

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

	)	
<b>In the Matter of:</b>	)	
	)	Administrative Settlement Agreement
<b>Elbow River Marketing Ltd.</b>	)	
	)	AED/FEB # CAA-23-8433
<b>Respondent.</b>	)	
	)	

This Administrative Settlement Agreement (ASA or agreement) is entered into by the United States Environmental Protection Agency (EPA or agency) and Elbow River Marketing Ltd. (Elbow River or Respondent).

**Purpose**

1. This ASA’s purpose is to resolve the Respondent’s alleged noncompliance with the Clean Air Act’s (Act) Renewable Fuel Standard (RFS) program and the implementing regulations codified at 40 C.F.R. Part 80, Subpart M. Specifically at issue in this matter is the Renewable Fuel Standard (RFS) program regulations’ bond requirement for foreign Renewable Identification Number (RIN) owners. 40 C.F.R. § 80.1467(e).

**Statutory and Regulatory Authority**

2. Section 211(o) of the Act, 42 U.S.C. § 7545(o), as amended by the Energy Independence and Security Act of 2007, Pub. L. No. 110-140, 121 Stat. 1492, required the EPA to promulgate regulations designed to increase the amount of renewable fuels used in transportation fuel in the United States, lower greenhouse gas emissions, and reduce the nation’s reliance on foreign-sourced petroleum.
3. The EPA promulgated the RFS program regulations pursuant to Section 211(o) of the Act, 42 U.S.C. § 7545(o). The regulations are codified at 40 C.F.R. Part 80, Subpart M.

4. Renewable fuel producers and importers are required to generate and assign credits, known as RINs, in proportion to the amount and type of renewable fuel they produce or import. 40 C.F.R. §§ 80.1425 and 80.1426.
5. Obligated parties—i.e., producers and importers of gasoline and diesel fuel within and into the 48 contiguous states or Hawaii—and exporters of renewable fuel must demonstrate compliance with the RFS program by obtaining and retiring the number of RINs required by the applicable calculations set forth at 40 C.F.R. §§ 80.1407 and 80.1430.
6. Foreign RIN owners, such as Elbow River, are subject to specific requirements under the RFS program. 40 C.F.R. § 80.1467.
7. A foreign RIN owner is a person located outside of the United States that has been approved by the EPA to own RINs. 40 C.F.R. § 80.1467(a).
8. To be approved by the EPA as a foreign RIN owner, the foreign entity must post a bond for the purpose of satisfying United States administrative or civil judicial judgments against the foreign RIN owner. 40 C.F.R. § 80.1467(e)(3)(i).
9. 40 C.F.R. § 80.1467(e)(1) requires that a foreign RIN owner post a bond in the amount calculated using the equation below.

$$\text{Bond} = G * \$0.01$$

Where:

Bond = Amount of the bond in U.S. dollars.

G = The total of the number of gallon-RINs the foreign entity expects to obtain, sell, transfer or hold during the first calendar year that the foreign entity is a RIN owner, plus the number of gallon-RINs the foreign entity expects to obtain, sell, transfer or hold during the next four calendar years. After the first calendar year, the bond amount shall be based on the actual number of gallon-RINs obtained, sold, or transferred so far during the

current calendar year plus the number of gallon-RINs obtained, sold, or transferred during the four calendar years immediately preceding the current calendar year. For any year for which there were fewer than four preceding years in which the foreign entity obtained, sold, or transferred RINs, the bond shall be based on the total of the number of gallon-RINs sold or transferred so far during the current calendar year plus the number of gallon-RINs obtained, sold, or transferred during any immediately preceding calendar years in which the foreign entity owned RINs, plus the number of gallon-RINs the foreign entity expects to obtain, sell or transfer during subsequent calendar years, the total number of years not to exceed four calendar years in addition to the current calendar year.

10. 40 C.F.R. § 80.1460(f) states that, “[n]o person shall fail to meet any requirement that applies to that person under [40 C.F.R. Part 80, Subpart M].”
11. 40 C.F.R. § 80.1461(b)(1) states that, “any person who fails to meet a requirement of any provision of [40 C.F.R. Part 80, Subpart M] is liable for a violation of that provision.”
12. Section 211(d)(1) of the Act, 42 U.S.C. § 7545(d)(1), provides that any person who violates the regulations prescribed under Section 211(o) of the Act, 42 U.S.C. § 7545(o), which include the RFS program regulations, shall be liable to the United States for civil penalties that shall be assessed in accordance with Section 205(b) and (c) of the Act, 42 U.S.C. § 7524(b)-(c).

### **Stipulated Facts**

13. Elbow River is a wholesaler, transporter, supplier, and marketer of liquid petroleum gases, crude oil, heavy fuel oil, and refined fuel and biofuel products based in Calgary, Alberta, Canada.
14. Elbow River is a wholly-owned subsidiary of Parkland Corporation (Parkland).
15. Parkland is an independent fuel and petroleum marketer and convenience store operator that is based in Calgary, Alberta, Canada and has operations across the Americas.

16. On August 15, 2013, Elbow River provided the EPA with proof of a \$3,000,000 surety bond (Bond Number BDTO 36026-013) pursuant to 40 C.F.R. § 80.1467(e). Pursuant to the formula in 40 C.F.R. § 80.1467(e)(1), Elbow River's \$3,000,000 bond allowed it to purchase up to 300,000,000 RINs.
17. The EPA reviewed Elbow River's RIN purchases for calendar years 2015 through 2019 when Bond Number BDTO 36026-013 was effective and identified the following numbers of RINs purchased:
  - 2015: 151,673,457;
  - 2016: 154,616,533;
  - 2017: 164,146,088;
  - 2018: 191,203,787; and
  - 2019: 128,890,969.
18. The EPA's review determined that Elbow River purchased a total of 790,530,834 RINs during calendar years 2015 through 2019.
19. The EPA determined that between 2015 and 2019 Elbow River did not post any bond other than the original \$3,000,000 bond described in Paragraph 16.
20. Since Elbow River's Bond Number BDTO 36026-013 allowed for the purchase of up to 300,000,000 RINs during the 2015 through 2019 timeframe pursuant to the formula in 40 C.F.R. § 80.1467(e)(1), Elbow River purchased 490,530,834 RINs in excess of the amount of RIN purchases allowed with Bond Number BDTO 36026-013.

**Alleged Violations of Law**

21. The EPA alleges that Elbow River's RIN purchases above 300,000,000 RINs caused it to violate the foreign RIN owner bond requirement of 40 C.F.R. § 80.1467(e)(1) and Section 211(d) of the Act, 42 U.S.C. § 7545(d). The alleged violations include Elbow

River's RIN purchases starting sometime in 2016, and all RIN purchases in 2017, 2018, and 2019.

**Agreement Terms and Civil Penalty**

22. To resolve these alleged violations, the EPA and the Respondent (the Parties) agree to be bound by this ASA's terms.
23. In any enforcement or penalty action arising out of this ASA or the subject matter of this ASA:
  - a. The Parties agree that the settlement of this matter is in the public interest and that this ASA is the most appropriate means for resolving the matter; and
  - b. The Parties further agree that the EPA has authority to enforce and settle this matter pursuant to Section 211 of the Act, 42 U.S.C. § 7545, 40 C.F.R. Part 80, and other provisions of law.
24. Respondent agrees to pay a civil penalty of \$303,039 to the United States of America within 30 calendar days of this ASA's effective date, but not before the effective date. Late payment of the penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay the amount by making an online payment through the United States Department of the Treasury by visiting [www.pay.gov](http://www.pay.gov). In the "search" field in the upper right corner of the webpage, enter "SFO 1.1" and run the search. On the search results page, click on the blue "Continue" button under the "EPA Miscellaneous Payments – Cincinnati Finance Center" header and follow the instructions to complete the online payment. Within 24 hours of payment, Respondent shall email a scanned copy of the online payment receipt to Tim Sullivan at [sullivan.tim@epa.gov](mailto:sullivan.tim@epa.gov).

25. Respondent acknowledges that this ASA will be available to the public and agrees that it does not contain any confidential business information.

**Stipulated Penalties**

26. Respondent shall pay stipulated penalties of \$1,000 per day for failure to timely pay the penalty or provide proof thereof pursuant to Paragraph 24. These stipulated penalties are in addition to the interest and fees referenced in Paragraph 24.

**General Provisions and Effect of ASA**

27. This ASA becomes effective upon the date the EPA executes the agreement (ASA's effective date)—at which time the EPA will provide an electronic copy of the fully executed ASA to the Respondent. This ASA may be signed in counterparts, each of which will be deemed an original. The Parties may transmit their signature copies to each other electronically or otherwise.
28. Notwithstanding any other provision of this ASA, upon default or Respondent's failure to comply with this ASA's terms, the EPA may refer this matter to the United States Attorney General for collection pursuant to Section 205(c) of the Act, 42 U.S.C. § 7524(c), to commence an action to recover a civil penalty pursuant to Section 205 of the Act, 42 U.S.C. § 7524, or to pursue any other available remedies. Respondent expressly waives its right to assert that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions because of the passage of time. Respondent acknowledges that its United States Tax Identification Number may be used for the purpose of collecting or reporting any delinquent monetary obligation arising from this ASA. *See* 31 U.S.C. § 7701.

29. Respondent agrees that the time period from the date of Respondent's signature on this ASA until the payment of the civil penalty as stated in Paragraph 24 (the Tolling Period) will not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA on any claims (the Tolloed Claims) set forth in the Alleged Violations of Law section of this ASA. Respondent will not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolloed Claims.
30. The Parties represent that the individual executing this ASA on the Respondent's behalf is authorized to do so and that such execution is intended and sufficient to bind Respondent, its agents, assigns, or successors.
31. Respondent waives its rights, if any, to a hearing, trial, or any other proceeding on any issue of fact or law relating to the matters consented to herein.
32. The validity, enforceability, and construction of all matters pertaining to this ASA shall be determined in accordance with applicable United States federal law.
33. Upon completion of this ASA's terms, the violations alleged in Paragraph 21 shall be deemed resolved. Nothing herein shall limit the EPA's right to proceed against Respondent in the event of default or noncompliance with this ASA, for violations of Section 211 of the Act, 42 U.S.C. § 7545, which are not the subject of this ASA, for other violations of law, or with respect to matters outside of this ASA's scope. This ASA in no way affects or relieves Respondent's responsibility to comply with other federal, state, and local laws and regulations.



34. The EPA reserves the right to revoke this ASA and accompanying civil penalty if, and to the extent the EPA finds, after signing this ASA that any information provided by Respondent was or is materially false or inaccurate, and the EPA reserves the right to pursue, assess, and enforce legal and equitable remedies for the Alleged Violations of Law. The EPA will give Respondent written notice of such termination, which will be effective upon mailing.




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The following agree to this ASA's terms:

**Elbow River Marketing Ltd.**

By:   
24049336149146E  
Ryan Krogmeier  
President

  
2F016A71D3D142A  
Tariq Remtulla  
Associate General Counsel

United States Tax Identification Number: 

***Administrative Settlement Agreement – In the Matter of Elbow River Marketing Ltd.  
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**United States Environmental Protection Agency**

By: **Greene,** Digitally signed by  
**Mary E** Greene, Mary E  
Date: 2023.05.21  
16:14:19 -04'00'

Mary E. Greene  
Director  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

**TIMOTHY** Digitally signed by  
**SULLIVAN** TIMOTHY SULLIVAN  
Date: 2023.04.10  
20:57:37 -06'00'

Timothy J. Sullivan  
Attorney-Adviser  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance