a 6-lane highway in this particular location, and that on balance, doing so would be more protective of coastal resources, including all of the other coastal policies that staff has listed, then not going forward with the project.

We have looked at that, and as staff has elaborated on, we do not think that there is a conflict that is raised. We do not think that the public access provision has been demonstrated in that way.

As for the other Coastal Act policies that have been raised, for example, the water quality benefits -- to put this in the language of Bolsa Chica -- the claim would be that the water quality benefits, such as improving storm water runoff from I-5 can only be improved by building this project, in this location.

And, a court looking at this will use a reasonable person standard, and will have to determine whether a reasonable person can find that the way to improve water quality runoff from I-5 is to build this proposed project -- not to build the retention basins, because those are not necessary to this project. They are just proposed as mitigation to the project.

EXECUTIVE DIRECTOR DOUGLAS: Mr. Chairman, I just have some closing comments here.

Mr. Chairman, members of the Commission, this is the most significant project to come before this Commission
since the San Onofre Nuclear Power Plant in 1974. It is most significant because of the large area of environmentally sensitive habitat, wetlands, and other public resources, it will destroy.

The fact is that it is unmitigatable under the law, that it so clearly fails to meet so many Coastal Act policies, and that it raises profound questions about our environmental and social future in coastal California, and the glaring negative precedent it would set, by among other things, destroying a heavily used state park, whose principal infrastructure improvements were installed as Commission required mitigations for loss public beach access in front of the nuclear power plant.

Since passage of the California Coastal Act in 1976, I know of no other coastal development project so demonstrably inconsistent with the law, that has come this far in the regulatory review process --

[ Audience Reaction ]

CHAIR KRUER: Again, please, you know, if we are going to proceed with the hearing today, and we will never get through all of the speaker slips and everything else, you people please abide by that, or we are going to have to stop the hearing. I am going to ask you for one of the last times, now, not to do that, please.

EXECUTIVE DIRECTOR DOUGLAS: This toll road
process is precisely the kind of project the Coastal Act was intended to prevent, along with new coastal nuclear power plants, new offshore oil and gas leases, coastal freeway projects abandoned long ago, and new commercial ports that also never came to be.

This project is the embodiment of the central driver that motivated California voters to enact the coastal initiative, that created the Coastal Commission in 1972. That prime driver was overwhelming public opposition to rampant industrialization and destruction of the coast by massive new development projects, actual and imminent at the time.

This toll road project is not only inconsistent with the law, it also raises fundamental questions about what kind of environmental and social future we want for our coastal communities, our families, our children, and theirs.

We, especially, those privileged few of us, entrusted with grave responsibilities for making momentous decisions today that affect generations to come, must ask these questions in the context of a larger perspective of where we, as a society, are heading. This is a context that includes a burgeoning population, the exponential loss of environmentally sensitive and critical natural habitat, the loss of affordable and accessible public recreation areas and opportunities, massive disruptions of global climate with
devastating consequences, the inevitably congestion of new or expanded freeways everywhere whose projected carrying capacities were exceeded even before they were completed, a context where demand for mobility must and can, ultimately, only be met by mass public transit infrastructure, and in a context wherein the decisions we make today are guided by individual conscience and our own inner moral and ethical compass, and not by the power of politics and monitory profit for others.

We, as a staff in public service, and you as Commissioners are keenly aware of our sworn duty to objectively and fairly apply the requirements of law to the facts before us. While bound by law, we are also individuals, individual beings whose judgments is, obviously, informed by social, environmental, and moral imperatives of our time.

It is not hyperbole to suggest that this project raises a paramount question int this pivotal moment of human history that each of us must ask and answer in the conduct of our own lives. Are we, as a people, wise enough and willing to muster the courage of our convictions to stand firm for what is right, and actively embrace a future that does not repeat the failed practices of the past.

Can we focus our foresights on an environmental future clearly in the best collective long term interest of
human and natural communities? A future that will require
sacrifice and will be costly to achieve, but one whose worth
is a proud legacy is beyond measure.

These are questions we must ask.

Mr. Chairman, that completes the staff report, and
our comments.

CHAIR KRUER: Okay, and what we are going to do
now, is to break for lunch and we will be back here at 1:30,
and I want to tell you that there are some concession stands
right outside and in back of the bleachers, and there are
some other things out here.

We will see everybody back here at 1:30, and we
will continue.

[ Lunch Recess ]

CHAIR KRUER: Okay, we are ready to go. Is staff
ready? okay. Commissioners, are you ready? okay.

And, before we open the public hearing,
Commissioner Blank has a procedural question.

COMMISSIONER BLANK: Yes, this is a question to
Director Douglas, for you and counsel.

I believe I have heard from both -- at least from
the applicant, that our jurisdiction in this area, even under
federal consistency, is limited to areas in the coastal zone
and out to the ocean, and does not include the watersheds,
and while the appellants, and I think staff, have stated that