

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LIS 10-074

DURAND ROBINSON
d/b/a DURAND ROBINSON LAWN
MAINTENANCE AND LANDSCAPING, LLC
4826 PEAR ORCHARD
LITTLE ROCK, AR 72206

DOCKET NUMBER: 10-012-NOV

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("CAO") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Act 472 of 1949, as amended (the "Act"), codified at A.C.A. §8-4-101 et seq. (the "Code"), Arkansas Pollution Control and Ecology Commission Regulation Number 7, Arkansas Pollution Control and Ecology Commission Regulation Number 8, Arkansas Pollution Control and Ecology Commission Regulation Number 18, and Arkansas Pollution Control and Ecology Commission Regulation Number 19.

The issues herein having been settled by agreement of **DURAND ROBINSON d/b/a DURAND ROBINSON LAWN MAINTENANCE AND LANDSCAPING, LLC** ("DURAND ROBINSON") and the Director of the Arkansas Department of Environmental Quality ("ADEQ"), it is hereby agreed and stipulated that the following **FINDINGS OF FACT** and **ORDER AND AGREEMENT** be entered herein.

FINDINGS OF FACT

1. **DURAND ROBINSON** resides at 4826 PEAR ORCHARD in LITTLE ROCK (EAST END), SALINE County, Arkansas. **DURAND ROBINSON** owns and operates a lawn maintenance

and landscaping business and upon completion of his services, trade waste is burned at the above mentioned location, which is Mr. Robinson's residence.

2. A.C.A. §8-4-103(c)(1) as referenced by A.C.A. §8-4-304 and §8-4-311 authorizes **ADEQ** to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation.

3. Arkansas Pollution Control and Ecology Commission Regulation 18, Reg. 18.602 states:

No person shall cause or permit the open burning of refuse, garbage, trade waste, or other waste material, or shall conduct a salvage operation by open burning.

4. ADEQ received four complaints during the time period beginning on January 11, 2008 and ending on October 20, 2009 for open burning at 4826 Pear Orchard Street, Little Rock, Arkansas.

5. ADEQ and Mr. Robinson have mutually agreed to terms and conditions necessary to resolve this enforcement proceeding as appearing below.

ORDER AND AGREEMENT

WHEREFORE, **DURAND ROBINSON**, and **ADEQ** do hereby agree and stipulate as follows:

1. **DURAND ROBINSON** shall immediately cease and hereafter refrain from disposing of trade waste by means of open burning, and take such measures as are necessary to insure that such actions or conduct do not occur in the future.

2. In compromise and full settlement for instances of non-compliance specified in the **FINDINGS OF FACT**, **DURAND ROBINSON** agrees to pay the sum of **EIGHT HUNDRED DOLLARS (\$800.00)**. The total amount shall be made payable to the Arkansas Department of Environmental Quality and delivered to:

ADEQ, Fiscal Division
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317.

Unless otherwise notified, in writing, by **ADEQ**, **DURAND ROBINSON** shall pay the settlement

amount within thirty (30) calendar days after the effective date of this **CONSENT ADMINISTRATIVE ORDER** ("CAO").

3. All submissions required by this **CAO** are subject to approval by **ADEQ**. In the event of any deficiency, **DURAND ROBINSON** shall, within **fifteen (15) calendar days** of notification by **ADEQ**, submit any additional information requested. Failure to adequately respond to the notice of deficiency within **fifteen (15) calendar days** constitutes a failure to meet a deadline and is subject to the civil penalties established in the following Paragraph.

4. Failure to meet the limits, requirements, or deadlines of this **CAO** or the approved schedules provided for herein constitutes a violation of said **CAO**. If **DURAND ROBINSON** should fail to meet any such limits, requirements, or deadlines, **DURAND ROBINSON** consents and agrees to pay, on demand, to **ADEQ** civil penalties according to the following schedule:

- | | |
|---|----------------|
| (a) First day through the tenth day: | \$500 per day |
| (b) Eleventh day through the twentieth day: | \$1000 per day |
| (c) Twenty-first day through the thirtieth day: | \$1500 per day |
| (d) Each day beyond the thirtieth day: | \$2000 per day |

Stipulated penalties shall be paid within thirty (30) calendar days of receipt of **ADEQ'S** demand to **DURAND ROBINSON** for such penalties. These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to **ADEQ** by reason of **DURAND ROBINSON'S** failure to comply with the requirements of this **CAO**. **ADEQ** reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above; provided, however, that under no circumstances shall **ADEQ** be entitled to double recovery of penalties or fines under this **CAO** and pursuant to its enforcement authority.

5. This **CAO** is subject to public review and comment in accordance with A.C.A. §8-4-103(d)

and is, therefore, not effective until thirty (30) days after public notice of the **CAO** is given. **ADEQ** retains the right and discretion to rescind this **CAO** based on comments received within the **thirty-day** public comment period.

6. As provided by Arkansas Pollution Control and Ecology Commission Regulation Number 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this **CAO** is granted by the Commission.

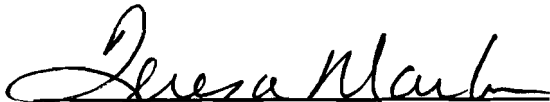
7. Nothing contained in this **CAO** shall relieve **DURAND ROBINSON** of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this **CAO** be deemed in any way to relieve **DURAND ROBINSON** of responsibilities contained in the permit.

8. Nothing in this **CAO** shall be construed as a waiver by **ADEQ** of its enforcement authority over alleged violations not specifically addressed herein. In addition, this **CAO** does not exonerate **DURAND ROBINSON** from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve **DURAND ROBINSON** of the responsibilities for obtaining any necessary permits.

9. Pursuant to the provisions of Arkansas Pollution Control and Ecology Commission Regulation Number 8.615, the Request for Hearing is hereby withdrawn and without further Commission action shall cause said docket to be immediately closed.

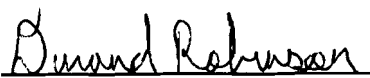
SO ORDERED THIS 12 DAY OF January, 2010.

**ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY**


TERESA MARKS, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

**DURAND ROBINSON
d/b/a DURAND ROBINSON LAWN
MAINTENANCE AND LANDSCAPING, LLC**

BY:  **(Signature)**

DURAND ROBINSON, OWNER

DATE: 1-5-11