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Nebraska Railcar Cleaning Company and its Owners Plead Guilty to Violating Environmental and Worker Safety Laws Related to Workers' 2015 Deaths

Nebraska Railcar Cleaning Services LLC (NRCS), its president and owner, Steven Michael Braithwaite, and its vice president and co-owner, Adam Thomas Braithwaite, pleaded guilty today in federal court in Omaha to charges stemming from an investigation into a 2015 fatal railcar explosion that killed two workers. The charges include conspiracy, violating worker safety standards resulting in worker deaths, violating the Resource Conservation and Recovery Act (RCRA), and submitting false documents to the Occupational Safety and Health Administration (OSHA).

“The Department of Justice is dedicated to protecting the health and safety of American workers and to protecting our environment,” said Acting Assistant Attorney General Jean E. Williams of the Justice Department’s Environment and Natural Resources Division. “The defendants in this case put their employees at risk and falsified documents to evade worker safety requirements. Tragically, two of their employees died while working with hazardous waste under unsafe conditions. Guided by its managers, NRCS failed to appropriately dispose of hazardous wastes removed during the cleaning process — wastes that are ignitable and can cause human cancer and other health effects. Today’s guilty pleas show that the Department of Justice will prosecute those who thwart federal laws created to protect American workers and the environment.”

“Worker safety standards and environmental regulations are not just meaningless rules made up by faceless bureaucrats,” said Acting U.S. Attorney Jan Sharp of the District of Nebraska. “They address real-world safety issues, and failure to abide by them can cost lives. Today’s guilty pleas emphasize the grave consequences of cutting corners, not only for the workers who are meant to be protected, but also for the employers who fail to live up to their responsibilities.”

“The Occupational Safety and Health Administration (OSHA) has regulations that companies must follow to ensure worker safety,” said Special Agent-in-Charge Steven Grell of the U.S. Department of Labor, Office of Inspector General, Dallas Region. “Steven and Adam Braithwaite disregarded OSHA regulations and provided false documentation to OSHA to make it appear as if all safety requirements were being followed, when in fact, they were not. Their lack of adherence to OSHA regulations and indifference to their employees’ safety resulted in tragic consequences which impacted several families. We will continue to work with our law enforcement partners and OSHA to hold accountable those who jeopardize workers’ safety and obstruct DOL agencies in carrying out their important missions.”

“The defendants in this case ignored health and safety protocols and knowingly put their employees and the public at risk by disregarding federal regulations,” said Acting Assistant Administrator Larry Starfield for the EPA’s Office of Enforcement and Compliance Assurance. “Today’s guilty pleas send a clear message that individuals who intentionally violate these laws will be held accountable.”

NRCS was in the business of cleaning railcars, including rail tanker cars. Tanker car cleaning often involved NRCS sending workers inside the cars’ tanks to scrape and remove various commodities, including gasoline, ethanol, petroleum by-products, pesticides, herbicides and food-grade products.

According to court documents, NRCS failed to implement worker safety standards and then tried to cover that up during an inspection by OSHA. In addition, the company mishandled hazardous wastes removed from rail tanker cars during the cleaning process. On April 14, 2015, two NRCS workers who were sent

into a tanker car containing severely flammable residue were killed and another injured when the contents of the railcar they were cleaning ignited and exploded.

On various occasions prior to the explosion, OSHA officials conducted regulatory inspections during which they notified the principals of NRCS that NRCS was in violation of OSHA safety regulations concerning confined space entries. Rail tanker cars are “confined spaces” under the Occupational Safety and Health Act. After an inspection of NRCS, Steven Braithwaite entered into a written agreement on Feb. 5, 2015, where he represented that NRCS had been testing for benzene since July 2014. After OSHA returned to NRCS in March 2015 to conduct a follow-up inspection and was turned away by Steven Braithwaite, Adam Braithwaite submitted falsified documents to OSHA purporting to show that NRCS had been purchasing equipment to test the contents of railcars for benzene and had taken other required safety precautions. Adam Braithwaite also falsely testified under oath in an OSHA hearing that NRCS had been purchasing the benzene testing equipment.

Meanwhile, NRCS had been engaged to clean the railcar that ultimately exploded. On or about Jan. 27, 2015, NRCS received an inquiry from one of its customers about receiving and cleaning product residue from a rail tanker car. The inquiry included a Safety Data Sheet (SDS) for the product in the railcar, describing it as “natural gasoline,” also known as “petrol, casing head gasoline, CS ’s.” The SDS also stated that the flammability rating was “severe” at class “4” (the highest rating), that the natural gasoline would ignite at zero degrees Fahrenheit, and that it contained benzene, a “cancer hazard.” NRCS responded that it could handle the material in the railcar.

The tanker car was not tested for benzene levels. Nonetheless, NRCS sent two of its employees into the tanker car. Continuous monitoring for explosive levels of gases was not conducted. The two employees sent into tanker car began removing the remaining contents, which were hazardous for toxicity (benzene) and ignitability. On April 14, 2015, approximately one hour after the two employees were sent into the tanker car, its contents ignited and exploded, killing those two employees and injuring a third.

Stephen Michael Braithwaite was the President and majority owner of NRCS and was responsible for all phases of the business, including both environmental and worker safety issues. He pleaded guilty to two counts of violating worker safety standards that resulted in the workers’ deaths, and knowingly endangering others by violating RCRA. Adam Thomas Braithwaite was the Vice President and a minority owner of NRCS and also handled both environmental and worker safety issues, among others. He also pleaded guilty to two counts of violating worker safety standards that resulted in the workers’ deaths, to two counts of falsification of records in a federal investigation, and to committing perjury. NRCS pleaded guilty to all 21 of the counts it was charged with in the indictment.

The defendants are scheduled to be sentenced on Oct.25. Steven Braithwaite faces a maximum penalty of 15 years in prison and a fine of the greater of \$750,000 or twice the gain or profit caused by the offense. Adam Braithwaite faces a maximum penalty of 20 years in prison and a fine of the greater of \$1,250,000 or twice the gain or profit caused by the offense and NRCS faces a maximum penalty of five years’ probation and a fine of the greater of \$9,500,000 or twice the gain or profit caused by the offense. A federal district court judge will determine the sentences after considering the U.S. Sentencing Guidelines and other statutory factors.

The case was investigated by U.S. EPA’s Criminal Investigation Division and the U.S. Department of Labor’s Office of Inspector General. Senior Counsel Krishna S. Dighe of the Department of Justice, Environmental Crimes Section, and Assistant U.S. Attorney Donald J. Kleine of the District of Nebraska are prosecuting the case.

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