



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

MEMORANDUM

TO: THE BOARD OF ENVIRONMENTAL PROTECTION

FROM: JAMIE TANSEY, BUREAU OF REMEDIATION & WASTE MANAGEMENT,  
AUGUSTA *Jamie Tansey*

SUBJECT: ADMINISTRATIVE CONSENT AGREEMENT, ENVIROVANTAGE, INC.

DATE: AUGUST 5, 2010

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**Statute and Rule Reference:** 38 M.R.S.A. 347-A(1); 38 M.R.S.A. Section 1271 to 1284; 06-096 CMR 425(7)(A)(8)(b), 425(7)(A)(14)(b), 425(7)(A)(2)(b) and 425(1)(RR) (work practice violations)

**Location:** 25 Love Lane, Kittery, Maine

**Description:** On January 27, 2010, Department staff performed a routine compliance inspection of a notified asbestos abatement project involving the removal of 185 linear feet of asbestos containing pipe insulation at 25 Love Lane in Kittery, Maine. After arriving on-site, Department staff entered the regulated area observing that EnviroVantage personnel had initiated the removal process. Department staff further observed that EnviroVantage personnel had not covered all immovable objects within the regulated area with two layers of 6 mil polyethylene sheeting prior to commencement of the abatement activity. Department staff further observed that EnviroVantage personnel were wearing clothing under their protective suits that was not permanently marked or labeled (minimum 3/4 inch lettering) as "Asbestos Clothing". While on-site, Department staff sampled the suspect pipe insulation. Subsequent analysis showed that the pipe insulation is asbestos-containing. Finally, Department staff observed the decontamination facility was not equipped with a shower. Department staff then informed Envirovantage's Project Manager of the inspection findings. In response to the Department's inspection, all on-site activities were halted and EnviroVantage's Operations Manager was immediately sent over to the site to ensure that the deficiencies noted above were corrected before any more on-site work was performed. EnviroVantage's Project Manager also returned the following day to review with the new site supervisor the required work practices before beginning the removal of the remaining asbestos material. Finally, EnviroVantage informed Department staff that the previous project supervisor had been placed on

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company probation that included the revocation of his status as a project supervisor for the next six months.

**Environmental Issues:** While the impact of this particular asbestos-related event is unknown at this time due to the 10 to 30 year latency period for asbestos-related diseases, failure to comply with asbestos laws can endanger public health and the environment. The Department entered into a Consent Agreement with EnviroVantage, Inc. on February 1, 2007 for violating a different Section [425.8(B)(1)] of Chapter 425, Asbestos Management Regulations. In that instance, EnviroVantage, Inc. did not conduct a proper visual evaluation of a regulated area at the conclusion of an asbestos abatement activity.

**Department Recommendation:** The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of three thousand dollars (\$3000.00). The penalty is based on the gravity of violations, which could potentially endanger public health and the environment.



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IN THE MATTER OF:

ENVIROVANTAGE, INC. ) ADMINISTRATIVE
629 CALEF HIGHWAY ) CONSENT
EPPING, NH 03042 ) AGREEMENT
NOV No. 2010-1 )
ASBESTOS )

This Agreement, by and among EnviroVantage, Inc. the (EnviroVantage), Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

- 1. EnviroVantage is a corporation which is duly organized and exists under the laws of the state of New Hampshire. EnviroVantage is licensed (CF-0069 expiration date 1/31/11) to operate an asbestos abatement contractor business in Maine. Scott Knightly is President of the corporation.
2. At all times relevant to this Agreement, EnviroVantage was subject to the requirements of Maine's Asbestos laws, 38 M.R.S.A. §§ 1271-1284, and the Department's Asbestos Management Regulations, 06-096 CMR 425 (May 29, 2004).
3. On January 27, 2010, Department staff performed a routine compliance inspection of a notified asbestos abatement project involving the removal of 185 linear feet of asbestos containing pipe insulation at 25 Love Lane in Kittery, Maine. After arriving on-site, Department staff entered the regulated area observing that EnviroVantage personnel had initiated the removal process. Department staff further observed that EnviroVantage personnel had not covered all immovable objects within the regulated area with two layers of 6 mil polyethylene sheeting prior to commencement of the abatement activity. Department staff further observed that EnviroVantage personnel were wearing clothing under their protective suits that was not permanently marked or labeled (minimum 3/4 inch lettering) as "Asbestos Clothing". While on-site, Department staff sampled the suspect pipe insulation. Subsequent analysis showed that the pipe insulation is asbestos-containing. Finally, Department staff observed the decontamination facility was not equipped with a shower. Department staff then informed Envirovantage' Project Manager of the inspection findings. In response to the Department's inspection, all on-

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site activities were halted and EnviroVantage's Operations Manager was immediately sent over to the site to ensure that the deficiencies noted above were corrected before any more on-site work was performed. EnviroVantage's Project Manager also returned the following day to review with the new site supervisor the required work practices before beginning the removal of the remaining asbestos material. Finally, EnviroVantage informed Department staff that the previous project supervisor had been placed on company probation that included the revocation of his status as a project supervisor for the next six months.

4. The actions described in paragraph 3 of this Agreement are violations of the Department's asbestos management laws and regulations, as follows:
  - A. Failure to cover immovable or fixed objects within the regulated area with two layers of six (6) mil thick (minimum) polyethylene sheeting that is fiber-tight prior to the commencement of abatement activity; 06-096 CMR 425(7)(A)(8)(b);
  - B. Failure to wear clothing under protective suits that is permanently marked or labeled (minimum 3/4 inch lettering) as "Asbestos Clothing"; 06-096 CMR 425(7)(A)(14)(b); and
  - C. Failure to construct a decontamination facility that is equipped with a shower room; 06-096 CMR 425(7)(A)(2)(b), 06-096 CMR 425(1)(RR).
5. On February 26, 2010, the Department issued EnviroVantage a Notice of Violation for the violation(s) described in paragraphs 3 and 4 of this Agreement as required by 38 M.R.S.A. § 347-A(1)(B).
6. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
7. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
8. To resolve the violations referred to in paragraphs 3 and 4 of this Agreement, EnviroVantage paid the Treasurer, State of Maine, a civil monetary penalty of three thousand (\$3,000.00) dollars:
9. The Department and the Office of the Attorney General grant a release of their causes of action against EnviroVantage for the specific violations described in Paragraphs 3 and 4 of this Agreement, on the express condition that all actions listed in Paragraph 8 of this

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) AGREEMENT  
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Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective unless and until this condition is satisfied.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of three (3) pages.

ENVIROVANTAGE, INC.

BY: Scott Knightly DATE: 6/14/10  
Scott Knightly, President

BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Susan M. Lessard, Chair

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Nancy Macirowski, Asst. Attorney General

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