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**Environmental Justice
Task Force**

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NEW JERSEY ENVIRONMENTAL JUSTICE TASK FORCE

**Statement of Findings
Newark, Essex County
Pabst Brewery Site Petition
June 15, 2005**

1. Introduction

On Friday, January 28, 2005 and February 24, 2005, the Environmental Justice Task Force (EJTF) reviewed the December 16, 2004 Environmental Justice Petition (the EJ Petition) submitted by the **West Ward Neighborhood, Newark, Essex County** on behalf of the following community groups: West Ward Neighborhood Residents, The Newark North Jersey Committee of Black Churchmen/Clergy, The New Jersey Environmental Federation, The Neighborhood Square Block Association and The North Jersey Environmental Justice Alliance.

The EJ Petition was submitted to the EJTF pursuant to Executive Order No. 96, and a total of 92 residents and workers of Newark signed the petition (the Petitioners).

2. Background

The EJ Petition pertains to the Pabst Brewery site redevelopment project, located at the intersection of South Orange Avenue and Grove Streets in Newark, NJ. The current owners, New West Developers, purchased this property from Pabst Brewery on March 26, 2003. The New West Developers developed a plan that involves demolition of the buildings and subsequent construction of 100,000 square feet of retail space and 179 units of affordable housing.

According to the EJ Petition, the community observed that the developer did not have the required safety measures in place at the start of the demolition. As a result, residents of the surrounding communities of Newark and Irvington and site workers feel that they were not fully protected during demolition activities. In addition, the community is concerned that the site is contaminated and has not been investigated and remediated prior to construction of the proposed housing units.

3. Summary of the EJ Petition

Redevelopment of the former Pabst Brewery Site located at 400 Grove Street in Newark: The petitioners are concerned about the current demolition of buildings and other structures at the site and the potential for asbestos and lead exposure to the neighborhood during demolition. The community is also concerned about site remediation issues and proposed reuse of the site as 100,000 square feet of retail space and 179 units of affordable housing.

The concerns expressed in the EJ Petition were reiterated in a letter from the Rutgers Environmental Law Clinic addressed to First Assistant Attorney General Mariellen Dugan. That letter was referred to the EJTF for review in conjunction with the review of the EJ Petition.

4. Findings of the EJTF

In the case of the Pabst Brewery, after consultation with its constituent agencies the EJTF finds that the issues raised in the petition fall within the scope of Executive Order No. 96. Furthermore, the EJTF has considered the Environmental Justice Advisory Council's recommendation to further this petition. Due to the multi-agency regulatory framework for asbestos and lead, the EJTF finds that the petitioning community, the regulated community

and communities across New Jersey can benefit from coordinated agency action to provide further education as it relates to State regulations and oversight for asbestos and lead.

In the case of Pabst Brewery, the EJTF further finds that all demolition activities have been conducted according to applicable laws and regulations to prevent and mitigate exposure to airborne lead and asbestos. Furthermore, NJDEP's Site Remediation and Waste Management Program has encouraged the responsible party to conduct further investigation work at the site.

Based on the information presented above and after hard deliberation, the EJTF finds that additional actions by the EJTF in the form of a formal Environmental Justice Action Plan will substantially contribute to efforts to resolve the issues raised in the EJ Petition. The Task Force is currently considering the following items for inclusion in the draft action plan, and looks forward to working with stakeholders and the Environmental Justice Advisory Council, to develop the action plan:

Public Outreach and Education:

The EJTF strongly recommends that the appropriate agencies of the EJTF host a public dialogue with stakeholders to discuss the asbestos and lead regulatory process and agency oversight activities at the site. In addition, agencies will provide and/or create asbestos and lead fact sheets to concerned stakeholders.

In addition, the EJTF will make recommendations to the following State Agencies that have regulatory oversight for lead and asbestos activity as follows:

NJDEP:

Staff from the NJDEP's Solid Waste Enforcement Program performed an inspection of the Pabst facility on December 21, 2004. Based upon the inspector's observations and review of records, the asbestos removal being provided by the Site Project Manager, the Department determined that the asbestos removal completed to that date was conducted properly. Therefore, the EJTF strongly recommends that the Solid Waste Enforcement Program continues conduct periodic inspections of the project to ensure protection of human health and the environment and compliance with applicable laws and regulations.

The NJDEP's Site Remediation and Waste Management Program will reach out to the developer/ owner of the facility to execute an appropriate oversight document in order to implement a Preliminary Assessment and a Site Investigation and to perform any investigation and/or remediation that is necessary to comply with the Department's Technical Requirements for Site Remediation.

The New Jersey Department of Labor and Workforce Development (NJLWD):

The NJLWD is charged with ensuring that the demolition of a building containing asbestos is done according to appropriate laws and regulations. Any Educational Facility or Public Building that undergoes an asbestos abatement must be monitored by an authorized Asbestos Safety Control Monitoring firm and obtain a permit from the Administrative Authority having jurisdiction on that project. Contractors and agencies should contact the Asbestos Unit by telephone at 609-633-6224 or by fax at 609-633-1040 to verify a company's certification status prior to having services performed.

According to a January 13, 2005 memorandum from the NJLWD, staff conducted 57 inspections at the former Pabst Brewery site between January 2004 and January 16, 2005. No violations of the Asbestos Control and Licensing Act were found through January 3, 2005. Therefore, the EJTF strongly recommends that this department continue to perform inspections and provide oversight to ensure that all appropriate laws and regulations are followed and to ensure protection of human health and the environment.

The New Jersey Department of Health and Senior Services (DHSS):

The NJDHSS is responsible for conducting asbestos inspections for compliance with the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) as well as compliance with state regulations pursuant to NJAC 8:60 (12:120), Asbestos Licenses and Permits. In response to complaints, staff began inspecting the former Pabst Brewery site in January of 2004 and have performed 20 inspections. Since September 29, 2004, DHSS staff have conducted 14 inspections. Inspections were conducted in various areas of the project and no violations were noted. Guidance was provided to the project manager on proper demolition procedures, including the wetting of the material, to ensure the protection of the public's health. Future remediation is on hold until the spring.

The New Jersey Department of Community Affairs (DCA)

Because the former Pabst Brewery Site is to be completely demolished, the asbestos removal would not fall under the jurisdiction of NJAC 5:23-8 (subchapter 8) and subsequently would not be subject to inspections or enforcement action by the Department of Community Affairs. The NJDCA's Bureau of Code Services enforces the Asbestos Hazard Abatement Subcode, also known as Subchapter 8 of the Uniform Construction Code.

The New Jersey Department of Community Affairs has adopted regulations for the certification of companies for monitoring asbestos abatement in Educational facilities and Public buildings.

Any company offering to abate asbestos in New Jersey must be licensed. A list of licensed contractors may be obtained by contacting the New Jersey Department of Labor at (609) 633-2159.

Any Educational Facility or Public Building that undergoes an asbestos abatement must be monitored by an authorized Asbestos Safety Control Monitoring firm and obtain a permit from the Administrative Authority having jurisdiction on that project.

The following listing is for Asbestos Safety Control monitors. This list is updated periodically. You should contact the Asbestos Unit by telephone at 609-633-6224 or by fax at 609-633-1040 to verify the company's certification status prior to having services performed.

New Jersey Department of Law and Public Safety (DL&PS: Attorney General's Office):

The EJTF requests that the Attorney General's office, working with State agencies supervising the Pabst demolition, provide legal support for those agencies, as needed, and take appropriate action to address any civil or criminal violations that may occur relating to the Pabst demolition project.