

ILLINOIS POLLUTION CONTROL BOARD  
August 13, 2020

PEOPLE OF THE STATE OF ILLINOIS,	)	
by KWAME RAOUL, Attorney General	)	
of the State of Illinois,	)	
	)	
Complainant,	)	PCB 20-77
	)	(Enforcement – Air)
v.	)	
	)	
GREENBRIER RAIL SERVICES CORP.,	)	
d/b/a GUNDERSON RAIL SERVICES, LLC,	)	
an Oregon limited liability company,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by A. Palivos)

On May 27, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Greenbrier Rail Services (Greenbrier). The complaint concerns Greenbrier’s rail car wheelset repair and refurbishment facility at 1545 State Street, Chicago Heights, Cook County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), the Attorney General and the State’s Attorneys may bring actions before the Board to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2018); 35 Ill. Adm. Code 103.

In this case, the People allege that Greenbrier violated Section 9(a) of the Act (415 ILCS 5/9(a) (2018)), Section 201.302(a) of the Board Air Pollution Regulations (35 Ill. Adm. Code 201.302(a)), and Sections 254.132(a) and 254.137(a) of the Illinois EPA Air Pollution Regulations (35 Ill. Adm. Code 254.132(a) and 254.137(a)) by failing to timely submit a complete and accurate emissions report for 2018 and by failing to submit complete and accurate annual emissions reports for 2016 and 2017.

On May 27, 2020, the People and Greenbrier filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *The Daily Southtown* on June 21, 2020. The Board did not receive any requests for hearing. The Board

grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Greenbrier's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Greenbrier neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Greenbrier agrees to pay a civil penalty of \$10,000.00 within 30 days after the date of this order. The People and Greenbrier have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Greenbrier must pay a civil penalty of \$10,000.00 no later than September 14, 2020, which is the first business day following the 30th day after the date of this order. Greenbrier must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund ("EPTF"). The case name or case number must appear on the face of the certified check or money order.
3. Greenbrier must submit payment of the civil penalty to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Greenbrier must send a copy of the certified check, or money order and any transmittal letter to:

Arlene R. Haas  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602


4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. Greenbrier must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2018); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Attorney General's Office Environmental Bureau Attn: Arlene R. Haas 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 Primary: ahaas@atg.state.il.us Secondary: mcacaccio@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Greenbrier Rail Services, Corp. Attn: Kevin Maughan One Centerpointe Drive Lake Oswego, Oregon 97035 kevin.maughan@gbrx.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 13, 2020, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk  
Illinois Pollution Control Board