Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington
May 12, 2021
WILLIAM M. McCOOL, Clerk
By Stefanie Rattler Deputy

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, Plaintiff, v. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC, and RPM MOTORS AND SALES, LLC, Defendants.	NO. CR21-5184 BHS **INDICTMENT**

The Grand Jury charges that:

COUNT 1
(Conspiracy to Violate the Clean Air Act)

A. Overview

1. The defendants in this matter participated in a conspiracy to deliberately remove pollution control devices from diesel trucks, causing the trucks to pollute the air at rates far in excess of federal limits. To allow the vehicles to function while polluting at these unlawful levels, defendants tampered with federally-mandated emissions

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monitoring devices on those trucks in violation of the criminal provisions of the Clean Air Act. Defendants performed these unlawful modifications on hundreds of diesel trucks over at least a three-year period, and collected hundreds of thousands of dollars in fees for doing so.

2. Defendants' unlawful conduct centered around RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC (RPM NORTHWEST), a Ridgefield, Washington limited liability company and automotive shop. RPM NORTHWEST's business included modifying, repairing, and maintaining diesel trucks. RPM NORTHWEST marketed itself as "the Northwest's leader in diesel performance, maintenance, speed, and standard of automotive passion and precision." RPM MOTORS & SALES, LLC (RPM MOTORS) is a related limited liability company based in Woodland, Washington that specializes in the sales of motor vehicles, including diesel trucks.

3. Defendants SEAN COITEUX and TRACY COITEUX are owners and operators of RPM NORTHWEST and RPM MOTORS. Defendant NICK AKERILL is the General Manager and Service Manager for RPM NORTHWEST. SEAN COITEUX, TRACY COITEUX, and NICK AKERILL took the actions described in this Indictment within the scope of their agency for RPM NORTHWEST and RPM MOTORS, and with the intent to benefit those corporations.

B. Regulation of Emissions Systems

4. The Clean Air Act protects the nation's air quality by, among other things, reducing vehicle emissions that pollute the air with toxins such as nitrogen oxides, particulate matter, hydrocarbons, and carbon monoxide. These pollutants have been shown to cause cancer, as well as pulmonary, neurological, cardiovascular, and immune system damage. Diesel exhaust is one of the largest sources of particulate matter and other pollutants.

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5. The Clean Air Act authorizes the United States Environmental Protection Agency (EPA) to issue regulations limiting the amount of pollutants that motor vehicles, including diesel trucks, can emit. To meet these standards, diesel engine manufacturers have developed a variety of emissions control devices, including devices known as selective catalytic reduction systems (SCRs), diesel particulate filters (DPFs), and exhaust gas recirculation systems (EGRs). Together, these hardware emissions control devices, along with others, make up a diesel vehicle's emissions control system and are critical to ensuring that the vehicle complies with the Clean Air Act's emissions standards.

6. EPA regulations also require vehicle manufacturers to install on their vehicles monitoring devices known as on-board diagnostic systems (OBDs). 42 U.S.C. § 7521(m)(1); 40 C.F.R. 86.1806-05. An OBD contains sensors that monitor the vehicle's emissions levels. The OBD alerts the driver if the truck's emissions exceed legal limits. If the alert is not addressed, the OBD either forces the vehicle's engine to shut down, or places the vehicle in a state known as "limp mode," which limits the maximum speed of the vehicle to as low as five miles per hour.

C. Emissions System "Deletes" and "Tunes"

7. Persons seeking to evade the Clean Air Act's pollution controls have developed methods of modifying or removing emissions control systems and rendering the OBDs ineffective. These modifications are marketed to truck owners as improving the horsepower, torque, and other characteristics of diesel engines.

8. One way to disable an emissions control system is to remove the portion of the vehicle's exhaust system that contains the emissions control devices and replace it with a section of exhaust tubing known as a "straight pipe" that does not contain emissions control hardware. Another method is to remove the components of the emissions control system (such as the SCR or DPF) by hollowing out the casing in the vehicle's exhaust pipe and then reattaching the modified system. The act of removing a

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vehicle's emissions control systems is often referred to as a "delete." EPA studies have determined that a single deleted diesel truck can cause pollution equal to between 30 and 300 similar trucks with compliant emissions systems, depending on the model of the truck.

9. If a truck is deleted, a functioning OBD will detect the increased emissions and cause the vehicle to become inoperative or go into limp mode. Therefore, a mechanic performing a delete must also disable the OBD. The act of rendering the OBD ineffective is often referred to as a "tune" or a "flash." It is a felony to tamper with or render inaccurate any monitoring device required by the CAA, including an OBD. 42 U.S.C. § 7413(c)(2)(C).

D. The Conspiracy

10. Beginning at a time unknown, but no later than January 2018, and continuing until at least January 20, 2021, at Ridgefield, within the Western District of Washington, and elsewhere, SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC, RPM MOTORS & SALES, LLC, and others known and unknown to the Grand Jury, agreed to modify and delete the emissions control systems of diesel engines in a manner that would cause those engines to emit pollution at levels exceeding EPA regulations, and further agreed to falsify, tamper with, and render inaccurate the vehicles' on-board diagnostic (OBD) emissions monitoring devices so that the modified vehicles could continue to function after the deletes.

11. By entering into the foregoing agreement, SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC, and RPM MOTORS & SALES, LLC, together with others known and unknown to the grand jury, did knowingly conspire, confederate and agree, together and with each other, to knowingly falsify, tamper with, and render inaccurate, monitoring

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devices and methods required to be maintained under the Clean Air Act in violation of Title 42, United States Code, Section 7413(c)(2)(C).

12. The object of the conspiracy was to generate revenue for RPM NORTHWEST by charging customers a fee to delete and tune their diesel trucks, and to generate additional sales and revenue for RPM MOTORS by offering to delete and tune the trucks of prospective RPM MOTORS customers if the customers purchased trucks from RPM MOTORS.

E. Manner and Means

It was part of the conspiracy that:

13. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST, and others agreed with diesel truck owners (customers) that, in exchange for a fee of between about $1,000 and about $2,000 per vehicle, RPM NORTHWESTwould remove emissions control systems from the customers' trucks and render inaccurate the trucks' OBDs.

14. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST, and RPM MOTORS entered into agreements with customers purchasing diesel trucks from RPM MOTORS under which the defendants agreed that, as a term of the purchase, the RPM MOTORS customer would receive a credit toward a delete and tune to be performed by RPM NORTHWEST following the closing of the sale.

15. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST and others caused RPM NORTHWEST employees to purchase straight pipes, exhaust gas recirculation delete kits, block off plates, and other hardware intended for emissions system modifications.

16. NICK AKERILL and others ordered tuning software files from suppliers, which the suppliers then delivered to RPM NORTHWEST by email or other electronic transmission.

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17. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST, and others caused RPM NORTHWEST mechanics to perform deletes on diesel trucks by removing their emissions control components and replacing the relevant portion of the exhaust system with straight pipes or by hollowing out and replacing the existing emissions control system.

18. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST, and others downloaded and caused to be downloaded tuning software onto cell phones or computers. The software was then used to modify, tamper with, and render inaccurate, the vehicles' OBDs in a manner that allowed the vehicles to function while emitting pollutants exceeding EPA limits, without the vehicles being shut down or forced into "limp mode."

19. SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RPM NORTHWEST, and others collected fees from customers totaling over $500,000 for performing unlawful deletes and tunes on diesel trucks performed between about January 1, 2018 and about January 20, 2021.

F. Overt Acts

20. In furtherance of the conspiracy, and to accomplish one or more of its objects, SEAN COITEUX, TRACY COITEUX, NICK AKERILL, RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC, RPM MOTORS & SALES LLC and others known and unknown to the grand jury, undertook, and caused to be undertaken, one or more of the following overt acts, which are representative of defendants' various acts in furtherance of the conspiracy, at Ridgefield and elsewhere within the Western District of Washington:

a. On or about January 29, 2018, SEAN COITEUX sent an email to a supplier ordering an EGR kit and CAC pipe for use in a delete.

b. On or about January 31, 2018, RPM NORTHWEST performed a delete and EZ Lynk SOTF tune on a 2017 Ford F350.

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c. On or about March 7, 2018, RPM NORTHWEST performed a delete and tune on a 2011 Ford F550.

d. On or about July 2, 2018, RPM NORTHWEST submitted an order to a supplier for hardware, including EGR delete kits, for use in deleting diesel trucks.

e. On or about August 4, 2018, RPM NORTHWEST performed a straight pipe delete and tune on a 2011 Ford F350.

f. On or about August 30, 2018, RPM NORTHWEST submitted an order to a supplier for hardware, including straight pipes, for use in deleting diesel trucks.

g. On or about September 25, 2018, RPM NORTHWEST performed a tune on a 2015 Ford F350.

h. On or about September 25, 2018, SEAN COITEUX sent a text message to NICK AKERILL providing NICK AKERILL with a vehicle identification number and directing him to purchase a tune pack for the vehicle.

i. On or about February 12, 2019, TRACY COITEUX sent a text message to NICK AKERILL directing NICK AKERILL to schedule an appointment for TRACY COITEUX to perform an EFI Live tune.

j. On or about February 25, 2019, RPM NORTHWEST performed a delete and tune on a 2017 Ford F350.

k. On or about March 16, 2019, TRACY COITEUX authorized NICK AKERILL to use a company credit card to purchase tunes.

l. On or about May 23, 2019, NICK AKERILL sent a text message to a tune supplier ordering a SOTF pack tune.

m. On or about July 13, 2019, RPM NORTHWEST performed a delete and tune on a 2015 RAM 3500.

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n. On or about February 25, 2020 RPM NORTHWEST performed a delete and tune on a 2014 GMC Sierra 2500.

o. On or about May 13, 2020, RPM NORTHWEST performed a delete and tune on a2 015 RAM 1500.

p. On or about July 1, 2020, RPM NORTHWEST performed a delete and tune on a 2011 Ford F550.

q. On or about July 9, 2020, RPM NORTHWEST performed a delete and tune on a 2019 Ford F450.

r. On or about July 19, 2020, RPM MOTORS issued a "we owe/you owe" statement to an RPM MOTORS customer in connection with the sale of a 2018 Ford F150 providing a $1,500 credit at RPM NORTHWEST, which the customer subsequently used to partially fund a delete and tune on a 2015 GMC Sierra 2500 owned by the same customer.

s. On or about July 27, 2020, RPM MOTORS issued a "we owe/you owe" statement to an RPM MOTORS customer in connection with the sale of a 2014 RAM 1500 in which RPM MOTORS agreed that RPM NORTHWEST would perform a delete and tune on the vehicle.

t. On or about August 25, 2020, NICK AKERILL sent a text message to a supplier ordering an "unlimited SOTF with trans" tune.

u. On or about August 22, 2020, RPM MOTORS issued a "we owe/you owe" statement to an RPM MOTORS customer in connection with the sale of a 2013 RAM 3500 in which RPM MOTORS agreed that RPM NORTHWEST would perform a delete and tune on the vehicle.

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v. On September 20, 2020, an RPM MOTORS sales representative told a person he believed to be a prospective truck buyer that RPM MOTORS would arrange for RPM NORTHWEST to perform a "chip intake and exhaust" on a diesel truck if the prospective buyer purchased the truck from RPM MOTORS for $73,000.

w. On or about September 29, 2020, RPM NORTHWEST purchased an EGR delete kit from a seller over ebay.

x. On or about November 27, 2020, RPM NORTHWEST performed a delete and tune on a 2016 GMC Sierra.

y. On or about December 4, 2020, RPM NORTHWEST purchased an EGR delete kit from a seller over ebay.

z. On or about January 15, 2021, NICK AKERILL sent a text message to a supplier ordering an unlimited SOTF tune.

All in violation of Title 18, United States Code, Section 371.

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COUNTS 2-12
(Violations of the Clean Air Act)

21. Paragraphs 1-20 of this Indictment are incorporated by referen ce as if fully set forth herein.

22. On or about the dates set forth below, at Ridgefield, within the Western District of Washington, and elsewhere, the defendants, SEAN COITEUX, TRACY COITEUX, NICK AKERILL, and RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC, did knowingly falsify, tamper with, and render inaccurate, and aid and abet in doing so, monitoring devices and methods required to be maintained under the Clean Air Act, that is, the on-board diagnostic devices on the diesel trucks listed below. Each of these violations was part of the conspiracy alleged in Count 1, and was foreseeable to SEAN COITEUX, TRACY COITEUX, NICK AKERILL, and RACING PERFORMANCE MAINTENANCE NORTHWEST, LLC.

Count	Date	Vehicle Type	VIN
2	1/31/18	2017 Ford F350	1FT8W3BT9HEC02392
3	3/7/18	2011 Ford F550	1FDUF5HT0BEA74970
4	8/4/18	2011 Ford F350	1FT8W3BT5BEA23886
5	9/25/18	2015 Ford F350	1FT8W3BT9FEA52023
6	2/25/19	2017 Ford F350	1FT8W3BT6HED22196
7	7/13/19	2015 RAM 3500	3CRRKL9GH502919
8	2/25/20	2014 GMC Sierra 2500	1GT120C86EF179696
9	5/13/20	2015 RAM 1500	1C6RR7FMXFS644416
10	7/1/20	2011 Ford F550	1FDUF5HT2BEC52605
11	7/9/20	2019 Ford F450	1FT8W4DT8KEG45868
12	11/27/20	2016 GMC Sierra 2500	1GT12TE81GF260090

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All in violation of Title 42, United States Code, Section 7413(c)(2)(C) and Title 18, United States Code, Section 2.

A TRUE BILL:

DATED: 5/12/2021

[Signature of Foreperson redacted pursuant to the policy of the Judicial Conference of the United States]

FOREPERSON

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