

IN THE UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 EASTERN DIVISION

STATE OF OHIO, ex rel.	:	CASE NO 1:02CV0193
JIM PETRO	:	
ATTORNEY GENERAL OF OHIO,	:	JUDGE NUGENT
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
CHEMICAL LAND HOLDINGS,	:	
et al.,	:	
	:	
Defendants.	:	

CLERK OF U.S. DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 CLEVELAND
 2005 OCT -4 PM 3:02

ORDER OF DISMISSAL AND APPROVAL OF SETTLEMENT AGREEMENT

WHEREAS, the Court, having considered the Joint Motion for Approval and Entry of the Settlement Agreement, Consent Orders and Orders of Dismissal ("Motion") submitted by Plaintiff State of Ohio ("State"), Defendants Tierra Solutions, Inc. (f/k/a Chemical Land Holdings, Inc.) ("Tierra"), Maxus Energy Corporation ("Maxus"), Occidental Chemical Corporation ("Occidental"), The Painesville PRP Group ("PRP Group"), Crompton Manufacturing Co., Inc. (f/k/a/ Uniroyal Chemical Company, Inc.) ("Crompton"), and Third-Party Defendants Lockheed Martin Corporation ("Lockheed Martin") and Dartron Corporation ("Dartron") (collectively, the "Moving Parties"); and

WHEREAS, the Court has considered any opposition and any reply to the Motion; and

WHEREAS, the Court has found that the Settlement Agreement and Consent Orders and the terms of the proposed dismissal of claims are consistent with the goals of the Comprehensive Environmental Responsibility, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), and are fair and reasonable to both the settling and non-settling parties; and

WHEREAS, the Court has separately approved and entered the Consent Orders submitted with the Motion; and

WHEREAS, Defendants Scepter Management Corporation, Inc., Environmental Brine Services, Inc. ("Environmental Brine"), Painesville Township Board of Trustees, the Village of Fairport Harbor, Fairport Harbor Board of Education, Cousins, Inc., Electrode Corporation, Elm Street Recreation Company, Eric-Coke Properties, Inc., John Grantham, Little Seedlings, Inc., PVS Chemical Solutions, Inc., Richard N. Westholm, as well as Third-Party Defendants Norfolk Southern Railway Company, Aluminum Smelting and Refining Company, Inc., Philip Metals Recovery (USA) Inc., and Tanner Industries, Inc. (collectively, "Consenting Parties"), all consent to the entry and terms of this Order.

WHEREAS, the State did not make service of summons and complaint upon Defendants National GG Industries, Inc., Ace Lakefront Properties, Inc., and James Nicholson.

NOW, THEREFORE, without adjudication or admission of any issue of fact or law, except as provided in the Consent Orders, the Moving Parties and the Consenting Parties wish to dismiss their claims against each other in accordance with the terms of this Order, it is this ^{4th} day of ~~OCTOBER~~, 2005.

ORDERED, that the Motion be and hereby is GRANTED in its entirety; and it is further

ORDERED, that the Settlement Agreement by and between Maxus, Tierra, Occidental, Crompton, Lockheed Martin, Dartron and the PRP Group ("Private Party Settlement Agreement") be and hereby is approved without modification; and it is further

ORDERED, that the claims asserted against Crompton in Count Three of the State's Amended Complaint shall be satisfied as set forth in paragraph 70 of the Consent Order entered in conjunction herewith between the State and Crompton ("Crompton Consent Order"): once the civil penalty and Attorney General enforcement costs are paid as required by the Crompton Consent

Order, the claims asserted against Crompton in Count Three of the Amended Complaint that accrued prior to the entry of the Crompton Consent Order shall be dismissed, WITH PREJUDICE; and it is further

ORDERED, that the claims asserted against all Defendants besides Crompton in Count Three of the State's Amended Complaint shall be satisfied as set forth in paragraph 18 of the Consent Order between the State and Defendants Tierra, Maxus, Occidental, the Painesville Township Board of Trustees, the Village of Fairport Harbor and the PRP Group ("PRP Group Consent Order"): once the civil penalty and Attorney General enforcement costs are paid as required by the PRP Group Consent Order, the claims asserted in Count Three of the Amended Complaint that accrued prior to the entry of the PRP Group Consent Order shall be dismissed, WITH PREJUDICE, as to all Defendants, other than Crompton: and it is further

ORDERED, that Counts One, Two and Four through Sixteen of the State's Amended Complaint be and hereby are dismissed, WITHOUT PREJUDICE, as to all Defendants: and it is further

ORDERED, subject to the terms of the Private Party Settlement Agreement, including but not limited to the releases given and reservations of rights expressed therein, that any and all cross claims asserted or deemed to have been asserted in this action between and among Defendants, and that have not previously been dismissed, be and hereby are dismissed WITHOUT PREJUDICE: and it is further

ORDERED, subject to the terms of the Private Party Settlement Agreement, including but not limited to the releases given and reservations of rights expressed therein, that all third-party claims, including third-party counterclaims and cross-claims, that were asserted or deemed to have been asserted in this action between and among any Defendants and Third-Party Defendants, and

that have not previously been dismissed, be and hereby are dismissed WITHOUT PREJUDICE:
and it is further

ORDERED, that the dismissal of the State's claims in this Order is subject to the agreement of the Defendants that are Moving Parties or Consenting Parties that the State may refile in any court of appropriate jurisdiction any or all dismissed claims, except (1) those asserted in Count Three of the Amended Complaint that accrued prior to entry of the Consent Orders ("Count Three Claims"), and (2) any claims that have been released in either the Crompton Consent Order or the PRP Group Consent Order entered in conjunction herewith ("Released Claims"); and it is further

ORDERED, that if any claims other than Count Three Claims or Released Claims are refiled by the State pursuant the foregoing paragraph, then the Moving Parties or Consenting Parties (1) may refile any cross-claims and third-party claims (including third-party counterclaims and cross-claims) that are being dismissed without prejudice in this Order, except to the extent, if at all, any such claims have been or become released or barred by agreement or by another Order of this Court in this case or in the case of *Maxus Energy Corporation, et al. v. Ace Lakefront Properties, Inc.*, Case No. 1:00CV 972 (N.D. Ohio) ("Maxus Action"), and (2) will not assert, plead or raise in any fashion, whether by answer, motion or otherwise, any defenses to the refiling of any such claims, cross-claims or third-party claims, including without limitation, any statute of limitations, laches or other defenses concerning the timeliness of commencing a civil action based on any lapse of time between January 31, 2002 and January 31, 2009. If any of the dismissed claims are refiled by the State, the Moving and Consenting Parties shall retain and be able to assert as defenses to any refiled claims, cross-claims or third-party claims any or all defenses that any Moving Party or Consenting Party raised to the claims as originally filed, including, without limitation, any and all defenses based on any statute of limitations, laches or other principle concerning the timeliness of commencing a civil action, that existed at the time of the filing of the State's Complaint on January 31, 2002, or in the

case of a refiled cross-claim or third-party claim, at the time such cross-claim or third-party claim was first filed in this action; and it is further

ORDERED, that nothing in this Order shall affect in any way the State's right to file, in a new action in any court of appropriate jurisdiction, any of the following claims, nor shall any thing in this Order affect in any way the following rights of the State, all such claims or rights having been expressly reserved by the State:

1. the State's access rights and authorities, including enforcement authorities related thereto, under any applicable statute or rule;
2. the State's right to file a new action against any signatory of the Director's Final Findings and Orders dated September 27, 1995 ("DFFO"), other than Crompton, for injunctive relief, civil penalties and enforcement costs for any violations of the DFFO occurring after the entry of this Order;
3. the State's right to pursue orders implementing remedies for the Site, including, without limitation, Remedial Design/Remedial Action ("RD/RA") Orders, and to seek recovery of costs for such work from any and/or all Defendants and Third Party Defendants, except to the extent the State has released any party from claims for remedy in the Crompton Consent Order or the PRP Group Consent Order being entered in conjunction herewith; and
4. the State's right to seek relief for claims for damages to natural resources; and it is further

ORDERED, that nothing in the immediately foregoing paragraph of this Order shall be construed to limit, waive or otherwise affect in any way any terms of the Crompton Consent Order or the PRP Group Consent Order or any defenses that Defendants or Third Party Defendants may have to any claims reserved in the immediately foregoing paragraph of this Order, except that

Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims, demands, rights or causes of action raised by the State in the subsequent proceeding were or should have been brought in the instant case or in the subsequent proceeding; and it is further

ORDERED, if the State re-files any dismissed claim, or asserts any new claim, against Environmental Brine, nothing in this Order shall be construed to limit, waive or otherwise affect in any way Environmental Brine's ability to raise as a defense to any such claim that the claim has been discharged in bankruptcy or is otherwise barred by federal bankruptcy law, nor shall this paragraph, or the State's consent thereto, be construed as a finding by the Court, or as any admission or concession by the State, that any such defense has merit; and it is further

ORDERED, that nothing herein shall limit the authority of the State to undertake any action against any entity, including Defendants, to eliminate or control conditions that may present a threat to the public health, safety, welfare or environment, and to seek cost reimbursement for any such action, except to the extent any claims have been released by the State in the Consent Orders being entered in conjunction herewith; and it is further

ORDERED, that nothing in this Order, nor the consent of any Defendant or Third Party Defendant to the entry of this Order, shall constitute either a judicial finding, or an admission, except as provided in the Consent Orders, by any Defendant or Third Party Defendant, of any matter of fact or law alleged in the Complaint or the Amended Complaint; and it is further

ORDERED, that that this Order does not effect the dismissal of any claims that have been asserted by any Defendant in the Maxus Action; the disposition of all claims in the Maxus Action will be controlled by the terms of separate (if related) Orders entered in the Maxus Action; and it is further

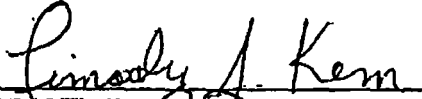
ORDERED, that Defendants shall bear the court costs of this action.

SO ORDERED THIS 4th DAY OF OCTOBER, 2005.

W. Ronald C. Nugent
JUDGE NUGENT
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

The Parties whose signatures appear below and on the attached signature pages hereby consent to the terms of this Order of Dismissal and Approval of Settlement Agreement.

JIM PETRO
ATTORNEY GENERAL OF OHIO



TIMOTHY J. KERN (0034629)

Assistant Attorney General

Environmental Enforcement Section

Public Protection Division

30 East Broad Street, 25th Floor

Columbus, Ohio 43215-3428

Telephone: (614) 466-2766

Facsimile: (614) 644-1926

tkern@ag.state.oh.us

*Attorney for Plaintiff
State of Ohio*

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Crompton Manufacturing Company, Inc.

Address: 199 Benson Road
Middlebury, CT 06749

By: Arthur Fullerton
Signature of Representative

Arthur C. Fullerton
Name of Representative (Print or Type)

Title: Vice President & Secretary

Date: August 8, 2005

Dean J. Cordiano
Signature of Counsel for Defendant/Third-Party Defendant
Dean M. Cordiano

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

TIGRA SOLUTIONS, INC.
(FORMERLY)
Name of Party: CHEMICAL LAND HOLDINGS, INC.

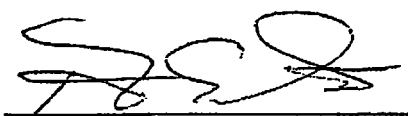
Address: 2 TOWER CENTRAL BLVD.
EAST BRUNSWICK, N.J.
08816

By: 
Signature of Representative

DAVID RAABE
Name of Representative (Print or Type)

Title: President


Date: 8/5/05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Occidental Chemical Corporation

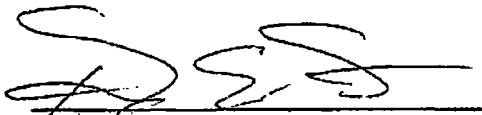
Address: 5005 LBJ Freeway
Dallas, TX 75244

By: 
Signature of Representative

J. Alan Mack
Name of Representative (Print or Type)

Title: Associate General Counsel

Date: August 24, 2005

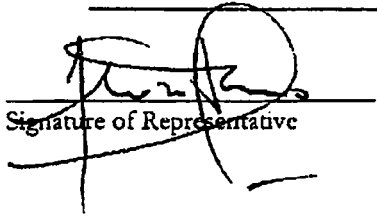

Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al

Name of Party: Maxus Energy Corporation

Address: 1330 Lake Robbins Drive, Ste. 400
The Woodlands, TX 77380

By:




Signature of Representative

Alvaro Racero
Name of Representative (Print or Type)

Title: Vice President

Date: August 5, 2005

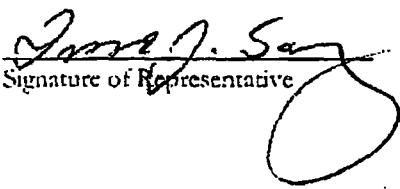


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Village of Fairport Harbor

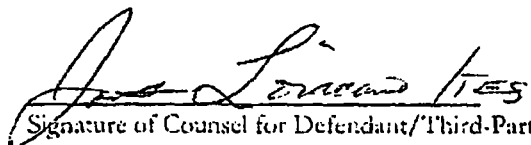
Address: 220 Third Street
Fairport Harbor, Ohio 44077

By: 
Signature of Representative

Frank J. Sarosy
Name of Representative (Print or Type)

Title: Mayor

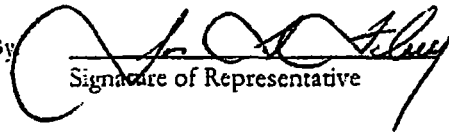
Date: 8-11-05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Painesville Township Board of Trustees

Address: Painesville Township Hall
55 Nye Road
Painesville Twp., Ohio 44077

By 
Signature of Representative

James S. Falvey
Name of Representative (Print or Type)

Title: Board Chair

Date: August 23, 2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: PAINESVILLE PRP GROUP


Address: PAINESVILLE PRP GROUP
PO BOX 188
1897 FAIRPORT NURSERY ROAD
PAINESVILLE, OHIO 44077

By: 
Signature of Representative

William C HUTTON
Name of Representative (Print or Type)

Title: Chairman

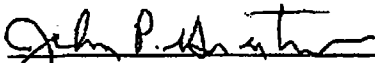
Date: August 8, 2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: JOHN P. GRANTHAM


Address: 9695 MENTOR RD.
CHARDON, OH.
44024

By: 
Signature of Representative

JOHN P. GRANTHAM
Name of Representative (Print or Type)

Title: SELF

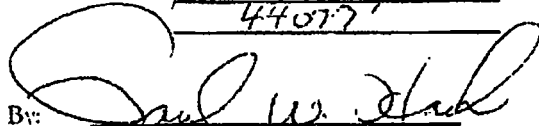
Date: AUG. 9, 2005



Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.


Name of Party: LITTLE SCOOTLINE'S INC.
Address: ROUTE 535 7000 FAIRPORT, WARSWICK ROAD
MAINEVILLE, OHIO
44077

By: 
Signature of Representative

PAUL W. HACH
Name of Representative (Print or Type)

Title: CEO

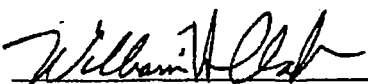
Date: AUG 9-05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Fairport Harbor EVBOE

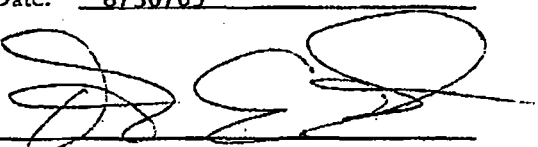
Address: 329 Vine St.
Fairport Harbor,
OH 44077

By: 
Signature of Representative

William Clark
Name of Representative (Print or Type)

Title: Superintendent

Date: 8/30/05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: PVS Chemical Solutions, Inc.

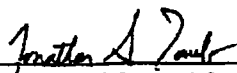
Address: 10900 Harper Avenue
Detroit, MI 48213

By: 
Signature of Representative

Allan A. Schlumberger
Name of Representative (Print or Type)

Title: President

Date: 8/12/05


Signature of Counsel for Defendant/Third-Party Defendant
Jonathan S. Taub

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al

Name of Party: Richard N. Westholm

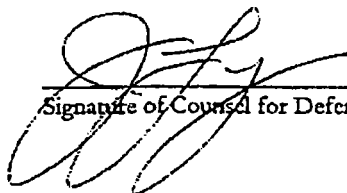
Address: 1859 W. Jackson Street
Painesville, Ohio 44077

By: 
Signature of Representative

Richard N. Westholm
Name of Representative (Print or Type)

Title: _____

Date: 8-30-2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al

Name of Party: Elm Street Recreation, Inc.

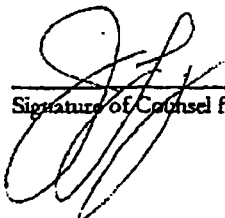
Address: Painesville, Ohio 44077

By: 
Signature of Representative

Martin Finzel
Name of Representative (Print or Type)

Title: Officer

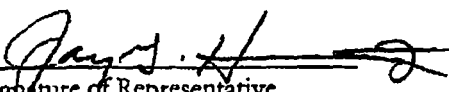
Date: 8/30/2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Environmental Brine Services, Inc.

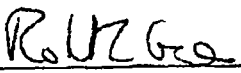
Address: 3927 Cleveland Road
Wooster, OH 44691

By: 
Signature of Representative

Jay G. Henthorne, Jr.
Name of Representative (Print or Type)

Title: President

Date: August 12, 2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Dartron Corporation


Address: 1903 OAKRIDGE DR.
CONCORD TWP., OH
44060

By: 
Signature of Representative

RICHARD L. CONSTANTINE
Name of Representative (Print or Type)

Title: PRESIDENT

Date: AUG. 11, 2005


Signature of Counsel for Defendant/Third-Party Defendant
Dean M. Cordiano

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Norfolk Southern Railway Company

Address: THRU Commercial Place
Norfolk, VA 23510

By: [Signature]
Signature of Representative

Karin Stamy
Name of Representative (Print or Type)

Title: General Attorney

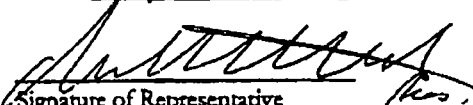
Date: 8/24/05

[Signature]
Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al

Name of Party: Dartron Corporation


Address: 1903 OAKRIDGE DR.
CONCORD TWP., OH
44060

By: 
Signature of Representative *Pres.*

RICHARD L. CONSTANTINE
Name of Representative (Print or Type)

Title: PRESIDENT


Date: AUG. 11, 2005


Signature of Counsel for Defendant/Third-Party Defendant
Dean M. Cordiano

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Lockheed Martin Corporation

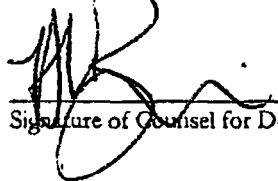
Address: 6801 Rock Ledge Drive
Bethesda, MD 20817

By: 
Signature of Representative

Mary P. Morningstar
Name of Representative (Print or Type)

Title: Assistant General Counsel


Date: 8/12/05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Tanner Industries, Inc.

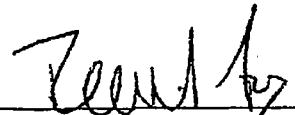
Address: 735 Davuville Rd.
Third Floor
Southampton, PA 18966

By: 
Signature of Representative

Stephen B. Tanner
Name of Representative (Print or Type)

Title: President

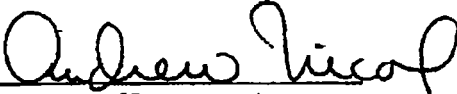
Date: Aug. 12, 2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: ALUMINUM SMELTING & REFINING CO., INC.

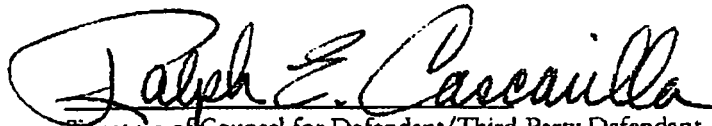
Address: 40 Fountain Plaza
Buffalo, New York 14202

By: 
Signature of Representative
Andrew Nicol, President

Name of Representative (Print or Type)

Title: _____

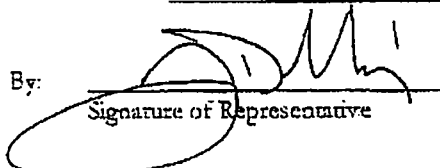
Date: 8-19-05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: FSC Metals, Inc., successor to Philip Metals Recovery (USA) Inc.

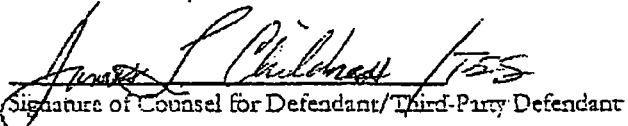
Address: 5875 Landerbrook Drive, Suite 200 Mayfield Heights, OH 44124

By: 
Signature of Representative

Joseph D. King
Name of Representative (Print or Type)

Title: Vice President & General Counsel & Secretary

Date: 9/2/05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the Order of Dismissal and Approval of Settlement Agreement in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Cousins, Inc.

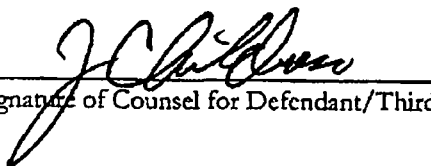
Address: P.O. Box 787
MANUSFIELD, OHIO 44901

By: 
Signature of Representative

STEVEN SENSER
Name of Representative (Print or Type)

Title: PRESIDENT

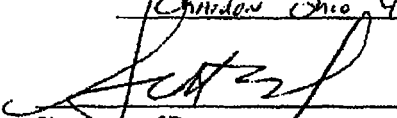
Date: 9/8/05


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the **Order of Dismissal and Approval of Settlement Agreement** in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: ELTECH Systems Corporation

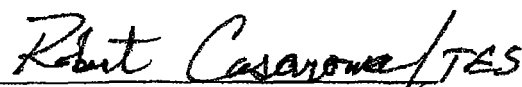
Address: 100 Seventh Avenue
Suite 300
Chardon Ohio 44024

By: 
Signature of Representative

Scott A. Lloyd
Name of Representative (Print or Type)

Title: General Counsel

Date: September 26, 2005


Signature of Counsel for Defendant/Third-Party Defendant

The undersigned Defendant and/or Third Party Defendant hereby consents to the **Order of Dismissal and Approval of Settlement Agreement** in State of Ohio v. Chemical Land Holdings, Inc., et al.

Name of Party: Scepter Management Corporation, Inc.

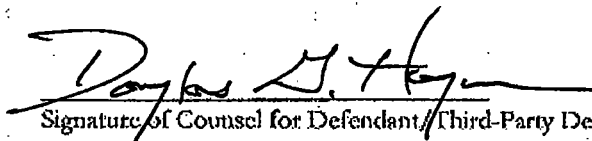
Address: 1415 Louisiana Suite 3000
Houston, Texas 77002

By: 
Signature of Representative

Richard F. Reese
Name of Representative (Print or Type)

Title: Vice President

Date: October 3, 2005


Signature of Counsel for Defendant/Third-Party Defendant