A-Z

California Regional Water Quality Control Board
Los Angeles Region

Linda S. Adams
Secretary for Environmental Protection

320 West Fourth Street, Suite 200, Los Angeles, California 90013
(213) 576-6600 • Fax (213) 576-6640
http://www.waterboards.ca.gov/losangeles

Arnold Schwarzenegger
Governor

December 30, 2009

VIA CERTIFIED MAIL
7005 0390 0000 4138 6815

Ms. J. Christy Simpson
Qioptiq Polymer, Inc.
1318 Palomares Avenue
La Verne, California 91750

No. R4-2009-0134-SW OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM FOR THE FAILURE TO SUBMIT AN ANNUAL REPORT AS REQUIRED BY STATE WATER RESOURCES CONTROL BOARD GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03- DWQ, NPDES NO. CAS000001.

QIOPTIQ POLYMER INC., 1318 PALOMARES AVENUE, LA VERNE, CALIFORNIA 91750 (WDID # 419 I021391).

Dear Ms. Simpson:

Qioptiq Polymer, Inc., (hereinafter "Permittee"), located at 1318 Palomares Avenue in the City of La Verne, is regulated under the General Industrial Stormwater Permit (Permit) and is identified by WDID No. 419I 021391. The Permittee's Notice of Intent (NOI) was processed by the State Water Resources Control Board on January 7, 2008. The Permit under Section B.14 requires the Permittee to submit an annual report by July 1st of each year.

This letter is to notify Qioptiq Polymer, Inc., of an alleged violation of the California Water Code regarding the failure to submit an annual report to the California Regional Water Quality Control Board, Los Angeles Region (hereinafter "Regional Water Board"), as required by the State Water Resources Control Board's General Permit for Stormwater Discharges Associated with Industrial Activities (hereinafter "General Permit"). This letter also notifies the Permittee of the opportunity to participate in the Regional Water Board's Expedited Payment Program for Annual Reporting Violations (hereinafter "Expedited Payment Program"). The Expedited Payment Program addresses liability that may be assessed pursuant to California Water Code section 13385.

NOTICE OF VIOLATION:

Based on the Regional Water Board's records, it is alleged that as of December 14, 2009 the Permittee has failed to submit an annual report by July 1, 2008, to the Regional Water Board as required under Section B.14 of the General Permit. Failure to submit such an annual report violates the requirements of the General Permit, the California Water Code, and the Federal Clean Water Act. This failure is identified in the Second Notice of Noncompliance (hereinafter "NON") attached hereto as Exhibit "A".

STATUTORY LIABILITY:

Pursuant to California Water Code sections 13385(a)(2) and 13385(c)(1), the Permittee is subject to discretionary administrative civil liabilities of up to TEN THOUSAND DOLLARS ($10,000.00) for each day in which a violation occurs (i.e., each day the Permittee fails to submit an annual report after July 1 of each year). These discretionary administrative civil liabilities may be assessed by the Regional Water Board, beginning with the date that the violation(s) first occurred. In this matter, and as set forth above, the days in violation will be calculated from July 2, 2008.

In addition, pursuant to California Water Code sections 13399.31(c) and 13399.33(c), the Permittee shall also be subject to a *minimum* penalty of *not less than* ONE THOUSAND DOLLARS ($1,000.00) to be assessed by the Regional Water Board if the Permittee fails to submit an annual report within sixty (60) days after the first notice of such failure was sent. The statute requires that the Regional Water Board provide the Permittee with two separate notices of noncompliance (each at least thirty [30] days apart) outlining the Permittee's failure to submit an annual report. A copy of the second notice issued to the Permittee is attached hereto as Exhibit "A". California Water Code section 13399.33(d) also allows the Regional Water Board to recover the enforcement costs it incurred regarding the Permittee's failure to submit an annual report.

The formal enforcement action that the Regional Water Board uses to assess such civil liabilities is an administrative civil liability complaint, although the Regional Water Board may instead refer such matters to the Office of the Attorney General for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess civil liability up to TWENTY-FIVE THOUSAND DOLLARS ($25,000.00) per violation, as set forth in California Water Code section 13385(b)(1).

CONDITIONAL OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:

The Permittee can avoid a formal enforcement action and settle the alleged annual reporting violation identified in the NON attached hereto as Exhibit "A" by participating in the Regional Water Board's Expedited Payment Program. Details of the proposed

settlement are described in detail below, as well as in the "Acceptance of Conditional Resolution and Waiver of Right to Hearing, [Proposed] Order" (hereinafter "Acceptance and Waiver") enclosed herewith.

To promote resolution of the alleged annual reporting violation, the Regional Water Board makes the following conditional offer. The Permittee may accept this offer, waive its right to a hearing, submit its overdue annual report within 30 days of the date of this letter, and pay a ONE THOUSAND DOLLARS ($1,000.00) administrative civil liability for the annual reporting violation identified in the NON attached hereto as Exhibit "A". If the Permittee elects to do so, subject to the conditions set forth herein, the Regional Water Board will accept the Permittee's overdue annual report and the payment of the administrative civil liability in settlement of any enforcement action that would otherwise arise out of the annual reporting violation identified in the NON attached hereto as Exhibit "A". After timely receipt of the Permittee's overdue annual report and payment of the administrative civil liability, the Regional Water Board will forego issuance of a formal administrative civil liability complaint, will not refer said violations to the Attorney General, and will waive its right to seek any additional penalties or liabilities, including the Regional Water Board's costs of enforcement, for the annual reporting violation identified in the NON attached hereto as Exhibit "A".

The Expedited Payment Program does not address liability for any violation that is not specifically identified in the NON attached hereto as Exhibit "A".

PERMITTEE'S OPTIONS AND INSTRUCTIONS FOR RESPONDING TO OFFER:

ACCEPTING OFFER:

If the Permittee accepts this offer, please complete and return the Acceptance and Waiver enclosed herewith within 30 days of the date of this letter by certified mail, return receipt requested addressed as follows:

California Regional Water Quality Control Board,
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, California 90013
Attn: Ms. Ann Zaszkodna

Additionally, submit an annual report as required under the General Permit within 30 days of the date of this letter by certified mail, return receipt requested to the address referenced above or by submitting a signed, electronic copy of the report by e-mail to Ms. Ann Zaszkodna at azaskodna@waterboards.ca.gov. A blank copy of the annual report form may be downloaded from the State Water Resources Control Board web site:

http://water101.waterboards.ca.gov/dhttp://water101.waterboards.ca.gov/dwqdas/stormwater/search/annrpt07_08.aspwqdas/stormwater/search/annrpt07_08.asp

Further, the Permittee must also submit the ONE THOUSAND DOLLARS ($1,000.00) administrative civil liability by cashier's check or by certified check made payable to the "State Water Pollution Cleanup and Abatement Account" to the Regional Water Board, at the address referenced above, no later than 30 calendar days after the date the Permittee receives written notice that the Executive Officer of the Regional Water Board has formally endorsed the "Acceptance and Waiver." Failure to pay the penalty within the required time period may subject the Permittee to further liability.

CONTESTING THE ALLEGED VIOLATION:

If the Permittee wishes to contest the annual reporting violation alleged in the NON attached hereto as Exhibit "A", the challenge must be received within 30 days of the date of this letter. Please identify, in writing and sent by certified mail, return receipt requested to the address above, the basis for the Permittee's challenge (factual error, affirmative defense, etc.). The Regional Water Board staff will evaluate that basis and make one of the following determinations: If the Regional Water Board staff determines that the alleged annual reporting violation is not supported, no further action will be taken against the Permittee for that violation, and the Permittee will be notified of that determination. If the Regional Water Board staff determines that the contested violation as alleged is meritorious, the Permittee should expect that a formal enforcement action will be pursued and that the Permittee will receive notice of any deadlines associated with that action. In a formal enforcement action, the liability amount sought and/or imposed may significantly exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor that can be considered in assessing the liability amount.

REJECTING OFFER:

If the Permittee chooses to reject the Regional Water Board's offer and/or chooses not to complete and return the Acceptance and Waiver, the Permittee should expect that a formal enforcement action will be pursued and that it will receive notice of any deadlines associated with that action. As previously stated, in such an action, the liability amount sought and/or imposed may significantly exceed the liability amount set forth in this Conditional Offer. Moreover, the Regional Water Board's cost of enforcement is a factor that can be considered in assessing the Permittee's liability amount.

The Permittee should also note that in the event the Regional Water Board pursues a formal enforcement action for the annual reporting violation alleged in the NON attached hereto as Exhibit "A," the Regional Water Board shall review its records to

determine whether the Permittee has previously failed to submit an annual report as required by the General Permit, and whether the Permittee has repeatedly failed to comply with that requirement. The Regional Water Board shall consider any such previous failures when assessing the Permittee's liability amount. This consideration may result in the liability amount being sought and/or imposed to significantly exceed the liability amount set forth in this Conditional Offer.

CONDITIONS FOR REGIONAL WATER BOARD'S ACCEPTANCE OF RESOLUTION:

This offer to participate in the Regional Water Board's Expedited Payment Program is conditioned upon the Regional Water Board's receipt of the Permittee's annual report as required by the General Permit within 30 days of the date of this letter. If the Permittee chooses not to, or fails to submit, an annual report within 30 days of the date of this letter, this offer will be deemed withdrawn and a formal enforcement action will be pursued. After the offer is deemed withdrawn, the Regional Water Board will notify the Permittee of the impending enforcement action and any associated deadlines.

Should the Permittee participate in the Expedited Payment Program, the settlement will be published in the following manner: Federal regulations require the Regional Water Board to publish notice of and to provide at least 30 days for public comment on any settlement of an enforcement action addressing NPDES permit violations (40 C.F.R. section 123.27(d)(2)(iii)). Upon the timely receipt, within 30 days of the date of this letter, of the Permittee's Acceptance and Waiver and annual report, the Regional Water Board staff will publish a notice of the proposed resolution of the annual reporting violation alleged in the NON attached hereto as Exhibit "A".

If no comments are received within the notice period, the Regional Water Board's Executive Officer will formally endorse the Acceptance and Waiver as a stipulated order assessing the uncontested penalty amount pursuant to California Water Code section 13385(c)(1), as described under the heading "Statutory Liability" herein.

If, however, significant comments are received in opposition to the settlement, this offer may be withdrawn. If the Regional Water Board's offer is withdrawn, the Permittee will be advised of that withdrawal, and the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. After the Regional Water Board's offer and the Permittee's waiver are deemed withdrawn, the unresolved violations will be addressed in a formal enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board or the State Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver endorsed by the Permittee shall be treated as a settlement communication and shall not be used as evidence in that hearing.

Any questions about the Notice of Noncompliance, this Conditional Offer, and/or the Acceptance and Waiver, should be directed to Ms. Ann Zaszkodna at 213-620-2120.

Sincerely,

Samuel Unger, PE
Assistant Executive Officer

Enclosures:
- Exhibit "A"—Second Notice of Noncompliance
- Acceptance of Conditional Resolution and Waiver of Right to Hearing; (Proposed) Order

cc: Ann Carroll, Office of Enforcement, State Water Resources Control Board

California Regional Water Quality Control Board
Los Angeles Region

Linda S. Adams
Secretary for Environmental Protection

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December 30, 2009

VIA CERTIFIED MAIL
7005 0390 0000 4138 6815

Ms. J Christy Simpson
Qioptiq Polymer, Inc.,
1318 Palomares Avenue
La Verne, CA 91750

EXHIBIT "A"

SECOND NOTICE OF NONCOMPLIANCE

No. R4-2009-0134-SW: OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM FOR THE FAILURE TO SUBMIT AN ANNUAL REPORT AS REQUIRED BY STATE WATER RESOURCES CONTROL BOARD GENERAL PERMIT FOR STORMWATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-DWQ, NPDES NO. CAS000001.

QIOPTIQ POLYMER, INC., 1318 PALOMARES AVENUE, LA VERNE, CALIFORNIA 91750 (WDID No. 419I021391).

Dear Ms. Simpson:

On June 16, 2009, our office sent you a notice of noncompliance (hereinafter "NON") via certified mail regarding your facility, located at the above address. You were informed in that NON that your facility is regulated under the State Water Resources Control Board's General Permit for Stormwater Discharges Associated with Industrial Activities (hereinafter "General Permit), which requires you to submit an annual report by July 1 of each year.

According to our records, we have not received the annual report that was due on July 1, 2008. Therefore, you continue to be in violation of the requirements of the General Permit, the California Water Code, and the Federal Clean Water Act and have failed to respond to the first notice of noncompliance sent to you by this office.

Pursuant to the California Water Code, sections 13385(a)(2) and 13385(c)(1), you are subject to discretionary administrative civil liabilities of up to TEN THOUSAND DOLLARS ($10,000.00) for each day you failed to submit an annual report calculated from July 2, 2008.

In addition, pursuant to California Water Code sections 13399.31(c) and 13399.33(c), you shall also be subject to a *minimum* penalty of *not less than* ONE THOUSAND DOLLARS ($1,000.00) to be assessed by the Regional Water Board, as you have failed to submit an annual report within sixty (60) days after the first notice of such failure was sent, and as you have now received two separate notices of such failure as required by statute. California Water Code section 13399.33(d) also allows the Regional Water Board to recover the costs incurred regarding the Permittee's failure to submit an annual report.

The formal enforcement action that the Regional Water Board uses to assess such civil liabilities is an administrative civil liability complaint, although the Regional Water Board may instead refer such matters to the Office of the Attorney General for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess civil liability up to TWENTY-FIVE THOUSAND DOLLARS ($25,000.00) per violation, as set forth in California Water Code section 13385(b)(1). You will be notified of any deadlines associated with a formal enforcement action pursued by our office in this matter.

If you have any questions, please contact Ms. Ann Zaszkodna at 213-620-2120.

Sincerely,

Samuel Unger

Samuel Unger, PE
Assistant Executive Officer

California Regional Water Quality Control Board
Los Angeles Region

Linda S. Adams
Secretary for
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No. R4-2009-0134-SW

ACCEPTANCE OF CONDITIONAL RESOLUTION AND WAIVER OF RIGHT TO HEARING; (PROPOSED) ORDER

Ms. J. Christy Simpson:
Qioptiq Polymer, Inc.,
1318 Palomares Avenue, La Verne, California 91750
(WDID # 419I021391)

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (hereinafter "Acceptance and Waiver") to the California Regional Water Quality Control Board, Los Angeles Region ("Regional Water Board"), Qioptiq Polymer, Inc., (hereinafter "Permittee") hereby accepts the "Offer to Participate in the Regional Water Board's Expedited Payment Program for Annual Reporting Violations" (hereinafter "Conditional Offer") and waives the right to a hearing before the Regional Water Board to dispute the allegations of violations described in the Second Notice of Noncompliance (hereinafter "NON") attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NON attached hereto shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Water Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to perform the following:

(1)Submit an annual report as required under Section B.14 of the General Permit for Stormwater Discharges Associated with Industrial Activities (hereinafter "General Permit") by **February 1, 2010,** return receipt requested addressed as follows:

California Regional Water Quality Control Board,
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, California 90013
Attn: Ms. Ann Zaszkodna

or by submitting a signed, electronic copy of the report by e-mail to Ms. Ann Zaszkodna at azaskodna@waterboards.ca.gov

(2) Pay discretionary penalties authorized by California Water Code section 13385(c)(1), in the sum of ONE THOUSAND DOLLARS ($1,000.00) (hereinafter "Expedited Payment Amount") by cashier's check or by certified check made payable to the "State Water Pollution Cleanup and Abatement Account," which shall be deemed payment in full of any

civil liability pursuant to California Water Code section 13385 or California Water Code section 13399.33 that otherwise might be assessed for the violations described in the NON attached hereto as Exhibit "A". The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NON attached hereto as Exhibit "A" and the civil liability amount for such violations.

The Permittee understands that the failure to submit an annual report, as identified and described above, shall cause the Regional Water Board's Conditional Offer and the Permittee's waiver pursuant to this Acceptance and Waiver to be withdrawn. After the Regional Water Board's Conditional Offer and the Permittee's waiver are deemed withdrawn, the Permittee will be advised of the withdrawals, an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Regional Water Board or the State Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NON attached hereto as Exhibit "A".

Upon execution by the Permittee, the Acceptance and Waiver shall be returned to the following:

Expedited Payment Program
California Regional Water Quality Control Board,
Los Angeles Region
320 West Fourth Street, Suite 200
Los Angeles, California 90013
Attn: Ms. Ann Zaszkodna

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Water Board to publish notice of and provide at least thirty (30) days for public comment on any proposed resolution of an enforcement action. Accordingly, this Acceptance and Waiver, prior to being formally endorsed by the Executive Officer of the Regional Water Board, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Executive Officer of the Regional Water Board to reconsider the Expedited Payment Amount, the Executive Officer will formally endorse this Acceptance and Waiver. Resolution of these violations by the Regional Water Board will preclude Regional Water Board action for the annual reporting violation alleged in the NON attached hereto as Exhibit "A" and incorporated by reference herein.

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Water Board to resolve the violations set forth in the NON attached hereto as Exhibit "A" may be withdrawn. If the Regional Water Board's offer is withdrawn, the Permittee will be advised of that withdrawal, and the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn. After the Regional Water Board's offer and the Permittee's waiver are deemed withdrawn, the Permittee should expect that the unresolved violations will be addressed in a formal

enforcement action. An administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Water Board or the State Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver endorsed by the Permittee shall be treated as a settlement communication and shall not be used as evidence in that hearing.

The Permittee understands that once this Acceptance and Waiver is formally endorsed by the Executive Officer of the Regional Water Board, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. The Permittee shall pay the Expedited Payment Amount of ONE THOUSAND DOLLARS ($1,000.00) by a cashier's check or certified check for the full amount made payable to the "State Water Pollution Cleanup and Abatement Account". The payment will be submitted to the Regional Water Board's Expedited Payment Program, at the address listed above no later than 30 calendar days after the date the Permittee receives written notice of that the Executive Officer of the Regional Water Board has formally endorsed this "Acceptance and Waiver."

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

Qioptiq Polymer, Inc.,

_____
(Permittee)

By: _____ _____
(Signed Name) (Date)

_____
(Printed or typed name)

_____
(Title)

IT IS SO ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13385

Date: _____

By: _____
Tracy Egoscue
Executive Officer
California Regional Water Quality Control Board,
Los Angeles Region