



Brian Abbott Fish Barrier Removal Board – March 2024 Meeting Summary

Date: March 19, 2024

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

Location: Virtual Meeting

Summary: Formal Actions / Decisions

Item	Formal Action
Board Decision: Meeting notes from February 2024	Approved

Summary: Follow-up Items and Next Steps

Item	Follow-up
RCW 70A.65.305	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.
Match Modernization	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. A decision on match modernization was postponed to at least the May Board meeting.
Funding Status Updates	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.
Status of Returned Funds	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: The Board received a comment from a landowner concerned about traffic issues and the cost of fish passage projects, specifically on Highway 101 projects in Clallam County near Discovery Bay. These projects are managed by the Washington State Department of Transportation (WSDOT) and are not related to FBRB activities. The comment was forwarded to WSDOT.

Old Business: The notes for the FBRB February 2024 meeting were reviewed by the facilitator. A motion to approve the summary was made by Chair Jameson and seconded by April Magrane, WSDOT. The motion was approved with no objections.

General Updates:

Fish Passage Strategy Updates

Jane Atha, WDFW, shared that the Science Panel of subject matter experts have been meeting to unpack the metrics to include in the prioritization approach. WDFW attended the SRFB meeting in March to present the prioritization approach. WDFW plans on completing a draft of the Strategy by 2024, which will include recommendations from the Science Panel. Additionally, outreach workshops are expected to be held with the Regions and other stakeholders in the future.

WDFW Fish Passage Rulemaking (RCW 77.57)

Gabrielle Stilwater shared WDFW revised the draft rule language based on feedback provided in public comments received last summer and fall. The newest draft of the rule was reviewed by WDFW attorneys and WDFW is assessing how the update rule aligns with public comments. 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](#).

Legislative Session Updates

Chair Jameson shared the 2024 Supplemental Budget included \$22.1 million for the FBRB's grant program. However, these funds are from the Climate Commitment Act and are not available for Board projects until January 1, 2025, since the Climate Commitment Act will be on the ballot for November, 2024.

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, WDFW, shared a decision is not expected until June 2024.

Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Updates Call for Projects

The Washington State Department of Transportation (WSDOT) Local Programs currently has \$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 was issued and closed on February 16, 2024, aimed at allocating the remaining \$50 million to eligible sponsors. Casey Costello from Local Programs has informed that the final project list, which includes 16 projects requesting a total of \$90 million, has been submitted to WDFW. This oversubscription indicates that the Board will need to make decisions on which projects to prioritize and fund moving forward.

Update on Status of Returned Funds

John Foltz, RCO, gave an overview of funding for the Board's prioritized 23-25 Legislative Evaluation and Accountability Program (LEAP) list. RCO offered funding to project #55 using returned funds. RCO is working with sponsors to close projects that received PROTECT funding last year.

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. The goal is to use all funds available, and the Board will need to decide when to stop replacing these funds and allocate any remaining funds to alternates. This decision is anticipated for fall 2024.

2025-2027 Grant Round Status Update

John Foltz, RCO, and Casey Costello, WDFW, shared applications for the Board's 2025-2027 grant Round closed on January 18, 2024. There were 60 applications for about \$80 million. RCO and WDFW are reviewing applications for completeness and eligibility. WDFW 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.

Discuss Policy Subcommittee Match Modernization Recommendation

Alex Sweetser, Triangle, shared that the Policy Subcommittee met on March 14, 2024 to discuss modernizing the match requirement for Board's grant program based on changes implemented by the SRFB for their grant program. The Subcommittee and RCO decided more time is required to review the data from past grant rounds and the implications of updating the Board's match requirements because the FBRB's program is very different from the SRFB's program. RCO will assess match provided by sponsors to date as well as additional unreported leveraged funds.

John Foltz shared that due to equity concerns, the FBRB cannot implement modernized match while in the middle of developing their 2025-2027 project list. So, a decision is not needed until summer 2025 because match changes would not be implemented until the Board launches its 2027-2029 grant round. Additionally, delaying match modernization implementation enables the Board to learn about how the SRFB implements match modernization.

A decision on match modernization was deferred until at least May 2024.

Board Discussion:

- Steve Manlow, Council of Regions, noted sponsors from depressed economic communities can have more difficulty coming up with the match. He suggested identifying which sponsors qualify for this determination. Erik Neatherlin, Governor's Salmon Recovery Office (GSRO), expressed support for considering equity with match modernization, especially when those communities overlap with priority watersheds.
- Erik Neatherlin clarified federal funds provided to the SRFB are a federal match to state funds.

Path Forward: 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. The decision on match modernization was postponed to at least the May Board meeting.

Statewide Barrier Inventory Status Update

Chair Jameson announced that the Washington Department of Fish and Wildlife (WDFW) has completed an inventory of state-owned barriers within the designated "Case Area" of the Culvert Case Injunction. However, inventories outside the Case Area are still pending. Carl Schroeder from the Association of Washington Cities (AWC) is actively working to secure funding for cities to conduct fish passage barrier inventories within the Case Area. Axel Swanson from the Washington State Association of Counties (WSAC) noted that counties have received a contract this biennium to perform similar inventories.

Chair Jameson also provided details on the WDFW's Fish Passage and Diversion Screening Inventory (FPDSI), which includes 42,066 sites. These sites are identified as crossings where known stream and road layers overlap. Depending on the crossing's length, WDFW determines whether there is a bridge or, if narrower, a culvert. Of the total, 23,506 barriers have been identified, with the majority on private properties and 17,000 posing barriers to salmon and steelhead. The total number of barriers statewide was anticipated to be higher. It is estimated that there are approximately 2,740 to 3,425 additional city-owned sites and 16,000 to 20,000 county-owned sites outside of the Case Area. Most site inventories are conducted through habitat surveys, with 17.6% of all sites in the database identified via Reduced Sample Full Survey (RSFS) surveys for the Washington State Department of Transportation (WSDOT).

Questions and Discussion

- In response to April Magrane's question about how the Washington Department of Fish and Wildlife (WDFW) verifies barriers identified by external groups, Chair Jameson explained that these groups submit their data to WDFW. Following submission, WDFW biologists perform quality control checks and assess the surveys for completeness to ensure accuracy and reliability of the data.
- In response to April Magrane's inquiry about the types of barriers included in the inventory, WDFW staff clarified that the database encompasses all barriers, regardless of whether they currently pose issues. They further explained that during qualitative habitat assessments, WDFW biologists meticulously examine areas upstream and downstream of the barriers to reassess their status and update the inventory accordingly.

Climate Commitment Act Consultation Requirement

Chair Jameson highlighted the requirements under RCW 70A.65.305, which mandates that project sponsors receiving Climate Commitment Act funding consult with Tribes on projects potentially affecting them. This consultation must occur before moving to the pre-agreement phase. The FBRB's 2023-2025 project list, which received \$21 million out of \$48.4 million from this Act, is exempt as these projects are already under agreement with RCO and are therefore grandfathered in, negating the need for further tribal consultation.

For the 2025-2027 grant round, pending receipt of Climate Commitment Act funding, sponsors will be required to engage in consultation with Tribes as specified by the RCW. The Governor's Office is currently discussing with Tribes to clarify expectations under this RCW, particularly because the law originally targeted major energy projects and there is currently no defined pre-agreement phase.

Christy Rains from RCO mentioned that RCO has provided draft communications to project sponsors outlining their obligations under the RCW and recommended initiating tribal consultations preemptively.

The minimum compliance involves submitting a letter through PRISM. Coordination efforts are ongoing between RCO, WDFW, and the Governor's Office to potentially shift consultations to a government-to-government format between state agencies and Tribes rather than individual sponsors.

Questions and Discussion:

- Alice Rubin, RCO, noted this RCW does not replace RCO's cultural resource requirement.
- In response to Steve Manlow's query about how sponsors should proceed if Tribes raise concerns about their projects, RCO staff stated that they are collaborating with the Governor's Office and the Governor's Office of Indian Affairs (GOIA) to implement the RCW. They advised that sponsors could contact RCO for assistance in responding to Tribes.
- In response to a question from Chair Jameson about the current touch points where sponsors and WDFW engage with Tribes, Casey Costello explained the agency notifies local governments and Tribes as part of the HPA process. Christy added notifications go to tribal resource directors and permitting items go to tribal biologists.
- Christy noted RCO is working on additional resources for applicants to determine what Tribes may be affected by their projects.
- Steve Manlow emphasized that it is not appropriate to send identical letters to different Tribes. He recommended that each communication be tailored specifically to its recipient. Additionally, he suggested that RCO provide training and guidance to sponsors on effective communication strategies with Tribes.

Project and Policy Issue / Opportunities

Water Crossing Design Guidelines Update

Chair Jameson reported that Tribes have alerted the Washington Department of Fish and Wildlife (WDFW) about the need to update the agency's Water Crossing Design Guidelines. This year, WDFW received funding to revise various guidance documents, including these guidelines. The updates will incorporate insights from WSDOT's Injunction projects and involve collaboration with WSDOT and tribal biologists to introduce innovative project design solutions.

Can the Legislature Provide State Funding to Match Federal Funding Programs?

The Board addressed the challenge of securing matching funds for projects, particularly those receiving federal funding, similar to how Local Programs is providing matches for projects financed through PROTECT. Axel Swanson highlighted that cities and counties have been actively lobbying the legislature to secure state funding as a match for federal projects, and these discussions are starting to gain traction. This effort is crucial as local governments currently lack the funding structures necessary to adequately support the growing demands for road and bridge repair and construction.

Upcoming Engagement Opportunities

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 article received some negative feedback from tribes, state agencies, and the Governor. Four additional articles on this topic are scheduled for release later this year.

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

Next Meeting: In-person/Hybrid Meeting on April 16, 2024.

ATTENDANCE

Board Members/Alternates:

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

WDFW, RCO Staff and Triangle Facilitation Team:

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

Others observing:

Adam Brown	Evan Lewis	Kevin Long
Daniel Howe	Jim Heytvelt	Tracy Gilson