



Brian Abbott Fish Barrier Removal Board – September 2023 Meeting Summary

Date: September 19, 2023

Time: 9:00 a.m. to 12:00 p.m.

Location: Virtual Meeting

Summary: Formal Actions / Decisions

Item	Formal Action
None	

Summary: Follow-up Items and Next Steps

Item	Follow-up
August 2023 Summary Review	The Board was allowed more time to review the August 2023 Meeting Summary. A decision to approve the summary will be made at the next meeting in October.
Federal Grants Subcommittee	A Federal Grants Subcommittee meeting was postponed to after the end of the current federal fiscal year. Once the Board better understands how many sponsors successfully received PROTECT funding, the Subcommittee will discuss federal funding opportunities and the path forward for PROTECT applicants that did not receive funding.
Flows, Fishways, and Screening Public Hearing (RCW 77.57)	A public hearing for RCW 77.57 will be held at the WDFW Commission meeting between October 26-28. The final draft of the rules is available on WDFW’s Fish Passage Rulemaking webpage , and the public comment period will remain open until the public hearing. The Cost Benefit Analysis will be available shortly.

Welcome/Introductions/Agenda Review: Triangle Associates (Triangle) facilitator, Joy Juelson, called the meeting to order at 9:00 a.m. Chair Thomas Jameson, Washington Department of Fish and Wildlife (WDFW), welcomed attendees. Alex Sweetser, Triangle Associates, facilitated introductions with Board members and staff. A quorum was present.

Public Comment: None

Old Business: The notes for the FBRB August 2023 meeting were reviewed by the facilitator. The Board was allowed more time to review the August 2023 Meeting Summary. A decision to approve the summary will be made at the next meeting in October.

General Updates

Statewide Fish Passage Barrier Removal Strategy Update

Jane Atha, WDFW, shared that a science panel was formed, and they will develop recommendations for the Strategy. The panel's recommendations will be developed by late 2024. Updates on Strategy development will be posted on WDFW's website: [Developing a statewide strategy for prioritizing removal of barriers to migrating fish | Washington Department of Fish & Wildlife](#).

- In response to a question from Axel Swanson, Washington State Association of Counties, Jane explained that the science panel will be reviewing all existing fish passage criteria and prioritization schemes to make sure their recommendations utilize the best aspect and align with current practices.

WDFW Fish Passage Rulemaking

Gabrielle Stilwater, WDFW, shared the "Fishways, Flow, and Screening Statutes" (RCW 77.57) are being developed in response to a recommendation from the Governor's Orca Task Force. Several meetings have been held over the last three years with Tribes, state agencies, and the public as part of the CR-102 to receive input on the draft rules. The final draft of the rules was published in September.

A public hearing was postponed to the Fish and Wildlife Commission's meeting in September. The public hearing will be held between October 26-28. The final date and time will be communicated in advance of the meeting. A public comment period is ongoing and will conclude on the day of the public hearing. After the hearing, it is anticipated that the Commission will vote to approve the rules on November 17.

WDFW completed a required small business economic impact statement as well as an additional cost benefit analysis of the rules. The cost-benefit analysis will be completed and made available shortly.

More information on this rulemaking is available at WDFW's website: [Fish passage rule making | Washington Department of Fish & Wildlife](#). The webpage includes instructions on how to provide public comments.

Federal Grant Subcommittee Update

Chair Jameson shared that the Federal Grants Subcommittee meeting was postponed to after the end of the current fiscal year. Once the Board better understands how many sponsors successfully received PROTECT funding, the Subcommittee will discuss federal funding opportunities and the path forward for PROTECT applicants that did not receive funding.

Additionally, if funds are returned from funded projects on the 2023-2025 project list, the Board will need to decide on the funding moving down the project list.

Grant Round Schedule

John Foltz, RCO, shared the new 2025-2027 Grant Round schedule was approved by the Board in August as well as the update to Manual 22. WDFW had a press release following the meeting. The grant round opened on October 2, and an application workshop will be held on October 5. Applications are **due in January 2024**. Then, sponsors can revise their applications through May 2024. Applications will be scored and ranked between May and August 2024.

Federal Interagency Fish Passage Task Force

Shannon Boyle, USFWS, gave a presentation on the Federal Interagency Fish Passage Task Force. This included an overview of the Task Force's creation nearly 20 years ago and the Task Force's objectives. She noted the Task Force's role has changed over the last two years to track and manage funds from the National Culvert Removal, Replacement, and Restoration Grants Program (Culvert AOP program). This grant program provides \$200 million per year over five years. She also spoke about the criteria and notice of funding opportunities (NOFO) for the Culvert AOP program.

Shannon shared that a second, invite only fish passage workshop will be held on the first week of December in South Carolina. The workshop will include dedicated sessions on tribal engagement and funding, collaboration on implementation of projects, highlights of specific place-based case studies (including in southeast), identification of existing fish passage forums, and mid-level barriers to coordination.

Update on Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Projects and Federal Funding Opportunities

Chair Jameson explained the PROTECT program is a US Department of Transportation program that uses federal highway administration funding. There are strict federal requirements project sponsors must meet to have PROTECT funds obligated to their projects. Nine eligible sponsors on the FBRB's 2023-2025 project list are pursuing \$25.4 million of PROTECT funds available this fiscal year and must meet the federal requirements by September 13, 2023.

As of this meeting, \$3.5 million of PROTECT funds have been obligated and WSDOT Local Programs anticipates \$11 million to \$15 million will be obligated by the end of September. Projects that are obligated to PROTECT funds and are also above the FBRB funding line on the 2023-2025 project list, will need to return their FBRB funds. Returned funds will be advanced down the 2023-2025 project list.

It is expected that \$50 million of PROTECT funds will be available to obligate between the federal fiscal year 2024 and 2026. Chair Jameson explained the best path forward to identify projects for remaining PROTECT funds is for WSDOT Local Programs to release a request for proposals (RFP). The Board's technical review team (TRT) would provide WSDOT Local Programs with the criteria for the RFP.

Chair Jameson noted that projects approved by the FBRB will have their 20% match covered through toll credits. Additionally, projects may be eligible to have cost increases covered through additional PROTECT funds.

Board Questions and Discussions

- Susan Eugenis, Washinton State Association of Counties, shared she is a local sponsor for Cowlitz County and their PROTECT proposal was not obligated funds this fiscal year. They completed their designs and received their National Environmental Policy Act (NEPA) permit, but property owners refused to sign the 'right of way' certification.
- Chair Jameson and Erik Neatherlin discussed Culvert AOP funding, which is a separate competitive federal grant program. Match is not covered under Culvert AOP. Since WSDOT Local Programs has already been allocated funds for cities, counties, and tribes, they would like to make sure these funds are utilized so they can request more from the federal government. Allocating funds to sponsors for their project match ensures the funds are being used.
- Axel Swanson shared, from the County perspective, that alignment between federal infrastructure priorities and small or local jurisdiction priorities do not align. Additionally, there is capacity for funding applications and implementation. These issues exist beyond fish passage funding as well.

- Erik Neatherlin suggested the state fund a supplemental budget request to help local jurisdictions and tribes access federal funds. He noted that despite application capacity constraints, Washington sponsors secured \$58 million of Culvert AOP funds in the last grant round. Carl Schroeder, Association of Washington Cities, supported Erik's request. It was not determined who would submit the supplemental budget request, but the Board's Federal Funding Subcommittee could suggest this proposal further.

Path Forward: A Federal Grants Subcommittee meeting was postponed to after the end of the current federal fiscal year. Once the Board better understands how many sponsors successfully received PROTECT funding, the Subcommittee will discuss federal funding opportunities and the path forward for PROTECT applicants that did not receive funding.

Culvert Case Injunction Update

Chair Jameson provided an overview of the Culvert Case injunction, which requires WDFW, DNR, State Parks, and WSDOT to make state-owned, fish blocking culverts passable by 2030. This obligation is estimated to cost \$4 billion. Every year, state agencies hold an annual meeting with the Steven Treaty Tribes to discuss Culvert Injunction implementation. This year's meeting is on December 7, 2023.

- April Magrane, WSDOT, noted the Culvert Case Injunction has led to capacity issues on the construction and engineering industries in Washington as well as department staff. Capacity issues have led to an increase in project costs to meet injunction obligations.

Board Submission to NOAA Restoring Fish Passage Through Barrier Removal Grants Program

Christy Rains gave an overview of the Board's 2023-2025 project list and which projects are receiving funding through the FBRB or other funding sources. Christy shared that WDFW is developing a bundle of FBRB projects that are below the state legislature's funding line to advance to NOAA's *Restoring Fish Passage Through Barrier Removal Grants* Program. This bundle includes nine projects for a total of \$13.38 million. The application is due in mid-October 2023. All project sponsors were contacted and accepted the invitation to have their projects included in the NOAA grant bundle.

Adjourn: The meeting adjourned at 12:00 p.m.

Next Meeting: Virtual Meeting on October 17, 2023.

ATTENDANCE

Board Members/Alternates:

April Magrane, Washington State Department of Transportation (WSDOT)	Jeannie Abbott, GSRO
Axel Swanson, Washington State Association of Counties	Karen Zirkle, Washington Department of Natural Resources (DNR)
Carl Schroeder, Association of Washington Cities	Susan Eugenis, Washington State Association of Counties
Chair Thomas Jameson, Washington Department of Fish and Wildlife (WDFW)	Susan Kanzler, WSDOT
Christy Rains, WDFW	Tim Resseguie, Yakima Nation
Erik Neatherlin, Governor's Salmon Recovery Office (GSRO)	

WDFW, RCO Staff and Triangle Facilitation Team:

Adam Fleming, WDFW	Kaylee Kautz, WDFW
Amber Martens, WDFW	Alice Rubin, Recreation and Conservation Office (RCO)
Casey Costello, WDFW	John Foltz, RCO
Cassandra Weekes, WDFW	Josh Lambert, RCO
David Collins, WDFW	Josh McKinney, RCO
Gabrielle Stilwater, WDFW	Alex Sweetser, Facilitation Support
Jane Atha, WDFW	Danielle Jochums, Facilitation Support
Joel Ingram, WDFW	Joy Juelson, Facilitation Support
Julie Grobelny, WDFW	

Others observing:

Adam Brown	Elena Fernandez	Paul Schlenger
Analiese Burns	Evan Lewis	Shannon Boyle
Cheryl Baumann	Hannah Walchak	Tracy Gilson
Clea Barenburg	Heidi Reynolds	Call-in x1
Don Gourlie	Jim Heytvelt	