

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

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

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

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

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

24 Mr. Chairman, members of the Commission, this is
25 the most significant project to come before this Commission

1 since the San Onofre Nuclear Power Plant in 1974. It is most
2 significant because of the large area of environmentally
3 sensitive habitat, wetlands, and other public resources, it
4 will destroy.

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

14 Since passage of the *California Coastal Act* in
15 1976, I know of no other coastal development project so
16 demonstrably inconsistent with the law, that has come this
17 far in the regulatory review process --

18 [Audience Reaction]

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

25 **EXECUTIVE DIRECTOR DOUGLAS:** This toll road

1 process is precisely the kind of project the *Coastal Act* was
2 intended to prevent, along with new coastal nuclear power
3 plants, new offshore oil and gas leases, coastal freeway
4 projects abandoned long ago, and new commercial ports that
5 also never came to be.

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

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

17 We, especially, those privileged few of us,
18 entrusted with grave responsibilities for making momentous
19 decisions today that affect generations to come, must ask
20 these questions in the context of a larger perspective of
21 where we, as a society, are heading. This is a context that
22 includes a burgeoning population, the exponential loss of
23 environmentally sensitive and critical natural habitat, the
24 loss of affordable and accessible public recreation areas and
25 opportunities, massive disruptions of global climate with

1 devastating consequences, the inevitably congestion of new or
2 expanded freeways everywhere whose projected carrying
3 capacities were exceeded even before they were completed, a
4 context where demand for mobility must and can, ultimately,
5 only be met by mass public transit infrastructure, and in a
6 context wherein the decisions we make today are guided by
7 individual conscience and our own inner moral and ethical
8 compass, and not by the power of politics and monetary profit
9 for others.

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

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

24 Can we focus our foresights on an environmental
25 future clearly in the best collective long term interest of

1 human and natural communities? A future that will require
2 sacrifice and will be costly to achieve, but one whose worth
3 is a proud legacy is beyond measure.

4 These are questions we must ask.

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

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

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

14 [Lunch Recess]

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

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

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

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