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: CONSENT DECREE

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The State of New York and John P. Cahill, as Acting Commissioner of the New York State Department of Environmental Conservation and Trustee of the Natural Resources (hereinafter collectively the "State") and defendants Turbodyne Electric Power Corporation (hereinafter "Turbodyne"), Dresser-Rand Company (hereinafter "Dresser-Rand") and Intervenor/Third-Party Plaintiff Dresser Industries, Inc. (hereinafter "Dresser") agree as follows:

RECITATIONS

WHEREAS, the State alleges that the Village of Wellsville operated a site located on Snyder Road in the Towns of Wellsville and Andover in Allegany County, New York (the "Site") as a municipal and industrial landfill from 1964 through 1983, during which time hazardous substances were disposed at the landfill, and continues to own the Site; and

WHEREAS, the State alleges that the Rochester Button Company, a division of Panex Industries, Inc., Turbodyne and ABB Air Preheater, Inc., and their predecessors, successors and/or alter egos, generated and disposed, or arranged for the disposal of, hazardous substances and other waste materials at the Site; and

WHEREAS, the State filed a complaint in this action on May 25, 1994 relating to activities and conditions at the Site, against the defendants, asserting claims under the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. § 9601 et seq., New York's common law of public nuisance, the New York Real Property Actions and Proceedings Law, and New York's common law of restitution; and

WHEREAS, Turbodyne and Dresser-Rand filed an answer to the above complaint on or about July 8, 1994, inter alia, denying liability; and

WHEREAS, Turbodyne, Dresser-Rand and Dresser have asserted claims against defendant McGraw-Edison Company (hereinafter "McGraw") and Third-Party Defendant Cooper Industries, Inc. (hereinafter "Cooper") for, inter alia, declaratory judgment, breach of contract and contractual indemnity in connection with the Site, and

WHEREAS, the State alleged that there has been a release of hazardous substances from the Site and there was a threat of a release of hazardous substances from the Site in the future; and

WHEREAS, the State seeks judgment, inter alia, for all response costs incurred or to be incurred by the State in responding to the release and threat of release of hazardous substances from the Site; and

WHEREAS, on March 23, 1994, the New York State Department of Environmental Conservation ("DEC") issued a Record of Decision, following public notice and an opportunity for public comment, setting forth the selected remedy for the Site; and

WHEREAS, DEC estimates, based on currently available information, that the total cost incurred and to be incurred by the State, excluding in-kind contributions by other parties, in responding to the release and threat of release of hazardous substances from the Site, including but not limited to implementing the selected remedy, is approximately \$ 7.5 million, although there is a contractual dispute between DEC and its contractor, IT Corp., regarding amounts payable under its contract; and

WHEREAS, the State estimates that since the Complaint was filed in excess of \$ 375,000 in interest on past costs have accrued as of November 1997 and that its enforcement costs have totaled in excess of \$ 30,000; and

WHEREAS, Turbodyne, Dresser-Rand and Dresser, on the understanding that the State has implemented the remedy as identified in the Record of Decision for the Site, and having consented to the issuance and entry of this Consent Decree, agree to be bound by its terms, and this Consent Decree is negotiated, mutually drafted, and executed by Turbodyne, Dresser-Rand and Dresser and the State (together, the "settling parties") in good faith to avoid expensive and protracted litigation, and is a settlement of claims which were vigorously contested, denied, and disputed by Turbodyne and Dresser-Rand as to validity and amount; and

WHEREAS, the existence of this Consent Decree, the consent of Turbodyne, Dresser-Rand and Dresser thereto, and their compliance with this Consent Decree, do not constitute nor shall be construed or considered as an admission of liability, fault, wrongdoing, or violation of any law, regulation, permit, or order by them, or an admission by them of any law or fact, or the applicability of any law, as to conditions at the Site; nor shall they give rise to any presumption of law or finding of fact which shall inure to the benefit of any third party; and accordingly, with the exception of any proceedings to enforce this Consent Decree, this Consent Decree shall not be admissible in any judicial or administrative proceeding for use against Turbodyne, Dresser-Rand and Dresser over their objection, and in any proceeding to enforce this Consent Decree, they reserve any right they may have to contest, defend against, dispute, or disprove any actions, proceedings, allegations, determinations, or orders of the State, except with

respect to the validity of this Consent Decree or its terms, and they reserve their right to notice, to be heard, to appeal, and to any other due process in any action or proceeding by the State; and

WHEREAS, it is further acknowledged and agreed that the payments made hereunder by Turbodyne, Dresser-Rand and/or Dresser are not and do not constitute penalties, fines, or monetary sanctions of any kind; and

WHEREAS, the settling parties recognize, and the Court finds, that this settlement has been negotiated in good faith, and will avoid prolonged and complicated litigation between the settling parties, and the terms of settlement are fair, reasonable, and in the public interest.

NOW THEREFORE, it is hereby ORDERED and DECREED as follows:

JURISDICTION

1. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 9613 and has jurisdiction over the parties to this Consent Decree.

2. This Consent Decree shall apply to and be binding upon the settling parties, their successors and assigns. The undersigned representative of each settling party certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and bind the party to its terms.

PAYMENT OF COSTS

3. To resolve all claims against Turbodyne and Dresser-Rand for past and future response costs of the State at the Site, except as provided elsewhere in this Consent Decree, Turbodyne, Dresser-Rand and/or Dresser shall pay the sum of

\$ 2,325,000 to the State within thirty (30) days of the effective date of this Consent Decree,. Payment shall be made by mailing a check payable to the New York State Department of Environmental Conservation to Eugene Martin-Leff (New York State Department of Law, 120 Broadway, New York, New York 10271), or by electronic funds transfer.

RESOLUTION OF LIABILITY AND COVENANT NOT TO SUE

4. In consideration of the payments to be made by Turbodyne, Dresser-Rand and/or Dresser pursuant to this Consent Decree, the State releases, discharges, covenants not to sue and agrees not to assert any cost, claim, demand, remedy, or action whatsoever which the State has or may have against Turbodyne, Dresser-Rand and/or Dresser, or their present and former directors, officers, employees, agents, affiliates, predecessors, successors, and assigns, individually or in their respective capacities, pursuant to Section 107(a) or Section 113 of CERCLA, 42 U.S.C. § 9607(a) or § 9613; Article 27, Titles 9 and 13 of the New York State Environmental Conservation Law; or any other applicable rules and regulations promulgated pursuant to any of such statutes; or under any other federal, state or local statute, regulation or ordinance, common law or other authorities, arising out of or relating to environmental conditions at the Site, including without limitation the claims asserted by the State against Turbodyne and Dresser-Rand in the complaint in this action, except claims for natural resources damages, as a result of the release or threatened release of hazardous substances or constituents at or from the Site or areas in the vicinity of the Site. This covenant not to sue extends only to Turbodyne, Dresser-Rand and Dresser and their

present and former directors, officers, employees, agents, affiliates, predecessors, successors, and assigns, and does not extend to any other person or entity.

5. Turbodyne, Dresser-Rand and Dresser hereby release, discharge, covenant not to sue and agree not to assert any claims or causes of action against the State pursuant to § 107(a) or § 113 of CERCLA, 42 U.S.C. § 9607(a) or § 9613, or under any other federal, state or local statute, regulation or ordinance, or common law, arising out of or relating to environmental conditions at the Site, except claims for natural resources damages, as a result of the release or threatened release of hazardous substances or constituents at or from the Site or areas in the vicinity of the Site. This covenant not to sue extends only to the State and its assigns, and does not extend to any other person or entity.

6. The discharge and release provisions and covenants not to sue provided in this Consent Decree shall not apply to claims or counterclaims relating to any additional response costs necessitated by the discovery of any release or threatened release of hazardous substances at or from the Site or any other environmental or engineering condition related to the Site which was not known by the State on or before the effective date of this Consent Decree, and which indicates that the remedial action required by the Record of Decision for the Site is not protective of human health or the environment.

7. To the extent permitted by applicable law, this Consent Decree shall not in any manner impair or impede Turbodyne, Dresser-Rand or Dresser's claims against McGraw/Cooper to recover any and all sums paid by Turbodyne, Dresser-Rand or

Dresser pursuant to this Consent Decree and such other sums as Turbodyne, Dresser-Rand and/or Dresser may be entitled to recover.

8. For purposes of the foregoing reopener provision, previously known releases or threatened releases at or from the Site consist of all releases, threatened releases, or conditions known to the State as of the effective date of this Consent Decree, including, but not limited to, all conditions considered and relied upon by DEC or contained or submitted for inclusion in the DEC administrative record, and all conditions known by the State through discovery in this action.

9. The State shall notify Turbodyne, Dresser-Rand and Dresser in writing of conditions described in paragraph 6 above and the State's basis for determining that additional response actions are necessary to protect human health or the environment.

10. Turbodyne, Dresser-Rand and Dresser shall not be liable for claims for contribution in accordance with CERCLA, Section 113(f)(2), 42 U.S.C. § 9613(f)(2). The matters addressed in this Consent Decree include any and all claims, current or prospective, by any party, against Turbodyne, Dresser-Rand and/or Dresser for past and future damages and response costs concerning or relating to or arising from the Site, and claims for pre-judgment interest thereon and enforcement costs. All claims of non-settling parties against Turbodyne, Dresser-Rand and Dresser which have or could have been brought against Turbodyne, Dresser-Rand and Dresser, including claims under CERCLA, Sections 107(a) and 113(f)(2), 42 U.S.C. §§ 9607(a) and 9613(f)(2), are hereby dismissed with prejudice and without costs. Upon the filing of any further amended pleadings, non-settling parties in this action shall not plead for contribution or common law indemnification against Turbodyne, Dresser-Rand and Dresser.

11. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a party to this settlement. Each of the settling parties expressly reserves any and all rights, defenses, claims, demands, and causes of action which each party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person or entity not a party hereto.

JUDICIAL APPROVAL OF CONSENT DECREE

12. The proposed Consent Decree is not binding upon, and is without prejudice to, the settling parties if the Court does not grant judicial approval in accordance with 42 U.S.C. § 9613. In that event, the Consent Decree shall not be construed as an admission of liability or of any fact in the pending action and may not be used in any other proceeding. In the event that the Court does not judicially approve the terms of this settlement in haec verba, then in that event, the obligations and covenants of each settling party shall be deemed null and void and this Consent Decree shall be null and void.

EFFECTIVE DATE

13. This Consent Decree shall be effective upon the date that the Court approves and enters this Consent Decree. All times for performance of activities under this Consent Decree shall be calculated from that date.

CONTINUING JURISDICTION OF THE COURT

14. The Court shall retain jurisdiction over this Consent Decree in order to enforce compliance with its terms.


COMPLETE AGREEMENT

15. The terms of this Consent Decree shall constitute the complete and entire agreement between Turbodyne, Dresser-Rand and Dresser and the State concerning the matters addressed herein. No term, condition, understanding or agreement purporting to modify or vary any term of this Consent Decree shall be binding unless made in writing and subscribed by the parties to be bound.

SO AGREED:


Dated: 6/21/00

ELIOT SPITZER
Attorney General of the
State of New York

By: 
EUGENE MARTIN-LEFF
Assistant Attorney General
Attorney for State of New York and
the Commissioner of Environmental
Conservation

Dated: 6/19/00

NIXON PEABODY LLP

By: 
DAVID L. COOK
LAURIE STYKA BLOOM
Attorneys for Turbodyne Electric Power
Corporation, Dresser-Rand Company and
Dresser

SO ORDERED this ____ day
of _____, 1999

U.S.D.J.

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