

OHIO E.P.A.

FEB -3 2011

ENTERED DIRECTOR'S JOURNAL

Effective Date FEB 03 2011

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY


In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Grace Petroleum, Inc. :  
5506 Keiffer Avenue SW :  
Canton, OH 44706 :

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

Respondent,

 Date: 2-3-11

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Grace Petroleum, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapter 6109 and § 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent's public water system shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6109 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondent owns and operates at Grace Petroleum – Fohl Road a "public water system" (PWS) as defined by ORC § 6109.01, which is also a "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH7667012) is located at 5506 Keiffer Avenue SW, Canton (Stark County), Ohio, 44706, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 400 persons.

3. In accordance with OAC Rule 3745-81-21(A)(2)(a), a transient non-community water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each quarter that the water system provides water to the public.
4. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to collect at least one total coliform bacteria sample during the monitoring periods of October 1 through December 31, 2005, April 1 through June 30, 2006, October 1 through December 31, 2006, and July 1 through September 30, 2007.
5. In accordance with OAC Rule 3745-81-21(B), when a PWS monitoring with fewer than five samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five samples in the month following a total coliform-positive sample.
6. In violation of OAC Rule 3745-81-21(B), Respondent failed to monitor with at least five samples for the next month after a quarterly routine positive during the months of August 2006, November 2008, and July 2010.
7. In accordance with OAC Rule 3745-81-14(B), a PWS is in compliance with the maximum contamination level (MCL) for total coliforms when no more than one sample during the month is total coliform-positive.
8. In violation of OAC Rule 3745-81-14(B), Respondent incurred monthly MCL violations for total coliform bacteria when it had more than one total coliform-positive sample during the months of October 2008, June 2009, October 2009, and June 2010.
9. In violation of OAC Rule 3745-81-14(D), version effective August 3, 2004 through December 31, 2007, failure to monitor with total coliform repeat samples is a MCL violation as well as a monitoring and reporting violation; failure to monitor with the required repeat samples is a violation that may pose an acute risk to human health.
10. In violation of OAC Rule 3745-81-14(D), version effective August 3, 2004 through December 31, 2007, Respondent incurred an acute violation and a monitoring violation for failure to collect four repeat samples during the July 2006 monitoring period. Respondent did collect 4 total coliform-negative repeat samples on September 12, 2006.
11. In December 2008, the Director issued a monitoring schedule to Respondent (2009 monitoring schedule) for the compliance period that began on January 1, 2009 and ended on December 31, 2009.
12. In accordance with OAC Rule 3745-81-23, a PWS shall monitor to determine

compliance with the MCL for nitrate according to a schedule provided by the Director.

13. In accordance with OAC Rule 3745-81-23 and Respondent's 2009 monitoring schedule, Respondent was required to monitor for nitrate during the January 1 through December 31, 2009 monitoring period.
14. In violation of OAC Rule 3745-81-23 and Respondent's 2009 monitoring schedule, Respondent failed to monitor for nitrate during the January 1 through December 31, 2009 monitoring period.
15. On December 13, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.
16. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall designate one or more operator of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS.
17. In violation of OAC Rule 3745-7-02(A)(1), from December 31, 2009 until October 31, 2010, Respondent failed to maintain a Class A or higher certified operator of record at the PWS.
18. In accordance with OAC Rule 3745-7-02(A)(1), as of November 1, 2010, Respondent has retained a Class A certified operator of record at the PWS.
19. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of violations.
20. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following violations:
  - a. Total coliform monitoring violations for the monitoring periods of August 2006 and July 2010; and
  - b. Total coliform MCL violations for the monitoring periods of July 2006, June 2009 and June 2010; and
  - c. Nitrate monitoring violation for the monitoring periods January 1 through December 31, 2009.
21. Each violation cited above represents a separate violation of ORC § 6109.31.
22. In accordance with OAC Rule 3745-84-02(A), except as provided in ORC Section 6109.21, no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.

23. In accordance with OAC Rule 3745-84-03(A), a PWS license to operate (LTO) shall expire on the thirtieth day of January in the year following its issuance.
24. In accordance with OAC Rule 3745-84-03(B), a person holding a PWS LTO who is proposing to continue to operating the PWS shall submit an application and the appropriate fee not less than thirty days prior to the expiration of the license.
25. Respondent submitted an application and application fee for a 2011 LTO renewal on January 5, 2011.
26. In accordance with OAC Rule 3745-84-06(A), the Director may condition an LTO at any time to require correction of violations of ORC Chapter 6109 and the administrative rules adopted thereunder.
27. In accordance with OAC Rule 3745-83-01(I), the owner or operator of a public water system required to monitor under paragraphs (G) and (H) of this rule shall prepare an operation report for each month of operation on forms acceptable to the director, in addition to any other reporting requirement of Chapter 3745-81 of the Administrative Code.
28. In accordance with OAC Rule 3745-81-42 (B), the owner or operator of a ground water system shall conduct assessment source water monitoring that meets director-determined requirements for such monitoring. Director-determined assessment source water monitoring requirements may include collection of ground water source samples in accordance with a sampling schedule determined by the director.

## **V. ORDERS**

1. From the effective date of these Orders, the 2011 LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through #9, until January 30, 2012, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO, so as to be clearly visible to the general public and any person entering the facility, in accordance with OAC Rule 3745-84-04(D).
3. From the effective date of these Orders, Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23 and OAC Rule 3745-81-24.

4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rule 3745-81-21 and OAC Rule 3745-81-14, respectively.
5. Within thirty (30) days from the effective date of these Orders, Respondent shall provide public notice to all persons served by the Respondent's PWS, in accordance with OAC Rule 3745-81-32, for violations listed in Finding #20. Respondent shall provide copies of all public notices and verification forms within ten (10) days of delivery of public notices to Ohio EPA at the address listed in Section X of these Orders.
6. From the effective date of these Orders, Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
7. From the effective date of these Orders, Respondent shall continue to retain a Class A or higher certified operator of record.
8. From the effective date of these Orders, Respondent shall monitor free and combined chlorine residual at the entry point and at a representative point in the distribution system daily. This data shall be submitted through electronic Drinking Water Report (eDWR) using the Form 5002. Monitoring shall be done in accordance with OAC 3745-83-01 (G)(1) and OAC 3745-81-27 (C)(1)(a).
9. From the effective date of these Orders and continuing for one year, Respondent shall conduct monthly raw water monitoring for total coliform bacteria. These samples shall be identified as special purpose samples. Should any sample detect the presence of total coliform bacteria then it shall be further analyzed for E-coli bacteria. The data will be used to determine if the source water warrants further investigation or corrective action to address contamination.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's DDAGW acknowledge, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete." This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a

responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(E).

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the operation of Respondent's PWS or wastewater treatment system.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. NOTICE**

Except as required by a specific order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Division of Drinking and Ground Waters  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Attn: Tanushree Courlas

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6109 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further action which Ohio EPA may seek to require of

Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

### **XI. APPEAL RIGHTS**

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

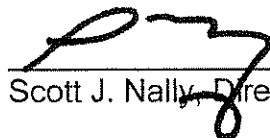
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

### **XII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally, Director

02/03/2011  
\_\_\_\_\_  
Date



State of Ohio Environmental Protection Agency

**CONDITIONAL LICENSE TO OPERATE OR MAINTAIN  
A PUBLIC WATER SYSTEM**

THE OHIO EPA, PURSUANT TO SECTION 6109.21 OF THE OHIO REVISED CODE, HEREBY ISSUES THIS  
LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM TO

**GRACE PETROLEUM - FOHL ROAD SHELL PWS**

**PWS ID: OH7667012**

THE LICENSEE IS OBLIGATED TO ENSURE THAT THE PUBLIC WATER SYSTEM IS OPERATED AND  
MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 6109 OF THE OHIO REVISED  
CODE, ALL OTHER APPLICABLE STATUTES AND THE ADMINISTRATIVE RULES ADOPTED THEREUNDER.

**THIS LICENSE WILL EXPIRE ON JANUARY 30, 2012**

APPLICATION FOR RENEWAL IS REQUIRED TO BE SUBMITTED TO THE OHIO EPA AT LEAST THIRTY  
DAYS PRIOR TO THIS DATE.

EFFECTIVE DATE: JANUARY 30, 2011

EXPIRATION DATE: JANUARY 30, 2012

LICENSE NUMBER: 7667012-782397-2011

A handwritten signature in black ink, appearing to read "Scott J. Nally".

Scott J. Nally, Director

**Grace Petroleum – Fohl Road Public Water System (PWS) – Orders for Conditioned LTO**

As required by Director's Final Findings and Orders issued February 3, 2011:

1. Grace Petroleum, Inc. shall prominently display the conditioned LTO, in accordance with OAC Rule 3745-84-04(D).
2. Grace Petroleum, Inc. shall comply with all current and subsequent chemical monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23 and OAC Rule 3745-81-24.
3. Grace Petroleum, Inc. shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rule 3745-81-21 and OAC Rule 3745-81-14, respectively.
4. No later than March 5, 2011, Grace Petroleum, Inc. shall provide public notice to all persons served by the Grace Petroleum, Inc.'s PWS, in accordance with OAC Rule 3745-81-32, for violations listed in Finding #3 of the Director's Findings and Orders. Grace Petroleum, Inc. shall provide copies of all public notices and verification forms within ten (10) days of delivery of public notices to Ohio EPA.
5. Grace Petroleum, Inc. shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
6. Grace Petroleum, Inc. shall continue to retain a Class A or higher certified operator of record.
7. Grace Petroleum, Inc. shall monitor free and combined chlorine residual at the entry point and at a representative point in the distribution system daily. This data shall be submitted through electronic Drinking Water Report (eDWR) using the Form 5002. Monitoring shall be done in accordance with OAC 3745-83-01 (G)(1) and OAC 3745-81-27 (C)(1)(a).
8. Grace Petroleum, Inc. shall conduct monthly raw water monitoring for total coliform bacteria for a period of one year. These samples shall be identified as special purpose samples. Should any sample detect the presence of total coliform bacteria then it shall be further analyzed for E-coli bacteria. The data will be used to determine if the source water warrants further investigation or corrective action to address contamination.