

**STATE OF OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL COMPLAINTS AND LOCAL SERVICES DIVISION**

**IN THE MATTER OF:
BRANNAN BORDWINE,
BORDWINE DEVELOPMENT, INC., AND ANY
UNKNOWN AFFILIATED ENTITIES**

RESPONDENTS,

**COMPLAINT NUMBERS (“NOS.”): 176382 AND
176419.**

**OKLAHOMA
DEPT OF ENVIRONMENTAL QUALITY**

AUG 12 2022

**FILED BY: 
HEARING CLERK**

CASE NO. 22-178

EMERGENCY ORDER

The following findings are made, and this Emergency Order (“EO”) is issued pursuant to authority vested in the Executive Director of the Department of Environmental Quality of the State of Oklahoma (“DEQ”) at 27A O.S. § 2-3-502(E) for violations of the Oklahoma Environmental Quality Code, specifically 27A O.S. § 2-6-105.

FINDINGS OF FACT

1. On July 19, 2022, DEQ received a complaint (No. 176382) alleging that Brannan Bordwine, Bordwine Development, Inc., and unknown affiliates (Respondents) were receiving semi-truck loads of hand sanitizer and dumping the sanitizer on the ground on property located at 5501 S. 4th St., Chickasha, Grady County, Oklahoma.

2. On July 21, 2022, DEQ received a second complaint (No. 176419) alleging Respondents were dumping and burying several loads of contaminated hand sanitizer on property located at 1003 W. Quail Ln., Ninnekah, Grady County, Oklahoma, described as:

Three tracts in the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section Sixteen (16), Township 6 North, Range 7 West of the Indian Meridian, Grady County,

Oklahoma, described as follows:

- (1) Beginning at a point 523.3 feet South and 545.6 feet East of the Northwest corner of SE/4 SW/4 of said Section 16-6N-7W I.M., thence S 0°05' W. 205 feet to the North right-of-way of U.S. Highway 81, thence on a curve to the left having a radius of 2704.8 feet for 59.4 feet, then N. 16° 20'W 183.2 feet to the point of beginning.

And

- (2) Beginning at a point 545.8 feet South and 362.7 feet East of the Northwest corner of SE/4 SW/4 of said Section 16-6N-7W I.M., thence S. 0°05'W. 294.3 feet to the North right-of-way Line of the U.S. Highway 81, thence on a curve in a Southwesterly direction 55.4 feet, thence N. 0° 05'E. 318 feet, thence N. 83°00'E. 48.06 feet to the point of beginning.

And

- (3) Beginning at a point 545.8 feet South and 362.7 feet East of the Northwest corner of the SE/4 SW/4 of said Section 16-6N-7W. I.M. thence N. 83°00' E. 184.3 feet, thence S. 0°05'W. 206 feet to the North right-of-way line of U.S. Highway 81, thence on a curve to the right having a radius of 2704.8 feet a distance of 214.6 feet, thence N.0°05'E. For 294.3 feet to the point of beginning.

together with all building, and other hereditaments thereunto belonging.

3. Records at the Grady County Clerk's Office confirm that Charles H. Bickerstaff owns the above-described property. Respondents lease the property from Mr. Bickerstaff.

4. On July 22, 2022, DEQ personnel investigated the complaints. During the investigation, DEQ personnel observed pallets of bottled hand sanitizer stacked outside a warehouse at the Quail Ln. property with additional pallets stacked inside the warehouse two and three pallets high, an area near the

road where a pit had been dug and liquid was standing in the pit, an area with additional disturbed soil near the warehouse building, loose bottles of hand sanitizer on the ground around the building and drive areas, and loose cardboard, plastic, and pallets on the ground surrounding the building and drive areas. DEQ personnel also observed a large number of semi-trucks waiting in line to unload freight. DEQ personnel spoke with employees at the site who were operating forklifts and moving large numbers of full pallets around the property, who stated that the hand sanitizer was being stored, the site was for storage only, and no dumping was occurring. DEQ personnel attempted to locate the 4th St. property but were unsuccessful.

5. On July 25, 2022, DEQ personnel spoke with Respondent Brannan Bordwine about the Quail Ln. property, who stated they were not dumping and burying hand sanitizer but were recycling pallets, cardboard, and plastic. Respondent stated they were placing some of the alcohol-based hand sanitizer in a one-half pit barrel and donating large portions of the bottled hand sanitizer to groups, organizations, and people in need. Respondent also stated the hand sanitizer is originally from China and Mexico and cannot be shipped back. Respondent stated they had a contract to store and recycle the hand sanitizer and that the material was being trucked in from facilities in California and Texas. DEQ personnel asked Respondent about the dirt work near the warehouse and the pit dug on the property. Respondent stated that the dirt work near the building was to provide loading docks at the warehouse to make it easier to unload the semi-truck trailers. Respondent also stated that the pit had been dug to expand the drive area into the property to make it easier to accommodate the semi-trucks but that they had encountered groundwater and had decided not to expand the drive area. Respondent stated they wanted to fill the pit in and would like a DEQ representative onsite when they did it. DEQ personnel stated that samples needed to be obtained from the pit and that it needed to remain open until analysis results came back.

6. On July 27, 2022, DEQ personnel re-inspected the Quail Ln. property and observed a large number of semi-trucks waiting to unload freight. DEQ personnel obtained a sample of the water located in the excavated pit on the property for analysis. DEQ personnel also determined that the 4th St. property address given was incorrect and the correct address for the property in question is 5501 S. St. Hwy 81, Chickasha, Grady County, Oklahoma, described as:

A Tract of Land situated in the West Half of the Northwest Quarter (W1/2 NW1/4) of section Fifteen (15), Township Six (6) North, of Range Seven (7) West of the Indian Meridian, Grady County, Oklahoma described as follows:

Beginning at a point 120.00 feet S.89o48'19"E. and 50.00 feet N.00o05'03"W. of the SW/corner of said NW1/4 of Section 15-T6N-R7W.I.M., thence S.89o48'19"E. a distance of 737.21 feet, thence N00o00'07"W. a distance of 466.75 feet, thence S.89o48'19"E. a distance of 466.75 feet, thence N.00o00'07"W a distance of 1378.22 feet, thence N.89o47'41"W a distance of 606.60 feet, thence S.00o05'03"E. a distance of 983.40 feet, thence N.89o47'41"W. a distance of 600.00 feet, thence S00o05'03"E. a distance of 861.80 fee to the point of beginning.

7. Records at the Grady County Clerk's Office confirm that Blessed Chickasha Collective, LLC owns the above-described property.

8. On July 27, 2022, DEQ personnel located and inspected the Hwy 81 property and observed a large number of semi-trucks waiting to unload freight, pallets of hand sanitizer stacked outside a warehouse with additional pallets of hand sanitizer stacked inside the warehouse two and three pallets high, loose bottles of hand sanitizer on the ground around the building and drive areas, loose cardboard, plastic, and pallets on the ground around the building and drive areas. DEQ personnel also observed employees using a loader/backhoe to load un-palletized hand sanitizer bottles into an open top

semi-truck trailer, crushing the bottles, and removing the plastic into another container and allowing the liquid hand sanitizer to drain out of the semi-truck trailer onto the ground. DEQ personnel obtained a sample of the liquid observed pooling under the semi-truck trailer for analysis. While at the Hwy 81 site, DEQ personnel spoke with Respondent Bordwine, who stated they were storing the hand sanitizer and planned to reuse it by donating it or recycling it into cleaning product. DEQ personnel asked for copies of documents related to the hand sanitizer, shipping manifests, and contract information. Respondent stated they would provide the information by email. DEQ personnel observed a semi-truck with Indiana license plates and Respondent stated material was also being trucked in from facilities Indiana, as well as the California and Texas facilities.

9. On August 2, 2022, DEQ received emails from Respondents containing a “Process of Recycling of Pallets and Product Scope of Work”, a “Latitude Liquids Proposal for Service”, a “LifeScience Logistics Straight Bill of Lading Form dated July 26, 2022”, a “Sedgwick Material Transfer Form”, a “KCH Transportation Straight Bill of Lading Form dated July 27, 2022”, an “Excavation @ 1003 West Quail Road Scope of Work”, and two (2) photos and a drawing showing the area where the road at the Quail Ln. property was originally planned to be extended where the pit was dug.

10. On August 7, 2022, DEQ received a report of an active fire occurring at the Hwy 81 property. DEQ personnel responded and confirmed the warehouse on the property was fully engulfed in fire and fire officials had made the determination to let the fire burn itself out over the next few days.

11. On August 8, 2022, DEQ personnel received analysis results from the sample collected in the excavated pit. Sample analysis indicated four hundred ninety-eight micrograms per liter (498 µg/L) ethanol was present in the water.

12. On August 8, 2022, DEQ received information that a drainage ditch on the east side of the Hwy 81 property contained hand sanitizer.

13. On August 8, 2022, DEQ personnel re-inspected the Hwy 81 property and observed that the warehouse fire was still burning and some areas outside the warehouse on the property had been burned but were no longer actively burning. DEQ personnel also observed two (2) manholes to the City of Chickasha's sanitary sewer main that were open and fire officials stated that the manhole lids had blown off and the sanitary sewer caught fire briefly due to hand sanitizer being present in the City's sanitary sewer line. DEQ personnel investigated the drainage ditch and determined hand sanitizer had drained down the ditch approximately seven hundred twenty-five (725) feet. DEQ personnel collected water samples for analysis. DEQ personnel also inspected the Quail Ln. property and observed semi-trucks had stopped delivering shipments of hand sanitizer and employees were loading pallets of hand sanitizer onto a flatbed trailer being pulled by a pickup truck. However, DEQ personnel were unable to determine where the pallets were being relocated. DEQ personnel collected soil samples for analysis.

14. On August 9, 2022, DEQ received information that Respondents were storing additional pallets of hand sanitizer on property located at 1102 Pikes Peak Rd., Chickasha, Grady County, Oklahoma, described as:

Lot Ten (10), Block One (1), Pike's Peak Addition, City of Chickasha, Grady County, Oklahoma.

15. Records at the Grady County Clerk's Office confirm that Brannan Bordwine owns the above-described property.

16. On August 11, 2022, DEQ received a report of a second active fire at the Pikes Peak Rd. property. DEQ personnel responded and confirmed three (3) roll-off containers located on the property had been on fire, various incident officials were still present at the site, and Respondents' employees were adding soil to the roll-off containers to ensure the fire was completely extinguished.

17. Respondents have a history of previous environmental violations and non-compliance. Respondents have continued to accept shipments of hand sanitizer and store the sanitizer at various locations in violation of State law and OAC regulations. DEQ continues to receive citizen complaints and emergency reports regarding the above-listed properties.

18. Based on the above Findings of Facts, DEQ finds that an emergency exists requiring immediate action to protect the public health, welfare, and environment.

CONCLUSIONS OF LAW

19. The DEQ has regulatory jurisdiction and authority over this matter, and Respondent is subject to the jurisdiction and authority of the DEQ under 27A O.S. § 1-3-101(B).

20. **27A O.S. § 2-6-105 states:**

- A. It shall be unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, land or waters of the state. Any such action is hereby declared to be a public nuisance.
- B. If the Executive Director finds that any of the air, land or waters of the state have been, or are being, polluted, the Executive Director shall make an order requiring such pollution to cease within a reasonable time, or requiring such manner of treatment or of disposition of the sewage or other polluting material as may in his judgment be necessary to prevent further pollution. It shall be the duty of the person to whom such order is directed to fully comply with the order of the Executive Director.

DEQ alleges Respondent is in violation of 27A O.S. § 2-6-105 for creating a public nuisance by improper transportation, storage, and disposal of waste as described above.

21. **OAC 252:100-13-9(1) states:**

- (1) No public nuisance is or will be created.

DEQ alleges Respondent is in violation of OAC 252:100-13-9(I) for creating a public nuisance.

ORDER

22. FINDING THAT AN EMERGENCY EXISTS REQUIRING IMMEDIATE ACTION TO PROTECT THE PUBLIC HEALTH, WELFARE, AND ENVIRONMENT, IT IS ORDERED BY THE EXECUTIVE DIRECTOR THAT:

- a. Respondents shall immediately cease receiving any and all hand sanitizer.
- b. Respondents shall immediately cease all transporting (or causing to have transported) hand sanitizer unless such hand sanitizer is transported and properly disposed of in accordance with all applicable State and Federal requirements.
- c. Respondent shall immediately cease all improper disposal of hand sanitizer.
- d. Respondents shall immediately inform DEQ of all locations where hand sanitizer is stored, staged, or buried and provide DEQ access to those locations for inspection.

GENERAL PROVISIONS

23. No informal advice, guidance, suggestions, or comments by employees of the DEQ regarding reports, plans, specifications, schedules, and other writings affect Respondent's obligation to obtain written approval by the DEQ, when required by this EO.

24. Respondent shall allow agents of the DEQ entry onto Respondent's property, at reasonable times and without advance notice, for the purposes of inspecting, sampling, testing, records review, and other authorized activities to assess compliance with Oklahoma statutes and rules and this EO. If Respondent is required to sample or test, Respondent shall give the DEQ reasonable notice of the sampling or testing date and time and allow the DEQ to observe and/or split sample.

25. Unless otherwise specified, any report, notice, or other communication required under this EO must be in writing and must be sent to:

For the Department of Environmental Quality:

**Gary Henry
P.O. Box 1677
Oklahoma City, OK 73101-1677
(405) 702-7159**

26. This EO is in addition to any other remedies provided by law and does not preclude the DEQ from seeking other relief as appropriate.

NOTICE OF OPPORTUNITY TO REQUEST HEARING

27. This Order is entered under the authority of 27A O.S. §§ 2-3-502 and 2-3-504. **This Order will automatically become final upon issuance. Respondent may submit a written request for an administrative enforcement hearing within fifteen (15) days of receiving the Emergency Order.** Such request for hearing shall be directed to:

Administrative Hearing Clerk
Department of Environmental Quality
P. O. Box 1677
Oklahoma City, OK 73101-1677

The request for hearing must specify the nature of the matters within this Order that Respondent wishes to have reviewed at the hearing.

28. If a hearing is requested, it will be scheduled to take place within ten (10) days of the receipt of the request and Respondent will be notified of the time and place of the hearing. The scope of the hearing will be limited to the matters raised in the request for hearing, unless otherwise permitted by the Administrative Law Judge for good cause. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act.

29. Respondent may be present and/or represented by an attorney at the hearing. Respondent or counsel may present evidence and argument to show why this EO should be set aside or modified.

30. On the basis of the hearing record, the Executive Director of the DEQ will sustain, set aside, or modify the EO.

Dated: August 8, 2022

**OKLAHOMA DEPARTMENT
OF ENVIRONMENTAL QUALITY:**



for _____
SCOTT A. THOMPSON
EXECUTIVE DIRECTOR