

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-1781-PST-E TCEQ ID: RN102042280 CASE NO.: 31267**  
**RESPONDENT NAME: WILLIAM CARL BELL DBA SPEEDOS**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1018 East U.S. Highway 175 in Crandall, Kaufman County</p> <p><b>TYPE OF OPERATION:</b> Underground storage tank facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 7, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933  <b>TCEQ Regional Contact:</b> Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903  <b>Respondent:</b> Mr. William Carl Bell, Owner, Formerly dba Speedos, c/o Popop's Ice House, 1018 Highway 175, Crandall, Texas 75114  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 27, 2006 and August 24, 2006</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 27, 2006 (NOV) August 29, 2006 (NOE)</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on December 28, 2007. A proposed Default Order was mailed to the Respondent on February 14, 2008. The certified mail was returned as "unclaimed" for the EDPRP and proposed Default Order.</p> <p><b>PST</b></p> <p>1. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2).]</p> <p>2. Failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration did not indicate the tanks were out of service and did not have the correct current owner mailing information [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>3. Failed to ensure that any residue from stored regulated substances which remains in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point, and failed to maintain all</p>	<p><b>Total Assessed:</b> \$22,050</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$22,050</p> <p>This is a Default Order. The Respondent has not paid any of the assessed penalty but shall be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirement:</p> <ol style="list-style-type: none"> <li>1. Immediately, the UST delivery certificate is revoked.</li> <li>2. Within 10 days, submit UST delivery certificate.</li> <li>3. Within 15 days, amend the Site's registration to correctly reflect the operational status of all storage tanks and the correct current owner mailing information.</li> <li>4. Within 30 days, either:                     <ol style="list-style-type: none"> <li>a. Permanently remove from service all USTs for which any component is not in compliance with upgrade requirements; or</li> <li>b. Bring all USTs into compliance with all requirements for temporarily out-of-service tanks.</li> </ol> </li> <li>5. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</li> </ol>

pipng, pumps, man ways, tank access points and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, one regular unleaded tank had 10 inches of fuel, one diesel tank had 4 inches of fuel, and Mr. Bell failed to lock the fill risers of the four underground storage tanks [30 TEX. ADMIN. CODE § 334.54(b) and (d)(2)].



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	05-Sep-2006			
	PCW	10-May-2007	Screening	19-Sep-2006	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	William Carl Bell dba Speedos
Reg. Ent. Ref. No.	RN102042280
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31267	No. of Violations	3
Docket No.	2006-1781-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Clinton Sims
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$21,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7 **\$1,050**

Notes: The site received one NOV with same or similar violations

**Culpability** No  0% Enhancement Subtotal 4 **\$0**

Notes: The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 **\$0**

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

Notes: The respondent does not meet the good faith criteria.

**Economic Benefit** 0% Enhancement\* Subtotal 6 **\$0**

Total EB Amounts	\$5,966	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$14,100	

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$22,050**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount **\$22,050****

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$22,050**

**DEFERRAL** 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral because this is a non-expedited case.

**PAYABLE PENALTY **\$22,050****

**Screening Date** 19-Sep-2006

**Docket No.** 2006-1781-PST-E

**PCW**

**Respondent** William Carl Bell dba Speedos

*Policy Revision 2 (September 2002)*

**Case ID No.** 31267

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102042280

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Clinton Sims

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action ( <i>number of NOV's meeting criteria</i> )	1	5%
	Other written NOV's	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</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)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

The site received one NOV with same or similar violations

**Total Adjustment Percentage (Subtotals 2, 3, & 7)**

Screening Date 19-Sep-2006

Docket No. 2006-1781-PST-E

PCW

Respondent William Carl Bell dba Speedos

Policy Revision 2 (September 2002)

Case ID No. 31267

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102042280

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing underground storage tank (UST) system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, as documented during an investigation conducted on August 24, 2006. Specifically, the respondent failed to permanently remove from service four USTs that were not brought into timely compliance with the upgrade requirements.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Four monthly events (one per tank) are recommended based on the investigation date of August 24, 2006 and the screening date of September 19, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent William Carl Bell dba Speedos  
 Case ID No. 31267  
 Reg. Ent. Reference No. RN102042280  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$14,000	22-Nov-1998	28-May-2007	8.5	\$5,962	n/a	\$5,962

Notes for DELAYED costs: Estimated expense to permanently remove four underground storage tank systems from service. The Date Required is the date of required upgrade. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$14,000**

**TOTAL \$5,962**

**Screening Date** 19-Sep-2006

**Docket No.** 2006-1781-PST-E

**PCW**

**Respondent** William Carl Bell dba Speedos

*Policy Revision 2 (September 2002)*

**Case ID No.** 31267

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102042280

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Clinton Sims

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**  
 Failure to provide an amended underground storage tank registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as documented during an investigation conducted on August 24, 2006. Specifically, the registration did not indicate the tanks were out-of-service and did not have the correct current owner mailing information.

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent William Carl Bell dba Speedos  
 Case ID No. 31267  
 Reg. Ent. Reference No. RN102042280  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Economic Benefit	
						Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	24-Aug-2006	28-May-2007	0.8	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost to submit an amended underground storage tank registration form to the TCEQ. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$100** TOTAL **\$4**

**Screening Date** 19-Sep-2006

**Docket No.** 2006-1781-PST-E

**PCW**

**Respondent** William Carl Bell dba Speedos

*Policy Revision 2 (September 2002)*

**Case ID No.** 31267

*PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102042280

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Clinton Sims

**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 334.54(b) and (d)(2)

**Secondary Rule Cite(s)**

**Violation Description**

Failure to ensure that any residue from stored regulated substances which remains in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point, and to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, as documented during an investigation conducted on August 24, 2006. Specifically, one regular unleaded tank had 10 inches of fuel, one diesel tank had 4 inches of fuel, and the respondent failed to lock the fill risers of the four underground storage tanks

**Base Penalty** \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Actual				<b>Percent</b> 25%
	Potential	X			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

**Matrix Notes**

Human health or the environment will or could have been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

**Adjustment** -\$7,500

**Base Penalty Subtotal** \$2,500

**Violation Events**

**Number of Violation Events** 4

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

**Violation Base Penalty** \$10,000

Four single events (one per tank) are recommended.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$10,500

**This violation Final Assessed Penalty (adjusted for limits)** \$10,500

### Economic Benefit Worksheet

Respondent William Carl Bell dba Speedos  
 Case ID No. 31267  
 Reg. Ent. Reference No. RN102042280  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: N/A. Benefit already estimated in violation #1.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: N/A

Approx. Cost of Compliance

TOTAL

# Compliance History

Customer/Respondent/Owner-Operator: CN601109275 BELL, WILLIAM CARL Classification: AVERAGE Rating: 6.00  
 Regulated Entity: RN102042280 SPEEDOS Classification: AVERAGE Site Rating: 6.00  
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 65654  
 REGISTRATION  
 Location: 1018 E US HIGHWAY 175, CRANDALL, TX, 75114 Rating Date: September 01 07 Repeat Violator: NO  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: November 17, 2006  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: November 17, 2001 to November 17, 2006

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

Name: Clinton Sims Phone: (512) 239-6933

## 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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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.)

1 08/28/2006 (510244)

N/A

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

Date: 02/27/2006 (456281)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Failure to empty an underground storage tank of any remaining residue to less than 2.5 centimeters (1 inch) at the deepest point.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)

Description: Failure to assure that the vent lines for out-of service tanks are kept open and functioning and that all other piping, pumps, manways (e.g. fill risers) and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)  
Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or

addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

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  
WILLIAM CARL BELL DBA  
SPEEDOS;  
RN102042280

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-1781-PST-E**

At its \_\_\_\_\_ agenda, 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 revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is William Carl Bell dba Speedos ("Mr. Bell").

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

**FINDINGS OF FACT**

1. Mr. Bell owns property with four underground storage tanks located at 1018 East U.S. Highway 175 in Crandall, Kaufman County, Texas (the "Site").
2. Mr. Bell's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Bell's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection conducted on August 24, 2006, a TCEQ DFW Regional Office investigator documented that Mr. Bell:
  - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Specifically, Mr. Bell failed to permanently remove from service four USTs that were not brought into timely compliance with the upgrade requirements;

- b. Failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration did not indicate the tanks were out of service and did not have the correct current owner mailing information; and
  - c. Failed to ensure that any residue from stored regulated substances which remains in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point, and failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, one regular unleaded tank had 10 inches of fuel, one diesel tank had 4 inches of fuel, and Mr. Bell failed to lock the fill risers of the four underground storage tanks.
4. Mr. Bell received notice of the violations on or about September 3, 2006.
5. 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 William Carl Bell dba Speedos" (the "EDPRP") in the TCEQ Chief Clerk's office on December 28, 2007.
6. By letter dated December 28, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Bell with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Bell received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Bell received notice of the EDPRP, provided by the Executive Director. Mr. Bell failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Bell is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Mr. Bell failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Specifically, Mr. Bell failed to permanently remove from service four USTs that were not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 3.b., Mr. Bell failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration did not indicate the tanks were out of service and did not have the correct current owner mailing information, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
4. As evidenced by Finding of Fact No. 3.c., Mr. Bell failed to ensure that any residue from stored regulated substances which remains in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point, and failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, one regular unleaded tank had 10 inches of fuel, one diesel tank had 4 inches of fuel, and Mr. Bell failed to lock the fill risers of the four underground storage tanks, in violation of 30 TEX. ADMIN. CODE § 334.54(b) and (d)(2).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Bell with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No.7, Mr. Bell has failed to file a timely answer to the EDPRP, 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 Mr. Bell 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 Mr. Bell for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission'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 twenty-two thousand fifty dollars (\$22,050.00) 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. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Bell's UST delivery certificate if the Commission finds that good cause exists.
12. Good cause for revocation of Mr. Bell's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6 and 7, and Conclusions of Law Nos. 2 through 6.

### ORDERING PROVISIONS

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

1. Mr. Bell is assessed an administrative penalty in the amount of twenty-two thousand fifty dollars (\$22,050.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Bell's 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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: William Carl Bell dba Speedos; Docket No. 2006-1781-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. Mr. Bell's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Bell may submit an application for a new delivery certificate only after Mr. Bell has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Bell shall send his UST delivery certificate to:

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

4. Mr. Bell shall undertake the following technical requirements:
- a. Within 15 days of the effective date of this Order, Mr. Bell shall amend the Site's registration to correctly reflect the operational status of all storage tanks and the correct current owner mailing information, in accordance with 30 TEX. ADMIN. CODE § 334.7(d)(3).
  - b. Within 30 days of the effective date of this Order, Mr. Bell shall either:
    - i. Permanently remove from service all USTs for which any component is not in compliance with upgrade requirements, in accordance with 30 TEX. ADMIN. CODE § 334.55; or
    - ii. Bring all USTs into compliance with all requirements for temporarily out-of-service tanks, in accordance with 30 TEX. ADMIN. CODE § 334.54.
  - c. Within 45 days after the effective date this Order, Mr. Bell shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 4.a. and 4.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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.”

The certification shall be submitted to:

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

with a copy to:

Sam Barrett, Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive, Fort Worth, Texas  
Fort Worth, Texas 79109

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Bell. Mr. Bell is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
7. 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 Mr. Bell shall be made in writing to the Executive Director. Extensions are not effective until Mr. Bell receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Mr. Bell if the Executive Director determines that Mr. Bell has not complied with one or more of the terms or conditions in this Order.
9. 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.

10. 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 the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

William Carl Bell dba Speedos  
Default Order  
Docket No. 2006-1781-PST-E  
Page 8

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

William Carl Bell dba Speedos  
Default Order  
TCEQ Docket No. 2006-1781-PST-E

**AFFIDAVIT OF KARI L. GILBRETH**

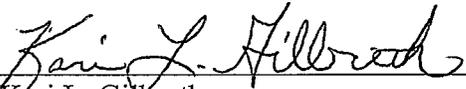
STATE OF TEXAS           §  
                                          §  
COUNTY OF TRAVIS       §

“My name is Kari L. Gilbreth. 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, I 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 William Carl Bell dba Speedos ” (the “EDPRP”) with the Office of the Chief Clerk on December 28, 2007.

I sent the EDPRP to Mr. Bell at his last known address on December 28, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Mr. Bell received notice of the EDPRP.

More than 20 days have elapsed since Mr. Bell received notice of the EDPRP. Mr. Bell failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

  
\_\_\_\_\_  
Kari L. Gilbreth  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, known 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 20<sup>th</sup> day of February, A.D., 2008.



  
\_\_\_\_\_  
Notary Signature