

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46660
AKTHER GAFFAR, INC, R.D.N. Inc., and Amhurst Business, LLC, dba First Stop
RN101432326
Docket No. 2013-0747-PST-E

Order Type:

Default Shutdown Order

Media:

Petroleum Storage Tank

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

7500 West Military Drive, San Antonio, Bexar County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 25, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,881

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$8,881

Compliance History Classifications:

<u>AKTHER GAFFAR, INC:</u>	<u>R.D.N., Inc.:</u>	<u>Amhurst Business, LLC:</u>
Person/CN – Unclassified	Person/CN – High	Person/CN – N/A
Site/RN – Unclassified	Site/RN – Unclassified	Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: November 29, 2012; April 9, 2013

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 9, 2013

Violation Information

1. Failed to provide corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1)].
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual piping tightness test [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondents demonstrate to the satisfaction of the Executive Director that the corrosion protection and release detection violations have been corrected and Respondents obtain a new fuel delivery certificate for the Facility.
3. The Facility's UST fuel delivery certificate is revoked immediately. Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements set forth in the Order, including payment of the administrative penalty.
4. Immediately upon the effective date of this Order, cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Install a corrosion protection system and test the system;
 - b. Implement a release detection method for all USTs at the Facility;
 - c. Conduct the annual piping tightness test;
 - d. Begin maintaining all UST records and ensure that they are made immediately available for inspection upon request by agency personnel; and
 - e. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: September 19, 2013
Date Green Card(s) Signed: September 27, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Troy Warden, Enforcement Division, (512) 239-1050

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 403-4044

Respondent Contacts:

Syed Ahmed Siddiqui, President, AKTHER GAFFAR, INC, 307 Las Puertas, San Antonio, Texas 78245;
Muzafar Iqbal, Director, Amhurst Business, LLC, R.D.N. Inc., 10393 Sahara Street, San Antonio, Texas 78279;
Rifat Iqbal, Director, Amhurst Business, LLC, R.D.N. Inc., 11331 Amhurst, San Antonio, Texas 78213

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	15-Apr-2013		
	PCW	17-Mar-2014	Screening	16-Apr-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop		
Reg. Ent. Ref. No.	RN101432326		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46660	No. of Violations	3
Docket No.	2013-0747-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$759	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$8,118		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$8,750

OTHER FACTORS AS JUSTICE MAY REQUIRE	1.5%	Adjustment	\$131
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.		
		Final Penalty Amount	\$8,881

STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$8,881
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY			\$8,881
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Screening Date 16-Apr-2013

Docket No. 2013-0747-PST-E

PCW

AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop

Respondent

Case ID No. 46660

Reg. Ent. Reference No. RN101432326

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Apr-2013

Docket No. 2013-0747-PST-E

PCW

Respondent AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop

Policy Revision 3 (September 2011)

Case ID No. 46660

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101432326

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide corrosion protection for the underground storage tank ("UST") system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One monthly event is recommended based on the documentation of the violation during the April 9, 2013 record review to the April 16, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$405

Violation Final Penalty Total \$3,806

This violation Final Assessed Penalty (adjusted for limits) \$3,806

Economic Benefit Worksheet

Respondent AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop
Case ID No. 46660
Reg. Ent. Reference No. RN101432326
Media Violation No. 1
Media Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$6,000	29-Nov-2012	16-Nov-2013	0.96	\$19	\$386	\$405
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to install a corrosion protection system and test the system. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$6,000

TOTAL \$405

Screening Date	16-Apr-2013	Docket No.	2013-0747-PST-E	PCW
Respondent	AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	46660			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101432326			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Michael Meyer			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent did not conduct the annual piping tightness test.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes
Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events	1	Number of violation days	7	
<i>mark only one with an x</i>	daily			Violation Base Penalty \$3,750
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

One monthly event is recommended based on the documentation of the violation during the April 9, 2013 record review to the April 16, 2013 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	x		(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal	\$3,750	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$204	Violation Final Penalty Total \$3,806
This violation Final Assessed Penalty (adjusted for limits) \$3,806	

Economic Benefit Worksheet

Respondent AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop
Case ID No. 46660
Reg. Ent. Reference No. RN101432326
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	29-Nov-2012	16-Nov-2013	0.96	\$72	n/a	\$72

Notes for DELAYED costs

Estimated cost of monitoring the USTs for releases. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	29-Nov-2011	9-Apr-2013	2.28	\$13	\$118	\$131
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for conducting annual piping tightness test. The date required is one year prior to the investigation date, and the final date is the record review date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$204

Screening Date 16-Apr-2013 Docket No. 2013-0747-PST-E

PCW

Respondent AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Case ID No. 46660 Reg. Ent. Reference No. RN101432326

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 7

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22 Violation Final Penalty Total \$1,269

This violation Final Assessed Penalty (adjusted for limits) \$1,269

Economic Benefit Worksheet

Respondent AKTHER GAFFAR, INC, R.D.N, Inc., and Amhurst Business, LLC, dba First Stop
Case ID No. 46660
Reg. Ent. Reference No. RN101432326
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Nov-2012	16-Oct-2013	0.88	\$22	n/a	\$22
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$22

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603739418, RN101432326, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603739418, AKTHER GAFFAR, INC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101432326, First Stop **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 7500 W MILITARY DR SAN ANTONIO, TX 78227-1926, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 39441

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 17, 2008 to April 17, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Troy Warden

Phone: (512) 239-1050

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If YES for #2, who is the current owner/operator? R.D.N., Inc. OWNER since 3/1/2009
AMHURST BUSINESS, LLC OPERATOR since 3/23/2011
AKTHER GAFFAR, INC, OPERATOR since 3/1/2009
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? R.D.N., Inc. OWNER OPERATOR 4/1/2000 to 3/1/2009
- 5) If YES, when did the change(s) in owner or operator occur? 3/23/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600742811, RN101432326, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600742811, R.D.N., Inc.

Classification: HIGH

Rating: 0.00

Regulated Entity: RN101432326, FIRST STOP

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 3

Repeat Violator: NO

CH Group: 14 - Other

Location: 7500 W MILITARY DR SAN ANTONIO, TX 78227-1926, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 39441

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 17, 2008 to April 17, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Troy Warden

Phone: (512) 239-1050

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If YES for #2, who is the current owner/operator? R.D.N., Inc. OWNER since 3/1/2009
AMHURST BUSINESS, LLC OPERATOR since 3/23/2011
AKTHER GAFFAR, INC, OPERATOR since 3/1/2009
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? R.D.N., Inc. OWNER OPERATOR 4/1/2000 to 3/1/2009
- 5) If YES, when did the change(s) in owner or operator occur? 3/23/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604496471, RN101432326, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604496471, Amhurst Business, LLC **Classification:** N/A **Rating:** N/A

Regulated Entity: RN101432326, FIRST STOP **Classification:** N/A **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 7500 W MILITARY DR SAN ANTONIO, TX 78227-1926, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 39441

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 17, 2008 to April 17, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Troy Warden

Phone: (512) 239-1050

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? R.D.N., Inc. OWNER since 3/1/2009
AMHURST BUSINESS, LLC OPERATOR since 3/23/2011
AKTHER GAFFAR, INC, OPERATOR since 3/1/2009
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? R.D.N., Inc. OWNER OPERATOR 4/1/2000 to 3/1/2009
- 5) If **YES**, when did the change(s) in owner or operator occur? 3/23/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AKTHER GAFFAR, INC, R.D.N. INC., AND AMHURST BUSINESS, LLC, DBA FIRST STOP; RN101432326	§ § § § § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2013-0747-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondents, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondents to shut down and remove from service the underground storage tanks ("USTs") located at 7500 West Military Drive in San Antonio, Bexar County, Texas. The respondents made the subject of this Order are AKTHER GAFFAR, INC, R.D.N. Inc., and Amhurst Business, LLC, dba First Stop ("Respondents").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Amhurst Business, LLC and R.D.N. Inc. own, as defined in 30 TEX. ADMIN. CODE § 334.2(73), and AKTHER GAFFAR, INC and R.D.N. Inc. operate, as defined in 30 TEX. ADMIN. CODE § 334.2(70), a UST system and a convenience store with retail sales of gasoline located at 7500 West Military Drive in San Antonio, Bexar County, Texas (Facility ID No. 39441) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on November 29, 2012, and a record review conducted on April 9, 2013, a UT-Arlington PST Program investigator (TCEQ contractor) documented that Respondents:
 - a. Failed to provide corrosion protection for the UST system;
 - b. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual piping tightness test; and
 - c. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.
3. By letter dated April 9, 2013, UT Arlington provided Respondents with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AKTHER GAFFAR, INC, R.D.N. Inc., and Amhurst Business, LLC, dba First Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on September 19, 2013.
5. By letter dated September 19, 2013, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on September 27, 2013, as evidenced by the signatures on the cards.
6. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.
7. By letters dated April 1, 2014, the Executive Director provided each Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondents failed to correct the release detection and corrosion protection violations within 30 days after Respondents' receipt of the notice.
8. As of the date of entry of this Order, Respondents have not provided the Executive Director with documentation demonstrating that the release detection and corrosion protection violations alleged in Findings of Fact Nos. 2.a. and 2.b. have been corrected.
9. The USTs at the Facility do not have release detection and corrosion protection as required by TEX. WATER CODE § 26.3475(a), (c)(1) and (d) and 30 TEX. ADMIN. CODE §§ 334.49(a)(1) and 334.50(b)(1)(A) and (b)(2), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to provide corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual piping tightness test, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2).
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 6, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of eight thousand eight hundred eighty-one dollars (\$8,881.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. As evidenced by Findings of Fact Nos. 2.a., 2.b., 3, 7, and 8, Respondents failed to correct documented violations of TCEQ release detection and corrosion protection requirements within 30 days after Respondents received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
10. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 6.
14. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order, Respondents shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements set forth in this Order, including payment of the administrative penalty.

3. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondents demonstrate to the satisfaction of the Executive Director that the release detection and corrosion protection violations noted in Conclusions of Law Nos. 2 and 3 have been corrected and Respondents obtain a new fuel delivery certificate for the Facility.
4. Immediately upon the effective date of this Order, Respondents shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondents shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondents shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 4 and 5.
7. If Respondents elect to permanently remove from service any portion of the UST system at the Facility, Respondents shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

8. Respondents are assessed an administrative penalty in the amount of eight thousand eight hundred eighty-one dollars (\$8,881.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
9. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: AKTHER GAFFAR, INC, R.D.N. Inc., and Amhurst Business, LLC, dba First Stop; Docket No. 2013-0747-PST-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondents shall undertake the following technical requirements:
 - a. Install a corrosion protection system and test the system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - b. Implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Conduct the annual piping tightness test, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - d. Begin maintaining all UST records and ensure that they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
 - e. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondents shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondents shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondents shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Cameron Lopez, Waste Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Road
San Antonio TX 78233-4480

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

16. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
17. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
19. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JENNIFER COOK

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

"My name is Jennifer Cook. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

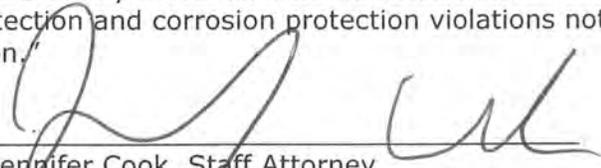
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AKTHER GAFFAR, INC, R.D.N. Inc., and Amhurst Business, LLC, dba First Stop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 19, 2013.

The EDPRP was mailed to each Respondent's last known address on September 19, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on September 27, 2013, as evidenced by the signatures on the cards.

More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

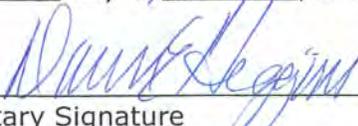
By letters dated April 3, 2014, sent via first class mail and certified mail, return receipt requested article nos. 7002 2030 0005 7061 4326, 7002 2030 0005 7061 4333, 7002 2030 0005 7061 4340, I provided each Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the release detection and corrosion protection violations were not corrected within 30 days of Respondents' receipt of the letter. According to the return receipt "green card," Respondents Amhurst Business, LLC and R.D.N. Inc. each received the notice on April 5, 2014. The United States Postal Service returned the Notice sent by certified mail to AKTHER GAFFAR, INC as "unclaimed;" the first class mail has not been returned.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondents have corrected the release detection and corrosion protection violations noted during the November 29, 2012, investigation."


Jennifer Cook, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 2nd day of May, A.D. 2014.


Notary Signature

