

Introduced by Presiding Officer, on request of the County Executive and Legislators Romaine, Muratore, Schneiderman, Vilorio-Fisher

RESOLUTION NO. 860 -2010, AUTHORIZING THE COMPLETION OF THE BROOKHAVEN NATIONAL LABORATORY ENVIRONMENTAL CLEANUP ON COUNTY PARKLAND (ROBERT CUSHMAN MURPHY PARK)

WHEREAS, the Brookhaven National Laboratory has acknowledged a discharge of hazardous substances which migrated from the Laboratory onto Robert Cushman Murphy Park; and

WHEREAS, the operator of Brookhaven National Laboratory ("BNL"), on behalf of the United States Department of Energy ("DOE"), is Brookhaven Science Associates ("BSA"); and

WHEREAS, pursuant to Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), a Federal Facility Agreement, Administrative Docket Number: II-CERCLA-FFA-00201 ("Interagency Agreement"), was entered into between DOE, the United States Environmental Protection Agency ("EPA"), and the New York State Department of Environmental Conservation ("NYSDEC"), effective Spring 1992, establishing a procedural framework and schedule for developing, implementing and monitoring appropriate response, investigation, and remediation activities concerning those hazardous substances, pollutants and contaminants; and

WHEREAS, the Interagency Agreement requires that DOE, and all subsequent owners, operators (including BSA) and lessees of BNL, undertake, at its or their sole expense, the necessary investigation, pre-design and design phases, remediation, and monitoring of those hazardous substances, pollutants and contaminants; and

WHEREAS, Resolution No. 779-2004 authorized Suffolk County to execute any agreement necessary to conduct an environmental cleanup of the contamination in Robert Cushman Murphy Park; and

WHEREAS, the County of Suffolk, BSA and the DOE entered into a License Agreement, dated October 6, 2004, for BSA to conduct the remediation and restoration of the parkland; and

WHEREAS, the 2004 License Agreement not only authorized the remediation, but also included safeguards to protect the County's parkland; and

WHEREAS, BSA completed a large portion of the cleanup and complied with the safeguards; and

WHEREAS, as a result of sampling and monitoring, it has been discovered that a portion of Robert Cushman Murphy Park remains contaminated; and

WHEREAS, the contaminated area is within the area previously proposed and authorized for remediation in the 2004 License Agreement with the County; and

WHEREAS, BSA desires to complete remediation of the remaining contaminated area, as was initially authorized in the 2004 License Agreement; and

WHEREAS, the 2004 License Agreement expired on September 30, 2006, and completion of the remediation on County property will require a new license agreement, which will incorporate the terms of the 2004 License Agreement, with any necessary updates and modifications; and

WHEREAS, the proposed remediation will be governed by the Interagency Agreement; and

WHEREAS, BSA and DOE have submitted or will submit the following application:

On-Site and Off-Site Peconic River Supplemental Sediment Removal, NYSDEC Permit Equivalency Application, Submitted To: New York State Department of Environmental Conservation, Prepared for: United States Department of Energy, Prepared By: Brookhaven Science Associates, Brookhaven National Laboratory, Groundwater Protection Group, Upton, New York, June 2010.

("Equivalency Permit"), which, when approved by NYSDEC, will govern the remaining remediation proposed to begin in 2010 ("2010 Remediation"); and

WHEREAS, the project plans for the 2010 Remediation have been reviewed by the Suffolk County Department of Health Services, which found the plans to be satisfactory; and

WHEREAS, the remediation and restoration were previously approved by the Suffolk County Board of Trustees of Parks, Recreation and Conservation, and the plans for the 2010 Remediation shall be presented to them for approval; and

WHEREAS, pursuant to the State Environmental Quality Review Act (SEQRA), N.Y. Environmental Conservation Law Article 8, and Chapter 279 of the Suffolk County Code, this Legislature previously determined, via Resolution No. 779-2004, that the proposed action was a Type I action and that the proposed action would not have a significant impact on the environment, and

WHEREAS, the SEQRA review completed in 2004 encompassed the proposed 2010 Remediation; and

WHEREAS, no further SEQRA for the proposed 2010 Remediation is necessary; and

WHEREAS, this Legislature desires to approve and expedite the 2010 Remediation by authorizing execution of a license agreement and any other documents necessary to permit the 2010 Remediation to proceed on County property, subject to necessary safeguards; now, therefore be it

1st RESOLVED, that the County Executive and/or his designee(s) are hereby authorized, empowered and directed, to execute and deliver, on behalf of the County, a license or other agreement(s), instruments or authorizations necessary to permit the further

environmental remediation and restoration of Robert Cushman Murphy Park to proceed in accordance with this resolution, subject to the following conditions:

- A. The license agreement and any other necessary documents shall incorporate the Interagency Agreement and the Equivalency Permit, as approved by the New York State Department of Environmental Conservation; and
- B. Brookhaven Science Associates shall be required to procure and maintain, throughout the duration of the license agreement for the 2010 Remediation, insurance in sufficient amounts to protect the County of Suffolk; and
- C. All costs of the 2010 Remediation, the license agreement and the activities conducted thereunder shall be borne by Brookhaven Science Associates, and there shall be no cost to the County of Suffolk for such activities; and
- D. The license agreement shall include a requirement to restore the County property after the cleanup;

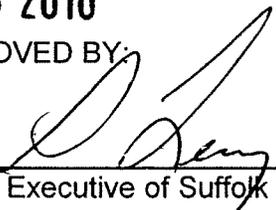
and be it further

2nd **RESOLVED**, that this Legislature determines that this action was previously reviewed pursuant to the State Environmental Quality Review Act, N.Y. Environmental Conservation Law Art. 8, and Chapter 279 of the Suffolk County Code; therefore, the SEQRA review has been completed and no further review is necessary; and be it further

3rd **RESOLVED**, that in accordance with Section 279-5(C)(4) of the Suffolk County Code, the Suffolk County Council on Environmental Quality is hereby directed to prepare and circulate any appropriate notices or determinations in accordance with this resolution.

DATED: **SEP 16 2010**

APPROVED BY:



County Executive of Suffolk County

Date: **SEP 24 2010**

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on
September 16, 2010 *and that the same is a true and correct transcript of said resolution and of the whole thereof.*

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Clerk of the Legislature

Intro. Res. 1890 Res. No. 860

September 16, 2010

Motion:

Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vitoria-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vitoria-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vitoria-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Thomas MURATORE					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Thomas CILMI					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER					
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
	Totals	18				

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee _____
Table Subject To Call _____
Lay On The Table _____
Discharge <input checked="" type="checkbox"/> EDDINGTON
Take Out of Order _____
Reconsider _____
Waive Rule _____
Override Veto _____
Close _____
Recess _____
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
NOT ADOPTED _____

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote