

**Bob Nelson**  
**Port Commissioner, San Diego Unified Port District**  
**3624 Robinson Mews, San Diego, Calif. 92103**

July 8, 2015

Honorable David Alvarez  
Councilmember, District 8  
City of San Diego  
202 C Street 10<sup>th</sup> Floor  
San Diego, CA 92103

RE: National City Marine Terminal

Dear David,

We have an exciting opportunity to create more great-paying jobs by optimizing the National City Marine Terminal (NCMT). Thank you for investing your time and interest in this topic. It's as much your terminal – and that of your constituents – as anyone's, and I much appreciate your interest and concern.

Together, the Port District and Pasha Automotive Services have created the most efficient automobile cargo operation in America. Last year 380,000 cars moved across our docks – about 10 percent of waterborne auto transport in the United States.

This letter addresses some of the important fact and legal issues we discussed in our meeting July 1 with our friends and colleagues from National City. While I am not an attorney, I have studied the Port District Act for nearly five years in my layman's efforts to discharge my duties. Following are some key facts and law that I believe deserve emphasis. *These represent my observations and conclusions, not the view of the Port District or other Commissioners.*

1. **Delay or denial of optimized operations at National City Marine Terminal will result in major lost revenues for the Port – funds that are essential for our mission.** In a lengthy briefing on July 2, the leading American experts in multi-modal port operations demonstrated to me that (a) there would be market demand for and (b) we have the ability to accommodate another 200,000 vehicles annually by optimizing our land with modest deck and railroad improvements at National City Marine Terminal. These renowned experts will submit this evidence at our Port Commission meeting on July 14 at 1:00 PM.

Optimizing NCMT could generate an additional \$6 Million annually for the Port in the near term -- a four percent increase in Port revenue; for a sense of scale, roughly proportionate to a \$60 million increase in your City budget.

The stakes are very high for the region and will measurably impact the Port's ability to maintain our 20 public parks, public realm areas, public safety, air and water quality services, greenhouse gas reduction projects, financial aid to adjacent communities, and other critical needs that will increasingly demand support. If we do not grow revenues in the face of a growing population and public utilization, our service levels will decline and we will become a less attractive asset for the regional community.

2. **Arguments that expanded vehicle imports would damage San Diego's quality of life or economy are inaccurate.** Optimizing rail operations at National City Marine Terminal between now and about the year 2040 are projected to require one northbound trip per

day, crossing downtown at about 9:30 - 10:00 AM for less than 20 minutes. This would cause no lost jobs, business opportunities, or tax revenues. Statements to the contrary are unfounded and illogical.

Hotel guests and conventions live with evening and afternoon trains and trolleys today; one daily mid-morning train certainly will not deter them. The BNSF rail tracks run inland of the Port Administration Building with the Sassafras Street crossing immediately adjacent to us. We hear loud warning bells, train horns, and rail sounds in our offices often throughout the day. The railroad crossing is a traffic and noise factor for us as much or more than for any business in town. It's a minor annoyance and one small cost for a vibrant economy. There will be scant notice and no problem for neighboring communities, either -- unless stimulated through an organized campaign to disrupt our progress.

3. **Any loss of maritime industrial use on Lot K would likely require a 1:1 replacement.** Pasha currently uses Lot K as part of its maritime industrial operations. *The California Coastal Act prioritizes maritime industrial uses over commercial uses like hotels.* Accordingly, it is the Coastal Commission's policy that the loss of maritime industrial uses requires an acre-for-acre replacement. Because of the California Coastal Commission's policy, the fact that maritime industrial is a highly prioritized Public Trust use and very scarce in California, there is little or no chance that converting Lot K to commercial recreational uses would be approved without at least an equal amount of new maritime industrial land being acquired or designated by the District. I am not convinced any such land exists, at what cost it might be had, or who would pay for it. Neither National City nor the Port District has such funds available.
4. **There are no valid National City general plan, zoning, or Local Coastal Plan permissions related to Lot K.** Urban legend and errant historical documents aside, there is no lawful zoning or land use entitlement, pre-commitment, or restriction of any kind on the former Barkett/Lot K land as a result of prior action by National City or the Port District. At the moment the land was incorporated into the Port Trust, it came under the exclusive domain of the Port District and the Coastal Commission. Any National City pre-existing general plan, zoning, or Local Coastal Plan permissions that might have applied to the land prior to it being absorbed into the Port Trust have since been vacated as clearly explained in the Port Act:
  - a. ***“the district shall exercise its land management authority and powers over (1) The tidelands and submerged lands granted to the district pursuant to this act or any other act of the Legislature” and “(2) any other lands conveyed by the district by any city or the County of San Diego or acquired by the district in the furtherance of its powers and purposes as provided in Section 87.”*** (California Harbors and Navigation Code, San Diego Unified Port District Act, §5(b), emphasis added).
  - b. ***“The title to, and possession and control of, any works, structures, appliances, improvements and equipment of the kinds designated in this act, owned or held by or in trust for the county and each of the cities, or by any officer or board thereof, in trust or otherwise, for any purpose for which the district is authorized to acquire and use property pursuant to this act, are upon the establishment of the***

*district, transferred to and vested in the district and are thereafter owned, operated and controlled by the district pursuant to this act.”* (Calif. Harbors and Navigation Code, San Diego Unified Port District Act, §70, emphasis added).

5. **National City has long objected to the Port’s automobile terminal operations.** The Port District has overwhelmingly and consistently rejected National City’s opposition for nearly 30 years because, on balance, their position on this matter does not serve the best interests of the Unified Port District or the people of California.

- October 24, 1989 Los Angeles Times: “Last but not least, National City opposes industrial development of the site. Mayor George Waters said the city wants to build a tourist attraction with the retail-restaurant theme concept of San Diego's Seaport Village.”
- June 20, 1990 Los Angeles Times: “National City officials, concerned about the city's access to San Diego Bay, asked the Board of Port Commissioners on Tuesday to change the zoning south and west of 32nd Street from industrial to tourist and commercial. At stake are about 112 bayfront acres at the mouth of the Sweetwater River that the city wants to develop into a recreational area, complete with restaurants, hotels and tourist attractions.”
- February 25, 1992 Los Angeles Times: “...National City Mayor George Waters... pressed the San Diego Unified Port District to deny Pasha Group's request to expand its business onto port-owned land on San Diego Bay in National City. Despite promises that the expansion would create as many as 150 jobs, Waters steadfastly opposed Pasha's proposal to turn the vacant land into a bayfront parking lot for thousands of automobiles that manufacturers are shipping to car dealerships. Waters instead argued--unsuccessfully--for commissioners to turn one of the last remaining vacant parcels over to the public. The 6-1 commission vote that granted Pasha a five-year lease on the contested parcel highlighted an ongoing debate over appropriate uses for the port's dwindling supply of waterfront land. While sympathetic to Waters' desire for public access to the waterfront, port commissioners maintained that the port's master plan clearly calls for a marine-related industrial use at the contested location.”

Voters in each of the five Port cities approved the creation of the Unified Port District to serve all the people of California. No part of the Tidelands is proprietary to any one city, nor to all five cities in aggregate. The Port’s mandate is to serve the Public Trust on behalf of all Californians as best we can. In the case of National City Marine Terminal, I believe the public interest is best served by optimizing our operations while minimizing and mitigating environmental impacts.

Thanks, again, for giving this issue your attention. I know you and your colleagues have a lot on your minds and a lot of great work to get done.

Sincerely,

  
Bob Nelson

cc: Honorable Kevin Faulconer, Mayor, City of San Diego  
Honorable Members of the San Diego City Council  
Honorable Jerry Sanders, CEO, San Diego Regional Chamber of Commerce  
Ms. Diane Takvorian, CEO, Environmental Health Coalition  
Ms. Sharon Cloward, CEO, Port Tenants Association  
Mr. John Pasha, Senior Vice President, Pasha Automotive Services  
Ms. Randa Coniglio, CEO, San Diego Unified Port District  
Mr. Thomas Russell, General Counsel, San Diego Unified Port District