as "Remedial Action") occurred at the property that is the subject of this restrictive covenant (hereafter referred to as "Restrictive Covenant"). The Remedial Action conducted at the property is described in the following documents:

1. Report titled "Cleanup Action Plan (CAP) for Soils at Parcel 2 of the Former Scott Paper Company Mill Site, Anacortes, WA; ThermoRetec Project No. 3-3903-400", prepared by ThermoRetec Consulting Corporation (RETEC), Seattle, WA., for Sun Healthcare Systems, Inc. (Sun), Anacortes, WA., and dated January 8, 1999.
2. Report titled "Remedial Investigation and Feasibility Study (RI/FS) for Soils at Parcel 2 of the Former Scott Paper Company Mill Site, Anacortes, WA; ThermoRetec Project No. 3-3903-300", prepared by RETEC for Sun, and dated January 8, 1999.



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3. Report titled "Interim Action Work Plan, Parcel 2, Former Scott Paper Mill Site, Anacortes, WA", prepared by Landau Associates, Inc., Edmonds, WA., for Port of Anacortes (Port), Anacortes, WA., and dated March 22, 1999.
4. Report titled "Progress Report for the Cleanup Action at Parcel 2 of the Former Scott Paper Company Mill Site, Anacortes, WA; ThermoRetec Project No. SHCS0-03903-500", prepared by RETEC for Sun (SHS.com) and Port, and dated December 7, 1999.
5. Report titled "Completion Report for the Soils Cleanup at Parcel 2 of the Former Scott Paper Mill Site, Anacortes, WA; ThermoRetec Project No. SHCS0-03903-500", prepared by RETEC for SHS.com and Port, and dated May 18, 2000.

These documents are on file at Ecology's Northwest Regional Office.

This Restrictive Covenant is required because the Remedial Action resulted in residual concentrations of certain hazardous substances, including total petroleum hydrocarbons, polynuclear aromatic hydrocarbons, polynuclear chlorinated biphenyl's, dioxins/furans, and heavy metals which exceed the Model Toxics Control Act, Method B, cleanup levels for soil established under WAC 173-340-740.

The undersigned, SHS, is the fee owner of the real property ("Property"), located at R Street and Seafarers Way, Anacortes, Skagit County, Washington, that is subject to this Restrictive Covenant. The Property is legally described as set forth in Exhibit A, attached.

SHS makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, as provided by law and shall be binding on all parties and all persons claiming under



them, including all current and future owners of any portion of or interest in the Property (hereafter referred to as "Owner").

Section 1.

1. Owner shall maintain the soil cap layer and hardscape areas, such as shoreline promenade armor stone and fire lane "Grass-Crete", described in the attached Exhibit B. Owner shall prevent penetration, removal, erosion or degradation of the soil cap layer, exposure of the capping indicator layer, and exposure of soils beneath the capping indicator layer. Owner will notify Ecology 30 days prior to initiation of activities which could penetrate the soil cap layer and/or generate contaminated soils from beneath the capping indicator layer. The notification will include a description of the work to be performed and the procedures to be used to prevent the spread of contaminated soils to uncontaminated areas and to ensure the maintenance and integrity of the soil capping layer.
2. Owner shall maintain the infiltration controls which are an integral part of the soil capping layer, as described in the attached Exhibit B. The infiltration controls include all pervious and impervious landscape features, such as parking lots and bioswales, and stormwater management components, such as building drains and drain clean-out stations.
3. Owner shall maintain the cathodic protection system required for the containment wall in accordance with the design documents for that system, described in the attached Exhibit C.
4. Owner shall maintain and monitor the methane control system installed within the existing building, described in the attached Exhibit D. All future buildings on the Property

with enclosed, occupied spaces which could potentially accumulate methane gas will be designed with an integral methane control system.

5. Owner will not withdraw, or allow others to withdraw, groundwater from the Property without permission from Ecology. An example of permitted withdrawal would be for Ecology required monitoring or remedial action.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in the release or exposure to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology.

Section 4. The Owner of the Property must give thirty (30) days advance written notice to Ecology of the Owner's intent to convey a fee interest in the Property. The Owner shall not convey title, an easement, a lease, or another interest in the Property without adequate and complete provision for continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Restrictive Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Restrictive Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology to enter the Property at reasonable times upon reasonable notice unless an emergency prevents such notice for the



purpose of evaluating the Remedial Action; to take samples, to inspect Remedial Actions conducted at the property, and to inspect records that are related to the Remedial Action. When exercising its right to access, Ecology shall take reasonable steps to minimize the impact to Property, users and tenants.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Restrictive Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

Shared Healthcare Systems, Inc., a Delaware corporation

By



Its

PRESIDENT

Dated this 31 day of August, 2000

EXHIBIT A

LEGAL DESCRIPTION

Lot 2, Short Plat No. ANA-98-003, approved February 8, 1999, recorded February 17, 1999 in Volume 14 of Short Plats, pages 4 and 5, under Auditor's File No. 9902170072, and being a portion of Government Lots 1 and 2, Section 19, Township 35 North, Range 2 East, W.M., and of Lots 15, 16 and 17, "PLATE NO. 10, TIDE AND SHORELANDS OF SECTION 19, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M., ANACORTES HARBOR", according to the official map thereof on file with the State Land Commissioner at Olympia, Washington.

Situate in the City of Anacortes, County of Skagit, State of Washington

Exhibit B

Soil Cap Inspection and Maintenance

Residual contaminated soils, as defined in the 1999 Cleanup Action Plan, are contained beneath a clean soil cap. The base of the cap is defined by an indicator layer of black geotextile fabric. The capping soil consists of approximately two feet of clean sandy soil located above the indicator layer. Additional enhancements to cap integrity (armor stone along the shoreline promenade, and Agrass-crete along the fire lane) have been added in areas where the capping soil layer is less than two feet in thickness. Infiltration controls have also been added to minimize infiltration of collected stormwater into Lot 2 soils.

On a monthly basis, the property owner will inspect the following areas for damage to the cap, included but not limited to the items listed in Table B-1. Any damage or erosion that may potentially expose contaminated soils or cause failure of the infiltration controls will be corrected by the property owner.

Table B-1.

Parcel 2 Area	Check for and Correct as Necessary
<u>Main Yard Area</u>	
Soil Cover	Cap erosion and/or exposure of the indicator layer
<u>Hardscape Areas</u>	
Shoreline Armor Stone	Removal of armor stone and/or erosion of capping soils
Fire Lane Agrass-Crete	Damage to Agrass-Crete and/or exposure of indicator layer
<u>Infiltration Controls</u>	
Building Drains	Drain leakage or drains not properly connected to stormwater management system
Biofiltration Swales	Erosion of cover soil layer, fouling of discharge outlet, or damage to clay liner
Drain Clean-Out Station	Erosion of cover soil layer, fouling of discharge outlet, or damage to clay layer



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EXHIBIT B

SOIL COVER, HARDSCAPE AND INFILTRATION CONTROL LOCATIONS

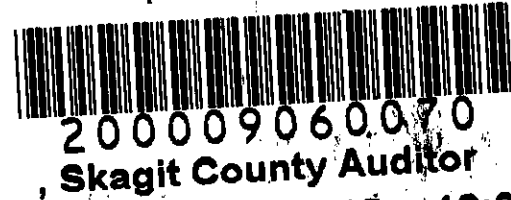
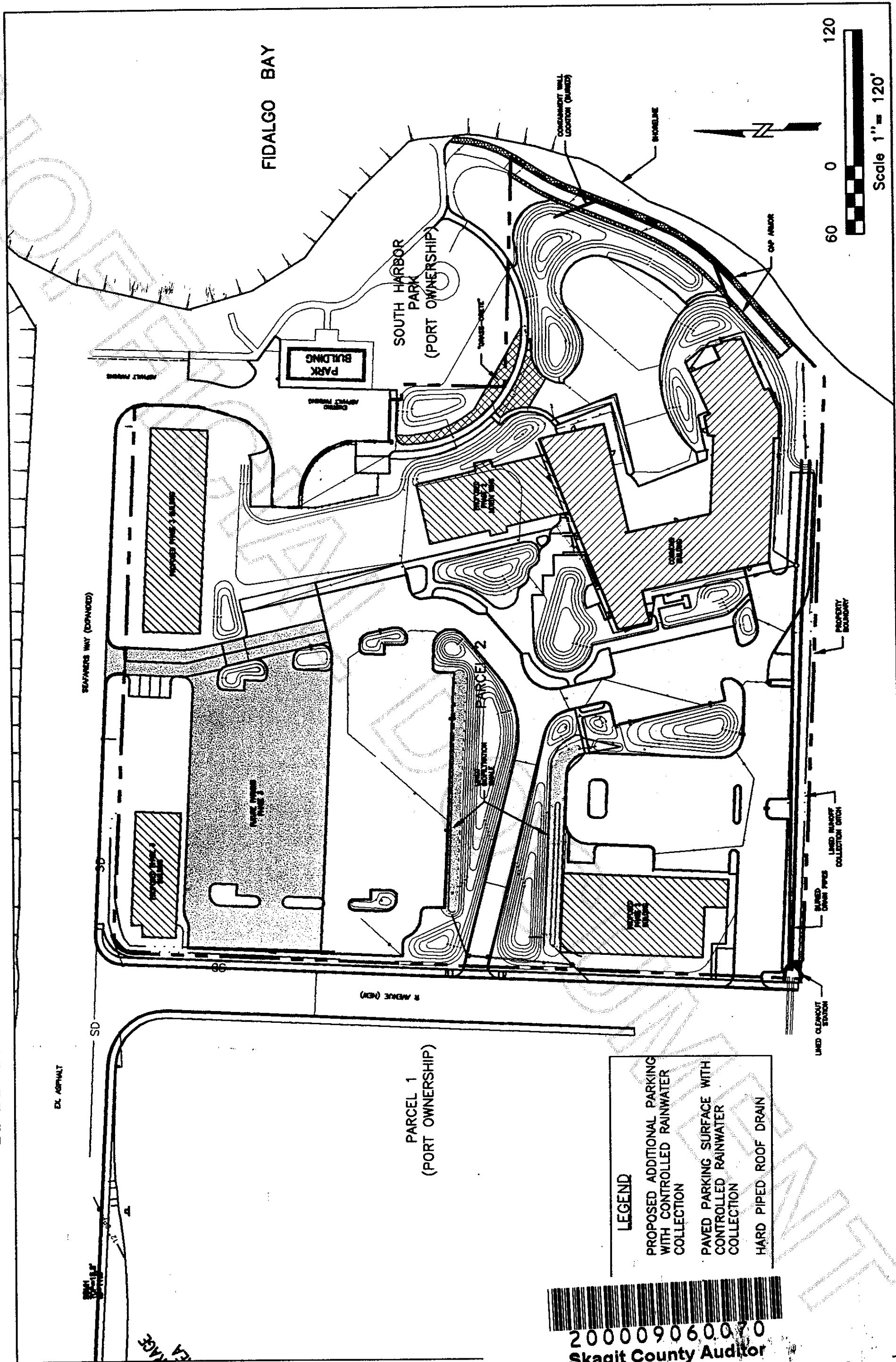


Exhibit C

Cathodic Protection System Inspection and Maintenance

A subsurface containment wall was installed along the Fidalgo Bay shoreline consistent with the 1999 Cleanup Action Plan. The wall is constructed of steel sheet-piling and extends from approximately 13 feet above MLLW to approximately 12 feet below MLLW. The wall section is approximately 200 feet in length. Details of sheetpile construction and location are included in the Completion Report submitted to Ecology in May of 2000.

To ensure the long-term integrity of the sheet-piling wall, an active-current cathodic protection system was installed along with the wall. Design documents for this system are contained in the May 2000 Completion Report submitted to Ecology. The operation and maintenance checklist for the cathodic protection system is attached.

The building owner will complete monthly and annual testing of the sheet-pile wall as indicated on the attached checklist. Any detected problems with system operation will be corrected by a Cathodic Protection Engineer.



OPERATION & MAINTENANCE CHECKLIST

1. Operation and maintenance of the impressed current cathodic protection systems consists primarily of monitoring the rectifier output on a monthly basis. Attached is a typical rectifier monitoring log sheet.
2. Note that the volts and amps can be recorded from the meters located on the rectifier panel.
3. The rectifier output will vary up to 20% throughout the year. This is normal. If the output varies greater than 20% or has no output, then check the DC fuse or AC breaker. Refer to the rectifier manual located in the rectifier door for additional O&M information.
4. It is recommended that a cathodic protection engineer inspect and test the system on an annual basis. This will ensure the system is meeting the criteria for protection. At a minimum, the engineer shall measure sufficient structure-to-soil potentials to ensure that the -0.850 volt potential to a copper sulfate reference cell is maintained at all locations.

Article I RECTIFIER LOG

OWNER: _____

STRUCTURE: _____

RECOMMENDED CURRENT OUTPUT (from design documents): _____

[illegible]

Exhibit D

Methane Control System Inspection and Maintenance

Wood waste fill materials present on the property have been shown to produce methane during the natural processes of decomposition. Buildings and other enclosed, occupied spaces to be constructed at the property are required to have a suitable methane control system to prevent accumulations of methane within the occupied spaces.

The design of the methane control system for the ACommons Building≡ located on the property was specified in the 1999 Cleanup Action Plan. That system uses active venting to prevent accumulations of methane vapors beneath the building foundation. Periodic inspection and maintenance of the blower assembly is required for proper operation of this system. Monitoring and maintenance of that system will be conducted by the building owner consistent with the following schedule.

Active Mode Monitoring (Monthly Inspection)

1. Check blower operation, vacuum levels and knock-out drum liquid level. If knock-out drum level is excessive, discontinue operation, empty liquid, and resume operation. Adjust vacuum levels on each extraction line as necessary to maintain system specifications.
2. Check methane monitor located adjacent to blower apparatus enclosure. Repair as necessary.
3. Monitor methane concentrations in each line during operation. Compare against previous data.
4. The system must be maintained in an active mode if methane concentrations exceed 0.5 percent (or 10% of the methane lower explosive limit -- LEL). Blower cycle timing is to be maintained consistent with the recommendations of a Professional Engineer.
5. If methane concentrations remain below 1 percent for six consecutive months during active mode operation, system operation may be discontinued, and monitoring performed as described for AInactive Mode Monitoring≡.

Inactive Mode Monitoring

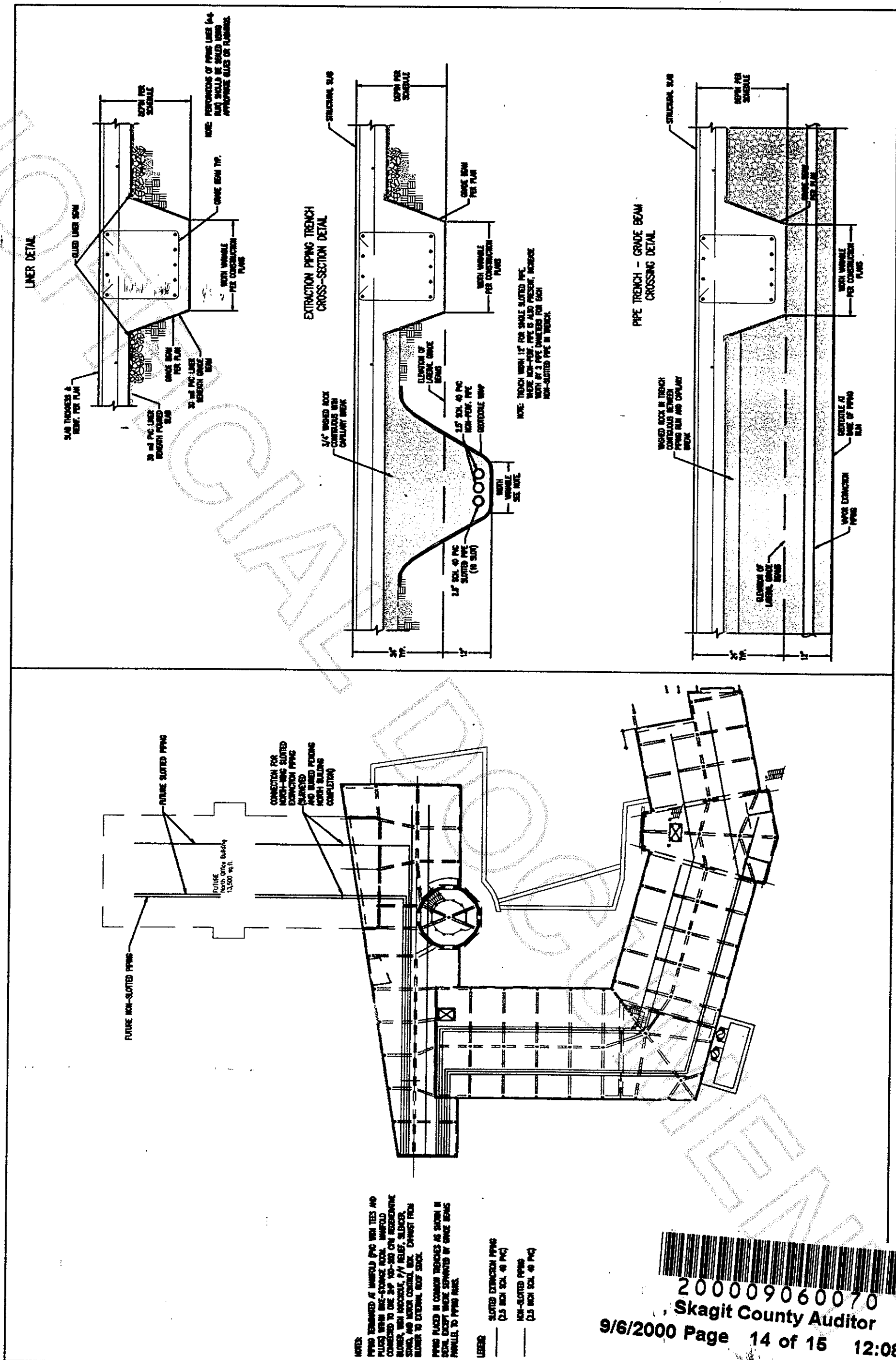
1. Check blower operation and knock-out drum liquid level. Repair blower and/or empty drum liquid as necessary. Check methane monitor located adjacent to blower apparatus enclosure. Repair or replace as necessary.
2. Activate blower assembly, and adjust vacuum levels in each extraction line to system specifications.
3. Monitor methane concentrations in each line after 10 minutes and 60 minutes of operation.
4. If vapor concentrations exceed 0.5 percent methane (or 10 percent of the methane LEL) in any of the extraction lines, the system must be operated in an active mode, with monthly monitoring as described above. If methane concentrations are below 0.5 percent methane (or 10% of the methane LEL), discontinue operation



until the next monitoring event.

5. If methane concentrations remain below 0.5 percent methane (or 10% of the methane LEL) for twelve consecutive months, monitoring frequency can be reduced from a monthly basis to a quarterly basis.
6. If methane concentrations remain below 0.5 percent methane (or 10% of the methane LEL) for eight consecutive quarters, monitoring frequency can be reduced from a quarterly basis to a semi-annual basis.

EXHIBIT D



STATE OF WASHINGTON

COUNTY OF Skagit

SS.

I certify that I know or have satisfactory evidence that Kevin P. Welch is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the President of Shared Healthcare Systems, Inc., a Delaware corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 31st day of August, 2000.

Elizabeth A. Sims
(Signature of Notary)

Elizabeth A. Sims
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at Anacortes

My appointment expires January 11, 2003