

MARGARET J. HARRIEN
CLERK OF COURTS
TRUMBULL COUNTY

FEB 2 9 57 AM '94

FILED
RECORDED
PAGE

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel.)
Lee Fisher, Attorney General)
of Ohio,)
)
Plaintiff,)
)
vs.)
)
DUNDY MASSACCI, et al.)
)
Defendants.)

CASE NO. 91 CV 1702
JUDGE MITCHELL SHAKER
AGREED JOURNAL ENTRY
RESOLVING CONTEMPT CHARGES

This cause comes on for hearing on this 2nd day of February, 1994. The State of Ohio, on the relation of its Attorney General, Lee Fisher (hereinafter "the State"), and at the written request of the Director of Environmental Protection, filed a Complaint against the Defendants on October 25, 1991 in Trumbull County Court of Common Pleas Case No. 91 CV 1702, Judge Mitchell F. Shaker (the "Complaint for Injunction") alleging violations of Chapter 3734 of the Ohio Revised Code.

Under the terms of a Judgment Entry dated February 2, 1994, a true and complete copy of which is attached hereto as Exhibit "A", the parties resolved the Complaint for Injunction.

The State has filed a motion to show cause why the Defendants should not be held in contempt for allegedly having violated the Judgment Entry by not submitting a closure plan for

the Facility (as described in the Judgment Entry) in accordance with Ohio Admin. Code § 3745-27-11.

Defendants do not admit any violation of the Judgment Entry and expressly deny that they are in contempt of the Judgment Entry as alleged the Plaintiff.

To avoid expensive and protracted litigation without any admission of fact or liability, and to settle and resolve all claims which are in dispute, the parties have agreed to settle the Plaintiff's contempt charges.

NOW, THEREFORE, without trial of any issue of fact or law, and by consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED that:

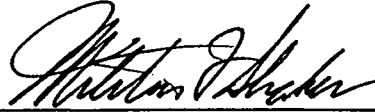
1. The term "Site" shall mean the entire 70.5 acres of real property owned by the Defendants located at and known as 1972 Austintown-Warren Road, Weatherfield Township, Trumbull County, Ohio. The term "Facility" shall mean that portion of the Site that has been previously used for the disposal of waste materials of any kind (whether or not "solid waste" as that term is defined in R.C. 3734.01(a) and whether or not construction and demolition debris as that term is defined in R.C. 3714.01(c), which definitions are hereby incorporated by reference).
2. The Defendants are financially unable to comply with those provisions of the Judgment Entry requiring closure of the landfill in accordance with Ohio Admin. Code § 3745-27-11.
3. In lieu of the closure of the landfill in accordance with the terms of Ohio Admin. Code § 3745-27-11, closure of the Facility shall take place in the following manner:
 - (a) Covered Area: The area of the Facility currently covered with soil shall remain covered. Defendants shall seed the covered area with suitable ground cover within 180 days of the date of the entry of this Judgment Entry. The portion of the Facility on which waste materials have been disposed on the northern side of the covered area

that is still uncovered with soil will be covered with *in situ* soils and seeded as aforesaid within 180 days of the date of this Agreed Journal Entry or within 180 days of final resolution of the U.S. Environmental Protection Agency, Region 5's Findings of Violations and Compliance Order, Docket No. U-WQW-AO-91-18 directed at the Defendants, whichever occurs later;

- (b) Uncovered Area: Defendants will cover the uncovered portion of the Facility with *in situ* soils in accordance with Section 9 of regulations adopted by the Board of Trumbull County General Health District for closure of construction and demolition debris facilities. (See, "Section 9: Closure of Construction and Demolition Debris Facilities" attached hereto as Exhibit "B".) Closure of this portion of the Facility will take place within 270 days of the entry of this Agreed Journal Entry or within 180 days of final resolution of the U.S. Environmental Protection Agency, Region 5's Findings of Violation and Compliance Order, Docket No. V-WQW-AO-91-18 ("U.S. EPA's Order"), directed at the Defendants, whichever occurs later. Plaintiff and Defendants recognize that Defendants may, in accordance with resolution of U.S. EPA's Order, be required to move currently uncovered waste materials on the Facility which are alleged to be encroaching on wetland areas. During the installation of the cover, any solid waste discovered shall be segregated and removed by Defendants to a licensed solid waste disposal facility.

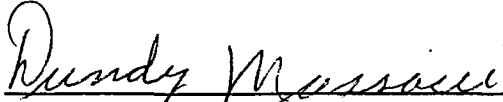
4. If the work required by Paragraph 3(a) and/or (b) is not completed by September 30, 1995, the State reserves the right to seek further relief from this Court.
5. The parties recognize and agree that this Agreed Journal Entry dissolving Plaintiff's contempt charges does not mean and shall not be construed to mean that Defendants or those in privity with them are precluded from using any other portion of the Site (excluding the Facility) for any lawful purpose including, without limitation, operating of a construction and demolition debris facility.
6. Defendants' compliance with this Agreed Journal Entry resolves Plaintiff's motion to show cause and any and all other failures by the Defendants to comply with this Court's previous orders.

7. This Court shall retain continuing jurisdiction to enforce this Judgment Entry.

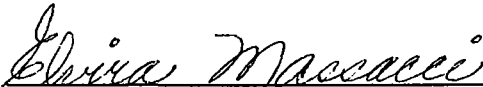


JUDGE MITCHELL F. SHAKER

BY THE PARTIES:



DUNDY MASSACCI
183 Central Parkway
Warren, Ohio 44483



ELVIRA MASSACCI
183 Central Parkway
Warren, Ohio 44483

Approved as to form:

STATE OF OHIO, ex rel.
LEE FISHER, ATTORNEY
GENERAL OF OHIO



SUSAN E. ASHBROOK [0039483]
ROBERT E. ASHTON [0032276]
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43236-0410
(614) 466-2766
Attorneys for Plaintiff



BRENT L. ENGLISH [0022678]
PETER J. McCABE [0040614]
310 Lakeside Ave., West
Courthouse Square, Suite 795
Cleveland, OH 44113-1021
(216) 781-9917
Attorneys for Defendants

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel.)	CASE NO. 91 CV 1702
Lee Fisher, Attorney General)	
of Ohio,)	JUDGE MITCHELL SHAKER .
)	
Plaintiff,)	
)	
vs.)	<u>JUDGMENT ENTRY</u>
)	
DUNDY MASSACCI, et al.)	
)	
Defendants.)	

This cause comes on before the Court on this ___ day of February, 1994 for final adjudication upon the joint motion of the parties for entry of this order.

The Court finds that on October 25, 1991 the State of Ohio on the relation of its Attorney General, Lee Fisher, and at the written request of the Director of the Ohio Environmental Protection Agency, filed this action seeking, *inter alia*, a preliminary and permanent injunction against the Defendants, jointly and severally, regarding the alleged illegal operation of a solid waste disposal facility and alleged open burning of solid waste on a portion of the 70.5 acre site owned by the Defendants (The term "Site" as used herein shall mean the entire 70.5 acre site located at and known as 1972 Austintown-Warren Road,

Weathersfield Township, Trumbull County, Ohio). The term "Facility" as used herein shall mean that portion of the Site that has been previously used for the disposal of waste materials of any kind (whether or not "solid waste" as that term is defined in R.C. 3734.01(E) and whether or not construction and demolition debris as that term is defined in R.C. 3714.01(C), which definitions are hereby incorporated by reference).

This Court, after hearing, granted a Temporary Restraining Order in favor of the Plaintiff and against the Defendants on October 25, 1991, enjoining various operations at the Site.

The Court thereafter conducted an evidentiary hearing on November 15, 1991 and December 10, 1991. On December 26, 1991 this Court granted a Preliminary Injunction restraining the Defendants (1) from accepting or disposing of any solid waste at the Facility on the Site; (2) from open dumping of solid waste at the Facility on the Site; (3) from open burning of solid waste at the Facility; and (4) from accepting, transferring, or disposing of construction and demolition debris at the Site during the pendency of this case. The Court further ordered the Defendants to submit a closure plan for the Facility to the Ohio EPA in accordance with Ohio Admin. Code § 3745-27-11.

The Defendants thereupon ceased all operations at the Facility and have not brought any solid waste or

construction and demolition debris to the Site during the pendency of this case.

The Plaintiff continues to allege that the Defendants have violated the law by unlawfully operating a solid waste disposal facility at the Site and by open burning of solid waste at the Facility. The Defendants deny that they have operated a solid waste disposal facility at the Site but acknowledge that the State offered evidence at the time of the preliminary injunction that more than a *de minimus* amount of solid waste had been accepted at the Facility which the Court found was sufficient to cause the Facility to be considered a solid waste disposal facility as that term is defined in Ohio Admin. Code § 3745-27-01(GGG). The Defendants further deny that they engaged in open burning at the Facility or elsewhere on the Site but acknowledge that a fire occurred at the Site which could have burned solid waste in the Facility.

In light of the Court's findings at the time of the preliminary injunction hearing (a true and complete copy of the Court's order is attached hereto and marked Exhibit "A"), the parties have, in the interests of judicial economy and to avoid the expense and uncertainty of further litigation, reached the following agreement which they have requested that the Court adopt as its Final Judgment in this case.

1. The Defendants will not oppose issuance of a permanent injunction whereby this Court will permanently restrain them from depositing or accepting any solid waste for disposal at the Facility or anywhere else on the Site. The term "solid waste" shall have the same meaning as the term is defined and used in R.C. 3734.01(E).

2. The Defendants will not oppose issuance of a permanent injunction whereby this Court will permanently restrain them from any open burning and open dumping of solid waste at the Facility or anywhere else on the Site.

3. The Defendants will submit to the Ohio EPA, within 15 days of the date of this Judgment Entry, a closure plan for the Facility that will comply with Ohio Admin. Code § 3745-27-11 unless the parties otherwise agree in writing.

4. Without admitting any liability to the Plaintiff whatsoever, and while expressly denying any such, the Defendants agree to pay a civil penalty of \$1,000.00 to the State of Ohio in six bi-monthly installments of \$166.66 each commencing on April 1, 1994 and ending February 1, 1995.

5. The Defendants will not oppose issuance of a permanent injunction whereby this Court will permanently restrain them from filling, grading, excavating, building or adding any additional material to the existing Facility without a permit from the Director of Ohio EPA in

accordance with R.C. 3734.02(H) and Ohio Admin. Code 3745-27-13

6. The foregoing injunctions are understood by the parties not to preclude the use of those portions of the Site that do not include the Facility for any lawful purpose including, without limitation, the disposal of construction and demolition debris. The non-Facility portions of the Site means those portions of the Site that have not been previously used for the surface disposal of either solid waste or construction and demolition debris; provided, however, that nothing herein shall preclude the State of Ohio, the Ohio EPA, Trumbull County, or any political subdivision of the State from enforcing any other environmental laws or regulations applicable to the Site including, without limitation, such regulations that may be adopted with respect to construction and demolition debris facilities. Nothing herein shall be construed to limit the ability of other governmental agencies, whether federal, state or local, to enforce environmental regulations which may apply to the portion of the Site which does not constitute the Facility described hereinabove.

7. Nothing herein shall be construed as an admission by the Defendants of liability for any alleged violations of any statutes or regulations at the Facility or the Site.

The Court finds that the foregoing resolution of issues is fair, just and equitable and is in the public interest.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Defendants be and they are hereby permanently ordered and enjoined from accepting any solid waste for disposal at the Facility or elsewhere on the Site. The term "solid waste" shall have the same meaning as the term is defined and used in R.C. 3734.01(E). This injunction is based on the evidence adduced at the preliminary injunction hearing from which the Court found that more than a *de minimus* amount of solid waste had been accepted at the Facility and that the Facility should therefore be considered a solid waste disposal facility as that term is defined in Ohio Admin. Code § 3745-27-01(GGG).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants be and they are hereby permanently ordered and enjoined from open burning of solid waste at the Facility or elsewhere on the Site. This injunction is based on the evidence adduced by the Plaintiff at the preliminary injunction hearing that a substantial fire occurred at the Facility in October, 1991.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants be and they are hereby permanently ordered and enjoined from filling, grading, excavating, building or adding any additional material to the existing Facility

without a permit from the Director of Ohio EPA in accordance with R.C. 3734.02(H) and Ohio Admin. Code 3745-27-13

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants shall and they are hereby ordered to submit a closure plan for the Facility to the Ohio EPA within 15 days of the date of this Judgment Entry. Such closure plan shall comply with Ohio Admin. Code § 3745-27-11 unless the parties otherwise agree in writing. The Defendants are ordered to comply with the closure plan as approved by the Ohio EPA, including any modifications thereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the foregoing injunctions shall not operate to preclude the Defendants or those in privity with them, including their agents, successors, and assigns, to use those portions of the Site that are not part of the Facility for any lawful purpose including, without limitation, as a construction and demolition debris disposal facility; provided, however, nothing herein shall preclude the State of Ohio, the Ohio EPA, Trumbull County, or any political subdivision of the State from enforcing lawful regulations that may be adopted with respect to operations on the non-Facility portions of the Site including, without limitation, regulations pertaining to construction and demolition debris facilities. Nothing herein is intended to limit the ability of other governmental agencies, Federal, State or

local, to enforce lawful environmental regulations which may apply to the non-Facility portion of the Site.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendants shall, by agreement and without any admission of liability whatsoever, pay to the State of Ohio a civil penalty in the amount of \$1,000.00 in six equal bi-monthly installments of \$166.66 each commencing April 1, 1994 and ending February 1, 1995.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all previous orders of this Court are hereby dissolved and set aside.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that nothing herein shall be construed as an admission by the Defendants of liability for any alleged violations of any statutes or regulations at the Facility or the Site.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Final Judgment Entry disposes of all claims of the parties herein and is a final order within the meaning to R.C. 2505.02.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants shall pay the costs of this proceeding.

IT IS SO ORDERED.

JUDGE

Approved as to form:

SUSAN E. ASHBROOK [0039483]
ROBERT E. ASHTON [0032276]
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43236-0410
(614) 466-2766
Attorneys for Plaintiff.

BRENT L. ENGLISH [0022678]
PETER J. McCABE [0040614]
310 Lakeside Avenue, Suite 795
Cleveland, Ohio 44113-1021
(216) 781-9917
Attorneys for Defendants.

U:\PJ\M\ASSDU.02\JUDGMENT.131
B\M\ASSDU.08

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, EX REL)	CASE NO. 91 CV 1702
LEE FISHER, ATTY. GENERAL)	
OF OHIO,)	JUDGE MITCHELL F. SHAKER
)	
Plaintiff)	<u>JUDGMENT ENTRY</u>
)	<u>PRELIMINARY INJUNCTION</u>
VS.)	
)	
DUNDY MASSACCI, ET AL,)	
)	
Defendants)	

This cause come on to be heard on the motion of the State of Ohio, the Plaintiff herein, by and through the office of the Attonrey General, for a Preliminary Injunction. Hearings were conducted on October 25, 1991, November 15, 1991 and December 10, 1991.

The evidence in this case is clear and convincing and supports the demand of the Plaintiff for a Preliminary Injunction pending the "final hearing and disposition of this case on the merits."

The Court finds the Defendants have a continuous history of violations as evidenced in State's Exhibits 1 through 7 (notification letters) and the numerous photography exhibits. The "picker" system employed by the Defendants has not solved the problem.

Moreover, the operation of the disposal area by the Defendants has constituted an extreme nuisance to a sufficient extent that days and weeks of monitoring and firefighting were involved. Particular note is made by the Court of the large fire of October, 1991.

It is clear that this Court and the law mandates the cessation of collection and disposal of solid waste on the premises described as "The South Main Sand and Gravel Landfill, Austintown-Warren Road, Weathersfield Township, Trumbull County, Ohio," subject to the Defendants compliance with the

MARGARET R. GARRIN
CLERK OF COURT
TRUMBULL COUNTY, OHIO

DEC 26 9 06 AM '91

FILED
RECORDED
PAGE

590

Vol 100 100

Environmental Protection Agency regulations.

It is therefore ORDERED, ADJUDGED and DECREED that the Defendants, Dundy Massacci dba South Main Sand and Gravel and Elvira Massacci, be and they are herein enjoined from accepting or disposing of any solid wastes and are further enjoined from open dumping or open burning any solid wastes at the facility.

Until the Court has a final hearing on the merits of this case, the Defendants are enjoined from accepting, transferring or disposing of demolition and construction materials at the site herein above described.

Pursuant to OAC 3745-27-11, the Defendants herein are mandated to submit to the Environmental Protection Agency of Ohio a closure plan, said submission to be on or before February 28, 1992, and until this Court completes a trial on the merits of this case, the Preliminary Injunction herein shall continue in effect.

By order of the Court this 26th Day of December,

VOL _____ PAGE 1591.

FILED
RECORDED

DEC-26 9-06 AM '91

MARGARET R O'BRIEN
CLERK OF COURTS
TRUMBULL COUNTY

JUDGE MITCHELL F. SHAKER

To The Clerk of Courts:

Please forward a certified copy of the within Judgment Entry to both counsel of record and to each of the Defendants: Atty. Susan E. Ashbrook, Assistant Attorney General, Attorney General's Office, Environmental Enforcement Section, 30 East Broad Str., 25th Floor, Columbus, Ohio 43266-0410; Atty. Brent English, 140 Public Square, 611 Park Bldg., Cleveland, Ohio, 44114; Dundy and Elvira Massacci dba South Main Sand & Gravel, 183 Central Parkway, Warren, Ohio, 44483.

JUDGE MITCHELL F. SHAKER

13 27 21 1991

13 27 21

6.25 Surface water entering the facility shall be diverted from the portion of the facility where waste materials are being or have been deposited, provided these surface waters are not drained onto adjacent property. The construction and demolition debris disposal facility shall be properly graded and provided with such additional drainage facilities as are necessary to insure minimal erosion of the cover material.

If ponding or erosion occurs on those areas of the facility where waste materials are being or have been deposited, the operator shall as soon as weather permits undertake such remedial actions as the Health Commissioner deems necessary to eliminate the ponding or erosion.

6.26 The operator shall install such a number of monitor wells in such locations if the Health Commissioner deems it necessary to determine the effect of the facility upon the quality of ground water. Each monitor well and/or such other wells shall be sampled for substances as deemed necessary by the Health Commissioner. The sampling frequency shall also be determined by the Health Commissioner.

The operator shall sample any ponded water or surface water on his/her facility if the Health Commissioner deems it necessary to determine the effect of the facility upon the quality of waters of the state. Such ponds or surface water shall be sampled for substances as deemed necessary by the Health Commissioner. The sampling frequency shall also be determined by the Health Commissioner.

SECTION 7: GROUND WATER MONITORING

7.1 All existing new, expanding, or closing construction and demolition debris disposal facilities shall implement a ground water monitoring program, consisting of a sufficient number of monitoring wells installed at appropriate locations and depths, that the Health Commissioner or an authorized representative deems capable of determining the impact of the construction and demolition debris disposal facility on the quality of ground water occurring within the uppermost aquifer system and all significant zones of saturation above the uppermost aquifer system underlying the construction and demolition debris disposal system. Each construction and demolition debris disposal facility shall establish wells designed to ensure monitoring results that provide an accurate representation of ground water quality at the background level, or ground water that has not been affected by past or present operations at the construction and demolition debris disposal facility, and at the down gradient level, or where the ground water passes directly down gradient of the limits of the facility. At least annually, such data collected at the monitoring wells shall be analyzed for the same parameters found in Section 2 and this analysis shall utilize one of the statistical methods found in Ohio Administrative Code Rule 3745-27-10 (C) (5).

SECTION 8: RESTRICTION ON HOURS OF OPERATION

8.1 Licensed construction and demolition debris disposal facilities shall only operate from 6:00 A.M. to 6:00 P.M. unless the Health Commissioner or an authorized representative is given at least a twenty-four (24) hour notice prior to off-hours operation. Such notice shall specify the hauler, approximate number of loads, approximate time of disposal(s), and position in facility where the construction and demolition debris will be placed.

SECTION 9: CLOSURE OF CONSTRUCTION AND DEMOLITION DEBRIS DISPOSAL FACILITIES

9.1 Closure of a construction demolition debris facility shall be deemed to occur if:

- (1) the operator declares the facilities closed; or
- (2) a construction and demolition debris disposal facility license held by the operator expires, and no further license has been applied for in the manner prescribed by this regulation; or

- (3) a construction and demolition debris disposal facility license held by the operator has expired, a further license has been applied for and denied, and all remedies for such denial have either been exhausted, or waived by timely failure to pursue such remedies; or
- (4) a construction demolition debris disposal license held by the operator has been suspended or revoked, and all remedies for such revocation or suspension have either been exhausted or waived by timely failure to pursue such remedies; or
- (5) detail plans, specifications and information submitted as required by this regulation are disapproved, and all remedies for such disapproval have either been exhausted or waived by timely failure to pursue such remedies; or
- (6) the construction and demolition debris disposal facility has reached final elevation.

9.2 If closure will occur as described in section 9.1 (1) or (2) above, the operator will notify the Board of Health of intent to close not less than 60 days prior to closure.

Upon receiving the notice of intent to close or upon occurrence of the events described in section 9.1 (3) or (4) above, the operator shall at least once a week for not less than four weeks, publish prominent notice of the closure in a newspaper of general circulation in Trumbull County.

9.3 Not later than 60 days after closure of a construction and demolition debris disposal facility, the operator shall complete the following actions:

- (1) All debris deposited in the construction and demolition debris disposal facility shall be covered with a least two feet of well compacted soil, which shall have a texture and permeability acceptable to the Health Commissioner or his authorized representative. A minimum, cover soil shall:

- (a) be free of large stones and rocks;
- (b) be slowly to moderately slowly permeable;
- (c) exhibit good cohesiveness;
- (d) possess a texture that will promote a high degree of compactibility.

- (2) The facility shall be seeded with grass or other vegetation that will rapidly form a complete and dense vegetative cover. Seeding shall be done as many times as necessary to insure compliance with this requirement; and

- (3) All land surfaces shall be graded to slopes of no less than 1% and no greater than 12%; and

- (4) All land shall be graded and drainage facilities shall be provided so as to direct surface water off the facility. A sedimentation basin or other retention device shall be installed if required by the Ohio Department of Natural Resources and Ohio Environmental Protection Agency. An NPDES permit shall be obtained for any discharge if required by the Ohio Environmental Protection Agency.

- (5) The facility shall be baited for rodents, and treated for other vectors if necessary.

- (6) Except for facilities receiving only debris generated on the premises where the facility is located, signs stating in letters not less than three inches high that the facility is permanently closed shall be posted in such a manner as to be easily visible from all access roads leading onto the facility, which signs shall be maintained in legible condition for not less than two years after closure of the facility; and

- (7) A plat of the construction and demolition debris disposal facility shall be filed with the Trumbull County Board of Health and the County Recorder. The plat shall accurately locate and describe the completed facility and include information relating to the area, depth, volume, and nature of the waste materials deposited in the construction and demolition debris disposal facility.

(8) Except for facilities receiving only debris generated on premises where the facility is located, all entrances and access roads to the facility shall be blocked by locked gates, fencing, or other sturdy obstacles to prevent unauthorized access.

9.4 The Health Commissioner or his authorized representative, upon proper identification, may enter any closed construction and demolition debris disposal facility at any reasonable time for the purpose of determining compliance with this regulation, as well as Chapter 6011, 3704, 3714 and 3734 of the Ohio Revised Code.

9.5 During the ten years immediately following closure, the operator or his representative shall inspect the closed facility at least every ninety (90) days. The operator shall inspect for:

- (1) evidence of subsidence;
- (2) ponding and erosion;
- (3) lack of vegetative cover.

He will then submit a report of his findings to the Health Commissioners.

If, within ten year after closing, settling occurs to such an extent that ponding of water occurs on those portions of the facility where debris materials are deposited, the operator, owner, or lessee shall promptly re-grade the site and/or add additional cover material and re-seed as necessary to eliminate the ponding.

9.6 If within ten years after closure, cracking or erosion of the cover material occurs to such an extent that an excessive quantity of water may enter the cells, the operator, owner, or lessee shall promptly re-grade the facility and/or add additional cover material, and re-seed as necessary to eliminate the cracking and erosion.

9.7 All monitor wells required by this regulation, shall be maintained by the operator, owner, or lessee in such condition that water samples may be obtained for a period of ten years after closure.

9.8 If, within the ten year monitoring period required by Section 9.15 and 9.6 above, leachate is detected on the facility, or is draining from the facility, in such quantities that the Health Commissioner believes that a substantial threat of water pollution exists,

- (1) leachate shall be contained on the facility and properly treated;
or
- (2) leachate shall be collected and transported from the facility and properly treated, and
- (3) action shall be taken to control, minimize, or eliminate the conditions which contribute to the production of leachate.

Actions required by this section shall be continued until the Health Commissioner is satisfied that actual or potential pollution of ground or surface water has been effectively controlled, minimized, or eliminated.

SECTION 10: CLOSURE FINANCIAL ASSURANCE REQUIREMENTS

10.1 No license to operate or maintain a construction and demolition debris disposal facility shall be issued under his regulation until the owner or operator of the facility submits: proof of a final closure trust fund as defined in O.A.C. 3745-27-15 (A); or a surety bond as defined in O.A.C. 3745-27-15 (B) or (C); or negotiable certificates of deposit; or proof of final closure insurance as defined in O.A.C. 3745-27-15 (E); or an amount of cash which the Health Commissioner deems satisfactory.

SECTION 11: INSPECTION AND RIGHT OF ENTRY

11.1 The Trumbull County Board of Health shall establish regulations for the operation, maintenance, and closure of a construction and demolition debris disposal facility authorized by this regulation and the health Commissioner