

CERTIFIED MAIL/R.R.R.

New York State Department of Environmental Conservation

Division of Environmental Enforcement
202 Mamaroneck Avenue Room 304
White Plains, N.Y. 10601-5381



Thomas C. Jorling
Commissioner

Steve H. FBI files
Bob
JS
@MOT

May 5, 1988

David H. Peirez, Esq.
Reisman, Peirez & Reisman
1301 Franklin Avenue
Garden City, N.Y. 11530

Re: GOLDISC RECORDING, INC.
SITE # 152022

Dear Mr. Peirez:

Please find enclosed a fully executed Order for the above named site. Please be advised that the work plan which has been submitted pursuant to the Order has also been approved.

Accordingly, please be mindful of the time schedules agreed to and contact me if you have any questions.

Your cooperation in this matter to date is greatly appreciated.

Very truly yours,

Rocky J. Piaggione
Assistant Counsel

RP/jg

Encl.

cc: M. O'Toole
R. Tramontano
H. Berger

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BUREAU OF EASTERN REMEDIAL ACTION
DIVISION OF HAZARDOUS
WASTE REMEDIATION

DIRECTOR'S OFFICE
DIVISION OF HAZARDOUS
WASTE REMEDIATION

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Development and Implementation
of a Remedial Investigation,
Feasibility Study and Implementation
of a Remedial Program for an
Inactive Hazardous Waste Disposal
Site, Under Article 27, Title 13,
of the Environmental Conservation
Law of the State of New York (the
"ECL") by

ORDER
ON
CONSENT

EEDS # W100098407
Site # 152022

ELECTROSOUND GROUP, INC. AND
DAVID H. PEIREZ as general partner
of THE FIRST HOLBROOK COMPANY

Respondents

WHEREAS,

1. The New York State Department of Environmental Conservation (the "Department") is responsible for enforcement of Article 27, Title 13, of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites".

2. Respondent Electrosound Group, Inc. is a corporation located at 800 Veterans Memorial Highway, Hauppauge, County of Suffolk, State of New York. The property located at 725 Broadway Avenue, Holbrook, New York is the "Site". A map of the Site is attached hereto, and is hereby incorporated into this Order as Appendix "A". Respondent David H. Peirez is a general partner of The First Holbrook Company which was the owner of the Site. It is understood and agreed that David H. Peirez has the authority to represent and bind the partnership known as the First Holbrook Company formerly the owner of the

Site. Wherever the word "Respondent" appears in this Order, it shall constitute both Electrosound Group, Inc. and the First Holbrook Company.

3. Beginning approximately 1968 and continuing to 1983, the Site was used for the production of audio records. The industrial and hazardous wastes generated from this production were disposed of at the Site for some period of time prior to 1983.

4. The Site is an inactive hazardous waste disposal site, as that term is defined in ECL Section 27-1301(2), and has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 152022.

5. The Department has identified and classified the site pursuant to ECL Section 27-1305, under classification 2, a "significant threat to the public health or environment - action required".

6. Pursuant to ECL Section 27-1313(3)(a), whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the Environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (ii) to implement such program within reasonable time limits specified

in the order."

7. Respondent and the Department executed an Order on Consent in 1984 for a field investigation at the Site. Said field investigation was conducted but the Report was disapproved by the Department as further field investigation work is required at the Site.

8. The Department and Respondent acknowledge that the goals of this Order are to complete the additional work required at the Site to comply with the Field Investigation Order on Consent of 1984 and to develop and implement a further remedial investigation and feasibility study, at the site, subject to the approval of the Department, and to implement such program within the time limits specified herinafter. If a Remedial Program is necessary, it shall be the subject of a further Order on Consent.

9. Respondent, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Order, agrees to be bound by terms hereof.

NOW, having considered this matter and being duly advised,
IT IS ORDERED THAT:

I. All investigations, proposals, reports, plans,

remedial programs, and supplements and revisions thereto required by this Order shall address both on-Site and off-Site contamination and impacts caused by the disposal of hazardous wastes at the Site, and shall be prepared, designed and executed in accordance with Requisite Technology. As used in this Order, Requisite Technology means engineering, scientific and construction principles and practices subject to the Department's approval, which (a) are technologically feasible, and (b) will most effectively abate and eliminate any significant threat to the environment posed by the disposal of hazardous wastes at the Site. The failure of Respondent to submit or undertake a required Proposal, Report, Field Investigation, or any supplement or revision thereof which is in accordance with Requisite Technology shall constitute a violation of this Order.

II. As used herein, "hazardous wastes" shall mean hazardous wastes, as defined at 6 NYCRR 371, and any constituents or degradation products of such wastes.

III. All data generated from the Field Investigation Order on Consent of 1984 and the disapproved Report are incorporated by reference herein.

IV. All submittals made by Respondent pursuant to this Order shall be subject to Departmental review. Within the time limits set forth by Table No. 1 herein, the Department shall approve or disapprove each submittal in writing.

If the Department approves a submittal, Respondent shall perform the specified work or continue with Respondent's obligations under the Order in accordance with the terms of the approval and under the Department's supervision. The submittal once approved by the Department shall be appended to and made a part of this Order.

If the Department disapproves a submittal, the Department shall notify Respondent in writing of the reasons for such disapproval. Within the time limits set forth by Table No. 1 herein, the Respondent shall revise and resubmit the submittal, addressing each of the Department's objections. Within 15 days of receipt of the revised submittal, the Department shall approve or disapprove the revised submittal in writing. If the Department approves the revised submittal, Respondent shall perform the specified work or continue with Respondent's obligations under the Order in accordance with the terms of the approval and under the Department's supervision.

If the Department disapproves the revised submittal, Respondent shall be in violation of this Order, not having submitted an approvable document in accordance with the terms of this Order.

Table No. 1
Submittals

Submittal	Consent Order Paragraph	Days after Receipt for Department Review	Days to Prepare and Submit Revision
Proposal	V	30 Days	30 Days
Report	VI	60 Days	30 Days
Feasibility Study	VII	60 Days	30 Days

V. Within 30 days after the effective date of this Order, Respondent shall submit to the Department a proposed written scope of work (the "Proposal") to investigate the field environmental conditions on-Site and off-Site (the "Remedial Investigation").

Such Proposal shall address all elements of a Remedial Investigation as set forth in the most current National Contingency Plan ("NCP"), The Comprehensive Environmental Response Liability and Compensation Act and the Superfund Amendments and Reauthorization Act of 1986 (CERCLA as amended) and the USEPA Guidance Document entitled, "Guidance on Remedial Investigations Under CERCLA," dated June 1985. Remediation, if required, shall be the subject of a further Order on Consent.

VI. Within 160 days of approval of the Proposal, Respondent shall perform the Remedial Investigation and shall submit to the Department for its review and approval a Remedial Investigation Report (the "Report") founded upon its performance of the Remedial Investigation in accordance with the approved Proposal. The Report shall include all data generated and all

other information obtained during the Remedial Investigation and shall provide all assessments and evaluations as set forth in the most current NCP and consistent with CERCLA as amended.

VII. Within 120 days after receipt of the Department's approval of the Report, Respondent shall submit to the Department a study evaluating the feasibility of on-Site and off-Site remedial options to abate and eliminate the significant threat to the environment or public health (the "Feasibility Study").

The Feasibility Study shall be performed consistent with CERCLA as amended and the USEPA guidance document entitled, "Guidance on Feasibility Studies under CERCLA, June 1985".

VIII. The Department shall have the right to obtain "split samples" for the purpose of comparative analysis of all substances and materials sampled by Respondent pursuant to this Order.

XI. Respondent shall provide notice to the Department of any excavating, drilling or sampling to be conducted pursuant to the terms of this Order at least 5 working days in advance of such activities.

X. Respondent shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary in order to perform the Remedial Investigation and all

of Respondent's other obligations pursuant to this Order.

XI. Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent, and any areas necessary to gain access thereto, for purposes of inspection and of making or causing to be made such sampling and tests as the Department deems necessary, and for assurance of Respondent's compliance with the terms of this Order.

XII. Respondent shall retain a third-party professional consultant, contractor and/or technically acceptable laboratory to perform the technical, engineering and analytical obligations required by this Order.

XIII. Respondent shall not suffer any penalty under any of the terms of this order, or be subject to any proceeding or actions for any remedy or relief if it cannot comply with any requirements hereof because of an act of God, war, riot, or other condition as to which negligence or willful misconduct on the part of Respondent was not a proximate cause, provided however, that Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an extension or modification of the terms of this order.

XIV. The failure of Respondent to comply with any term of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL.

XV. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting either party's right to the following:

a. any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that may exist against any other person exclusive of the Respondent or the Department.

b. without creating or waiving any personal liability, the Department's right to enforce at law or in equity the terms and conditions of this Order against Respondent, its directors, officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to satisfy any of the terms hereof;

c. without creating or waiving any personal liability, the Department's right to bring any action at law or in equity against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to areas or resources that may have been affected or contaminated as a result of the release or migration of hazardous or industrial wastes from the Site; and

d. the Department's right to bring any action or

proceeding to which it may be entitled in connection with, relating to, or arising out of Respondent's disposal of hazardous wastes at the Site.

e. any right the United States Environmental Protection Agency ("EPA") may have.

XVI. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

XVII. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the terms of this Order by Respondent, its directors, officers, employees, servants, agents, successors or assigns except for the Department's willful failure or refusal to comply with this Order.

XVIII. The effective date of this Order shall be the date it is signed by the Commissioner.

XIX. If Respondent desires that any terms of this Order be changed, Respondent shall make timely written application to the Commissioner, setting forth reasonable grounds for the relief sought.

XX. The Department acknowledges that the Respondent conveyed the ownership interest in the Site to Red Ground Corp., an unrelated and unaffiliated person to the Order herein; and, Respondent represents that Red Ground Corp. had been informed of the status of the site, and on October 29, 1985 was provided with a copy of the prior Order on Consent with Department.

XXI. A. All communication required by this Order to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service Return Receipt Requested, or hand delivered to the address listed below.

B. Communication to be made from Respondent to the Department shall be made as follows:

1. Two copies to the Division of Hazardous Waste Remediation, Room 212, 50 Wolf Road, Albany, New York 12233-4010.
Attn: Michael J. O'Toole, Jr., P.E., Actg. Director.
2. Two copies to the Division of Environmental Enforcement, 202 Mamaroneck Avenue, Room 304 White Plains, New York 10601-5381.
3. Two copies to the NYS Department of Environmental Conservation, Region I Building # 40 SUNY Stony Brook, New York 11794
Attn: Harold Berger, Regional Director.
4. Two copies to the NYS Department of Health Bureau of Env. Exposure Investigation 2 University Place Albany, New York 12237
Attn: Ronald Tramontano, P.E.

C. Communication to be made from the Department to Respondent shall be made as follows:

1. David H. Peirez, Esq.
Reisman, Peirez & Reisman
1301 Franklin Avenue
Garden City, NY 11530
2. R. Projain, President
Electrosound Group, Inc.
800 Veterans Memorial Highway
Hauppauge, New York 11788

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.

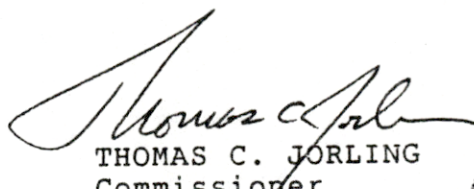
XXII. The terms of this Order shall be deemed to bind Respondent, its officers, directors, agents, servants, employees, successors and assigns. No personal liability to individuals shall be created or waived as a result of this provision.

XXIII. Nothing herein shall be construed to bind any entity not specifically bound by the terms of this Order.

XXIV. The terms hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by Respondent shall be

construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: Albany, New York
April 29, 1988


THOMAS C. JORLING
Commissioner
New York State Department of
Environmental Conservation

TO: David H. Peirez
Robert Projain

CONSENT BY RESPONDENT

ELECTRO SOUND GROUP, INC.
AND DAVID H. PEIREZ AS GENERAL PARTNER
OF THE FIRST HOLBROOK COMPANY

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained in this Order.

By: ELECTRO SOUND GROUP, INC.
Richard Projain

Title: President

Date: March 16, 1988

STATE OF NEW YORK)
) s.s.:
COUNTY OF SUFFOLK)

On this 16th day of March, 1988,
before me personally came Richard Projain, to me
known, who being duly sworn, did depose and say that he resides in
Syosset, New York; that he is the
President & Chief Executive Officer of the
ElectroSound Group, Inc. corporation described in and which
executed the foregoing instrument; that he knew the seal of said
corporation; that the seal affixed to said instrument was such
corporate seal; that it was so affixed by the order of the Board
of Directors of said corporation, and that he signed his name
thereto by like order.

Gloria Danielson
Notary Public

GLORIA DANIELSEN
Notary Public, State of New York
No. 52-4660332, Suffolk County
Commission Expires 7/31/89

CONSENT BY RESPONDENT

ELECTROSOUND GROUP, INC.
AND DAVID H. PEIREZ AS GENERAL PARTNER
OF THE FIRST HOLBROOK COMPANY

Respondent hereby consents to the issuing and entering of this Order, waives its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained in this Order.

FIRST HOLBROOK COMPANY

By: David H. Peirez

Title: General Partner

Date: March 8, 1988

STATE OF NEW YORK)
COUNTY OF NASSAU) s.s.:

On this 8th day of March, 1988,
before me personally came David H. Peirez, to me
known, who being duly sworn, did depose and say that he resides in
Great Neck, New York; that he is the
General Partner of the

The First Holbrook Company ^{partnership} ~~corporation~~ described in and which
executed the foregoing instrument; that he knew the seal of said
corporation; that the seal affixed to said instrument was such
corporate seal; that it was so affixed by the order of the Board
of Directors of said corporation, and that he signed his name
thereto by like order.

Muriel B. Green
Notary Public

MURIEL B. GREEN
Notary Public, State of New York
No. 4703127
Qualified in Nassau County
Commission Expires Aug. 31, 1989