

April 14, 2026

**Patrick Prendergast, P.E.**  
Vice President  
Skanska USA Civil  
18911 North Creek Parkway, Suite 300  
Bothell, WA 98011

WSDOT SL No. 9727-326

Reference: **Contract No. 9727  
I-405, Brickyard to SR 527 Improvement Project**

Subject: **RE: Skanska Letter No. 384 - Notice of Protest 019 - Supplemental - Issue  
SKA-0303 - Juanita Creek Lateral Migration**

Mr. Prendergast:

WSDOT is in receipt of Skanska Letter (LTR) No. 372, Notice of Protest 019, dated March 10, 2026, and Skanska LTR 384, Supplemental Information, dated March 24, 2026. WSDOT has reviewed the information provided and has determined that the protest is without merit.

The Design-Builder's Final Hydraulic Design Report for the Juanita Creek crossing characterized the risk of lateral migration as "low to moderate" and stated that available geotechnical data were "not sufficient to exclude the risk of lateral migration from the scour analysis." The Design-Builder's Engineer of Record incorporated lateral migration into the scour analysis as a conservative assumption. Skanska LTR 384 includes a June 13, 2025 email from the Design-Builder's Engineer of Record to WSDOT, which states that "the risk of lateral migration may only be low to moderate" but that "to be conservative, lateral migration was assumed when conducting scour analysis." The same email states that "both tunnel and wingwalls are designed for full scour depth," and that the Engineer of Record initiated the discussion "in response to a structural comment from Jason Pang related to protection of the downstream MSE at Juanita Creek," not in response to WSDOT direction on lateral migration classification. The Engineer of Record's own words establish that the Design-Builder's decision to assume lateral migration and design for full scour depth was a conservative professional engineering judgment based on its analysis of site conditions, not in response to WSDOT direction.

Technical Requirements (TR) 2.30.5.6 Scour Analysis assigns the scour analysis obligation to the Design-Builder. This obligation applies regardless of the Table 2.30-B classification. Table 2.30-B classifies the lateral migration risk at Juanita Creek as "low." A "low" classification describes the risk level. It does not eliminate obligation to complete the scour analysis and quantify the scour. The "shall" language in Package 9 structural review Comments 3 and 4 quotes Bridge Design Manual (BDM) Section 8.1.10 verbatim. BDM requirements are existing

mandatory standards, not new WSDOT directives. Compliance with mandatory standards is the Design-Builder's responsibility under the Contract Price per GP 1-04.1.

WSDOT's RCSR comments on the Final Hydraulic Design and preliminary structural design are comments on Design Documents. GP 1-02.1 Responsibility for Design provides that "no comments by WSDOT on Design Documents ... shall be deemed, construed, or interpreted to (a) amend, supersede, or alter the terms, requirements, limitations, or meaning of any Contract Document." GP 1-02.1 makes no exception based on the tone, language, or practical effect of a comment. Comment 196 states "if this is not correct, please revise," giving the Design-Builder discretion to disagree with the reviewer's characterization. Skanska LTR 372 contends that WSDOT SL 9727-280 does not constitute a proper Interpretive Engineering Decision because it was not requested by the Design-Builder. GP 1-03.5 expressly authorizes WSDOT to "issue its own Interpretive Engineering Decision." No Design-Builder request is required. The Design-Builder bears the burden of proving that WSDOT's interpretation is incorrect or unreasonable.

Skanska LTR 384 characterizes WSDOT's RCSR comments as "constructive direction." Comment 196 provided the Design-Builder discretion to disagree with the reviewer's characterization. The Design-Builder did not exercise that discretion and submitted the design through preliminary, final, and RFC stages without objection over the course of approximately 10 months. WSDOT's review of methodologies proposed by the Design-Builder was standard design review under TR 2.30.5.6 Scour Analysis. The June 17, 2025 Fish Passage Task Force meeting assigned as an ACTION that the "Design team to send over the shoulder analysis to WSDOT for concurrence." The Design-Builder sent its valley width analysis the next day, proposing 46 feet, and WSDOT concurred the same day.

Skanska LTR 384 characterizes the July 15, 2025 Fish Passage Task Force meeting as a "reversal." The July 15 meeting confirmed what Table 2.30-B always provided: the lateral migration classification at Juanita Creek is "low." The July 1, 2025 Fish Passage Task Force meeting minutes record that "lateral migration defined as low in Chapter 2 still requires the limits to be determined." WSDOT's engagement with the scour analysis between February and July 2025 was review of the Design-Builder's TR 2.30.5.6 obligation, not review of the Table 2.30-B classification, which was never at issue. On July 28, 2025, WSDOT closed the lateral migration comments consistent with the "low" classification and directed the Design-Builder to file a DBIC under GP 1-04.4(2) if it disagreed. No Design-Builder-Initiated Change was submitted.

Skanska LTR 384 asserts that WSDOT rejected the Design-Builder's proposed methodologies, including the valley width, 500-year flood extents, and stream power approaches, without providing alternatives. The record shows the opposite. Each methodology the Design-Builder proposed was reviewed on its technical merits, and where the proposed methodology was not supported by the underlying analysis, WSDOT requested the validation that TR 2.30.5.6 requires the Design-Builder to perform. Requesting validation of a proposed methodology is not rejection of the methodology, and it is not direction to use an alternative. When the Design-Builder submitted a supported methodology, WSDOT accepted it.

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GP 1-04.5(2)(d) requires the Design-Builder's Written Statement to include "an analysis of the progress schedule showing the schedule change or disruption." The Design-Builder's supplemental Written Statement does not include this analysis.

WSDOT reaffirms the position stated in WSDOT SL 9727-280. No Owner-Initiated Change is warranted. The Design-Builder is responsible for designing scour countermeasures per TR 2.30.5.6.

If you have any questions, please contact me at (425) 495-1577.

Sincerely,

A handwritten signature in black ink, appearing to read "Evelyn Pao". The signature is fluid and cursive, with a large initial "E" and "P".

Evelyn Pao, P.E.  
Project Director  
EP:za

cc: D. Case, D. Holmquist, J. Slavicek, J. Zimmerman, S. Berriz, B. Kane, N. Bergeman, R. Gehrlein, E-File