



Opening Policy Statement by Chair E. Joaquin Esquivel

State Water Resources Control Board

Bay-Delta Adoption Meeting

October 28th, 2026

Before we hear from staff and from the public, I want to say plainly where I stand on the proposal before us, and why.

I'd like to start with a day in December 1994. On December 15 of that year, federal Cabinet officials, the Governor, and leaders of California's cities, farms and environmental groups signed the Bay-Delta Accord. The federal government had rejected the state's standards and written its own. Lawsuits had piled up for decades. And then, for a moment, California's longest-running water war had a truce.

Five months later, in May 1995, this Board adopted a plan built on that Accord. It gave us the X2 outflow standard and the export limits that still protect this estuary today. It proved that collaboration could move water policy when litigation alone had not.

That plan is still the foundation of fish and wildlife protection in the Sacramento River and the Delta. It has been for thirty-one years. In that time, Delta smelt have all but vanished from our surveys. Longfin smelt have been listed as endangered. California's commercial salmon fishery has been closed in recent seasons, and the families who depend on it have paid the price.

This week, 1995 is being invoked from two directions.

Some water agencies tell us this Board is breaking faith with the deal they negotiated. They say we have added oversight their 2022 agreement never contemplated, and that we are asking more of them than they promised.

A coalition of Tribes, environmental justice, and conservation groups tell us we are repeating 1995's mistake. They say we are letting powerful water users trade limited flow commitments for relief from stronger requirements, and handing away our duty to protect the public trust.

Both deserve a direct answer. I want to give it by taking 1995 seriously, through four contrasts: the time we took, the standard behind the agreement, who we listened to, and who shares the load. I think when we walk through them together, the case for moving forward makes itself.

First contrast: the time we took

In 1995, the Accord was negotiated among the parties. The draft plan was released the day the Accord was signed, and this Board adopted it five months later. Speed was the point, because a deadlock had to be broken. But it meant the public largely saw the deal after it was made.

This time, we took the time. When the parties brought their agreement to us in 2022, that was not the end of the process. It was the beginning of a public one.

For more than three years, that agreement has been tested in the open. Its science was released for public comment in January 2023, discussed at a Board workshop, and sent for independent peer review. The Staff Report analyzing it was open for comment for 113 days, with a three-day hearing. In April 2024, we held a three-day workshop on the voluntary agreements alone. Then came successive drafts of the plan, each released for public review. Before this week, that adds up to roughly nine months of open comment and fourteen days of public hearings and workshops. The final comment round alone brought us 88 letters and nearly 1,900 pages.

That time was not a delay. It is the substance of this plan. People who were never at the negotiating table, or left, got to read the agreement, question it and inform it, and they did.

Time is also what will let this plan last. In 1995, speed broke a deadlock. This time, patience built something durable. Not every concern was resolved. No plan of this size could do that. But every concern was heard, and many of them changed the plan.

Second contrast: a standard, a backstop, and a regular check-in

In 1995, the agreement came first and the standard followed. The Accord itself assumed no additional water would be needed to protect listed species. And the plan set a goal to double natural salmon production, with no system to tell us, year by year, whether we were on track. In practice, too much of 1995 was set it and forget it. The fish paid for that.

This plan is not set it and forget it. It starts with a standard. The regulatory pathway requires 55 percent of unimpaired flow, managed between 45 and 65 percent, with water supply adjustments in drier conditions. The Healthy Rivers and Landscapes commitments are written into the plan as the other pathway, and that pathway is consistent with the agreement the parties signed in 2022.

Behind the agreement stands a backstop. If voluntary commitments are not met, or a participant leaves, those rights move to the regulatory pathway. Voluntary flows must also be additional to a defined baseline. If project operations change, federal operations included, and outflow falls below that baseline, the parties must make up the difference. I know base-flow balancing is the provision the water agencies object to most. But the 2022 agreement promised flows above a baseline, and this keeps that promise. It is how an acre-foot you contribute becomes an acre-foot the river gains, and how your investment is protected from someone else's decision.

And then we keep checking. The Board approves the accounting. Biological goals will be developed in public, and a Science Plan written with all of you. Results come before this Board every year. The voluntary pathway begins by October 1, 2027, with an implementation methodology due within a year of state approval and regulations within two. At year eight, the Board decides at a public meeting, after review by the Delta Independent Science Board, whether to continue, modify or end the voluntary pathway. And if commitments fall short, or the evidence shows fish are not being protected, we can act sooner.

The coalition says this plan defers results to 2050. Respectfully, 2050 is the finish line, not the starting gun. To the agencies: the certainty you are owed is that if you perform, you are protected. No regulator can promise more than that and keep faith with the public trust. To tribes, environmental justice and conservation groups: these are the safeguards you asked for. I have not supported removing them, and I will not.

Third contrast: listening to Tribes and environmental justice communities

Look again at that signing in December 1994. Federal officials, state officials, cities, farms, environmental groups. California's Tribes were not at that table, and neither were the Delta's environmental justice communities. The plan that followed did not recognize Tribal

uses of these waters, even though Tribes' relationship with these rivers and these salmon is older than any water right this Board has ever issued.

This time, we heard from them, and the plan changed. For the first time, it designates Tribal Tradition and Culture as a beneficial use across the watershed. It commits the Board to a Tribal Advisory Group and a tribal engagement plan, and to use Traditional Ecological Knowledge only with tribal review and consent, under the CARE principles.

On harmful algal blooms, the coalition is right that this plan sets no numeric objective for algal toxins. What it does is expand tiered monitoring of toxins across the Delta, including at known hotspots. That data will feed the statewide objectives this Board is developing for four cyanotoxins, which will apply in the Delta. Board consideration of those objectives is expected in 2028, and our periodic reviews will ask whether the Delta needs more.

Trust is not something we can adopt by resolution. It is earned in implementation: in whether the Tribal Advisory Group has a real voice, whether monitoring data is shared openly, and whether we follow through on what we commit to here. That is the standard I will hold this Board to.

Fourth contrast: one watershed

In 1995, the compromise was that two projects would carry the load. When the Board decided who would meet the new standards, it placed most of that responsibility on the State Water Project and the Central Valley Project. An effort to share it across the rest of the watershed was set aside a few years later and never finished. For three decades, the projects answered for the Delta, and much of the watershed upstream did not.

That was never fair, and it was never enough. The Delta's problems are not created by two projects alone, and they will not be solved by two projects alone.

This plan unites the watershed. It reaches from the Sacramento River and its tributaries, through the Delta's eastside tributaries, to the Delta itself. Every water right it covers is on one pathway or the other. On the regulatory pathway, each tributary contributes its share of unimpaired flow. On the voluntary pathway, cities, farms and the projects across the watershed bring their flow and habitat commitments together, under one accounting and one science program.

That makes this plan different in kind, not just in degree. The salmon that spawn in the tributaries and the species in the Delta are part of one system. For the first time, the responsibility for protecting them is shared the way the water is.

Why I support proceeding

So let me put the two plans side by side one last time.

In 1995, the plan went from signing to adoption in five months. This plan spent more than three years in public, and it is stronger for it.

In 1995, we set the standards and largely left them to run. This plan has a standard, a backstop, and a check-in every year.

In 1995, Tribes were not at the table. In this plan, Tribal uses are recognized, and Tribes have a standing voice in the work.

In 1995, two projects carried the load. In this plan, the whole watershed shares it.

The instinct of 1995 was right: that the people who use this water and the people who depend on these rivers can do more together than apart. What that plan lacked was the structure to make collaboration last. This plan keeps the instinct and supplies the structure. That is the foundation of my support.

I'm also struck by where the criticism lands. Some agencies say we kept too much oversight. The coalition says we kept too little. They are pointing at the same provisions, from opposite directions. That does not make the plan perfect. It does tell me the plan sits where a regulator should: accountability for everyone who participates, and protection that does not depend on who participates.

The Accord was signed in a single day. The unity this plan asks for is built over years, in the places it creates for us to work together. The implementation methodology will be written in public. The Science Plan will be written with all of you. The Tribal Advisory Group will give Tribes a standing voice. And every year, the results will come back to this room, where anyone can hold us to them.

To the water agencies: your commitments are the fastest route to real gains in these rivers. Help us prove it. To the Tribes and Delta communities: your vigilance is what keeps this plan honest. Stay at the table.

In 1995, the question was whether California could agree. Thirty-one years later, the question is whether we can deliver. I believe this plan gives us the structure to do that, together. The measure of this decision will not be the vote this week. It will be what these rivers look like in the years ahead.

Thank you. I look forward to hearing from all of you.