



April 28, 2026

Letter No. 417
BY-CRE- 05346

Washington State Department of Transportation
I-405/SR 167 Program
18911 N Creek Pkwy S, Suite 150
Bothell, WA 98011

Attention: Evelyn Pao, P.E.
Project Director

Project: I-405/Brickyard to SR 527 – Improvement Project
Contract No.: 009727

Subject: Notice of Dispute - Protest 019 – Issue SKA-0303 – Juanita Creek Lateral Migration

Reference:

- Skanska Letter No. 337 (BY-CRE-04589), Request for Direction - Juanita Creek Fish Passage - Lateral Migration Design Requirements (January 30, 2026)
- WSDOT Serial Letter No. 9727-280, Interpretive Engineering Decision - Juanita Creek Fish Passage (February 24, 2026)
- Skanska Letter No. 372, Notice of Protest 019 - PCN-00153 (March 10, 2026)
- Skanska Letter No. 384, Notice of Protest 019 - Supplemental - Issue SKA-0303 (March 24, 2026)
- WSDOT Serial Letter No. 9727-326, RE: Notice of Protest 019 - Supplemental (April 14, 2026)
- AECOM Notice of Dispute, Response to WSDOT SL No. 9727-326 (April 24, 2026)
- General Provisions Section 1-04.5 - Procedure, Protest, and Dispute by the Design-Builder

Dear Ms. Pao:

In accordance with General Provisions Section 1-04.5(1), Skanska USA Civil ("Skanska" or "Design-Builder") hereby provides formal notice of dispute regarding WSDOT's determination in Serial Letter No. 9727-326 dated April 14, 2026, which denied the Design-Builder's Protest 019 as "without merit."

Skanska hereby incorporates by reference the attached AECOM Notice of Dispute dated April 24, 2026. AECOM, as the Design-Builder's Engineer of Record for the Juanita Creek Fish Passage, has independently disputed WSDOT's determination and intends to proceed with referring this matter to the Disputes Review Board.

Timeline of Events

- 01/30/26 – Skanska Letter No. 337 requested direction on lateral migration design requirements
- 02/24/26 – WSDOT SL 9727-280 denied OIC request
- 03/10/26 – Skanska Letter No. 372 filed Notice of Protest 019
- 03/24/26 – Skanska Letter No. 384 provided Supplemental with AECOM Detailed Project Record
- 04/14/26 – WSDOT SL 9727-326 denied Protest 019 as "without merit"
- 04/24/26 – AECOM Notice of Dispute submitted to Skanska for transmittal

Basis for Dispute

The Design-Builder disagrees with WSDOT's determination in SL 9727-326 for the reasons set forth in Skanska Letter No. 384, which are incorporated herein by reference. WSDOT's determination introduces several arguments that mischaracterize the project record:

- **June 13, 2025 Email Context:** WSDOT cites AECOM's email stating lateral migration was assumed "to be conservative" as evidence of voluntary action. This ignores that the email was written after WSDOT had already rejected Figure 8.1.10-1 (without lateral migration), after WSDOT directed lateral migration calculations at the February 11, 2025 Task Force meeting, and after WSDOT rejected AECOM's 60-foot valley width analysis. The "conservative" assumption was a response to WSDOT direction, not an independent judgment.
- **Table 2.30-B Classification:** WSDOT conflates TR 2.30.5.6 scour analysis (never disputed) with the Table 2.30-B "low" lateral migration classification. The "low" classification determines which BDM figure applies—Figure 8.1.10-1 (without lateral migration), not Figure 8.1.10-2 (with lateral migration). WSDOT's RCSR comments directed use of Figure 8.1.10-2, overriding the Contract designation.
- **Comment 196 Discretion:** WSDOT points to "if this is not correct, please revise" as providing discretion. However, the same comment stated "the risk of lateral migration is NOT low"—directly contradicting Table 2.30-B. When exercising discretion led to rejection of the design submittal, the theoretical discretion was meaningless.
- **DBIC Direction:** WSDOT notes the Design-Builder did not file a DBIC after July 28, 2025. By that date, the wingwall and headwall design was substantially complete and significant costs had been incurred. This dispute seeks recovery for costs already incurred due to WSDOT's direction—an Owner-Initiated Change under GP 1-04.4(1)—not a Design-Builder-Initiated Change.
- **Schedule Analysis:** A detailed schedule analysis is underway and will be provided as a supplement. AECOM's supplemental documented that the delay could be as long as 6 months.

Disputed Amount

Description	Amount
Additional Construction of Structural Elements - Wingwalls, Headwalls & Tunnel	\$2,698,528
Design for Additional Structural and Shoring Elements	\$351,758
Stream Re-Alignment	\$79,340
Design for Stream Re-Alignment	\$50,183
Total Disputed Amount	\$3,179,809

Request for Disputes Review Board Proceeding

Skanska respectfully requests WSDOT's concurrence in resolving the following dispute through the established Disputes Review Board process, as outlined in General Provisions Section 1-04.5(1).1. Given that the DRB is already established for this project, we believe that submitting the dispute for review by the Board is an appropriate and efficient means of resolving the matter. We are seeking your agreement to proceed with the DRB process and would appreciate your confirmation to formally initiate the DRB review.

Please let us know if any further documentation or procedural steps are required from our side to facilitate this process. We look forward to your prompt response and hope to work collaboratively in resolving this issue.

SKANSKA

Reservation of Rights

Skanska will continue to perform the Work as directed while this matter is being resolved. This letter is without prejudice to, and with a full reservation of, Skanska's rights, remedies, causes of action, and defenses under the Contract, at law, in equity, or otherwise. Nothing in this letter shall be interpreted as a modification or waiver, or an estoppel of Skanska's right to assert the same.

Thank you for your attention to this matter.

Regards,



Patrick Prendergast, Vice President

Skanska USA Civil
18911 N Creek Parkway S
Suite 300
Bothell, WA 98011

Attachments:

AECOM Notice of Dispute, Response to WSDOT SL No. 9727-326 (April 24, 2026)



AECOM Technical Services, Inc.
1111 Third Ave., Suite 1600
Seattle, WA 98101, USA
aecom.com

4/24/2026

Via E-mail

Patrick Prendergast
Contractor's Representative
Skanska USA Civil West California
District Inc.
18911 N Creek Pkwy, Suite 300
Bothell, WA 98011
Patrick.Prendergast@skanska.com

NOTICE OF DISPUTE

RE: Response to WSDOT SL No. 9727-326, and Notice of Dispute per RFP Section 1-04.5
I-405/Brickyard to SR 527 Improvement Project
Contract No: 009727
PCN-00153 – Juanita Creek Lateral Migration

Dear Mr. Prendergast:

AECOM acknowledges receipt of WSDOT's correspondence (WSDOT SL No. 9727-326), dated April 14, 2026. In this letter, WSDOT determined that Protest No 019 pertaining to Juanita Creek Lateral Migration is without merit. (See Skanska Letter (LTR) No. 372, Notice of Protest 019, dated March 10, 2026, and Skanska LTR 384, Supplemental Information, dated March 24, 2026.).

As AECOM disagrees with this determination, we hereby request that Skanska submit this letter to WSDOT as a formal notice of dispute in accordance with Section 1-04.5 (1) of the RFP, on AECOM's behalf. Pursuant to Section 1-04.5 (1) of the RFP, AECOM will continue to pursue the dispute and intends to proceed with referring this matter in dispute to the Disputes Review Board (DRB or Board).

This letter is without prejudice to, and with a full reservation of, AECOM's rights, remedies, causes of action, and defenses under the Subcontract, at law, in equity, or otherwise. Nothing in this letter shall be interpreted as a modification or waiver, or an estoppel of AECOM's right to assert the same. I appreciate your prompt attention to this matter. If you have any questions, please do not hesitate to contact me directly. **Please promptly provide this notice of dispute to WSDOT per the Design-Build Contract, by no later than April 28, 2026.**

Yours sincerely,

AECOM Technical Services, Inc.

Jon Guerrero, PE

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cc: Evan Grant (AECOM)

Richard Patterson (AECOM)