



**Brian Abbott Fish Barrier Removal Board – April 2024 Meeting Summary**

**Date:** April 16, 2024

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

**Location:** In-Person Meeting in Olympia

**Summary: Formal Actions / Decisions**

Item	Formal Action
<b>Board Decision:</b> Approval of Motion 2 – to nominate the list of prioritized projects numbered 1-14 to WSDOT Local Programs for PROTECT funding consideration. This includes the complete list minus one ineligible project and one incomplete application.	Approved

**Summary: Follow-up Items and Next Steps**

Item	Follow-up
<b>Guest Speakers from Cramer Fish Sciences</b>	The Board will invite Kai Ross and Phil Roni (Cramer Fish Sciences) to the May 2024 Board meeting to provide general updates on development of the Fish Passage Strategy and to share the Science Panel’s approach to optimization.
<b>Cost Increase Subcommittee</b>	Triangle will schedule a Cost Increase Subcommittee meeting in early May 2024 to discuss and develop recommendations for the Board for new cost increase requests.
<b>RCW 70A.65.305 (Ongoing)</b>	RCO and WDFW will continue to provide project sponsors guidance and resources for tribal consultation required under RCW 70A.65.305 (for projects funded through the Climate Commitment Act). Updates from the Governor’s Office of Indian Affairs (GOIA) will be shared when available.
<b>Match Modernization (Ongoing)</b>	The Board will continue to monitor the Salmon Recovery Funding Board (SRFB)’s implementation of match modernization and consider updating the Board match requirements for future grant rounds.
<b>Funding Status Updates (Ongoing)</b>	WDFW and RCO will keep the Board updated on the project bundle submitted to NOAA’s grant, the 2024 Supplemental Budget, and the status of project sponsors seeking PROTECT funds.
<b>Status of Returned Funds (Ongoing)</b>	RCO and WDFW will keep the Board updated on the status of returned funds and whether the funds are reserved for cost increases or advanced to alternate down the ranked project list.

**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, facilitated introductions with Board members and staff. A quorum was present.

**Public Comment:** None

**Old Business:** The notes for the FBRB March 2024 meeting were reviewed by the facilitator. A decision to approve the summary was deferred to the next meeting in May to allow the Board more time to review.

## **General Updates:**

### *WDFW Staffing Updates*

Chair Jameson shared that WDFW is hiring a new Fish Passage Scoping Section Manager. The earliest start date would be June 1. Additionally, he shared that Amber Martens with WDFW is moving into the Compliance Division as a Compliance Section Manager and Julie Grobelny has accepted a position outside of WDFW. Both have provided support to the FBRB for several years. WDFW began recruitment for three new biologist positions to replace them and add capacity to the Fish Passage Division.

### *Fish Passage Strategy Updates*

Jane Atha, WDFW, shared that the Science Panel of subject matter experts are discussing the metrics to be incorporated into the Strategy at the statewide scale and settled on an optimization approach to prioritize barrier projects. A draft of the Fish Passage Strategy is expected for the Science Panel review soon. Additionally, the Triangle Associates facilitation team is engaging with the Tribal co-managers now and exploring outreach opportunities with Salmon Recovery Regions. Jane explained the Strategy is intended to integrate into other local and regional programs and strategies.

### *Board Discussion*

- When asked by Carl Schroeder, Association of Washington Cities (AWC), about the timeline for a public review, Jane shared the timeline is dependent on the level of input received over the next month. The goal is to complete the Strategy by the end of 2024.
- In response to a question from John Foltz, Recreation and Conservation Office (RCO), about the Strategy including a cost-benefit component, Jane explained the Strategy will not include this. However, cost-benefit will be used during implementation of projects and assessed at a regional scale whereas the metrics in the Strategy will be focused on the statewide level.
- When asked if the criteria for the Strategy will be regional or site specific, Jane explained the metrics are site specific based on data throughout the watershed. The intent is that the restoration community can use the Strategy to identify the most important areas and barriers within those areas to prioritize for new projects.
- Chair Jameson explained the Strategy will include a public-facing optimization model that produces a heatmap based on benefits to fish. A second product will be a GIS-based scoring and ranking system, which anyone can use to assess barriers.
- When asked if these tools will connect projects within the same watershed, Jane confirmed the tool links barriers within a watershed, and it can identify linked barriers when one is removed.
- In response to a question about whether the optimization tool will include a reactive element in situations where a barrier is failing, Jane explained situations like this will likely be handled during implementation of the Strategy and not in through the model itself.
- Steve Manlow, Council of Regions, suggested implementation of the Strategy should align with the priorities of Salmon Recovery Regions. Jane agreed the tool needs to work for the Regions.
- The Board expressed interest in inviting staff from Cramer Fish Sciences to present on the development of the Fish Passage Strategy and the Science Panel's approach to optimization.

**Action Item:** The Board can invite Kai Ross and Phil Roni (Cramer Fish Sciences) to the May 2024 Board meeting to provide general updates on development of the Fish Passage Strategy and to share the Science Panel’s approach to optimization.

### ***WDFW Fish Passage Rulemaking (RCW 77.57)***

Gabrielle Stilwater shared WDFW intended to complete this rulemaking effort by 2023. However, the rule language needed to be revised based on feedback provided in substantial public comments. One item that is changing based on public feedback is to move ‘climate adaptive water crossings’ language from this rulemaking effort for future Hydraulic Project Approval (HPA) rulemaking. The newest draft of the rule is expected to be released this summer. Outreach on the new rules is expected later this year. Information for this process will continue to be posted on [WDFW’s Fish Passage Rulemaking webpage](#).

### **Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) FY 24 Funding List**

#### ***Background***

The Washington State Department of Transportation (WSDOT) Local Programs had an allocation of \$75 million in Federal Highway Administration (FHWA) funding available through the PROTECT program, with an additional \$25 million allocated specifically for Tribes. Throughout late 2022 and into 2023, the Fish Barrier Removal Board (FBRB) worked with nine eligible project sponsors to apply for nearly \$25 million of these funds for project design and implementation. Following discussions with WDFW and RCO staff, Local Programs confirmed that these project sponsors are not required to provide a match for the PROTECT funds, as the match requirements will be covered by Local Programs themselves.

A call for projects from the FBRB was issued and closed on February 16, 2024, aimed at allocating the remaining \$50 million to eligible sponsors. The final project list from the call for projects includes 16 projects requesting a total of \$90 million. WDFW reviewed these projects and developed a ranked list (see meeting materials). The Board needs to nominate \$45 million of these projects.

Casey Costello, WDFW, and John Foltz presented the ranked project list and recommended three options for a Board motion (see presentation). They identified the following points for discussion with the Board:

- One project includes a tide-gate, which is an alternate design requiring Board review.
- One project is ineligible, and one project had an incomplete application.
- If funding goes down the list as ranked, the Fauntleroy Creek project requires more funds than funding would be available. Local Programs has indicated they need to fully fund projects.

#### ***Board Discussion:***

- The Board discussed if there were any issues with advancing the project with the tide-gate given it is an alternative design. The current tide-gate is a fish passage barrier, and it would be replaced with a self-regulating tide-gate. Steve Manlow shared that the Regions have actively advocated for this project as its completion would open the door to future restoration opportunities in the watershed and may change landowner perspectives. Through discussion, the Board recognized the replacement would meet PROTECT needs and benefit fish. They agreed to advance the project.
- The Board agreed to remove the ineligible project and the project with an incomplete application.
- The Board discussed if the Fauntleroy Creek project should be moved to the bottom of the list given its cost and the funding implications for the rest of the list. The Board expressed concern about shifting the ranking of a higher ranked project based on its price alone and making this decision for Local Programs given uncertainty about the agency’s internal policy. Additionally,

they recognized the sponsor may be able to seek funds elsewhere or provide additional match funding to fill the gap. They decided to maintain the order of the ranked project list and defer the funding decisions to Local Programs.

**Board Decision:** A motion was made by Jeannie Abbott and seconded by Carl Schroeder to nominate the list of prioritized projects numbered 1-14 to WSDOT Local Programs for PROTECT funding consideration (complete list minus one ineligible project and one incomplete application) – Motion 2. Steve Manlow recused himself because the Regions actively advocated for projects on the PROTECT List. Susan Eugenis recused herself because there were Cowlitz County projects on the list. The motion was approved with no objections.

### **Board Project Funding Updates:**

#### ***National Oceanic and Atmospheric Administration (NOAA)'s Restoring Fish Passage through Barrier Removal Grants Program (Culvert AOP)***

In September 2023, the Board submitted a bundle of nine FBRB projects for \$13.3 million to NOAA's federal grant program (see [NOAA grant page](#)). Casey Costello shared that a decision is not expected until June 2024. It is anticipated that RCO will manage the funds for project sponsors.

#### ***Update on Status of Returned Funds***

John Foltz shared RCO offered funding to project #55 using returned funds and is now working on an agreement with the project sponsor. Additional funding offers are on hold while the Board considers incoming cost increases and until more is known about the status of projects seeking federal funding.

The Board is reserving \$1.75 million for cost increase requests, which are expected to come in when projects go to bid or begin construction during the in-water work window. Cost increases are beginning to come in and the Board will need to decide on these at the next Board meeting in May. A discussion on whether to replace the funds available for cost increases is anticipated.

#### ***2025-2027 FBRB Grant Round Status Update***

John Foltz and Casey Costello shared RCO and WDFW have completed their review of applications for the Board's 2025-2027 Grant Round for completeness and eligibility. There were 60 applications requesting about \$80 million. The final deadline for sponsors to update and submit their applications is May 2, 2024. Then, WDFW technical team will rank the project list after the final application deadline of May 2.

**Path Forward:** WDFW and RCO will keep the Board updated on the project bundle submitted to NOAA's grant, the 2024 Supplemental Budget, and the status of project sponsors seeking PROTECT funds.

**Path Forward:** RCO and WDFW will keep the Board updated on the status of returned funds and whether the funds are reserved for cost increases or advanced to alternate down the ranked project list.

## **Climate Commitment Act Consultation Requirement**

Chair Jameson emphasized the obligations outlined in RCW 70A.65.305, which require project sponsors receiving Climate Commitment Act funding to consult with Tribes regarding potential project impacts before advancing to the pre-agreement phase. The FBRB's 2023-2025 project list, which allocated \$21 million out of \$48.4 million from this Act, is exempt due to existing agreements with RCO, eliminating the need for further tribal consultation.

For the upcoming 2025-2027 grant round, contingent upon Climate Commitment Act funding, sponsors will need to engage in Tribal consultation as per RCW specifications. The Governor's Office has been in discussions with Tribes to clarify expectations under this law, especially given its original focus on major energy projects and the absence of a defined pre-agreement phase.

Christy Rains, RCO, shared that draft communications outlining sponsor obligations under RCW have been provided, recommending proactive initiation of tribal consultations. Minimum compliance entails submitting a letter through PRISM. Coordination efforts between RCO, WDFW, and the Governor's Office aim to potentially transition consultations to a government-to-government format between state agencies and Tribes rather than individual sponsors.

### *Questions and Discussion:*

- It was mentioned that once sponsors notify Tribes regarding their projects, then Tribes can contact the sponsor if they wish to provide support.
- Axel emphasized the importance of complying with the law and commitment to implementing this for the next round of funding. He asked if there is room for collaboration with sponsors on refining this process in the future? Christy shared that sponsors must upload a notification letter to PRISM to qualify for funding, emphasizing the importance of timely notification. Ongoing discussions are being held on the collaborative approach between GOIA, Tribes, and state agencies for implementing this law.
- Alice Rubin, RCO, noted that this RCW does not replace RCO's cultural resource requirement. Sponsors have recognized the overlap with cultural resource assessment requirements.
- The Board discussed the path forward, which likely involves providing resources for project sponsors. Additionally, concerns have been raised about Tribes' willingness to participate in the process.

## **Project and Policy Issue / Opportunities**

### ***Notification of Upcoming Cost Increase Requests***

Chair Jameson and John Foltz shared that the Board has received three cost increase requests that the Board needs to decide on. A Cost Increase Subcommittee meeting will need to be scheduled in early May to consider the cost increase requests and develop recommendations for the Board. WDFW and RCO anticipated the Board will receive more requests in April and May.

**Action Item:** Triangle will schedule a Cost Increase Subcommittee meeting in early May to discuss and develop recommendations for the Board for new cost increase requests.

## **Upcoming Engagement Opportunities**

### ***American Fisheries Society Meeting from April 30 – May 2 in Spokane, WA***

Chair Jameson shared that several WDFW staff plan on attending the meeting. There will be some discussions on the FBRB's role and presentations on WDFW's fish passage efforts. Additionally, there will be a panel on fish passage. Chair Jameson and Susan Kanzler are expected to be panelists.

### ***Seattle Times Article:***

Chair Jameson noted that the Seattle Times published an article on March 10, 2024, discussing the state's efforts to repair culverts as mandated by the Culvert Case Injunction. The next article in the series is anticipated to be released soon and may be focused on the Steven Treaty Tribes' perspectives on the Injunction.

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

**Next Meeting:** Virtual Meeting on May 21, 2024.

## ATTENDANCE

### Board Members/Alternates:

April Magrane, Washington State Department of Transportation (WSDOT)	John Box, Colville Tribes
Axel Swanson, Washington State Association of Counties (WSAC)	Karen Zirkle, Department of Natural Resources (DNR)
Carl Schroeder, Association of Washington Cities (AWC)	Steve Manlow, Council of Regions
Chair Thomas Jameson, Washington Department of Fish and Wildlife (WDFW)	Susan Eugenis, WSAC
Casey Costello, WDFW	Susan Kanzler, WSDOT
Erik Neatherlin, Governor's Salmon Recovery Office (GSRO)	Tim Resseguie, Tim Resseguie Yakima Nation
Jeannie Abbott, GSRO	

### WDFW, RCO Staff and Triangle Facilitation Team:

Amber Martens, WDFW	Alice Rubin, Recreation and Conservation Office (RCO)
Daniel Coffman, WDFW	Christy Rains, RCO
David Collins, WDFW	Elezabeth Butler, RCO
Gabrielle Stilwater, WDFW	John Foltz, RCO
Jane Atha, WDFW	Josh Labert, RCO
Joel Ingram, WDFW	Alex Sweetser, Facilitation Support
Julie Grobelny, WDFW	Joy Juelson, Facilitation Support
Kaylee Kautz, WDFW	

### Others observing:

Adam Brown	Evan Lewis	Tracy Gilson
Cheryl Baumann	Heidi Reynolds	Call-in User (1)