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## San Diego Regional Water Quality Control Board

August 24, 2018

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**Certified Mail- Return Receipt Requested**  
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**In reply refer to / attn:**  
**243883:KYaeger**

**Subject: Notice of Violation No. R9-2018-0147 and Investigative Order No. R9-2018-0148 Related to Alleged Violations of Order No. R9-2016-0116, NPDES No. CA0109134, *Waste Discharge Requirements for General Dynamics National Steel and Shipbuilding Company (NASSCO) Discharge to San Diego Bay*; Section 301 of the Federal Clean Water Act (33 U.S.C. § 1311); and Sections 13376 and 13383 of the California Water Code**

**General Dynamics National Steel and Shipbuilding Company (NASSCO);  
WDID 9 00000066**

Ms. Giobbi:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is issuing Notice of Violation (NOV) No. R9-2018-0147 set forth below to General Dynamics National Steel and Shipbuilding Company (NASSCO) for failure to comply with Order No. R9-2016-0116, *Waste Discharge Requirements for General Dynamics National Steel and Shipbuilding Company (NASSCO) Discharge to San Diego Bay* (Order); Section 301 of the Federal Clean Water Act (33 U.S.C. § 1311); and sections 13376 and 13383 of the Water Code. The alleged violations include an ongoing noncompliant discharge of waste materials from the graving dock to San Diego Bay that began on July 8, 2018 and failure to monitor the graving dock discharge as provided in the Order.

### Background

The Order, which became effective on February 1, 2017, serves as the updated waste discharge requirements and NPDES permit for wastewater and storm water discharges from NASSCO's shipyard facility to San Diego Bay. The Order prohibits the dumping, deposition, or discharge of wastes from NASSCO's graving dock to San Diego Bay.

On July 11, 2018 at approximately 8:15 p.m., a catastrophic failure of a NASSCO graving dock gate resulted in the graving dock being inundated with water from San Diego Bay. At the time of the incident, NASSCO was constructing a new ship in the graving dock that was scheduled to launch in September 2018. The full inventory of materials in the graving dock at the time of the incident is currently unknown. The graving dock gate was deemed unrepairable by NASSCO. The ongoing discharge of submerged waste materials from the graving dock to San Diego Bay will continue until the graving dock gate is replaced and/or the submerged the waste materials are removed from the graving dock.

On July 11, 2018 at approximately 9:30 p.m., NASSCO deployed primary containment booms just outside the failed gate to prevent floating debris from entering San Diego Bay. On July 12, 2018 at approximately 2:30 a.m., NASSCO added additional containment and absorbent booms near the stern of the ship to contain the floating debris at that end of the graving dock. The deployed booms may not prevent submerged materials from entering San Diego Bay. On July 12, 2018 at approximately 8:50 a.m., the site was deemed to be safe and NASSCO initiated cleanup of floating debris.

During an inspection on July 12, 2018, the San Diego Water Board observed floating wood debris and paint cans, and a layer of what appeared to be paint and other particulates on the surface of the water in the graving dock near the stern of the ship. The San Diego Water Board also observed that wood debris being removed from the graving dock was sprayed with a pressure hose, and that the wash water from this activity was released directly back into the graving dock. NASSCO ceased this practice at the direction of the San Diego Water Board.

During a follow-up inspection on July 13, 2018, the San Diego Water Board noted that NASSCO had setup land-based containment areas to store debris removed from the graving dock and prevent excess water from the removed debris from re-entering the graving dock or San Diego Bay. The San Diego Water Board also noted that the layer of paint and other particulates on the surface of the water in the graving dock had mostly dissipated. As of the time of the inspection, NASSCO had not conducted surface skimming to remove the surface layer. The fate of the contaminants in the surface layer is unknown at this time.

On July 30, 2018, NASSCO submitted a written report that summarized the graving dock incident and provided an update on NASSCO's response. In the report, NASSCO stated that a silt curtain was deployed at the head of the dock to prevent submerged material from exiting the graving dock and entering San Diego Bay. NASSCO estimated that less than 25 gallons of liquid material was released.

### **Alleged Violations**

1. **Section 301 of the Federal Clean Water Act (33 U.S.C. § 1311) and Water Code section 13376** prohibit the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit.

**Observation:** The discharge from the graving dock was not in compliance with the sections of the Order noted in items 2,3 and 4 below.

2. **Section III.B of the Order** prohibits the dumping, deposition, or discharge of wastes directly into waters of the U.S. including but not limited to San Diego Bay and Chollas Creek, or adjacent to such waters in any manner which may permit its being transported into the waters.

**Observation:** The breach of the graving dock gate caused NASSCO to discharge waste materials directly into San Diego Bay.

3. **Section III.C of the Order** prohibits the discharge of waste to waters of the U.S. including but not limited to San Diego Bay and Chollas Creek except as specifically authorized by the Order or another NPDES permit.

**Observation:** The discharge from the graving dock to San Diego Bay was not authorized by the Order or another NPDES permit.

4. **Section IV.D.2 of the Order** requires NASSCO to clean the graving dock prior to flooding.

**Observation:** NASSCO did not clean the graving dock prior to flooding.

5. **Water Code section 13383** authorizes the San Diego Water Board to establish monitoring and reporting requirements, for persons who discharge or propose to discharge to surface waters. **Attachment E section III.B.2 of the Order** requires NASSCO to monitor the graving dock flood water that is discharged to San Diego Bay.

**Observation:** NASSCO failed to conduct required water quality monitoring on the graving dock flood water that was discharged to San Diego Bay. NASSCO is required to monitor for pH, temperature, copper, nickel, zinc, settleable solids, turbidity, total suspended solids, and oil and grease when discharge occurs at the graving dock.

### Summary of Potential Enforcement Actions

The alleged violations may potentially subject NASSCO to additional enforcement by the San Diego Water Board or the State Water Resources Control Board, including an administrative civil liability assessment of up to \$10,000 per day of violation and \$10 per gallon for each gallon discharged but not cleaned up (Water Code section 13385) as well as any of the following enforcement actions:

Other Potential Enforcement Action Options	Applicable Water Code Section(s)
Technical or Investigative Order	Sections 13267 and 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301-13303
Time Schedule Order	Sections 13000 and 13308

In addition, the San Diego Water Board may consider revising or rescinding applicable waste discharge requirements, referring the matter to other resource agencies, referring the matter to the State Attorney General for injunctive relief, and referral to the municipal or District Attorney for criminal prosecution.

### Investigative Order No. R9-2018-0148

Under the authority of Water Code sections 13267 and 13383, the San Diego Water Board is issuing this Investigative Order No. R9-2018-0148 (Investigative Order) and hereby directs NASSCO to submit the information set forth below by 5:00 pm on October 8, 2018 unless permission for a later date has been granted by the San Diego Water Board.

The catastrophic failure of the graving dock gate caused the discharge of unknown pollutants to San Diego Bay. To characterize the nature and extent of the discharge and potential impacts to San Diego Bay, NASSCO shall:

1. Provide an explanation on how NASSCO estimated the volume of liquid released to San Diego Bay from the incident.
2. Provide a timeline of steps taken or planned by NASSCO to implement the Facility's Spill Response Plan.
3. Provide an inventory of all materials in the graving dock and the ship at the time of the incident that were or may have been released into San Diego Bay, and a discussion of all materials, including hazardous substances, which may have been present but not inventoried.
4. Provide a summary of all waste materials recovered after the incident.
5. Provide a detailed description of the construction activities (e.g., painting, welding, and sanding) taking place in the graving dock before and at the time of incident.

6. Provide a detailed description of the cause of the catastrophic failure of the graving dock gate.
7. Provide the graving dock gate maintenance record and schedule.
8. Characterize the pollutants that were or may have been released to San Diego Bay from the incident, including a description of potential and future impacts to water quality, bay bottom sediment quality and the beneficial uses of San Diego Bay.

All information provided in response to this Investigative Order must include the following signed certification statement:

"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."

This requested information is essential to evaluate the impacts of the discharge of pollutants resulting from the failure of the graving dock gate to San Diego Bay and the beneficial uses thereof, and the steps taken or planned to cleanup and abate the discharges. Therefore, the burden of preparing the requested report bears a reasonable relationship to the need for the report and the benefit to be obtained from the report. The San Diego Water Board recognizes and supports NASSCO's continuing efforts to reduce, eliminate, and prevent the recurrence of unauthorized discharges.

Please submit this report in electronic format to the San Diego Water Board by e-mail to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov). Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted.

#### **Notifications**

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Order.
2. **Enforcement Notification:** Water Code section 13268 (a)(1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administered imposed liability of up to \$1,000 per day for each day the violation occurs.

Water Code section 13385 provides that any person failing or refusing to furnish technical or monitoring report information required pursuant to Water Code section 13383 may be liable civilly for an administered imposed liability in an amount not to exceed the sum of the of both of the following:

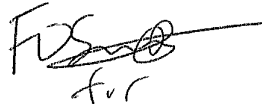
- a. Ten thousand (\$10,000) per day for each day the violation occurs.
- b. Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000 gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the

number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

- 3. **Requesting Administrative Review by the State Water Board:** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and CCR Title 23 section 2050. The petition must be received by the SWRCB (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. For instructions on how to file a petition for review, see: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/wqpetition\\_instr.shtml](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_instr.shtml)

In the subject line of any response, please include the following: 243883:KYaeger. If you have any questions regarding this notice, please contact Keith Yaeger by phone at (619) 521-5899, or by email at [Keith.Yaeger@waterboards.ca.gov](mailto:Keith.Yaeger@waterboards.ca.gov).

Respectfully,



Brandi Outwin-Beals

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Tech Staff Info & Use	
Order Nos.	R9-2016-0116 (Order), R9-2018-0147 (NOV), R9-2018-0148 (IO)
Party IDs	31242 (NASSCO), 562952 (Giobbi)
WDID	9 000000066
NPDES No.	CA0109134
Reg. Measure IDs	408359 (R9-2016-0116), 423229 (NOV), 423282 (IO)
PIN	243883