

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

_____)	
Conservation Law Foundation, Inc.,)	
)	Case No. 20-234
Plaintiff,)	
)	
v.)	
)	
DATTCO, Inc.,)	
)	
Defendant.)	Clean Air Act, 42 U.S.C. §§ 7401, <i>et seq</i>
_____)	JURY TRIAL DEMANDED

COMPLAINT

1. Conservation Law Foundation brings this citizen suit to enforce the Clean Air Act against DATTCO, Inc. (“DATTCO” or “the Defendant”), a transportation company. DATTCO’s fleet of vehicles, primarily school buses, pollutes neighborhoods throughout Connecticut with exhaust while these vehicles idle for extended periods of time, in violation of federal law.

2. DATTCO collects \$180 million in revenue annually, including millions of taxpayer dollars under contracts with Connecticut public school districts. DATTCO vehicle lots provide school buses to serve these contracts.

3. DATTCO vehicles unlawfully pollute communities the company is meant—and paid—to serve. During a few hours’ observation on a sample of seven days in October and November 2019 and February 2020, CLF investigators observed 132 violations of federal air-pollution laws by DATTCO vehicles at the company’s lots in New Canaan, Bridgeport, South Windsor, New Britain, Cheshire, Durham, Plainville, and New Haven, Connecticut.

4. While DATTCO vehicles idle for unlawfully extended periods of time, their exhaust accumulates, including in areas near homes, schools, parks, and churches—not to mention “self-polluting” bus exhaust that accumulates within cabins where schoolchildren ride.

5. Exhaust pollution harms human health, particularly that of children. Exhaust contains fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants.

6. These pollutants enter the lungs, impairing respiratory and cardiovascular health. Some pollutants penetrate the lungs’ air-blood barrier, reach other organs, and can cause brain damage, cancer, and premature death.

7. Due to the size and physiology of their developing lungs, children are particularly susceptible to the harms of exhaust pollution.

8. DATTCO has continued to violate the Clean Air Act and the Connecticut State Implementation Plan even after receiving notification from CLF of the unlawful conduct and of CLF’s intention to enforce the federal law through this citizen suit.

9. Upon information and belief, DATTCO has not taken actions sufficient to prevent future violations of the type alleged in this Complaint.

10. Absent an appropriate order from this Court, DATTCO is likely to repeat its violations of the Clean Air Act as described below.

11. This action encompasses post-Complaint violations of the types alleged in the Complaint.

12. CLF asks the Court to remedy the ongoing harm and to order DATTCO to comply with federal law by immediately curtailing unlawful idling, redressing its past violations,

and implementing practices to prevent unlawful excess idling and the resultant exhaust pollution in the future.

JURISDICTION & VENUE

13. The Court has subject matter jurisdiction as this action raises a federal question under the Clean Air Act. 28 U.S.C. § 1331.

14. CLF has satisfied the Clean Air Act's notice requirement. 42 U.S.C. § 7604(b).

15. More than 60 days prior to the filing of this complaint, CLF provided notice to the Defendant, the Administrator of the United States Environmental Protection Agency ("EPA"), and the Connecticut Department of Energy & Environmental Protection ("DEEP") regarding the violations giving rise to this action and of CLF's intent to bring this suit. A copy of CLF's notice letter is attached as Exhibit 1.

16. Neither EPA nor DEEP has brought suit against DATTCO in connection with the violations described in CLF's notice letter.

17. The Court can grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and the jurisdiction conferred on the Court by the Clean Air Act. 42 U.S.C. § 7604(a).

18. The Court can impose civil penalties pursuant to the Clean Air Act. *Id.*

19. An actual, justiciable controversy now exists between CLF and the Defendant. U.S. CONST. art. III, § 2.

20. Venue is proper in this Court, as DATTCO resides in the District of Connecticut and a substantial part of the acts or omissions giving rise to the claims in this case occurred in the District. 28 U.S.C. § 1391(b).

THE PLAINTIFF

21. CLF is a nonprofit, member-supported organization dedicated to protecting New England's environment. CLF's mission includes safeguarding the health and quality of life of New England communities facing the adverse effects of air pollution.

22. CLF is incorporated under the laws of Massachusetts with a principal place of business at 62 Summer Street, Boston, Massachusetts.

23. As a corporation, CLF is a person as defined by the Clean Air Act. 42 U.S.C. § 7602(e).

24. CLF has over 5,000 members, including over one hundred members in Connecticut.

25. CLF's members live, raise their families, work, recreate, and conduct educational, cultural, religious, and other activities in the neighborhood of and around the lots in which DATTCO has caused and/or allowed the unlawful idling described below and the emission of exhaust during that idling. CLF's members seek to continue to use areas in the neighborhood of and around the DATTCO lots for these and other purposes.

26. CLF's members inhale and are otherwise exposed to the pollutants emitted by vehicles that DATTCO unlawfully causes and/or allows to idle in excess of the regulatory maximum.

27. CLF's members' abilities to live, raise their families, work, recreate, and conduct educational, cultural, religious, and other activities in the neighborhood of and around the lots in which DATTCO causes and/or allows unlawful idling in excess of the regulatory maximum have been impaired, harmed, limited, and/or prevented by DATTCO's unlawful acts and omissions.

28. CLF's members are reasonably concerned that pollutants released from vehicles that DATTCO has unlawfully caused and/or allowed to idle in excess of the regulatory maximum have harmed, continue to harm and threaten, and will harm and threaten their health, well-being, quality of life, and enjoyment, as well as those of their families.

29. DATTCO's unlawful conduct has, is, and will directly and irreparably injure CLF's members' interests.

30. The actual and threatened harm to CLF's members would be redressed by a declaration, injunction, application of civil penalties, and other relief that prevents or deters future violations of the Clean Air Act and the Connecticut State Implementation Plan by the Defendant and that requires the Defendant to offset its pollution from these violations by reducing their pollution and/or otherwise remediating harm that has already been caused to CLF's members and their communities.

THE DEFENDANT

31. DATTCO is a transportation company, incorporated under the laws of the State of Connecticut.

32. As a corporation, the Defendant is a person as defined by the Clean Air Act. 42 U.S.C. § 7602(e).

33. The Defendant's principal office is located at 583 South Street, New Britain, Connecticut.

34. The Defendant owns, operates, and/or manages a fleet of over 1,000 vehicles.

35. This fleet includes school buses, motor coaches, trolleys, shuttles, vans, and cars.

36. DATTCO operates at least 19 offices, lots, terminals, and service facilities throughout New England.

37. DATTCO provides transportation services pursuant to contracts with public school districts throughout Connecticut, including contracts with the Bloomfield, Cheshire, Cromwell, East Haddam, East Hampton, East Hartford, Manchester, Middletown, New Hartford, Regional No. 7, Regional No. 8, Regional No. 13, Plainfield, South Windsor, Thompson, Windsor, Westport, and Woodstock public school districts.

38. Upon information and belief, cumulatively under these contracts DATTCO collects revenues of tens of millions of dollars annually.

LEGAL BACKGROUND

Citizen Enforcement of the Clean Air Act

39. In 1970, Congress passed the Clean Air Act “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

40. The Clean Air Act directs EPA to set National Ambient Air Quality Standards. *General Motors Corp. v. United States*, 496 U.S. 530, 533 (1990) (citing 42 U.S.C. §§ 7409–10).

41. The Clean Air Act directs each state or local air-pollution control agency to develop a state implementation plan describing how it will achieve and maintain compliance with the National Ambient Air Quality Standards set by EPA. 42 U.S.C. § 7407(a).

42. A standard or limitation established “under any applicable state implementation plan approved by the Administrator” qualifies as a federally enforceable “emission standard or limitation” under the Clean Air Act. 42 U.S.C. § 7604(f)(4).

43. Congress authorized any person to commence a civil action against any person alleged to have violated or to be in violation of an “emission standard or limitation” under the Clean Air Act. 42 U.S.C. § 7604(a)(1).

44. Accordingly, citizens may enforce standards or limitations established under any EPA-approved state implementation plan in the federal courts. *See, e.g., Council of Commuter Orgs. v. Metro. Transp. Auth.*, 683 F.2d 663, 669 n.7 (2d Cir. 1982).

45. Each separate violation of the Clean Air Act, its emission standards, or limitations subjects the violator to a penalty of up to \$101,439 per day per violation. 40 C.F.R. §§ 19.2(a), 19.4.

The Anti-Idling Regulation

46. The State of Connecticut has developed a state implementation plan, which has been approved by EPA. 42 U.S.C. § 7410; 40 C.F.R. § 52.385; 37 Fed. Reg. 23,085.

47. The Connecticut State Implementation Plan includes an Anti-Idling Regulation. It provides that “no person shall cause or allow. . . a mobile source to operate for more than three (3) consecutive minutes when such mobile source is not in motion.” Regs. Conn. State Agencies § 22a-174-18(b)(3)(C).

48. Connecticut’s Anti-Idling Regulation creates limited exceptions to the general prohibition on idling in excess of three minutes for instances in which:

- The vehicle “is forced to remain motionless because of traffic conditions or mechanical difficulties over which the operator has no control,” *id.*;
- Idling in excess of three minutes “is necessary to operate defrosting, heating or cooling equipment to ensure the safety or health of the driver or passengers,” *id.*;
- Idling in excess of three minutes “is necessary to operate auxiliary equipment . . . to accomplish the intended use of the mobile source,” *id.*;
- Idling in excess of three minutes is necessary “to bring the mobile source to the manufacturer’s recommended operating temperature,” *id.*;
- The outdoor temperature is below twenty degrees Fahrenheit, *id.*;

- The vehicle is undergoing maintenance that requires its operation in excess of three minutes, *id.*; or
- The vehicle “is in queue to be inspected by U.S. military personnel prior to gaining access to a U.S. military installation,” *id.*

49. The Anti-Idling Regulation also exempts aircraft, trains, boats, commonly used residential garden and snow removal equipment, antique vehicles, racing vehicles, and vehicles undergoing mechanical repair or testing that affects the emission of visible air pollutants. Regs. Conn. State Agencies § 22a-174-18(j)(4).

FACTUAL BACKGROUND

The Harms of Idling

50. When operating, an internal combustion engine generates exhaust as a waste byproduct of combustion.

51. Exhaust is routed out of the combustion chamber, through the vehicle’s exhaust system, and out the vehicle’s tailpipe to the receiving environment.

52. Catalytic converters or filters can lower the concentrations of pollutants in raw exhaust before release to the receiving environment—albeit without eliminating pollution.

53. Exhaust can also leak from the combustion chamber into the crankcase, from which it can reach the surrounding environment.

54. With school buses, exhaust generated by the engine can enter the bus cabin.

55. This process is termed “self-pollution.”

56. Studies have confirmed that self-pollution is a serious problem for school buses.

57. Exposure to vehicle exhaust can be harmful to human health.

58. The link between diesel-exhaust exposure and cancer is well established.

59. Both diesel-fueled vehicles and non-diesel non-electric vehicles, including those that use ethanol, propane, and compressed natural gas fuels, emit harmful air pollutants in their exhaust.

Fine Particulate Matter

60. One such pollutant found in vehicle exhaust is fine particulate matter. Fine particulate matter—often referred to as “PM_{2.5}”—refers to a mixture of solid particles and liquid droplets with diameters generally 2.5 micrometers and smaller.

61. When inhaled, fine particulate matter can penetrate deep into the lungs.

62. The smallest particles—referred to as ultrafine particles—are composed of nanoparticles that can penetrate the air-blood barrier in the lungs and in turn enter the lymph nodes and bloodstream.

63. Diesel exhaust contains both fine and ultrafine (nano) particulate matter.

64. Fine particulate matter is harmful to human health. Scientific studies have linked exposure to fine particulate matter pollution with health problems including irritation of the airways, coughing or difficulty breathing, aggravated asthma, decreased lung function, cardiovascular disease, irregular heartbeat, heart attacks, and premature death. Studies have also linked exposure to fine particulate-matter pollution to decreased cognitive function in children, dementia in elderly persons, and reduced economic growth and a higher incidence of violent crime at the societal level.

65. Fine particulate matter pollution is particularly harmful to children. The ratio of a child’s lung surface area to mass is greater as compared to an adult. A child’s developing lungs are structurally different from and more permeable than mature adult lungs, allowing a higher

portion of the inhaled pollutant load—particularly of the most harmful ultrafine nanoparticles—to deposit in the lungs and penetrate the air-blood barrier.

66. The dangers posed by fine and ultrafine particulate matter pollution from school buses are particularly troubling: according to a report by the Ontario Public Health Association, while children may spend only a few hours per day on school buses, the high levels of exposure encountered onboard can add considerably to their daily and annual exposures to fine particulate matter and diesel particulate matter.

67. Besides its deleterious effects on human health, fine particulate matter is also harmful to the environment.

68. Particulate matter settles on the surface of waterbodies, where it can make them more acidic and change their nutrient balance.

69. On land it can deplete the nutrients in soil, damage sensitive forests and farm crops and detrimentally affect the biodiversity of ecosystems.

Nitrogen Oxide Compounds

70. Exhaust also contains nitrogen oxides, a family of poisonous, highly reactive gases formed when fuel is burned at high temperatures.

71. Nitrogen oxide compounds can be directly harmful to human health.

72. For example, nitrogen oxide compounds can react with other compounds in the atmosphere to form particulate matter, the detrimental health and social effects of which have been described above.

73. Nitrogen oxide compounds are also harmful to the environment.

74. Together with sulfur dioxide (on which more information is provided below), nitrogen oxides are the main air pollutants that cause acid rain.

75. Atmospheric nitrogen deposition is the process in which nitrogen particles, such as nitrogen oxide compounds emitted from a tailpipe, travel through the atmosphere and are deposited on land or in water.

76. Atmospheric nitrogen deposition in sensitive watersheds can increase nitrate concentrations in the water. High levels of nitrate in drinking water is a health hazard, especially for infants.

77. Through atmospheric nitrogen deposition, nitrogen oxide pollution also contributes to widespread accelerated eutrophication (the generation of algal blooms and fish kills as a result of excess nutrients) in coastal waters and estuaries.

78. Additionally, nitrogen oxide can contribute to anthropogenic climate change. Some nitrogen oxides are themselves greenhouse gases, while others contribute to the creation of tropospheric ozone, which is a greenhouse gas.

Sulfur Dioxide

79. Exhaust also contains sulfur dioxide, a gas that is harmful to human health. Short-term exposures to sulfur dioxide can harm the human respiratory system and impair breathing. People with asthma, particularly children, are sensitive to these effects.

80. Sulfur dioxide is also otherwise harmful to the environment. At high concentrations, it can harm trees and plants by damaging foliage and decreasing growth.

81. It can also contribute to acid rain, thus harming sensitive ecosystems.

Benzene

82. Exhaust also contains benzene, an industrial solvent and a component in gasoline.

83. Benzene is harmful to human health.

84. Exposure by inhalation can cause drowsiness, dizziness, and headaches, as well as eye, skin, and respiratory tract irritation, and, at high levels, unconsciousness.

85. Benzene is also a known human carcinogen.

86. An extensive scientific literature describes the genotoxic effects of benzene, meaning it is a chemical that damages the DNA of a person exposed to it.

Formaldehyde

87. Exhaust also contains formaldehyde, a gas that is harmful to human health.

88. Exposure to formaldehyde can cause nasal and eye irritation and increased risk of asthma, and, at higher concentrations, eczema and impaired lung function.

89. According to the United States Department of Health and Human Services' National Toxicology Program, formaldehyde is a known human carcinogen.

DATTCO's Violations of the Anti-Idling Regulation

90. DATTCO owns, operates, and/or manages vehicles in Connecticut, including diesel-fueled vehicles.

91. Vehicles owned, operated, and/or managed by DATTCO—including its diesel-fueled school buses—use internal combustion engines.

92. Idling refers to the operation of a vehicle's engine while it is not moving.

93. During idling, the combustion process continues in a vehicle's engine, generating exhaust.

94. While DATTCO vehicles' engines are operating, they generate exhaust, and release this into the surrounding environment.

95. Exhaust generated by DATTCO vehicles while idling contains fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants.

The New Canaan High School Lot

96. DATTCO owns, operates, and/or manages vehicles on a lot located at New Canaan High School, 11 Farm Road, New Canaan, Connecticut (“the New Canaan High School Lot”).

97. Upon information and belief, DATTCO uses vehicles it owns, operates, and/or manages on the New Canaan High School Lot to serve its contract with the New Canaan Public Schools.

98. Over four thousand people live within a one-mile radius of the New Canaan High School Lot.

99. Children attend school within a one-mile radius of the New Canaan High School Lot, including at South Elementary School, Saxe Middle School, and New Canaan High School.

100. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the New Canaan High School Lot, including at the New Canaan High School premises, Waveny Park, and Dunning Field.

101. Members of the community worship and engage in religious activity within a one-mile radius of the New Canaan High School Lot, including at the Chabad New Canaan Jewish Center and the Church of Jesus Christ of Latter-Day Saints.

102. Elderly persons reside within a one-mile radius of the New Canaan High School Lot, including at the Waveny Care Center, an eldercare residential center.

103. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the New Canaan High School Lot.

104. On a sample of four days in October and November 2019 and one day in February 2020 (approximately two months after DATTCO had already received CLF's notice letter) a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the New Canaan High School Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
105.	10/10/2019	5:26AM	5:32AM	6 min
106.	10/10/2019	6:12AM	6:18AM	6 min
107.	10/10/2019	6:27AM	6:31AM	4 min
108.	10/10/2019	7:27AM	7:45AM	18 min
109.	11/18/2019	1:12PM	1:19PM	7 min
110.	11/18/2019	1:22PM	1:29PM	7 min
111.	11/18/2019	1:34PM	1:38PM	4 min
112.	11/18/2019	1:43PM	1:48PM	5 min
113.	11/18/2019	1:45PM	1:49PM	4 min
114.	11/18/2019	1:49PM	1:53PM	4 min
115.	11/18/2019	1:50PM	1:56PM	6 min
116.	11/18/2019	1:59PM	2:04PM	5 min
117.	11/20/2019	5:27AM	5:33AM	6 min
118.	11/20/2019	5:54AM	6:02AM	8 min
119.	11/20/2019	6:32AM	6:41AM	9 min
120.	11/20/2019	6:58AM	7:02AM	4 min
121.	11/20/2019	7:08AM	7:14AM	6 min
122.	11/25/2019	5:33AM	5:38AM	5 min
123.	11/25/2019	6:09AM	6:15AM	6 min
124.	11/25/2019	6:09AM	6:16AM	7 min
125.	11/25/2019	6:24AM	6:29AM	5 min
126.	11/25/2019	6:25AM	6:36AM	11 min
127.	11/25/2019	6:28AM	6:39AM	11 min
128.	11/25/2019	6:53AM	6:59AM	6 min
129.	11/25/2019	6:55AM	7:01AM	6 min
130.	2/10/2020	6:08AM	6:15AM	7 min
131.	2/10/2020	6:11AM	6:16AM	5 min
132.	2/10/2020	6:11AM	6:36AM	25 min
133.	2/10/2020	6:30AM	6:35AM	5 min

134. No regulatory exceptions apply to these instances of vehicle idling.

135. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the New Canaan High School Lot.

136. These pollutants endanger the people—including children—in the area and otherwise damage the environment.

The River Street Lot in Bridgeport

137. DATTCO owns, operates, and/or manages vehicles on a lot located at 44 River Street, Bridgeport, Connecticut (“the River Street Lot”).

138. Over thirty-three thousand people live within a one-mile radius of the River Street Lot.

139. Members of the community worship and engage in religious activity within a one-mile radius of the River Street Lot, including at the Gospel Light Community Church, Saint Patrick’s Roman Catholic Church, the Holy Ghost Russian Orthodox Church, the Saint Charles Borromeo Catholic Church, and the Mount Aery Baptist Church.

140. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the River Street Lot, including at Beardsley Park and the McGivney Community Center, a non-profit organization founded to provide children with “an educational safe haven from the dangers of the streets.”

141. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the River Street Lot.

142. On a sample of seven days in October and November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the River Street Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
143.	10/10/2019	11:23AM	11:47AM	24 min
144.	10/10/2019	12:52PM	1:00PM	8 min
145.	10/22/2019	5:48AM	5:52AM	4 min
146.	10/22/2019	5:53AM	5:57AM	4 min
147.	10/22/2019	6:07AM	6:11AM	4 min
148.	10/22/2019	6:12AM	6:18AM	6 min
149.	10/22/2019	6:25AM	6:33AM	8 min
150.	10/22/2019	6:44AM	6:58AM	14 min
151.	11/18/2019	5:12AM	5:27AM	15 min
152.	11/18/2019	5:09AM	5:13AM	4 min
153.	11/18/2019	5:25AM	5:31AM	6 min
154.	11/18/2019	5:37AM	5:41AM	4 min
155.	11/18/2019	5:39AM	5:44AM	5 min
156.	11/18/2019	5:40AM	5:46AM	6 min
157.	11/18/2019	5:41AM	5:48AM	7 min
158.	11/18/2019	5:42AM	5:50AM	8 min
159.	11/18/2019	5:59AM	6:03AM	4 min
160.	11/18/2019	6:06AM	6:17AM	11 min
161.	11/18/2019	6:18AM	6:25AM	7 min
162.	11/18/2019	6:20AM	6:24AM	4 min
163.	11/18/2019	6:40AM	6:46AM	6 min
164.	11/18/2019	7:24AM	7:31AM	7 min
165.	11/20/2019	3:10PM	3:14PM	4 min
166.	11/20/2019	3:45PM	3:49PM	4 min
167.	11/20/2019	4:03PM	4:07PM	4 min
168.	11/22/2019	3:01PM	3:05PM	4 min
169.	11/23/2019	7:08AM	7:15AM	7 min
170.	11/26/2019	2:14PM	2:19PM	5 min
171.	11/26/2019	3:56PM	4:03PM	7 min

172. No regulatory exceptions apply to these instances of vehicle idling.

173. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the River Street Lot.

174. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The Nutmeg Road Lot in South Windsor

175. DATTCO owns, operates, and/or manages vehicles on a lot located at 660 Nutmeg Road North, South Windsor, Connecticut (“the Nutmeg Road Lot”).

176. Upon information and belief, DATTCO uses vehicles it owns, operates, and/or manages on the Nutmeg Road Lot to serve its contracts with the Windsor and South Windsor Public Schools.

177. Members of the local community worship and engage in religious activity within a one-mile radius of the Nutmeg Road Lot, including at the Temple Beth Hillel.

178. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the Nutmeg Road Lot.

179. On a sample of six days in October and November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the Nutmeg Road Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
180.	10/11/2019	6:05AM	6:12AM	7 min
181.	10/11/2019	6:34AM	6:40AM	6 min
182.	10/11/2019	6:50AM	6:58AM	8 min
183.	10/11/2019	7:01AM	7:05AM	4 min
184.	10/11/2019	7:14AM	7:18AM	4 min
185.	10/23/2019	5:53AM	5:58AM	5 min
186.	10/23/2019	6:11AM	6:16AM	5 min
187.	10/23/2019	6:52AM	6:58AM	6 min
188.	10/23/2019	7:09AM	7:17AM	8 min
189.	10/30/2019	5:27AM	5:35AM	8 min
190.	10/30/2019	5:57AM	6:04AM	7 min
191.	10/30/2019	6:05AM	6:31AM	26 min
192.	10/30/2019	6:05AM	6:09AM	4 min
193.	10/30/2019	6:05AM	6:23AM	18 min
194.	10/30/2019	6:27AM	6:35AM	8 min
195.	10/30/2019	7:10AM	7:15AM	5 min

196.	11/19/2019	5:22AM	5:27AM	5 min
197.	11/19/2019	5:34AM	5:38AM	4 min
198.	11/19/2019	5:41AM	6:15AM	34 min
199.	11/19/2019	5:59AM	6:03AM	4 min
200.	11/19/2019	6:06AM	6:11AM	5 min
201.	11/19/2019	6:35AM	6:40AM	5 min
202.	11/19/2019	7:04AM	7:09AM	5 min
203.	11/20/2019	1:11PM	1:21PM	10 min
204.	11/20/2019	1:24PM	1:39PM	15 min
205.	11/20/2019	1:59PM	2:04PM	5 min
206.	11/20/2019	2:23PM	2:39PM	16 min
207.	11/25/2019	1:17PM	1:44PM	27 min
208.	11/25/2019	2:44PM	2:49PM	5 min

209. No regulatory exceptions apply to these instances of vehicle idling.

210. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the Nutmeg Road Lot.

211. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The South Street Lot in New Britain

212. DATTCO owns, operates, and/or manages vehicles on a lot located at 583 South Street, New Britain, Connecticut (“the South Street Lot”).

213. Over eight and a half thousand people live within a one-square-mile radius of the South Street Lot.

214. Children attend school within a one-mile radius of the South Street Lot, including at the Smith Elementary School.

215. Members of the local community worship and engage in religious activity within a one-mile radius of the South Street Lot, including at the Greater Harvest Church Ministries and Tabernacle Baptist Church.

216. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the South Street Lot, including at the Sudanese American Society.

217. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the South Street Lot.

218. On a sample of three days in October and November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the South Street Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
219.	10/11/2019	12:42PM	12:46PM	4 min
220.	10/28/2019	5:34AM	5:42AM	8 min
221.	10/28/2019	6:16AM	6:23AM	7 min
222.	10/28/2019	6:22AM	6:29AM	7 min
223.	10/28/2019	6:27AM	6:37AM	10 min
224.	10/28/2019	6:27AM	6:40AM	13 min
225.	11/22/2019	4:50AM	5:02AM	12 min
226.	11/22/2019	5:07AM	5:45AM	38 min
227.	11/22/2019	5:07AM	5:11AM	4 min
228.	11/22/2019	5:58AM	6:15AM	17 min
229.	11/22/2019	6:34AM	6:46AM	12 min

230. No regulatory exceptions apply to these instances of vehicle idling.

231. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the South Street Lot.

232. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The Sandbank Road Lot in Cheshire

233. DATTCO owns, operates, and/or manages vehicles on a lot located at 157 Sandbank Road, Cheshire, Connecticut (“the Sandbank Road Lot”).

234. Upon information and belief, DATTCO uses vehicles it owns, operates, and/or manages on the Sandbank Road Lot to serve its contract with the Cheshire Public Schools.

235. Over four thousand people live within a one-square-mile radius of the Sandbank Road Lot.

236. Members of the community worship and engage in religious activity within a one-mile radius of the Sandbank Road Lot, including at the Fellowship of Life Church and the Oasis Church.

237. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the Sandbank Road Lot, including at Cheshire Park, the Whippersnapper’s Play Gym, and the Cheshire Community Food Pantry.

238. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the Sandbank Road Lot.

239. On a sample of two days in October and November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the Sandbank Road Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
240.	10/15/2019	5:25AM	5:32AM	7 min
241.	10/15/2019	5:49AM	5:55AM	6 min
242.	10/15/2019	6:28AM	6:37AM	9 min
243.	10/15/2019	6:46AM	6:53AM	7 min
244.	10/15/2019	7:04AM	7:16AM	12 min
245.	11/22/2019	5:23AM	5:34AM	11 min

246.	11/22/2019	5:40AM	5:50AM	10 min
247.	11/22/2019	6:36AM	6:42AM	6 min
248.	11/22/2019	7:13AM	7:18AM	5 min
249.	11/22/2019	7:19AM	7:24AM	5 min

250. No regulatory exceptions apply to these instances of vehicle idling.

251. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the Sandbank Road Lot.

252. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The Commerce Circle Lot in Durham

253. DATTCO owns, operates, and/or manages vehicles on a lot located at 41b Commerce Circle, Durham, Connecticut (“the Commerce Circle Lot”).

254. Upon information and belief, DATTCO uses vehicles it owns, operates, and/or manages on the Commerce Circle Lot to serve its contracts with the East Haddam Public Schools, East Hampton Public Schools, the Middletown School District, and Regional School District Number 13.

255. Children attend school within a one-mile radius of the Commerce Circle Lot, including at the Mesitva Ateres Shmuel of Waterbury and the Dolphin Days Learning Center.

256. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the Commerce Circle Lot.

257. On a sample day in October 2019, a CLF investigator observed the following instance of unlawful idling by a DATTCO vehicle at the Commerce Circle Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
258.	10/15/2019	10:46AM	10:51AM	5 min

259. No regulatory exceptions apply to this instance of vehicle idling.

260. During this idling, the idling vehicle released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the Commerce Circle Lot.

261. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The Canal Street Lot in Plainville

262. DATTCO owns, operates, and/or manages vehicles on a lot located at 63 South Canal Street, Plainville, Connecticut (“the Canal Street Lot”).

263. Over nine thousand people live within a one-square-mile radius of the Canal Street Lot.

264. Members of the community worship and engage in religious activity within a one-mile radius of the Canal Street Lot, including at the Our Lady of Mercy Church, the Congregational Church of Plainville, United Church of Christ, the Church of Our Savior, and the Plainville Seventh Day Adventist Church.

265. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the Canal Street Lot, including at Norton Park and the Plainville Community Food Pantry.

266. DATTCO caused and/or allowed vehicles to idle in excess of the regulatory maximum at the Canal Street Lot.

267. On a sample of two days in October and November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the Canal Street Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
268.	10/24/2019	5:22AM	5:28AM	6 min
269.	10/24/2019	5:37AM	5:51AM	14 min
270.	10/24/2019	5:38AM	5:51AM	13 min
271.	10/24/2019	5:39AM	5:51AM	12 min
272.	10/24/2019	6:34AM	6:49AM	15 min
273.	11/20/2019	5:15AM	5:37AM	22 min
274.	11/20/2019	5:21AM	5:31AM	10 min
275.	11/20/2019	5:35AM	5:46AM	11 min
276.	11/20/2019	5:36AM	6:00AM	24 min
277.	11/20/2019	5:38AM	5:51AM	13 min
278.	11/20/2019	6:52AM	7:07AM	15 min
279.	11/20/2019	6:51AM	6:57AM	6 min
280.	11/20/2019	6:48AM	6:52AM	4 min
281.	11/20/2019	6:35AM	6:46AM	11 min
282.	11/20/2019	6:59AM	7:15AM	16 min

283. No regulatory exceptions apply to these instances of vehicle idling.

284. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the Canal Street Lot.

285. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

The Hemingway Street Lot in New Haven

286. DATTCO owns, operates, and/or manages vehicles on a lot located at 100 Hemingway Street, New Haven, Connecticut (“the Hemingway Street Lot”).

287. Over seventeen thousand people live within a one-mile radius of the Hemingway Street Lot.

288. Children attend school within a one-mile radius of the Hemingway Street Lot, including at the Quinnipiac Magnet School, the Clinton Avenue School, the Ross Woodward Classical Studies Interdistrict Magnet School, and the Friends Center for Children.

289. Members of the community engage in social, educational, cultural, civic, charitable, and recreational activities within a one-mile radius of the Hemingway Street Lot, including at Hemingway Creek, Quinnipiac Meadows, the Eugene B. Fargeorge Preserve, Bella Vista Garden, Fairmont Park, and the Eastview Public Housing Playground.

290. DATTCO has caused and/or allowed vehicles to idle in excess of the regulatory maximum at the Hemingway Street Lot.

291. On a sample day in November 2019, a CLF investigator observed the following instances of unlawful idling by DATTCO vehicles at the Hemingway Street Lot:

	<u>Date</u>	<u>Idling Start</u>	<u>Idling End</u>	<u>Duration</u>
292.	11/21/2019	5:16AM	5:57AM	41 min
293.	11/21/2019	5:27AM	5:37AM	10 min
294.	11/21/2019	5:52AM	5:59AM	7 min
295.	11/21/2019	5:54AM	5:58AM	4 min
296.	11/21/2019	6:55AM	7:04AM	9 min
297.	11/21/2019	7:34AM	7:39AM	5 min

298. No regulatory exceptions apply to these instances of vehicle idling.

299. During these instances of idling, the idling vehicles released exhaust containing fine and ultrafine particulate matter, nitrogen oxides, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere above and around the Hemingway Street Lot.

300. These pollutants endanger the people—including children—in the area, and otherwise damage the environment.

COUNT ONE

**Violation of the Clean Air Act and
Connecticut State Implementation Plan**

301. CLF incorporates the allegations contained in the above paragraphs as though fully set forth herein.

302. Under the Clean Air Act and the Connecticut State Implementation Plan, DATTCO is prohibited from causing and/or allowing the unnecessary operation of a mobile source “for more than three (3) consecutive minutes when such mobile source is not in motion.” Regs., Conn. State Agencies Section 22a-174-18(b)(3)(C).

303. On at least 132 occasions during October and November 2019 and February 2020, DATTCO caused and/or allowed the unnecessary operation of a mobile source for more than three consecutive minutes when such mobile source was not in motion.

304. DATTCO continues to cause and/or allow the unnecessary operation of mobile sources for more than three consecutive minutes when such mobile sources are not in motion.

305. In none of these instances do any of the exceptions listed in Regulations of Connecticut State Agencies Sections 22a-174-18(b) or (j) apply.

306. DATTCO has violated and continues to violate the Connecticut State Implementation Plan and the Clean Air Act by each of its idling violations.

307. The Defendant is liable for a civil penalty of up to \$101,439 per day per violation. 42 U.S.C. § 7413(b); 40 C.F.R. §§ 19.2(a), 19.4.

PRAYER FOR RELIEF

WHEREFORE, CLF respectfully requests that this Court declare that DATTCO has caused and/or allowed, and continues to cause and/or allow, motor vehicles to operate unnecessarily while those vehicles were not in motion in excess of three minutes. In so doing,

DATTCO has endangered and continues to endanger the health and welfare of CLF members and the environment. DATTCO has violated and is in violation of the Connecticut State Implementation Plan and the Clean Air Act.

CLF requests that the Court issue an order that:

- (a) Permanently enjoins DATTCO from causing and/or allowing the idling of any motor vehicle in violation of Regulations of Connecticut State Agencies Section 22a-174-18(b)(3)(C) and the Clean Air Act;
- (b) Permanently enjoins the Defendant to comply fully and immediately with Regulations of Connecticut State Agencies Section 22a-174-18(b)(3)(C) and the Clean Air Act;
- (c) Permanently enjoins DATTCO to pay civil penalties of \$101,439 per day per violation for all violations of the Clean Air Act that occurred after November 2, 2015 and that are assessed on or after February 6, 2019;
- (d) Permanently enjoins DATTCO to take appropriate actions to remedy harm caused by the Defendant's noncompliance with the Clean Air Act and Connecticut State Implementation Plan;
- (e) Awards CLF costs (including reasonable attorney, witness, and consultant fees) as permitted by the Clean Air Act. 42 U.S.C. § 7406(d);

CLF requests any such other and further relief as the Court deems just and appropriate.

Respectfully submitted this 19th day of February 2020,

CONSERVATION LAW FOUNDATION, INC.,

By its attorneys,



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