

**Executive Summary – Enforcement Matter – Case No. 43177**  
**F.T. WOODS CONSTRUCTION SERVICES, INC.**  
**RN105058721**  
**Docket No. 2011-2354-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

FT Woods Maintenance, 2500 Northeast Inner Loop, Georgetown, Williamson County

**Type of Operation:**

Fleet refueling facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 25, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,895

**Amount Deferred for Expedited Settlement:** \$1,779

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$7,116

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 43177  
F.T. WOODS CONSTRUCTION SERVICES, INC.  
RN105058721  
Docket No. 2011-2354-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 5, 2010 and December 13, 2011

**Date(s) of NOE(s):** December 13, 2011

***Violation Information***

1. Failed to obtain an underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form no later than 30 days after Respondent began operating the Facility. Specifically, Respondent did not obtain a delivery certificate by the due date of July 9, 2006 [30 TEX. ADMIN. CODE § 334.7(a)(1), 334.8(c)(4)(A)(vi)(II), (c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, one fuel delivery was accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
4. Failed to provide release detection for the piping associated with the UST. Specifically, Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures at the Facility:

- a. Submitted a properly completed UST registration and self-certification form and obtained a valid delivery certificate on January 6, 2012.
- b. Implemented a release detection method for the UST on January 6, 2012; and
- c. Successfully conducted the annual piping tightness test on January 6, 2012.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 43177  
F.T. WOODS CONSTRUCTION SERVICES, INC.  
RN105058721  
Docket No. 2011-2354-PST-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** F. Todd Woods, President, F.T. WOODS CONSTRUCTION SERVICES,  
INC., 2500 North East Inner Loop, Building 2, Georgetown, Texas 78626  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-Dec-2011	<b>Screening</b>	21-Dec-2011	<b>EPA Due</b>	
	<b>PCW</b>	4-Jan-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	F.T. WOODS CONSTRUCTION SERVICES, INC.		
<b>Reg. Ent. Ref. No.</b>	RN105058721		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43177	<b>No. of Violations</b>	3	
<b>Docket No.</b>	2011-2354-PST-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Charlie Lockwood	
		<b>EC's Team</b>	Enforcement Team 6	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$9,000</b>
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$900</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$883
Approx. Cost of Compliance	\$2,218

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,100</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	9.8%	<b>Adjustment</b>	<b>\$795</b>
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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 nos. 1 and 3.

<b>Final Penalty Amount</b>	<b>\$8,895</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,895</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,779</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$7,116</b>
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Screening Date 21-Dec-2011

Docket No. 2011-2354-PST-E

PCW

Respondent F.T. WOODS CONSTRUCTION SERVICES, INC.

Case ID No. 43177

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN105058721

PCW Revision October 30, 2008

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

### 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 judgements 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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 21-Dec-2011

Docket No. 2011-2354-PST-E

PCW

Respondent F.T. WOODS CONSTRUCTION SERVICES, INC.

Policy Revision 2 (September 2002)

Case ID No. 43177

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105058721

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code §§ 334.7(a)(1), 334.8(c)(4)(A)(vi)(II), (c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to obtain an underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form no later than 30 days after the Respondent began operating the Facility. Specifically, the Respondent did not obtain a delivery certificate by the due date of July 9, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 1991 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$6,000

Six annual events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$600

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

Notes The Respondent came into compliance on January 6, 2012, after the Notice of Enforcement ("NOE") dated December 13, 2011.

Violation Subtotal \$5,400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$659

Violation Final Penalty Total \$5,930

This violation Final Assessed Penalty (adjusted for limits) \$5,930

# Economic Benefit Worksheet

**Respondent** F.T. WOODS CONSTRUCTION SERVICES, INC.  
**Case ID No.** 43177  
**Req. Ent. Reference No.** RN105058721  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	13-Dec-2011	6-Jan-2012	0.07	\$0	n/a	\$0

#### Notes for DELAYED costs

Estimated cost to renew a delivery certificate by accurately preparing and submitting an updated UST registration and self-certification form. Date Required is the record review date. Final Date is the 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]	\$500	9-Jul-2006	13-Dec-2011	6.35	\$159	\$500	\$659
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Estimated avoided cost (\$100 per year) to accurately prepare and submit an updated UST registration and obtain a current TCEQ delivery certificate. Date required is 30 days after the date the Respondent began operating the Facility. Final date is the record review date.

Approx. Cost of Compliance

\$600

**TOTAL**

\$659

Screening Date 21-Dec-2011

Docket No. 2011-2354-PST-E

PCW

Respondent F.T. WOODS CONSTRUCTION SERVICES, INC.

Policy Revision 2 (September 2002)

Case ID No. 43177

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105058721

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 2

Rule Cite(s) 30 Tex. Admin Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, one fuel delivery was accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$500

One single event is recommended for accepting one fuel delivery.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes

The Respondent came into compliance on January 6, 2012, after the NOE dated December 13, 2011.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$494

This violation Final Assessed Penalty (adjusted for limits) \$494

## Economic Benefit Worksheet

**Respondent** F.T. WOODS CONSTRUCTION SERVICES, INC.  
**Case ID No.** 43177  
**Req. Ent. Reference No.** RN105058721  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 1.

**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

\$0

**TOTAL**

\$0

Screening Date 21-Dec-2011

Docket No. 2011-2354-PST-E

PCW

Respondent F.T. WOODS CONSTRUCTION SERVICES, INC.

Policy Revision 2 (September 2002)

Case ID No. 43177

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105058721

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 3

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 UST 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 piping associated with the UST. Specifically, the Respondent did not conduct the annual piping tightness test.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1

8 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the December 13, 2011 record review date to the December 21, 2011 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes

The Respondent came into compliance on January 6, 2012, after the NOE dated December 13, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$224

Violation Final Penalty Total \$2,471

This violation Final Assessed Penalty (adjusted for limits) \$2,471

## Economic Benefit Worksheet

**Respondent** F.T. WOODS CONSTRUCTION SERVICES, INC.  
**Case ID No.** 43177  
**Req. Ent. Reference No.** RN105058721  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	5-Nov-2010	6-Jan-2012	1.17	\$88	n/a	\$88

**Notes for DELAYED costs**

Estimated cost to monitor the UST for releases. Date Required is the investigation date. Final Date is the 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	5-Nov-2009	6-Jan-2012	3.09	\$18	\$118	\$136
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Estimated cost for conducting the annual piping tightness test. Date Required is one year prior to the investigation date. Final Date is the compliance date.

<b>Approx. Cost of Compliance</b>	\$1,618	<b>TOTAL</b>	\$224
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN602545816 F.T. Woods Construction Services, Inc. Classification: AVERAGE Rating: 2.93

Regulated Entity: RN105058721 F T WOODS MAINTENANCE Classification: HIGH Site Rating: 0.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 78567  
REGISTRATION

Location: 2500 NE INNER LOOP, GEORGETOWN, TX, 78626

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: April 25, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 21, 2006 to December 21, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cheryl Thompson Phone: (817) 588-5886

## Site Compliance History Components

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? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A (964152)  
1 12/13/2011
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
F.T. WOODS CONSTRUCTION  
SERVICES, INC.  
RN105058721**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-2354-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding F.T. WOODS CONSTRUCTION SERVICES, INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a fleet refueling facility at 2500 Northeast Inner Loop in Georgetown, Williamson County, Texas (the "Facility").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 18, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Eight Hundred Ninety-Five Dollars (\$8,895) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Seven Thousand One Hundred Sixteen Dollars (\$7,116) of the administrative penalty and One Thousand Seven Hundred Seventy-Nine Dollars (\$1,779) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted a properly completed UST registration and self-certification form and obtained a valid delivery certificate on January 6, 2012;
  - b. Implemented a release detection method for the UST on January 6, 2012; and
  - c. Successfully conducted the annual piping tightness test on January 6, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form no later than 30 days after the Respondent began operating the Facility, in violation of 30 TEX. ADMIN. CODE §§ 334.7(a)(1), 334.8(c)(4)(A)(vi)(II), (c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on November 5, 2010 and a record review conducted on December 13, 2011. Specifically, the Respondent did not obtain a delivery certificate by the due date of July 9, 2006.

2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on November 5, 2010 and record review conducted on December 13, 2011. Specifically, one fuel delivery was accepted without a delivery certificate.
3. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE Code § 26.3475(c)(1), as documented during an investigation conducted on November 5, 2010 and record review conducted on December 13, 2011.
4. Failed to provide release detection for the piping associated with the UST, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on November 5, 2010 and record review conducted on December 13, 2011. Specifically, the Respondent did not conduct the annual piping tightness test.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: F.T. WOODS CONSTRUCTION SERVICES, INC., Docket No. 2011-2354-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

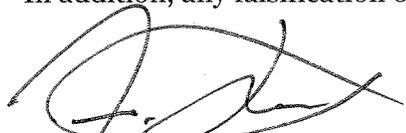
6/18/12  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

28 MARCH 12  
\_\_\_\_\_  
Date

F. Woods  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
F.T. WOODS CONSTRUCTION SERVICES, INC.

PRESIDENT  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.