

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0021-WQ-E TCEQ ID: RN105652846 CASE NO.: 36986**

**RESPONDENT NAME: SALLY F. POWELL COMPANY, INC. DBA CHAD POWELL HOMES**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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 HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" 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

**SITE WHERE VIOLATION(S) OCCURRED:** Located within the Dominion Subdivision located at Interstate Highway 10 West and Dominion Drive, San Antonio, Bexar County

**TYPE OF OPERATION:** Operates single-family residential construction sites

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint has been received. The complaint alleged that silt and debris were washing onto roads and drainage areas. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired October 5, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-0635  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Steve Villatoro, Water Enforcement Division, MC 169, (512) 239-4930

**TCEQ Regional Contact:** Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

**Respondent:** Mr. Steven R. Brook, Sally F. Powell Company, Inc., Chad Powell Homes, 745 E. Mulberry, 9th Floor, San Antonio, Texas 78212

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      September 30, 2008</p> <p><b>Date of Investigation Relating to this Case:</b>                      September 30, 2008</p> <p><b>Date of NOV Relating to this Case:</b>                      October 3, 2008</p> <p><b>Background Facts:</b>                      The EDRP was filed May 28, 2009. Settlement was achieved and a signed Agreed Order was received on August 5, 2009.</p> <p><b>Current Compliance Status:</b>                      Respondent obtained a permit on November 20, 2008.</p> <p><b>WQ:</b>                      Failed to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)].</p>	<p><b>Initial Calculated Penalty:</b> \$1,800</p> <p><b>Total Assessed:</b> \$1,800</p> <p><b>Total Deferred:</b> \$0</p> <p>    <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$1,800</p> <p>The Respondent paid the administrative penalty in full.</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>The Executive Director recognizes that the Respondent obtained a permit on November 20, 2008, to discharge storm water associated with construction activities.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	15-Dec-2008	Screening	22-Dec-2008	EPA Due	
	PCW	23-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Sally F. Powell Company, Inc. dba Chad Powell Homes		
Reg. Ent. Ref. No.	RN105652846		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36986	No. of Violations	1
Docket No.	2009-0021-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$2,000</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>	<b>\$0</b>
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Notes: No enhancement is recommended due to average performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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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>\$200</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: \$14  
 Approx. Cost of Compliance: \$2,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,800</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$1,800</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,800</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</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 not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$1,800</b>
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**Screening Date** 22-Dec-2008

**Docket No.** 2009-0021-WQ-E

**PCW**

**Respondent** Sally F. Powell Company, Inc. dba Chad Powell Homes

Policy Revision 2 (September 2002)

**Case ID No.** 36986

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN105652846

**Media [Statute]** Water Quality

**Enf. Coordinator** Steve Villatoro

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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 enhancement is recommended due to average performer classification.

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

<b>Screening Date</b> 22-Dec-2008	<b>Docket No.</b> 2009-0021-WQ-E	<b>PCW</b>			
<b>Respondent</b> Sally F. Powell Company, Inc. dba Chad Powell Homes	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36986	<small>PCW Revision October 30, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN105652846					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Steve Villatoro					
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)				
<b>Violation Description</b>	Failed to obtain authorization to discharge storm water associated with construction activities, as documented during an investigation conducted on September 30, 2008. Specifically, the investigator observed that soil disturbing activities had been conducted on approximately one acre, but authorization to discharge storm water had not yet been obtained.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	Harm			Percent	0%
	Release	Major	Moderate		
	Actual				
	Potential				
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	Percent
		x			10%
<b>Matrix Notes</b>	100% of rule requirement not met.				
<b>Adjustment</b>					\$9,000
					\$1,000
<b>Violation Events</b>					
Number of Violation Events		2	Number of violation days		51
<small>mark only one with an x</small>	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
single event					
<b>Violation Base Penalty</b>					\$2,000
Two monthly events are recommended from the date of investigation (September 30, 2008) to the date of compliance (November 20, 2008).					
<b>Good Faith Efforts to Comply</b>			10.0% Reduction	\$200	
			Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary					
Ordinary		x			
N/A			<small>(mark with x)</small>		
Notes	The Respondent achieved compliance on November 20, 2008.				
<b>Violation Subtotal</b>					\$1,800
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
Estimated EB Amount		\$14	Violation Final Penalty Total		\$1,800
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					\$1,800

## Economic Benefit Worksheet

**Respondent** Sally F. Powell Company, Inc. dba Chad Powell Homes  
**Case ID No.** 36986  
**Reg. Ent. Reference No.** RN105652846  
**Media** Water Quality  
**Violation No.** 1

<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
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	\$2,000	30-Sep-2008	20-Nov-2008	0.14	\$14	n/a	\$14
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to obtain a permit to discharge storm water, including developing and implementing a storm water pollution prevention plan. Date Required is the date of the investigation and 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$14

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602577553 Sally F. Powell Company, Inc. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105652846 CHAD POWELL HOMES - DOMINION Classification: Site Rating:  
ID Number(s): STORMWATER PERMIT TXR15NA59  
Location: located within the Dominion Subdivision at Interstate Highway  
10 West and Dominion Drive in San Antonio, Bexar County,  
Texas  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: January 06, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 30, 2003 to December 30, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Steve Villatoro Phone: 512-239-4930

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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
- 6.

## 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.)  
N/A
  - 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  
SALLY F. POWELL COMPANY,  
INC. DBA CHAD POWELL  
HOMES, RN105652846

§  
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§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0021-WQ-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sally F. Powell Company, Inc. dba Chad Powell Homes ("Sally F. Powell Co., Inc.") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Sally F. Powell Co., Inc. appear before the Commission and together stipulate that:

1. Sally F. Powell Co., Inc. operates single-family residential construction sites located within the Dominion Subdivision located at Interstate Highway 10 West and Dominion Drive, San Antonio, Bexar County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Sally F. Powell Co., Inc. agree that the Commission has jurisdiction to enter this Agreed Order, and that Sally F. Powell Co., Inc. is subject to the Commission's jurisdiction.
4. Sally F. Powell Co., Inc. received notice of the violations alleged in Section II ("Allegations") on or about October 8, 2008 and received a Field Citation on September 30, 2008.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Sally F. Powell Co., Inc. of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand eight hundred dollars (\$1,800.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Sally F. Powell Co., Inc. paid one thousand eight hundred dollars (\$1,800.00) of the administrative 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 Sally F. Powell Co., Inc. 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 Sally F. Powell Co., Inc. obtained a permit on November 20, 2008, to discharge storm water associated with construction activities.
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 Sally F. Powell Co., Inc. 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

1. During an investigation conducted on September 30, 2008, a TCEQ Regional Office investigator documented that Sally F. Powell Co., Inc. violated 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c) by failing to obtain authorization to discharge storm water associated with construction activities. Specifically, the investigator observed that soil disturbing activities had been conducted on approximately one acre, but authorization to discharge storm water had not been obtained.

### III. DENIALS

Sally F. Powell Co., Inc. generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Sally F. Powell Co., Inc. pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Sally F. Powell Co., Inc.'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Sally F. Powell Company, Inc. dba Chad Powell Homes, Docket No. 2009-0021-WQ-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 Sally F. Powell Co., Inc. Sally F. Powell Co., Inc. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. If Sally F. Powell Co., Inc. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Sally F. Powell Co., Inc.'s failure to comply is not a violation of this Agreed Order. Sally F. Powell Co., Inc. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Sally F. Powell Co., Inc. shall notify the Executive Director within seven days after Sally F. Powell Co., Inc. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Sally F. Powell Co., Inc. shall be made in writing to the Executive Director. Extensions are not effective until Sally F. Powell Co., Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Sally F. Powell Co., Inc. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Sally F. Powell Co., Inc., or three days after the date on which the Commission mails notice of this Agreed Order to Sally F. Powell Co., Inc., 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

9/2/2009

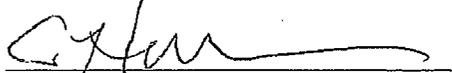
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Sally F. Powell Co., Inc.'s compliance history;
- Greater scrutiny of any permit applications submitted by Sally F. Powell Co., Inc.;
- 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 against Sally F. Powell Co., Inc.;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Sally F. Powell Co., Inc.; and
- TCEQ seeking other relief as authorized by law.

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



\_\_\_\_\_  
Signature

9/15/09

\_\_\_\_\_  
Date

Andrew Hartnett

\_\_\_\_\_  
Name (Printed or typed)

VP

\_\_\_\_\_  
Title

Authorized representative of  
Sally F. Powell Company, Inc.  
dba Chad Powell Homes