

2023 NOAA FBRB bundle parameters:

- Unfunded FBRB 23-25 list (ranked >35)
- Restoration projects
- \$700k and greater
- Didn't submit for PROTECT

Rank	PRISM#	Project Name	FBRB Request	NOAA Project request	Sponsor	County	Ownership
55	21-1435	Barrel Springs and Dry Creek Restoration	\$1,095,803	\$1,095,803	Skagit County Public Works	Skagit	Private
56	21-1459	Berwick Crk at Bishop Fish Passage Constr - FBRB	\$1,306,213	\$1,340,187	Chehalis Port of	Lewis	County
62	21-1474	Coleman Creek at SM 4.7	\$733,899	\$764,020	Kittitas Co Conservation Dist	Kittitas	Private
70	21-1511	Derby Creek BNSF Crossing	\$1,813,050	\$2,092,050	Chelan Co Natural Resource	Chelan	Private
99	21-1553	Derby Canyon Orchards	\$374,000	\$924,500	Chelan Co Natural Resource	Chelan	Private
76	21-1498	Ruby Creek Culvert at Sidney Rd Port Orchard	\$1,852,842	\$2,253,000	Port Orchard City of	Kitsap	City
92	21-1540	Ridgefield - Gee Creek Culvert Replacement	\$1,423,000	\$1,423,000	Ridgefield City of	Clark	City
101	21-1558	kenmore 192 trib culvert	\$1,094,306	\$1,094,306	Kenmore City of	King	City
			\$9,693,113	\$10,987,366			

Total NOAA request = \$11,771,408

- NOAA FBRB Project Request = \$10,987,366
- WDFW and RCO administrative costs
- Match contributions were maintained or increased for all projects and were put forth as “Leverage” for this NOAA opportunity = \$3,276,100

Washington State Fish Passage Strategy

Jane Atha
Fish Passage Strategist
Habitat Program



Why a State-wide Strategy Now?

- Salmon are still struggling
- Hundreds of millions of dollars being allocated towards fish passage barrier removal
- Several distinct barrier remediation plans and programs operating simultaneously within the state



Background

- Legislative provisos
- Alignment with United States vs. Washington permanent injunction
- Coordination and consultation with tribal partners



Photo courtesy of Corey Morss



WDFW Fish Passage Strategy Project Team



WDFW

WDFW Leadership Team

Responsibilities:
 - "D"ecision making
 - Directing deliverable development

Project Team

Responsibilities:
 - "d"ecision making
 - Directing deliverable development
 - Directing project implementation

Jane Atha
 Fish Passage Strategist

Tom Jameson
 Fish Passage Program Manager/FBRB Liaison

Cramer Fish Sciences

Triangle Associates

Phil Roni
 Science Lead

Jason Hall
 Literature Review Lead

Betsy Daniels
 Stakeholder Engagement and Tribal Lead

Hilary Wilkinson
 Science Panel Facilitator

Jacob Hibbeln
 Stakeholder Engagement Support

Kate Galambos
 Science Panel Support

Responsibilities:
 - Technical Lead
 - Develop technical products
 - Support Science Panel
 - Develop Fish Barrier Removal Prioritization Strategy

Responsibilities:
 - Science Panel Facilitation
 - Outreach Strategy Implementation
 - Stakeholder Engagement
 - Support Tribal Engagement as needed



Building an Implementable Strategy

Step 1: Tribal co-manager engagement

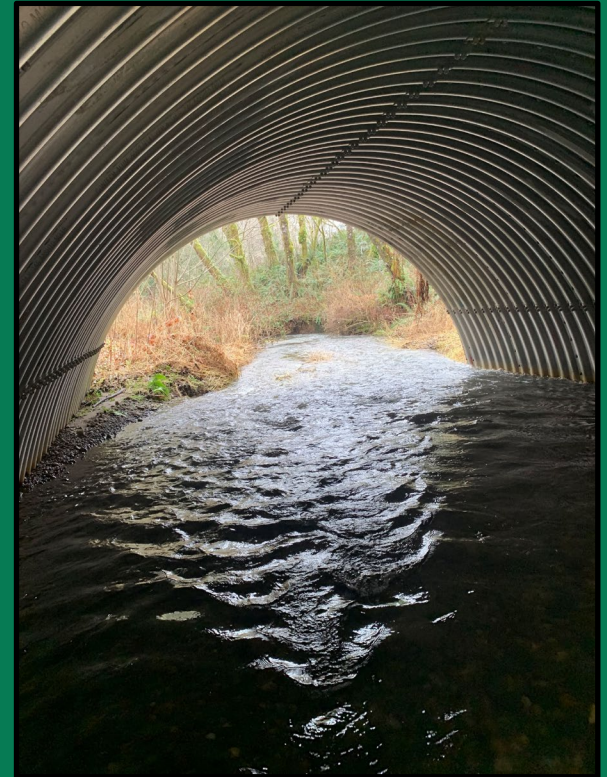
Step 2: Stakeholder interviews

Step 3: Science Panel formation

Step 4: Regional mid-process check-in

Step 5: Strategy development and review

Step 6: Stakeholder outreach and
implementation workshops

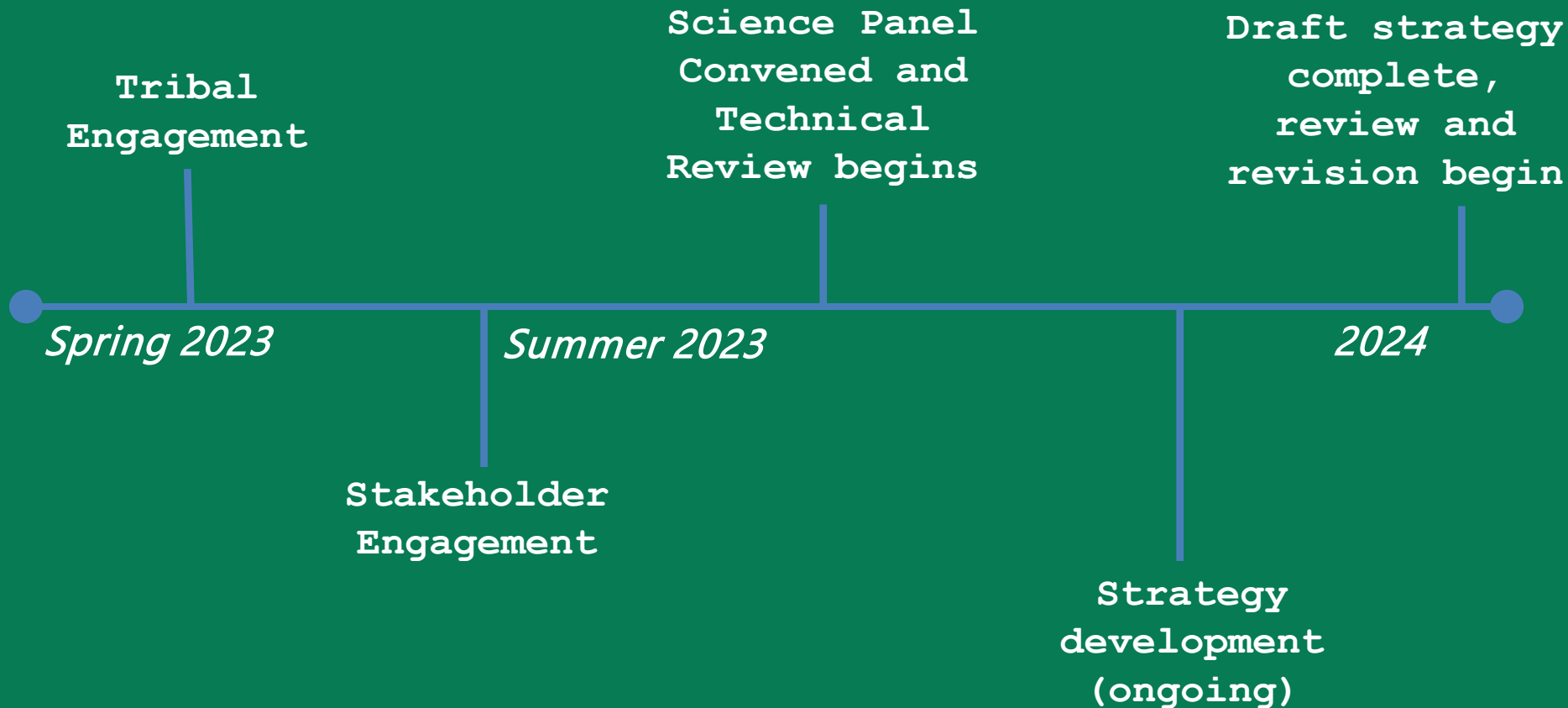


Strategy Intentions

- Comprehensive
- Builds on existing investments
- Focuses on ESA listed salmon and steelhead stocks, Southern Resident Orca, constraining fisheries



Timeline*



Situation Assessment

Assessment Goals

- Engage key stakeholders early in the process
- Communicate accurate information about the goals of the effort
- Understand interests, concerns, and ideas from those that will be implementing the strategy
- Gather recommendations for science panel and what questions the science panel should answer



Situation Assessment, cont.

Stakeholders Described a Range of Values

- Salmon recovery
- Population viability
- Leveraging specific regional expertise and existing strategies
- Economics and focused investments
- Partnership and collaboration
- Watershed function & resilience
- Focusing funding and efforts in a coordinated way



Situation Assessment Results

Stakeholder Barriers and Challenges

FUNDING

- Many organizations are working to implement projects with limited funding and resources.

CAPACITY

- Limited staff capacity to focus on fish passage barrier projects. It is difficult for staff and resources without shared priorities.

PARTNERSHIPS

- Lacking state resources and partnerships with landowners needed to focus efforts.



Existing Prioritization Schemes

So many!

FISH PASSAGE RESTORATION PROGRAM

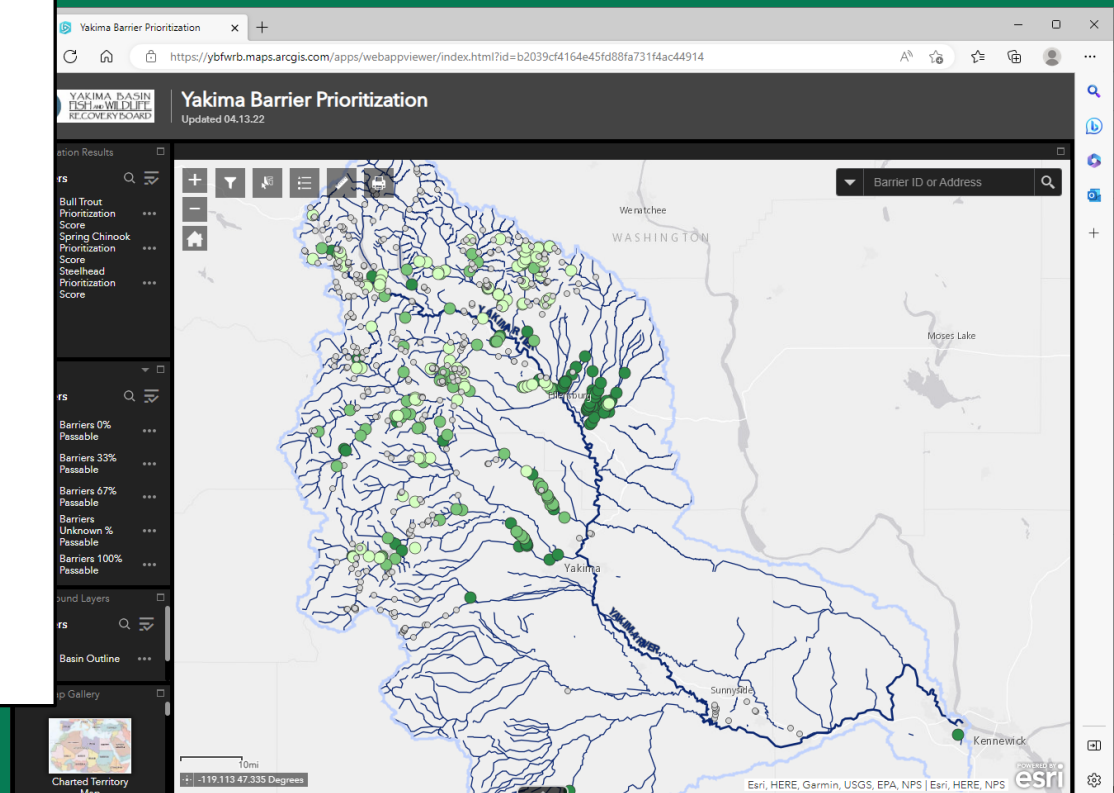
KING COUNTY FISH PASSAGE BARRIER PRIORITIZATION SUMMARY REPORT

JUNE 2022



King County

Department of Natural Resources and Parks
Water and Land Resources Division
King Street Center, KSC-NR-5600
201 South Jackson Street, Suite 5600
Seattle, WA 98104-3855
206-477-4800
www.kingcounty.gov/fishpassage



Role and Purpose of Science Panel

WDFW selected a small group of scientists with appropriate expertise.

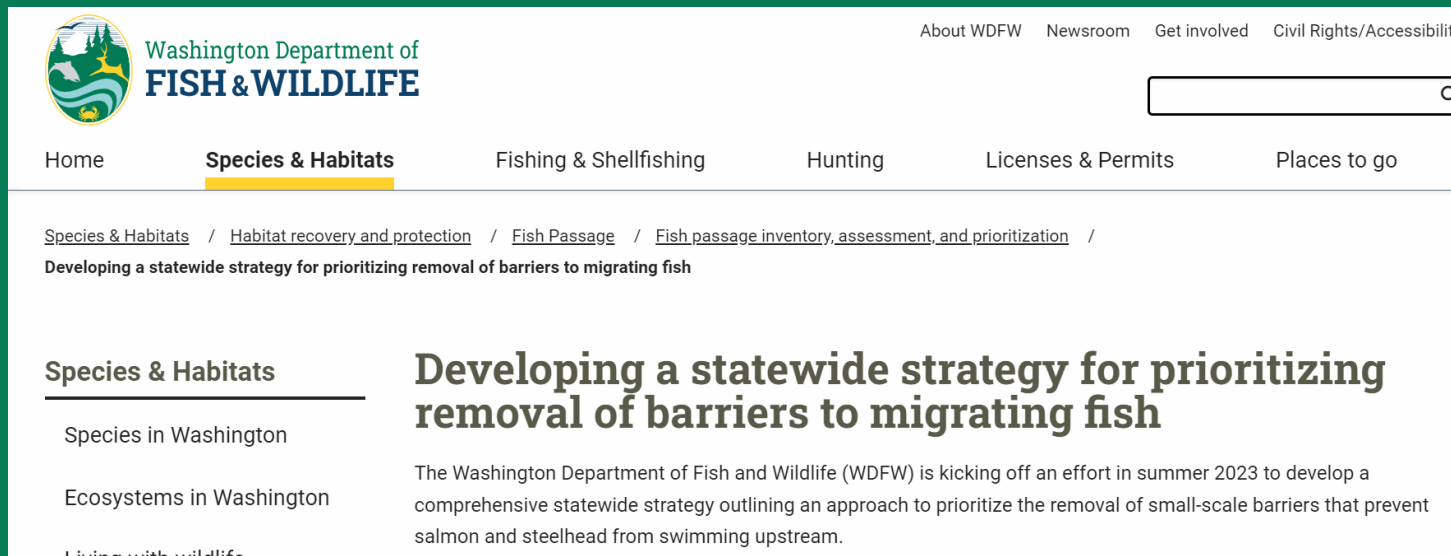
The Panel ensures a strong scientific foundation for the development of the strategy and provide input and review for WDFW as they develop the strategy.



Science Panel

Pete Bisson, retired USFS
Ken Currens, NWIFC
Robby Fonner, NOAA NWFSC
Jason Nuckols, TNC
Robyn Peppin, Aspect Consulting
George Pess, NOAA NWFSC

WDFW:
Dan Auerbach, Habitat Science
Thomas Buerhens, Fish Science

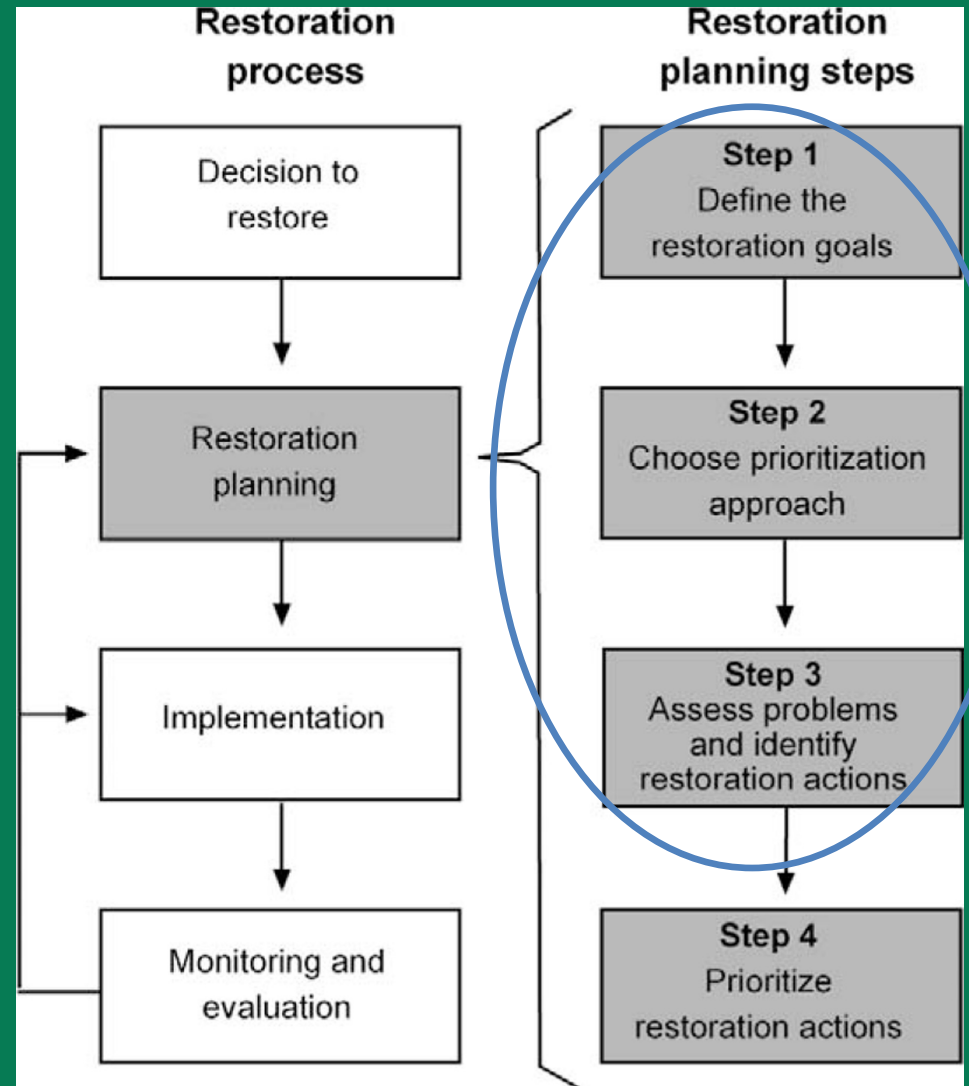


The screenshot shows the Washington Department of Fish & Wildlife (WDFW) website. The header includes the WDFW logo and navigation links: Home, Species & Habitats (highlighted), Fishing & Shellfishing, Hunting, Licenses & Permits, and Places to go. A search bar is visible in the top right. The main content area features a breadcrumb trail: Species & Habitats / Habitat recovery and protection / Fish Passage / Fish passage inventory, assessment, and prioritization. Below the breadcrumb is the article title: "Developing a statewide strategy for prioritizing removal of barriers to migrating fish". The article is categorized under "Species & Habitats" and includes sub-sections for "Species in Washington" and "Ecosystems in Washington". The article text begins: "The Washington Department of Fish and Wildlife (WDFW) is kicking off an effort in summer 2023 to develop a comprehensive statewide strategy outlining an approach to prioritize the removal of small-scale barriers that prevent salmon and steelhead from swimming upstream."



Science Panel Tasks

1. Review existing strategies and literature
2. Provide recommendations on approach
3. Review feedback from regional workshops
4. Review draft prioritization
5. Review final draft



Beechie et al. 2008



Outreach

Mid-Process Check-Ins

Purpose: Gather input and share draft strategy elements with key partners and stakeholders in support of development of recommendations.

Implementation Workshops

Goal: demonstrate to Tribal Co-managers and stakeholders how their feedback was incorporated into the strategy and communicate the technical information generated by the science panel and project team.



How will the strategy be used by the state?

- Focus efforts of culvert correction programs into a single strategy to maximize public investment in salmon and orca recovery
- Guide funding recommendations of FBRB and other state fish passage barrier programs
- May help direct limited compliance and enforcement resources





Thank you!



Fish Passage and Screening Rules: RCW Chapter 77.57

FBRB Briefing, 10/17/23

Gabrielle Stilwater, Fish Passage Rules Coordinator

Tom Jameson, Fish Passage Division Manager



Introduction to Rule Making

- Orca Task Force: Recommendation #3
- Legislative Direction
 - ESHB 1109 (2019) – Operating budget
- Inclusion of Climate Adapted Water Crossings
 - Co-management agreement in 2019

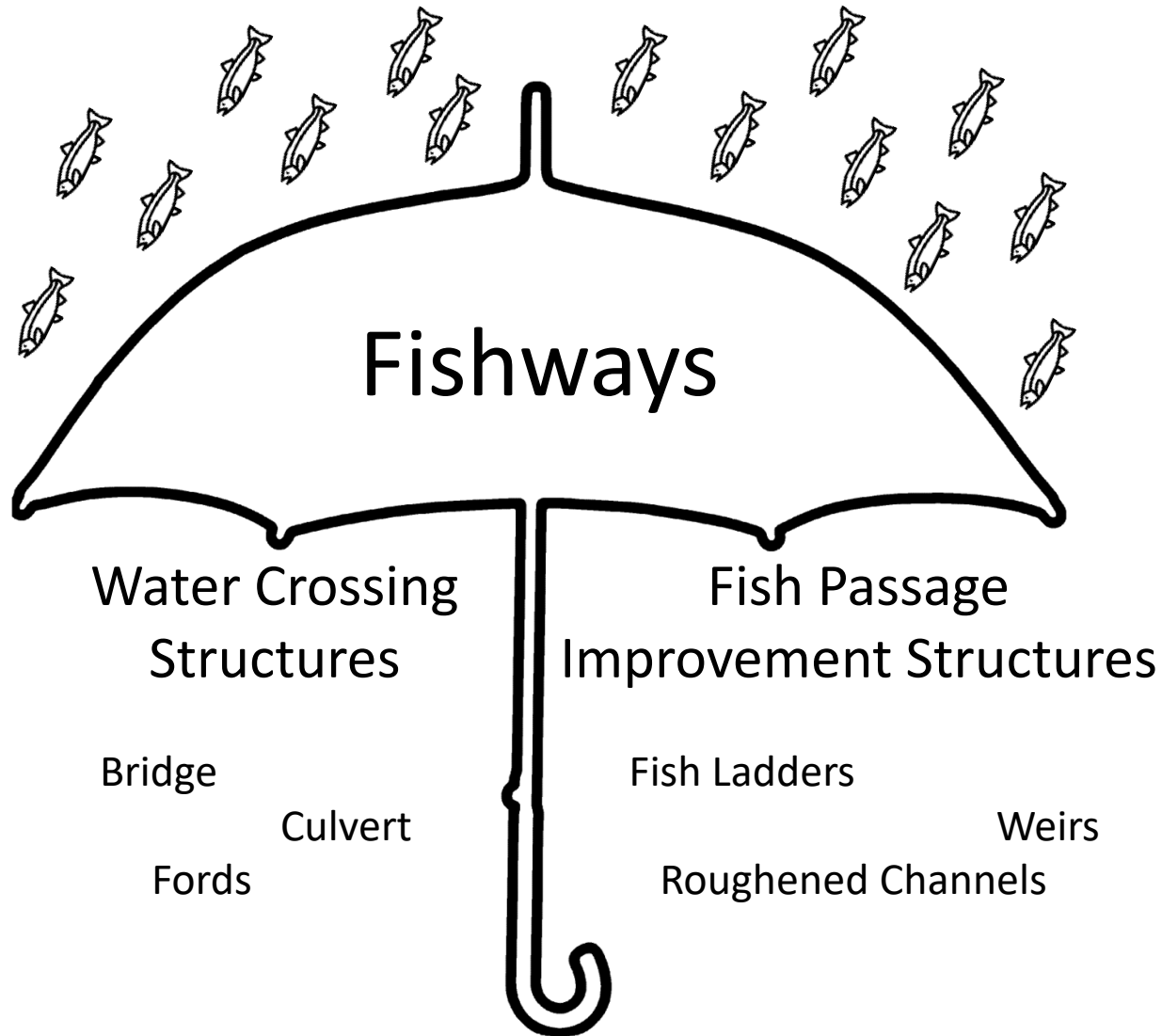


Rule Proposal: Outline

1. Introduction & Instructions
2. Definitions
3. Rule Applicability
4. Standards for Fishways and Water Diversions
 - A. Water crossings
 - i. Climate Adapted Water Crossings
 - B. Fish Passage Improvement structures
 - C. Water Diversions
5. Compliance
6. Informal and Formal Appeals Process



Rule Proposal: Definitions



Rule Proposal: Applicability

Applicability of Rule Authority

1. Performance Standards

- A. Protecting all fish species at all life stages for water diversions and fishways.

2. Projects

- A. New and existing structures on lake, stream, or river.

3. Exemptions

- A. Man-made agricultural drainage facilities installed before May 20, 2003, repair/replacement is also exempt.
- B. Diversions installed before June 11, 1947 in system with only game fish.



Rule Proposal: Standards

Water Crossing Structures:

1. Fish Life Concerns:

Language for climate change design is added in this section.

2. Standards:

- No behavioral impediments, excessive water slope, drop or velocity, shallow flow, lack of surface flow, uncharacteristically coarse bed material, and other related conditions
- Must consider 100-year peak flow and future bankfull width projections. If less than 5%, no additional consideration is required.
- Use of Water Crossing Design Guidelines
- Fish passage inventory and assessment guidance used to initiate passability assessment.



Rule Proposal: Standards

Water Crossing Structures:

3. Existing Structures:

- The “exemption” clause.
 - If water crossings exist and are legally installed before rule adoption, they aren’t required to upgrade to climate change requirements, so long as they function as originally intended.



Rule Proposal: Standards

Fishway Standards:

1. Fish Passage Improvement Structures:

A. Fish Life Concerns

- These structures are not preferred
- Permitted when an artificial barrier cannot be removed.

B. Standards:

- Sediment, flow, surface drop
- Adequate flow for expected fish species
- Can't be used to get around natural barriers, unless rare circumstances prevail.

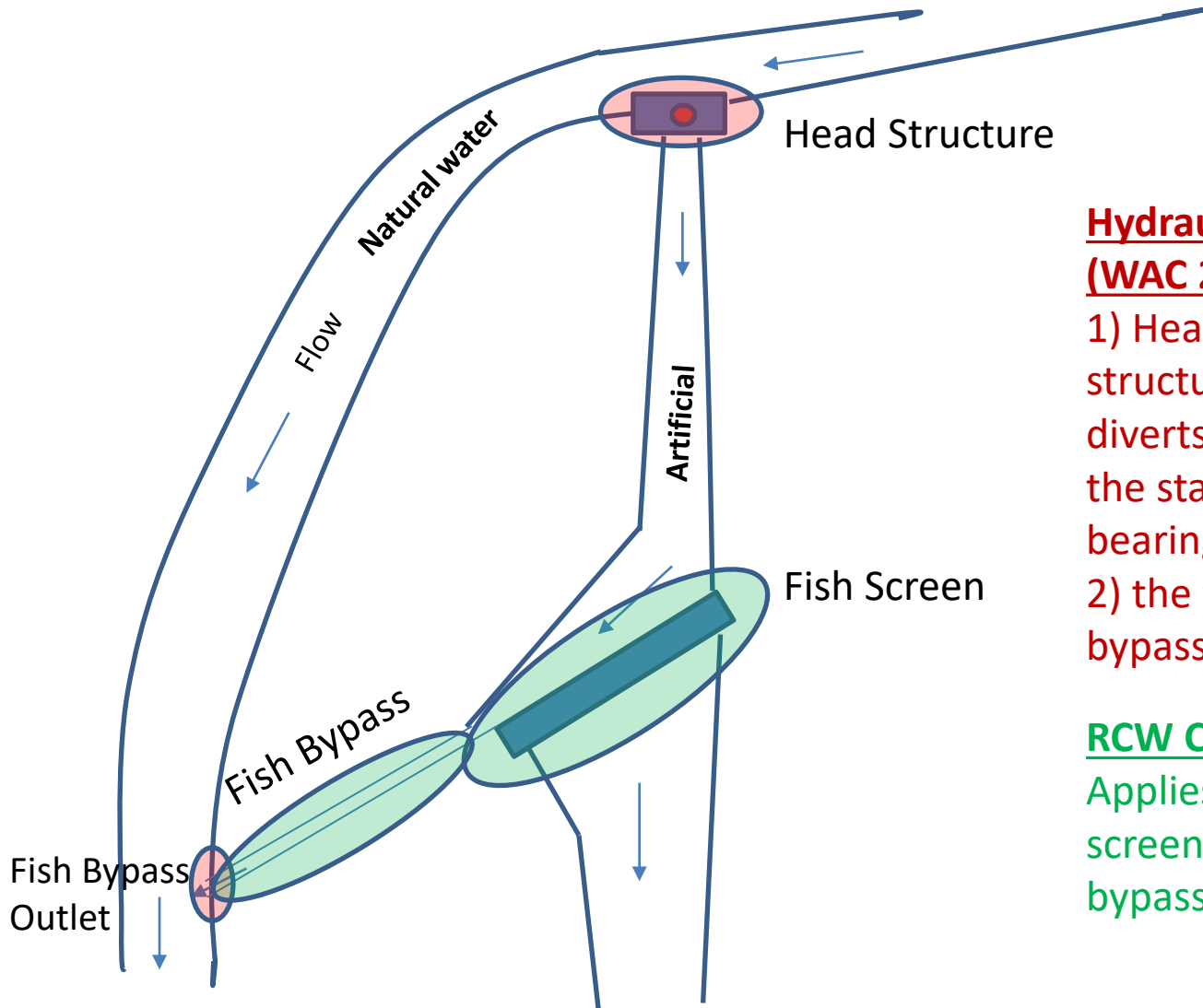


Rule Proposal: Standards

Water Diversion Standards:

1. Fish Life Concerns
2. Standards
 - A. Protection of Fish Life
 - Appropriate design at diversion and intake locations
 - B. Effective Screening
 - No apparent damage or accumulation of debris
3. Alignment with WAC 220-660-250





**Hydraulic code
(WAC 220-660):**

1) Head structure that diverts waters of the state (fish bearing) and 2) the fish bypass outlet.

RCW Chapter 77.57:

Applies to the fish screen and fish bypass.



Rule Proposal: Compliance

1. Voluntary Assistance:

- Steps for achieving voluntary compliance, such as HPA permit or agreement.

2. Technical Assistance:

- Support voluntary compliance with information, assistance, and site visits.
 - Correction Request or Notice to Comply can be issued during site visit if there's more than minor harm to fish or the owner has previous violations of RCW Chapters 77.55 or 77.57.



Rule Proposal: Compliance

3. Compliance Inspections:

- Can issue a correction request or notice to comply if there's harm to fish or a prior violation.
- Prioritize inspections based on fish resources and quality and quantity of fish habitat

4. Compliance Pathways:

- Correction Request
- Notice to Comply
- Additional Remedies:
 - Initiate additional civil or criminal enforcement action in circumstances where a structure owner or owner has failed to comply with a notice to comply



Rule Proposal: Appeals

1. Informal & Formal Appeals
 - Can appeal a notice to comply. Able to try resolution with WDFW before filing appeals.
 - Time frame:
 - 30 days from date of notice to comply receipt.



Questions?

Contact your Communications Manager
for help and review of your PowerPoint.



How to Comment

Due: After FWC Public Hearing, October/November 2023

Online: <https://publicinput.com/X7702#0>

Email: FishPassage101@PublicInput.com

Mail:

Washington Dept. of Fish and Wildlife

Attn: Gabrielle Stilwater

P.O. Box 43200

Olympia, WA 98504-3200

Voice Message: 855-925-2801, project code 4535

Fax: (360) 902-2946

Attn: Gabrielle Stilwater

Project Website: For additional project information, please visit:

<https://wdfw.wa.gov/species-habitats/habitat-recovery/fish-passage/rule-making>



Rank	PRISM No.	Scope*	Stream Name	County	Project Sponsor	Legislative District	Original FBRB		PROTECT request	Type	Local Programs Authorized	Local Programs Comments	
							Request	FBRB Match					
2	21-1415	Restoration	Sexton Cr	Snohomish	Snohomish Co Surface Water	44	\$ 1,038,190	\$ 183,216		County			
6	21-1500	Restoration	Delameter Cr	Cowlitz	Cowlitz County of	19	\$ 1,657,500	\$ 292,500		County			
7	21-1422	Restoration	Trib to Harper Inlet	Kitsap	Kitsap County of	26	\$ 4,964,111	\$ 876,020	\$ 5,840,000	County	\$ 100,000	9/2023 Authorized Design	
8	21-1420	Restoration	Squalicum Cr	Whatcom	Bellingham City of	42	\$ 4,132,623	\$ 729,287		City			
9	21-1398	Restoration	Trib to MF Newaukum R	Lewis	Lewis County Public Works	20	\$ 1,067,870	\$ 266,968		County			
17	21-1458	Restoration	Fisher Cr (2 barriers)	Skagit	Skagit County Public Works	39	\$ 3,980,984	\$ 705,350	\$ 5,348,750	County			
20	21-1412	Restoration	Eagle Cr (4 barriers)	Chelan	Chelan Co Natural Resource	12	\$ 1,211,865	\$ 213,859		County			
23	21-1427	Restoration	George Davis Cr (3 barriers)	King	Sammamish City of	45	\$ 1,300,000	\$ 230,000		City			
25	21-1409	Restoration	Naylor Cr	Jefferson	Jefferson Co Public Works	24	\$ 1,591,320	\$ 280,822	\$ 1,913,000	County	\$ 1,913,000	9/2023 Authorized Construction	
27	21-1400	Restoration	Lost Cr	Lewis	Lewis County Public Works	20	\$ 1,045,798	\$ 261,450		County			
28	21-1418	Restoration	Padden Cr	Whatcom	Bellingham City of	40	\$ 1,335,973	\$ 235,760		City			
29	21-1404	Restoration	Padden Cr	Whatcom	Bellingham City of	40	\$ 4,103,719	\$ 724,186		City			
30	21-1396	Restoration	Berwick Cr (Logan Hill)	Lewis	Lewis County Public Works	20	\$ 1,244,662	\$ 311,166	\$ 1,430,000	County	\$ 1,430,000	9/2023 Authorized Construction	
31	21-1513	Restoration	Taylor Cr	King	Seattle Public Utilities	37	\$ 1,000,000	\$ 400,000		City			
33	21-1419	Restoration	Padden Cr	Whatcom	Bellingham City of	40	\$ 1,615,867	\$ 285,153		City			
34	21-1399	Restoration	Trib to Lucas Cr	Lewis	Lewis County Public Works	20	\$ 1,140,358	\$ 285,090		County			
55	21-1435	Restoration	Barrel Springs	Skagit	Skagit County Public Works	40	\$ 1,095,803	\$ 327,006	\$ 1,238,084	County			
63	21-1397	Restoration	Scammon Cr	Lewis	Lewis County Public Works	19	\$ 908,360	\$ 227,090	\$ 1,046,000	County		original request \$1M	
64	21-1395	Restoration	Berwick Cr (Lebree)	Lewis	Lewis County Public Works	19	\$ 1,102,379	\$ 275,595	\$ 1,168,000	County			
67	21-1506	Restoration	Erick Cr	Cowlitz	Cowlitz County of	19	\$ 1,747,600	\$ 308,400	\$ 2,408,000	County	\$ 410,000	4/2023 Authorized Design	
69	21-1514	Restoration	Percival Cr	Thurston	Tumwater City of	22	\$ 1,459,450	\$ 257,550	\$ 2,000,000	County	\$ 100,000	8/2023 Authorized Right of Way	
70	21-1511	Restoration	Derby Canyon	Chelan	Chelan Co Natural Resource	12	\$ 1,813,050	\$ 319,950		County			
76	21-1498	Restoration	Ruby Cr	Kitsap	Port Orchard City of	26	\$ 1,852,842	\$ 326,973		City			
87	21-1557	Restoration	Anderson Cr (Newberry Hill)	Kitsap	Kitsap County Public Works	35	\$ 1,995,971	\$ 354,230	\$ 2,400,000	County	\$ 3,020,000	9/2023 Authorized Construction	
92	21-1540	Restoration	Gee Cr	Clark	Ridgefield City of	20	\$ 1,423,000	\$ 1,475,650		City			
101	21-1558	Restoration	Trib to Swamp Cr	King	Kenmore City of	1	\$ 1,094,306	\$ 291,200		City			
102	21-1394	Restoration	Little Soos Cr (2 barriers)	King	Covington City of	47	\$ 2,395,920	\$ 422,810		City			
									\$ 24,791,834		\$ 6,973,000		
							total	\$ 48,411,161					

RCW 70A.65.305 Tribal consultation. (1) Agencies that allocate funding or administer grant programs appropriated from the climate investment account created in RCW 70A.65.250, the climate commitment account created in RCW 70A.65.260, and the natural climate solutions account created in RCW 70A.65.270 must offer early, meaningful, and individual consultation with any affected federally recognized tribe on all funding decisions and funding programs that may impact tribal resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order. The consultation is independent of, and in addition to, any public participation process required by federal or state law, or by a federal or state agency, including the requirements of Executive Order 21-02 related to archaeological and cultural resources, and regardless of whether the agency receives a request for consultation from a federally recognized tribe. The goal of the consultation process is to identify tribal resources or rights potentially affected by the funding decisions and funding programs, assess their effects, and seek ways to avoid, minimize, or mitigate any adverse effects on tribal resources or rights.

(2) At the earliest possible date prior to submittal of an application, applicants for funding from the accounts created in RCW 70A.65.250, 70A.65.260, and 70A.65.270 shall engage in a preapplication process with all affected federally recognized tribes within the project area.

(a) The preapplication process must include the applicant notifying the department of archaeology and historic preservation, the department of fish and wildlife, and all affected federally recognized tribes within the project area. The notification must include geographical location, detailed scope of the proposed project, preliminary application details available to federal, state, or local governmental jurisdictions, and all publicly available materials, including public funding sources.

(b) The applicant must also offer to discuss the project with the department of archaeology and historic preservation, the department of fish and wildlife, and all affected federally recognized tribes within the project area. Discussions may include the project's impact to tribal resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved or protected by federal treaty, statute, or executive order.

(c) All affected federally recognized tribes may submit to the appropriate agency or agencies a summary of tribal issues, questions, concerns, or other statements regarding the project, which must become part of the official application file. The summary does not limit what issues affected federally recognized tribes may raise in the consultation process identified in subsections (1), (3) through (7), and (9) of this section.

(d) The notification and offer to initiate discussion must be documented with the application when it is filed, and a copy of the application must be delivered to the department of archaeology and historic preservation, the department of fish and wildlife, and to the affected federally recognized tribe or tribes. If the discussions pursuant to (b) of this subsection do not occur, the applicant must document the reason why the discussion or discussions did not occur.

(e) Nothing in this section may be interpreted to require the disclosure of information that is exempt from disclosure pursuant to RCW 42.56.300 or federal law, including section 304 of the national historic preservation act of 1966. Any information that is exempt from disclosure pursuant to RCW 42.56.300 or federal law, including section 304 of the national historic preservation act of 1966, shall not become part of the official application file.

(3) If any funding decision, program, project, or activity that may impact tribal resources, including tribal cultural resources, archaeological sites, sacred sites, fisheries, or other rights and interests in tribal lands and lands within which a tribe or tribes possess rights reserved by federal treaty, statute, or executive order is funded from the accounts created in RCW 70A.65.250, 70A.65.260, and 70A.65.270 without such a consultation with an affected federally recognized tribe, the affected federally recognized tribe may request that all further action on the decision, program, project, or activity cease until meaningful consultation is completed. Upon receipt of such a request by an agency or agencies with the authority to allocate funding or administer grant programs from the accounts listed in subsection (1) of this section in support of the proposed project, further action by the agency or agencies on any decision, program, project, or activity that would result in significant physical disturbance of the tribal resource or resources described in this subsection must cease until the consultation has been completed.

(4) Upon completion of agency and tribal consultation, an affected federally recognized tribe may request a formal review of the consultation by submitting a request to the governor's office of Indian affairs and notifying the appropriate agencies and the department of archaeology and historic preservation. The state agencies and tribe must meet to initiate discussion within no more than 20 days of the request. This consultation must be offered and conducted separately with each affected federally recognized tribe, unless the tribes agree to conduct a joint consultation with the state.

(5) After the state agencies and tribe or tribes have conducted a formal review under subsection (4) of this section, an affected federally recognized tribe or state agency may request that the governor and an elected tribal leader or leaders of a federally recognized tribal government meet to formally consider the recommendations from the parties. If requested, this meeting must occur within 30 days of the request, except that a federally recognized tribe may choose to opt out of the meeting. This timeline may be extended by mutual agreement between the governor and the tribal leaders.

(6) After the meeting identified in subsection (5) of this section has occurred, the governor or an elected tribal leader of a federally recognized tribe may call for the state and tribe or tribes to enter into formal mediation, except that a federally recognized tribe may choose to opt out of the mediation. If entered into, the mediation must be conducted as a government-to-government proceeding, with each sovereign government retaining their right to a final decision that meets their separate obligations and interests. Mediators must be jointly selected by the parties to the mediation. An agreement between the governor and a tribal leader or leaders resulting from the mediation is formally recognized and binding on the signatory parties. Absent an agreement, participation in mediation

does not preclude any additional steps that any party can initiate, including legal review, to resolve a continuing disagreement.

(7) During the proceedings outlined in subsections (4) through (6) of this section, the agency or agencies with the authority to allocate funding or administer grant programs from the accounts listed in subsection (1) of this section in support of the proposed project may not approve or release funding, or make other formal decisions, including permitting, that advance the proposed project except where required by law.

(8) By June 30, 2023, the governor's office of Indian affairs, in coordination with the department of archaeology and historic preservation and federally recognized tribes, shall develop a state agency tribal consultation process, including best practices for early, meaningful, and effective consultation, early notification and engagement by applicants with federally recognized tribes as a part of the preapplication process in subsection (2) of this section, and protocols for communication and collaboration with federally recognized tribes. The consultation process developed under this section must be periodically reviewed and updated in coordination with federally recognized tribes. The governor's office of Indian affairs must provide training and other technical assistance to state agencies, as they implement the required consultation. Notwithstanding the governor's office of Indian affairs' ongoing work pursuant to this subsection, the provisions of subsections (1) through (7) and (9) of this section become effective as of June 9, 2022.

(9) The requirements of this section apply to local governments that receive funding from the accounts created in RCW 70A.65.250, 70A.65.260, and 70A.65.270, where that funding is disbursed to project and program applicants. Where requested, the governor's office of Indian affairs must provide training and other technical assistance to local government agencies as they implement the consultation requirements of this section.

(10) Any agency subject to or implementing this section may adopt rules in furtherance of its duties under this section.

(11) Subject to the availability of amounts appropriated for this specific purpose, the department must establish a tribal capacity grant program to provide funding to federally recognized tribes for the costs of implementing this section. [2022 c 253 § 1.]