

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

_____)	
Conservation Law Foundation, Inc.,)	
)	Case No. _
Plaintiff,)	
)	COMPLAINT FOR
v.)	DECLARATORY AND INJUNCTIVE
)	RELIEF AND CIVIL PENALTIES
)	
All-Star Transportation, LLC, and)	
Student Transportation of America, LLC.)	
)	
Defendants.)	(Clean Air Act, 42 U.S.C. §§ 7401, <i>et seq.</i>)
_____)	

INTRODUCTION

1. This is a citizen enforcement suit brought by Plaintiff, Conservation Law Foundation, Inc. (“Plaintiff” or “CLF”), on behalf of its individual members, to redress and prevent Clean Air Act violations that negatively affect the health and lives of Connecticut residents by repeatedly exposing them to harmful pollutants.
2. Defendants All-Star Transportation, LLC. (“All-Star”) and Student Transportation of America, LLC (“STA”) (collectively “Defendants”) own, operate, and/or manage a fleet of vehicles that travel and are housed in and around the State of Connecticut.
3. Defendants have repeatedly violated, are violating, and continue to violate the Clean Air Act (“CAA” or “Act”) and the Connecticut State Implementation Plan (“SIP”), specifically, the Connecticut motor vehicle idling limits contained within the federally enforceable Connecticut SIP.
4. Defendants have, on numerous occasions, caused and/or allowed the operation of mobile sources when such mobile sources were not in motion in excess of the three-minute time period

allowed by Regs. Conn. State Agencies § 22a-174-18(b)(3)(C), and not in accordance with any exceptions listed in Regs. Conn. State Agencies § 22a-174-18(b)(3)(C)(i) through (vii) or at § 22a-174-18(j).

5. Defendants' school buses unlawfully pollute communities they are meant to serve. During a few hours' observation on a sample of twenty-two (22) days in October, November, and December of 2019, January, March, and November of 2020, and February of 2021, an investigator observed eighty-three (83) violations of federal air-pollution laws by All-Star and STA at the companies' lots in Seymour, New Milford, Brookfield, and Waterbury, Connecticut.

6. All-Star and STA continue to violate the Clean Air Act and the Connecticut State Implementation Plan, even after receiving notification by CLF of the companies' unlawful conduct and of CLF's intention to enforce the federal law through this citizen suit.

7. Upon information and belief, All-Star and STA have not taken any actions sufficient to prevent future violations of the type alleged in this Amended Complaint.

8. Absent an appropriate order from this Court, Defendants are likely to repeat their violations of the Act as described below.

9. CLF asks the Court to remedy the ongoing harm and to order All-Star and STA 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.

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

LEGAL BACKGROUND

The Citizen Suit Provision of the Clean Air Act

11. 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).

12. The Act directs the United States Environmental Protection Agency (“EPA”) to set National Ambient Air Quality Standards (“NAAQS”). *General Motors Corp. v. United States*, 496 U.S. 530, 533 (1990) (citing 42 U.S.C. §§ 7409–10).

13. The Act also directs each state or local air-pollution control agency to develop a State Implementation Plan (“SIP”) describing how it will achieve and maintain compliance with the NAAQS set by EPA to protect human health and the environment. 42 U.S.C. § 7407(a).

14. 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 Act. 42 U.S.C. § 7604(f)(4).

15. In the “citizen suit” provision of the Act, Congress authorizes “any person” to “commence a civil action . . . against any person . . . who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of . . . an emission standard or limitation under” the Act. 42 U.S.C. § 7604(a)(1).

16. The Act’s definition of an “emission standard or limitation” includes any standard or limitation established “under any applicable State Implementation Plan approved by the Administrator.” 42 U.S.C. §7604(f)(4).

17. Accordingly, citizens may enforce standards or limitations established under any EPA-approved SIP 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).

18. Each separate violation of the 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

19. The State of Connecticut has an EPA-approved SIP that includes Regs. Conn. State Agencies § 22a-174-18(b)(3)(C) (the “Connecticut Anti-Idling Regulation”).

20. The Connecticut Anti-Idling Regulation 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.” 42 U.S.C. § 7410; 40 C.F.R. § 52.385; 79 Fed. Reg. 41,427.

21. The Connecticut 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,” Regs. Conn. State Agencies § 22a-174-18(b)(3)(C);
- 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 that is in or on the mobile source 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.*

22. The Connecticut 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).

23. Defendants have violated the Anti-Idling Regulation.

24. The Act’s citizen suit provision provides the district courts of the United States with jurisdiction to “enforce” emission standards and limitations under the Act, and to impose an appropriate civil penalty on the violator of those emissions standards and limitations. 42 U.S.C. § 7604(a).

PARTIES

Conservation Law Foundation, Inc.

25. 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.

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

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

28. CLF has over 5,100 members, including over 100 members in Connecticut.

29. CLF's members include individuals who live and recreate near the locations where vehicles owned, operated, and/or managed by All-Star and/or STA idle in excess of three minutes.

30. The health, well-being, quality of life, and enjoyment of CLF members are harmed by Defendants' violations of the CAA.

All-Star Transportation, LLC.

31. All-Star is a corporation organized under the laws of the state of Connecticut.

32. All-Star is headquartered at 146 Huntingdon Avenue, Waterbury, Connecticut 06708.

33. All-Star does business within the state of Connecticut.

34. All-Star provides transportation services using vehicles it owns and/or operates.

35. All-Star owns and/or operates a fleet of between 750 and 950 vehicles in Connecticut.

36. All-Star operates eighteen (18) lots in the counties of Litchfield, New Haven, and upper Fairfield in Connecticut, in addition to three (3) maintenance facilities.

37. All-Star provides transportation services to approximately thirty-five (35) towns and cities in Connecticut.

38. During the school year, All-Star's buses serve approximately 47,000 students per day.

39. As a corporation, All-Star is defined as a "person" by the Clean Air Act. 42 U.S.C. § 7602(e).

Student Transportation of America, LLC.

40. STA is a corporation organized under the laws of New Jersey.

41. STA is headquartered at 3349 Highway 138, Building A Suite C, Wall, New Jersey, 07719.

42. STA provides transportation services using vehicles it owns and/or operates, as well as using vehicles owned and/or operated by All-Star.
43. STA does business within the state of Connecticut.
44. STA owns and/or operates a fleet of approximately 16,000 vehicles in North America.
45. As a corporation, STA is defined as a “person” by the Clean Air Act. 42 U.S.C. § 7602(e).

JURISDICTION, VENUE, AND NOTICE

46. Subject matter jurisdiction is conferred upon this Court by 42 U.S.C. § 7604(a) (CAA citizen suit jurisdictional provision) and 28 U.S.C. § 1331 (federal question jurisdiction).
47. 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).
48. The Court can impose civil penalties pursuant to the Clean Air Act. *Id.*
49. An actual, justiciable controversy now exists between CLF and the Defendants. U.S. CONST. art. III, § 2.
50. Venue is proper in this Court, as Defendant All-Star and Defendant STA both reside 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).
51. CLF has satisfied the Clean Air Act’s notice requirement. 42 U.S.C. § 7604(b).
52. More than 60 days prior to the filing of this complaint, CLF provided notice of the violations alleged in this Complaint to All-Star by a letter dated December 18, 2020 and mailed to John DuFour, All Star’s Manager and President (the “Notice Letter”). A copy of CLF’s Notice Letter is attached as Exhibit 1.
53. CLF also mailed the Notice Letter to All-Star’s agent, Cogency Global Inc.

54. More than 60 days prior to the filing of this complaint, CLF provided notice of the violations alleged in this complaint to STA by mailing the Notice Letter to Patrick Vaughn, STA's Chief Executive Officer.

55. Copies of the Notice Letter were also mailed to the Administrator of the United States Environmental Protection Agency ("EPA"), the Connecticut Department of Energy & Environmental Protection ("DEEP") Commissioner, and the EPA Citizen Suit Coordinator.

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

57. Each of the addressees identified above received the Notice Letter. A copy of each return receipt is attached as Exhibit 2.

FACTUAL BACKGROUND

The Harms of Vehicle Idling

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

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

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

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

62. With school buses, exhaust generated by the engine can enter the bus cabin. This process is termed "self-pollution."

63. Studies have confirmed that self-pollution is a serious source of harm caused by school bus fleets.

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

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

66. 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

67. One such pollutant found in vehicle exhaust is fine particulate matter.

68. 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.

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

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

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

72. 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 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.

73. Fine particulate matter pollution is particularly harmful to children.

74. The ratio of a child's lung surface area to mass is greater as compared to the ratio of an adult.

75. A child's developing lungs are structurally different from, and more permeable than, mature adult lungs and allow for 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.

76. The dangers posed by fine particulate and ultrafine particulate matter pollution from school buses are particularly troubling.

77. 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.

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

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

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

Nitrogen Oxide Compounds

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

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

83. 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.

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

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

86. 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.

87. Atmospheric nitrogen deposition in sensitive watersheds can increase nitrate concentrations in the water.

88. High levels of nitrate in drinking water are a health hazard, especially for infants.

89. 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.

90. Additionally, nitrogen oxide can contribute to anthropogenic climate change.

91. Some nitrogen oxides are themselves greenhouse gases, while others contribute to the creation of tropospheric ozone (as opposed to stratospheric ozone), which is a greenhouse gas.

Sulfur dioxide

92. 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.

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

Benzene

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

95. Benzene is harmful to human health.

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

97. Benzene is also a known human carcinogen.

98. An extensive array of scientific literature describes the genotoxic effects of benzene, confirming it as a chemical that damages the DNA of a person exposed to it.

Formaldehyde

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

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

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

Negative Health Effects of COVID-19 on Communities Exposed to Exhaust

102. The pollutants which comprise vehicle exhaust have been linked with worse health effects from COVID-19.

103. Particulate air pollution can facilitate the spread of COVID-19 infection, as the virus can travel further through the air and deeper into the lungs while "hitchhiking" on airborne particulates.

104. Particulate air pollution can also make people more susceptible to COVID-19 infection and its most severe symptoms by causing or contributing to lung inflammation and chronic lung diseases.

105. Studies have shown that a small increase in long-term exposure to fine particulates leads to a large increase in the COVID-19 death rate.

106. Studies have linked exposure to high concentrations of NO_x to deaths from COVID-19.

Defendants' Violations of the Anti-Idling Regulation

107. All-Star and/or STA own, operate, and/or manage vehicles in Connecticut, including diesel-fueled vehicles.

108. Vehicles owned, operated, and/or managed by All-Star and/or STA—including their diesel-fueled school buses—use internal combustion engines.

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

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

111. While Defendants' vehicles are operating, their engines generate exhaust and release it into the surrounding environment.

112. The exhaust generated by Defendants' vehicles while idling contains fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants.

113. Defendants cause, suffer, allow, and/or permit the emission of fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere at the Seymour Terminal located at 591 North Main Street, Seymour, Connecticut 06483.

114. According to the 2015-2019 American Community Survey (ACS) data, approximately 14,386 people live within two (2) miles of the Seymour Terminal.

115. Matthies Memorial Park, Toby's Pond, French Memorial Park, and Hummel Little League Park are located within one (1) mile of All-Star's Seymour Terminal.

116. Chatfield-LoPresti Elementary School, Oxford Special Education Center, Woodland Regional High School, Miss Dee's Nursery School, Village Strawberry Patch Daycare, Kid's Club Learning Center, Small World Nursery Inc., Country Bear Pre School Inc., Kokopelli Discovery Center, Immanuel Lutheran Church, Trinity Episcopal Church, Seymour United Methodist Church, Grace Christian Community Church, Internal Medicine of Seymour, Oxford Primary Care, Allergy Associates of Waterbury, Seymour Oxford Food Bank, Inc., and Seymour Senior Citizen Center are located within one and a half (1.5) miles of All-Star's Seymour Terminal.

117. Lantern Ridge Park, Chatfield Park, Woodhaven Golf Course, Broad Street Park, Explorers Learning Center, Teddy Bear Treehouse Learning Center, and Creative Starts Learning Center are located within two (2) miles of All-Star's Seymour Terminal.

118. Defendants cause, suffer, allow, and/or permit the emission of fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere at the New Milford Terminal located at 7 Dodd Road, New Milford, Connecticut 06776.

119. According to the 2015-2019 American Community Survey (ACS) data, approximately 9,428 people live within two (2) miles of the New Milford Terminal.

120. DOCS Medical Group & Urgent Care, Primary Care of New Milford, Housatonic Internal Medicine & Pediatrics, and New Milford Food Bank are located within a half (0.5) mile of All-Star's New Milford Terminal.

121. Lovers Leap State Park, Harrybrooke Park, Addis Park, Pickett District Field, Sarah Noble Soccer Field, Candlewoof Dog Park, John Pettibone Park & Playground, Sarah Noble Intermediate School, Beehive Children's Center, the Education Center, Revival Life Church of New Milford, New Milford United Methodist Church, and New Milford Hospital are located within one (1) mile of All-Star's New Milford Terminal.

122. Clatter Valley Park, Candlewood Valley Country Club, Hulton Meadow Park, Bridgewater Town Park, Dike Point Park, Ray Ramsey Park, Young's Field & Playground, Lynn Deming Park, Hill and Plain School, New Milford High School, Education Without Walls, Holy Infant Nursery School, Litchfield Hills Transition Center, Our Lady of the Lakes, Walnut Hill Community Church, New Apostolic Church, Living Stones Community Church, First Congregational Church, St. John's Episcopal Church, Loaves and Fishes Hospitality, and the New Milford Senior Center are located within two (2) miles of All-Star's New Milford Terminal.

123. Defendants cause, suffer, allow, and/or permit the emission of fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere at the Brookfield Terminal located at 25 Old Gray's Bridge Road, Brookfield, Connecticut 06804.

124. According to the 2015-2019 American Community Survey (ACS) data, approximately 16,073 people live within two (2) miles of the Brookfield Terminal.

125. Brookfield Medical Services LLC, Associates in Family Practice, Kids Club Daycare, Country Kids Child Care, and Golf Quest are located within a half (0.5) mile of All-Star's Brookfield Terminal.

126. Gray's Bridge Field, Sunset Hill Golf Club, Prince of Peace Lutheran Church, Brookfield First Assembly of God, the Baptist Church of Brookfield & New Milford are located within one (1) mile of All-Star's Brookfield Terminal.

127. Christian Life Academy, Prince of Peace Nursery School, Montessori Community School, Whisconier Middle School, Huckleberry Hill School, Stadley Rough Elementary School, St. Joseph Catholic Academy, Center Elementary School, Bee U Childcare Learning Center, and Sandbox Daycare of Danbury are located within one and a half (1.5) miles of All-Star's Brookfield Terminal.

128. Happy Landings Protected Open Space, Brookfield Municipal Center, Arthur A. Harris Linear Park, Creeby Baseball Field, the Still River Greenway entrance, Valley Presbyterian Church, St. Marguerite Bourgeoys Church, Christ the Shepherd Church, The Gathering Christian Church, Danbury Presbyterian Church, Life Baptist Church, St. Paul's Episcopal Church, St. Joseph Church, the Congregational Church of Brookfield, Ability Beyond, the Brookfield Senior Center, and the Brookfield Food Pantry are located within two (2) miles of All-Star's Brookfield Terminal.

129. Defendants cause, suffer, allow, and/or permit the emission of fine (and ultrafine) particulate matter, nitrogen oxide compounds, sulfur dioxide, benzene, formaldehyde, and other air contaminants into the atmosphere at the Waterbury Terminal located at 146 Huntingdon Avenue, Waterbury, Connecticut 06708.

130. According to the 2015-2019 American Community Survey (ACS) data, approximately 45,279 people live within two (2) miles of the Waterbury Terminal.

131. W.F. Kaynor Technical High School, All Kids Child Care, Tiny Tots All Around Day Care, Easterseals Children's Academy, and Bunker Hill Nursery School are located within a half (0.5) mile of All-Star's Waterbury Terminal.

132. F.J. Kingsbury Elementary School, Sprague Elementary School, Walnut Hill Community Church, Evangelical Christian Church, Our Lady of Loreto Church, House of Prayer Church, B'nai Shalom Synagogue, The Avalon Shul, All Saints with Christ Episcopal Church, St. Mary Magdalene Roman Catholic Church, The Bible Church, The Church of Jesus Christ of Latter Day Saints, Zion Baptist Church, Albanian American Cultural & Islamic Center, Waterbury Hospital, Westwood Medical Center, Naugatuck Valley Ear, Nose, and Throat, are located within one (1) mile of All-Star's Waterbury Terminal.

133. Carrington Elementary School, Driggs Elementary School, Blessed Sacrament School, Swift Middle School, Jonathan Reed Elementary School, Waterbury Arts Magnet School, Naugatuck Valley Community College, the University of Connecticut Waterbury campus, Kids Kollege Daycare, Pattycakes Learning Center LLC, Busy Day Daycare and Pre-K LLC, Keilanny Family Daycare, Giggles & Wiggles Family Day Care, Murial More Child Development Center, First Step Daycare, Ark Early Care & Education Center, Family Health Center, DOCS Medical Group, Alliance Medical Group, Agape Family Medical Center, Trinity Health of New England Urgent Care, Scovill Medical Group, Waterbury VA Clinic, Relief Medical Center, Community Health Center, Inc., Staywell Health Center, Schoolville Medical Group, and Oakville Family Medicine located within two (2) miles of All-Star's Waterbury Terminal.

134. The Waterbury Terminal is located within the City of Waterbury, an environmental justice community¹ in which 66.2% of residents identify as a race or ethnicity other than non-Hispanic white, 38.5% of the population speaks a language other than English at home, and 23.4% of residents live in poverty according to the U.S. Census Bureau QuickFacts.

135. As of 2019, 13% of the Waterbury population suffered from asthma compared to overall asthma rates of 10.3% county-wide and 10% statewide.

136. Asthma is the top chronic illness suffered by students in the Waterbury Public School District, the public school district that serves the City of Waterbury.

137. In 2018, alone, over 4,000 students in the District were diagnosed with asthma and school nurses had to administer asthma rescue inhalers to students more than 10,000 times.

138. Asthma rates in Connecticut are significantly higher than national averages: 10.3% of adults and 9.7% of children in Connecticut currently suffer from asthma compared to 7.6% of adults and 7.5% of children nationwide.

139. Rates of asthma are particularly high among children in low-income households: in Connecticut in 2018, over 15% of children in households earning less than \$25,000 per year had asthma.

DEFENDANTS' VIOLATIONS OF THE CLEAN AIR ACT

140. On the dates listed below in separate paragraphs, an investigator observed vehicles owned, operated, and/or managed by All Star and/or STA idling in excess of three minutes for the following amounts of time:

¹ Connecticut defines “environmental justice community” as either “A. a United States census block group, as determined in accordance with the most recent United States census, for which thirty percent or more of the population consists of low income persons who are not institutionalized and have an income below two hundred percent of the federal poverty level, or B. a distressed municipality.” Conn. Gen. Stat. § 22a-20a (2009). Waterbury is listed on the Connecticut Department of Economic and Community Development’s list of distressed municipalities.

Paragraph Number	Date	Location of Vehicle	Idling Start Time	Idling End Time	Duration of Idling (mins)	Excess Idling (min)
140a.	10/16/2019	Seymour Terminal	5:41 AM	5:56 AM	15 min	12 min
140b.	10/16/2019	Seymour Terminal	5:59 AM	6:03 AM	4 min	1 min
140c.	10/16/2019	Seymour Terminal	6:14 AM	6:28 AM	14 min	11 min
140d.	10/16/2019	Seymour Terminal	6:28 AM	6:34 AM	6 min	3 min
140e.	10/16/2019	New Milford Terminal	5:27 AM	5:41 AM	14 min	11 min
140f.	10/16/2019	New Milford Terminal	5:54 AM	6:05 AM	11 min	8 min
140g.	10/16/2019	New Milford Terminal	5:56 AM	6:10 AM	14 min	11 min
140h.	10/16/2019	New Milford Terminal	5:59 AM	6:06 AM	7 min	4 min
140i.	10/16/2019	New Milford Terminal	6:15 AM	6:22 AM	7 min	4 min
140j.	10/16/2019	New Milford Terminal	6:15 AM	6:24 AM	9 min	6 min
140k.	10/16/2019	New Milford Terminal	6:25 AM	6:29 AM	4 min	1 min
140l.	11/21/2019	New Milford Terminal	5:32 AM	5:41 AM	9 min	6 min
140m.	11/21/2019	New Milford Terminal	5:33 AM	5:41 AM	8 min	5 min
140n.	11/21/2019	New Milford Terminal	5:44 AM	5:50 AM	6 min	3 min
140o.	11/21/2019	New Milford Terminal	5:57 AM	6:06 AM	9 min	6 min
140p.	11/21/2019	New Milford Terminal	6:07 AM	6:21 AM	14 min	11 min
140q.	11/21/2019	New Milford Terminal	6:07 AM	6:22 AM	15 min	12 min
140r.	11/21/2019	New Milford Terminal	6:28 AM	6:35 AM	7 min	4 min
140s.	11/26/2019	New Milford Terminal	5:36 AM	5:47 AM	11 min	8 min
140t.	11/26/2019	New Milford Terminal	6:05 AM	6:12 AM	7 min	4 min
140u.	11/26/2019	New Milford Terminal	6:15 AM	6:21 AM	6 min	3 min
140v.	11/26/2019	New Milford Terminal	6:27 AM	6:33 AM	6 min	3 min
140w.	11/26/2019	New Milford Terminal	6:34 AM	6:45 AM	11 min	8 min
140x.	11/26/2019	New Milford Terminal	7:17 AM	7:22 AM	5 min	2 min
140y.	12/3/2019	New Milford Terminal	1:28 PM	1:36 PM	8 min	5 min

140z.	12/3/2019	New Milford Terminal	1:36 PM	1:41 PM	5 min	2 min
140aa.	12/3/2019	New Milford Terminal	1:50 PM	1:57 PM	7 min	4 min
140ab.	12/4/2019	New Milford Terminal	5:10 AM	5:15 AM	5 min	2 min
140ac.	12/4/2019	New Milford Terminal	5:17 AM	5:24 AM	7 min	4 min
140ad.	12/4/2019	New Milford Terminal	5:56 AM	6:00 AM	4 min	1 min
140ae.	12/4/2019	New Milford Terminal	5:58 AM	6:03 AM	5 min	2 min
140af.	12/4/2019	New Milford Terminal	6:05 AM	6:28 AM	23 min	20 min
140ag.	12/4/2019	New Milford Terminal	6:18 AM	6:26 AM	8 min	5 min
140ah.	12/4/2019	New Milford Terminal	6:23 AM	6:30 AM	7 min	4 min
140ai.	12/4/2019	New Milford Terminal	6:32 AM	6:46 AM	14 min	11 min
140aj.	12/4/2019	New Milford Terminal	6:36 AM	6:43 AM	7 min	4 min
140ak.	12/10/2019	Brookfield Terminal	5:40 AM	5:51 AM	11 min	8 min
140al.	12/10/2019	Brookfield Terminal	5:40 AM	5:53 AM	13 min	10 min
140am.	12/10/2019	Brookfield Terminal	5:41 AM	5:53 AM	12 min	9 min
140an.	12/10/2019	Brookfield Terminal	6:02 AM	6:06 AM	4 min	1 min
140ao.	12/10/2019	Brookfield Terminal	6:02 AM	6:06 AM	4 min	1 min
140ap.	12/10/2019	Brookfield Terminal	6:11 AM	6:15 AM	4 min	1 min
140aq.	12/10/2019	Brookfield Terminal	6:19 AM	6:47 AM	28 min	25 min
140ar.	12/10/2019	Brookfield Terminal	6:57 AM	7:02 AM	5 min	2 min
140as.	1/14/2020	New Milford Terminal	5:37 AM	5:49 AM	12 min	9 min
140at.	1/14/2020	New Milford Terminal	6:02 AM	6:09 AM	7 min	4 min
140au.	1/14/2020	New Milford Terminal	6:10 AM	6:15 AM	5 min	2 min
140av.	1/14/2020	New Milford Terminal	6:11 AM	6:18 AM	7 min	4 min
140aw.	1/14/2020	New Milford Terminal	6:21 AM	6:27 AM	6 min	3 min
140ax.	1/14/2020	New Milford Terminal	6:29 AM	6:38 AM	9 min	6 min
140ay.	1/14/2020	Brookfield Terminal	12:34 PM	12:43 PM	9 min	6 min
140az.	1/14/2020	Brookfield Terminal	12:40 PM	12:55 PM	15 min	12 min
140ba.	1/14/2020	Brookfield Terminal	12:47 PM	12:59 PM	12 min	9 min
140bb.	1/14/2020	Brookfield Terminal	1:27 PM	1:43 PM	16 min	13 min
140bc.	1/14/2020	Brookfield Terminal	1:38 PM	1:43 PM	5 min	2 min
140bd.	1/14/2020	Brookfield Terminal	2:05 PM	2:10 PM	5 min	2 min
140be.	1/15/2020	Brookfield Terminal	5:12 AM	5:48 AM	36 min	33 min

140bf.	1/15/2020	Brookfield Terminal	5:12 AM	5:49 AM	37 min	34 min
140bg.	1/15/2020	Brookfield Terminal	5:12 AM	5:55 AM	43 min	40 min
140bh.	1/15/2020	Brookfield Terminal	5:49 AM	5:53 AM	4 min	1 min
140bi.	1/15/2020	Brookfield Terminal	5:55 AM	6:16 AM	21 min	18 min
140bj.	1/15/2020	Brookfield Terminal	5:55 AM	7:06 AM	71 min	68 min
140bk.	1/15/2020	Brookfield Terminal	5:55 AM	7:06 AM	71 min	68 min
140bl.	1/15/2020	New Milford Terminal	1:43 PM	1:53 PM	10 min	7 min
140bm.	1/16/2020	Brookfield Terminal	5:41 AM	6:30 AM	49 min	46 min
140bn.	1/16/2020	Brookfield Terminal	5:50 AM	6:29 AM	39 min	36 min
140bo.	1/16/2020	Brookfield Terminal	6:41 AM	6:46 AM	5 min	2 min
140bp.	3/12/2020	New Milford Terminal	5:42 AM	5:50 AM	8 min	5 min
140bq.	3/12/2020	New Milford Terminal	6:08 AM	6:16 AM	8 min	5 min
140br.	11/23/2020	Brookfield Terminal	5:51 AM	6:13 AM	22 min	19 min
140bs.	11/23/2020	New Milford Terminal	7:35 AM	7:39 AM	4 min	1 min
140bt.	11/23/2020	New Milford Terminal	7:40 AM	7:46 AM	6 min	3 min
140bu.	11/24/2020	New Milford Terminal	5:24 AM	5:34 AM	10 min	7 min
140bv.	11/24/2020	New Milford Terminal	5:24 AM	5:41 AM	17 min	14 min
140bw.	11/24/2020	New Milford Terminal	6:03 AM	6:18 AM	15 min	12 min
140bx.	11/24/2020	New Milford Terminal	6:26 AM	6:33 AM	7 min	4 min
140by.	11/24/2020	New Milford Terminal	6:34 AM	6:40 AM	6 min	3 min
140bz.	2/4/2021	Waterbury Terminal	6:17 AM	6:34 AM	17 min	14 min
140ca.	2/4/2021	Waterbury Terminal	6:19 AM	6:36 AM	17 min	14 min
140cb.	2/4/2021	Waterbury Terminal	6:48 AM	6:56 AM	8 min	5 min
140cc.	2/4/2021	Waterbury Terminal	7:17 AM	7:23 AM	6 min	3 min
140cd.	2/5/2021	Waterbury Terminal	6:33 AM	6:38 AM	5 min	2 min
140ce.	2/5/2021	Waterbury Terminal	7:00 AM	7:05 AM	5 min	2 min

141. On information and belief, further investigation will indicate that the instances of idling documented by CLF are representative of Defendants' normal practices and operations and therefore evidence a broader pattern and practice of idling over the last five years.

142. After reasonable opportunity for further investigation and discovery, CLF likely will be able to prove that Defendants idled motor vehicles unnecessarily and in excess of the limit set by

the Connecticut Anti-Idling Regulation at these lots and others numerous additional times over the last five years.

PLAINTIFF AND ITS MEMBERS ARE HARMED BY DEFENDANTS' CLEAN AIR ACT VIOLATIONS

143. CLF's members live, rent, own property, study, attend school, use transit, and/or spend time shopping, recreating, and conducting activities near the lots in which Defendants have caused and/or allowed the unlawful idling described above and the emission of exhaust during that idling. CLF's members seek to continue to use areas in the neighborhood of and around the Defendants' lots for these and other purposes.

144. CLF's members reside in and around Seymour, Connecticut, Brookfield, Connecticut, New Milford, Connecticut, and Waterbury, Connecticut.

145. CLF's members inhale and are otherwise exposed to the pollutants emitted by vehicles that Defendants unlawfully cause and/or allow to idle in excess of the regulatory maximum.

146. CLF's members can see air pollution coming from vehicles owned, operated, managed, and/or overseen by Defendants.

147. CLF's members who live near and spend time at the parks, playgrounds, places of worship, cultural centers, transit stations, hospitals, and/or educational institutions near the locations where vehicles owned, operated, managed, and/or overseen by Defendants were observed idling have asthma, experience trouble breathing, and/or suffer from other respiratory symptoms.

148. CLF's members are reasonably concerned about inhaling carcinogens and other pollutants emitted by vehicles owned, operated, managed, and/or overseen by Defendants.

149. CLF's members want to breathe as little air pollution from vehicles owned, operated, managed, and/or overseen by Defendants as possible.

150. CLF's members are reasonably concerned that pollutants released from vehicles that Defendants have 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.

151. The greater the exposure to particulate matter, nitrogen oxides, sulfur dioxide, benzene, and formaldehyde, and the higher the levels of exposure, the more health and well-being are compromised.

152. 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 Defendants cause and/or allow unlawful idling in excess of the regulatory maximum have been impaired, harmed, limited, and/or prevented by Defendants' unlawful acts and omissions.

153. The actual and threatened harm to CLF's members would be redressed by a declaration, injunction, civil penalty, and other relief that prevents or deters future violations of the Act and the Connecticut Idling Regulation by Defendants, and that requires Defendants to offset its pollution from these violations by reducing its pollution, or otherwise remediating harm that has already been caused to Plaintiff's members and their local communities.

COUNT ONE

Violation of the Clean Air Act and Connecticut State Implementation Plan

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

155. The Connecticut anti-idling regulation at Regs., Conn. State Agencies § 22a-174-18(b)(3)(C) prohibits 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."

156. A bus is defined as a “mobile source” under Regs., Conn. State Agencies § 22a-174-1(72).

157. On at least eighty-three (83) occasions during October, November, and December of 2019, January, March, and November of 2020, and February of 2021, Defendants All-Star and STA caused and/or allowed mobile sources to operate unnecessarily for more than three consecutive minutes when such mobile sources were not in motion.

158. Defendants continue 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.

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

160. Therefore, Defendants have violated and continue to violate the Connecticut State Implementation Plan and the Clean Air Act numerous times over the past five years.

161. Pursuant to section 113(b) of the Act, 42 U.S.C. § 7413(e); 42 U.S.C. §§ 7604(a), 7604(g); and 40 C.F.R. §§ 19.2, 19.4, Defendants are liable for a civil penalty of up to \$101,439 per day for each violation that occurred after November 2, 2015, where penalties are assessed on or after January 13, 2020.

REQUESTED RELIEF

WHEREFORE, CLF respectfully requests that this Court declare that Defendants have caused and/or allowed, and continue 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, Defendants have endangered and continues to endanger the health and welfare of CLF members and the environment. Defendants have violated, and continue to violate, the Connecticut State Implementation Plan and the Clean Air Act.

CLF requests that the Court issue an order that:

- (a) Permanently enjoins Defendants 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) Orders Defendants to comply fully and immediately with Regulations of Connecticut State Agencies Section 22a-174-18(b)(3)(C) and the Clean Air Act;
- (c) Orders Defendants 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 January 13, 2020;
- (d) Orders Defendants to take appropriate actions to remedy harm caused by Defendants' noncompliance with the Clean Air Act and Connecticut State Implementation Plan;
- (e) Awards CLF costs (including reasonable investigative, attorney, witness, and consultant fees) as permitted by Section 304(d) of the Clean Air Act. 42 U.S.C. § 7406(d); and
- (f) Awards any such other and further relief as the Court deems just and appropriate.

Respectfully submitted this 18th day of February 2021,

CONSERVATION LAW FOUNDATION, INC.,

By its attorney,

/s/ Kenta Tsuda

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