

WSDOT POSITION PAPER

DRB Hearing – Protest 003 - Lateral Migration Sammamish River (PCO 126)

Contract 9727 – I-405, Brickyard to SR 527 Improvement Project

Submitted by: Washington State Department of Transportation

Date: {{DATE}}

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1 Introduction

This dispute concerns the lateral migration classification for the Sammamish River bridges at I-405 MP 24.4. RFP Section 2.30.5.2.1 references a "not low" lateral migration determination from Appendix H26 and states it "shall apply" to the new structures. During final design, Skanska's hydraulic designer, AECOM, performed an independent analysis and concluded the risk is "low." WSDOT identified the discrepancy during its review of the draft Final Hydraulic Design in August 2024. After 10 months of iterative review, WSDOT issued an Interpretive Engineering Decision (SL 116, June 2025) directing application of the "not low" determination. Skanska protested (LTR 309, December 2025). WSDOT denied the protest (SL 252, January 2026). Skanska filed a Notice of Dispute (LTR 348, February 2026).

The central question is whether Section 2.30.5.2.1 requires the Design-Builder to apply the "not low" determination, or whether it permits the Design-Builder to reach a different conclusion through independent analysis.

This paper summarizes the relevant contract requirements, the technical issues, the sequence of events, the affected submittals, and WSDOT's position on Protest 003.

2 Project Summary

The I-405/Brickyard to SR 527 Improvement Project enhances four and a half miles of the corridor, primarily in Bothell, from just south of the State Route 522 interchange and ending at the SR 527 interchange. WSDOT, Sound Transit and design-build contractor Skanska USA Inc. will deliver improvements that benefit all users, while addressing aging infrastructure, opening upstream fish habitat, and connecting communities, freight and Regional Growth Centers throughout the corridor.

Since implemented in 2015, express toll lanes (ETL) have helped improve reliability of trips on the north end of the I-405 corridor. However, the single-lane section still experiences heavy congestion, especially for people traveling south during the morning commute. The project will extend the dual-express toll lane system on the north end of I-405 and improve access to the voter-approved Stride bus rapid transit service to address congestion and help keep all vehicles moving efficiently.

This project includes three new Bus Rapid Transit (Stride or BRT) stations and will build direct access ramps to the ETL system at SR 522, along with a partial direct access interchange at SR 527 to and from the south connecting to the Canyon Park Park and Ride. These enhancements will allow Stride vehicles to travel in the new ETLs between Lynnwood and Bellevue while stopping briefly to pick up and drop off passengers without having to leave the highway system. Having dedicated ETL access in the center of the freeway will make travel more efficient, supporting the new Stride service with buses arriving every 10 minutes for most of the day.

Additionally, the project will address aging infrastructure, restore stream connections, add noise walls, and add new stormwater facilities.

3 Relevant Contractual Requirements

3.1 Section 2.30.5.2.1 Certain Structure and Channel Design Characteristics

This is the core disputed provision, added to the RFP via Addendum 14 (March 2, 2023):

"The Sammamish River 'not low' lateral migration determination discussed in the Sammamish River Migration Risk Assessment (Appendix H) shall apply to the new structures within the river

flow limits defined by the 500-year flood elevation."

"Shall apply" mandates the "not low" determination as a contract requirement.

Table 2.30-B in the same section governs six fish passage structures at other locations along the corridor, not the Sammamish River bridges. The lateral migration row in that table ("Is the risk of Lateral Migration (Structural) low? Yes") applies to those fish passage structures, not to the three affected bridges.

3.2 Appendix H26: Sammamish River Migration Risk Assessment (Reference Document)

The Sammamish River Migration Risk Assessment (Appendix H26) was added to the RFP via Addendum 9 (January 26, 2023). It concludes:

"The risk of channel migration within the vicinity of I-405 MP 24.4 is NOT LOW and therefore will require further analysis during final design as part of the Hydraulic Design Report for this water crossing."

"Further analysis" is a consequence of the NOT LOW determination, not a license to revisit it. The Design-Builder must do further analysis because the risk is not low, not to determine whether it is.

3.3 Section 1-03.5 Ambiguities / Interpretive Engineering Decisions

This provision establishes WSDOT's authority to issue Interpretive Engineering Decisions and expressly precludes entitlement:

"No Interpretive Engineering Decision by WSDOT shall form the basis for an increase in the Contract Price or extension of the Contract Time, unless WSDOT expressly provides otherwise in writing."

SL 116 (June 13, 2025) interprets existing requirements. WSDOT did not expressly provide otherwise. It creates no entitlement to cost or time adjustment.

Section 1-03.5 also establishes that the Design-Builder had the "opportunity and obligation, prior to submission of its Proposal, to review the terms and conditions of the Contract Documents and to bring to the attention of WSDOT any conflicts or ambiguities contained therein." Skanska submitted its Proposal on May 30, 2023. Appendix H26 had been in the RFP for four months and Section 2.30.5.2.1 for three months. Skanska certified review of all addenda via Form A. No conflicts or ambiguities regarding lateral migration were raised at any point before or after contract execution (August 10, 2023).

3.4 Section 1-04.4(2) Design-Builder Initiated Changes

This provision establishes the mechanism by which the Design-Builder may propose changes to contractual design requirements. The Design-Builder did not file a DBIC, did not submit an Owner-Initiated Change, and did not flag the departure from the contractual classification. WSDOT discovered the "low" application during FHD review. The proper path was straightforward: comply with "not low," or file a DBIC under Section 1-04.4(2) to propose changing the classification. Skanska did neither. Skanska explicitly rejected the DBIC path in its Notice of Dispute.

3.5 Section 2.30.5.6 Scour Analysis

This provision addresses scour countermeasures as a compliance path:

Countermeasures proposed by the Design-Builder "shall be designed and constructed in accordance with the most recent version of HEC-23 (FHWA Hydraulic Engineering Circular No. 23, Bridge Scour and Stream Instability Countermeasures)."

This provision allows countermeasures as one design approach. However, the Bridge Design Manual imposes restrictions on where countermeasures may be placed, as described below.

3.6 BDM Section 7.1.7 Scour Requirements (Appendix D01)

The WSDOT Bridge Design Manual (BDM), incorporated as Appendix D01, establishes scour design requirements for bridge foundations. Section 7.1.7.B Deep Foundations states:

"Scour countermeasures shall not be placed at interior piers."

For the affected structures, the only compliant path is foundation design that accommodates the full scour depth. Where lateral migration applies, BDM Section 7.1.7 requires that total scour account for the migrated channel position.

Appendix B04_2, a Design Memorandum dated April 28, 2023, revises BDM 7.1.7 to allow countermeasure credit at abutments if five conditions are met. The interior pier prohibition is unchanged. Countermeasures may only be placed at bridge abutments, not at the piers within the river.

3.7 Section 1-04.5 Protest and Dispute Procedures

This provision governs the protest and dispute process. The Design-Builder protested (LTR 309, December 30, 2025) and supplemented (LTR 322, January 16, 2026). WSDOT issued a Written Determination denying the protest as "without merit" (SL 252, January 29, 2026). The Design-Builder filed a Notice of Dispute (LTR 348, February 12, 2026).

3.8 Section 1-03.1 Contract and Reference Documents

Skanska's Notice of Dispute (LTR 348, February 12, 2026) introduces a new argument: that the Sammamish River Migration Risk Assessment (Appendix H26) qualifies as a Contract Document under Section 1-03.1 because it is "called out as a mandatory requirement" in Section 2.30.5.2.1. Even if elevated to Contract Document status, H26 concludes "NOT LOW," which supports WSDOT's position, not Skanska's. Section 2.30.5.2.1 is the requirement source.

3.9 RFP Addenda

Addendum 9 (January 26, 2023): Added the Sammamish River Migration Risk Assessment (Appendix H26) to the RFP.

Addendum 14 (March 2, 2023): Added Section 2.30.5.2.1. The Design-Builder certified review of all addenda via Form A.

The sequence is significant: WSDOT first added the assessment (Addendum 9), then added the explicit "shall apply" mandate (Addendum 14). If anything, the sequence shows WSDOT refined the requirement to be more explicit, not less.

4 Discussion of Lateral Migration and Scour

Three bridges are affected by the lateral migration dispute: the Ramp Bridge (constructed), Mainline

Bridge (in construction), and DAR Bridge (design phase, April 2026 construction start).

4.1 Design Implications of "Not Low" Lateral Migration

When lateral migration risk is classified as "not low," the design must account for the possibility that the river channel will shift position over the life of the structure. This increases the total scour depth at bridge foundations because scour must be calculated at the migrated channel position, not just the current channel location.

BDM Section 7.1.7 (Appendix D01) requires that foundations accommodate the full scour depth. Section 7.1.7.B prohibits scour countermeasures at interior piers. For the affected Sammamish River structures, the only compliant path is foundation design that accommodates the full scour depth at the migrated channel position.

4.2 Countermeasure Constraints

Section 2.30.5.6 allows countermeasures designed per HEC-23. However, the BDM interior pier prohibition limits where countermeasures may be placed. Appendix B04_2 (Design Memorandum, April 28, 2023) revises BDM 7.1.7 to allow countermeasure credit at abutments if five conditions are met. The interior pier prohibition is unchanged. Countermeasures may only be placed at bridge abutments, not at the piers within the river.

4.3 Cost Scenarios (LTR 322)

Skanska's supplemental information (LTR 322, Jan 2026) presents two countermeasure cost scenarios:

Scenario	Cost	Schedule Risk	Notes
Option 1: Sheet Pile Walls	\$7,809,741	Unknown	Excludes CLOMR, extended GCs, permitting, reconstruction
Option 2: Rock/Log Vanes	\$450,032	Unknown	Excludes CLOMR, extended GCs, permitting, reconstruction
DAR Bridge RFC	--	April 2026 at risk. 6+ months potential delay	Design blocked pending dispute resolution

Option 1 is vertical steel sheet pile walls driven to total scour depth around bridge piers. The cost includes materials (352 fifty-foot steel sheets at \$2.0M) and pile driving (\$2.6M), with 20% markup (\$1.3M). Option 2 is a bioengineering approach per HEC-23: foundation boulders and logs installed as erosion diversion structures to redirect flow and protect banks. Over half of the Option 2 cost is design (\$127K) and FHD update (\$106K). Both estimates are preliminary and incomplete per LTR 322. Neither includes CLOMR application costs, extended general conditions, regulatory permitting fees, or potential reconstruction of completed work.

4.4 Draft Scour Analysis (February 2026)

Skanska/AECOM submitted a draft pier scour analysis and drilled shaft evaluation for the DAR Bridge on February 10 and 17, 2026, under protest per the IED. The draft analysis evaluates the current DAR Bridge shaft design under "not low" lateral migration scour and concludes the current shaft design is structurally adequate. The existing drilled shafts (100-135 ft) were sized for landslide demands that exceed the lateral migration scour depths. Only Piers 3 and 4 are within the 500-year flood limits. The remaining piers and abutments are unaffected.

The Ramp Bridge and Mainline Bridge do not have the same casing design as the DAR Bridge, and those two structures may not accommodate "not low" scour depths. Only the DAR Bridge has been analyzed.

This draft analysis is in review by WSDOT. WSDOT's review has identified questions about whether the draft analysis addresses all relevant load combinations under that condition.

4.5 Zero-Rise Certification and CLOMR

The Design-Builder has not yet completed or submitted a zero-rise certification per Section 2.14.6.11. This deliverable is blocked by the lateral migration dispute. The BFE analysis needed for zero-rise depends on the scour methodology (which changes depending on whether "low" or "not low" applies). Until the lateral migration question is resolved, whether a CLOMR is needed remains an open question that cannot be answered.

The 12-18 month CLOMR timeline referenced in SL 178 applies only if the "not low" design causes a rise in base flood elevation that cannot be offset. Countermeasure approaches (e.g., rock/log vanes per HEC-23) may avoid a BFE rise entirely, in which case no CLOMR would be required. The CLOMR risk is conditional, not certain, and depends on a revised BFE analysis that the Design-Builder has not yet submitted.

4.6 DAR Bridge Schedule

The DAR Bridge construction is scheduled for April 2026. Design is currently blocked pending dispute resolution. If the DAR Bridge foundations accommodate "not low" lateral migration without modification (as the draft analysis suggests), the schedule impact for that structure may be less than initially estimated. However, countermeasure design, BFE analysis, and potential CLOMR requirements remain unresolved.

5 Sequence of Events and Chronology

Date	Party	Event
2023-01-26	WSDOT	Addendum 9 issued. Adds Appendix H26 (Sammamish River Migration Risk Assessment) to the RFP as a reference document. Concludes risk is NOT LOW.
2023-03-02	WSDOT	Addendum 14 issued. Item 18 inserts "shall apply" language into Section 2.30.5.2.1 Certain Structure and Channel Design Characteristics.
2023-05-30	Skanska	Proposal submitted.
2023-06-22	Both	Bid opening.
2023-07-27	WSDOT	Contract awarded to Skanska.
2023-08-10	Both	Contract executed.
2024-07-16	Skanska	Draft FHD submitted (CRE-00888) with "low" lateral migration classification
2024-08-06	WSDOT	RCSR Comment #3 (L. Assink, Appendix A): "There needs to be some geotechnical data showing that the risk is low, I don't think there's enough information here to change the original determination of not low." RCSR Comment #4: "The piers closest to the channel should be designed for scour assuming the channel can move that far."
2024-08-20	Skanska	Zero Rise Report submitted (CRE-01059). Based on "low" classification.
2024-09-10	WSDOT	Zero Rise review comment: pipe size discrepancy only. Submittal not closed. Blocked pending lateral migration resolution.
2024-09-10	Skanska	Skanska/AECOM presented geotechnical data and lateral migration analysis to Fish Passage Task Force per WSDOT request. (per LTR 322)
2024-09-30	WSDOT	Luke Assink email: WSDOT considers lateral migration risk "low" only when geotechnical exploration shows non-erodible materials. (per LTR 322)
2024-10-25	Skanska	Skanska/AECOM transmitted OTS revised FHD to WSDOT, updated based on August RCSR comments. (per LTR 322)
2024-11-26	Both	Meeting on lateral migration. Skanska/AECOM and WSDOT independently concluded little to no channel movement since 1964. Dispute unresolved. (per LTR 322)
2024-12-23	Skanska	Skanska/AECOM transmitted revised FHD to WSDOT via email. Includes Level 1/2/3 analysis and BSTEM modeling. (per LTR 322)
2025-01-10	WSDOT	Technical comments on Dec 23 revised FHD re: downstream boundary condition in hydraulic model. (per LTR 322)
2025-01-13	WSDOT	FHD rejected. Review comments not resolved. (per LTR 322)

2025-01-21	WSDOT	WSDOT comments on Dec 23 revised FHD. (per LTR 322)
2025-02-10	Both	Multi-party technical meeting. WSDOT requests pier scour analysis assuming channel migrates to piers
2025-03-04	Skanska	Revised FHD submitted. Conclusion unchanged: "no significant lateral migration"
2025-04-21	WSDOT	Project Director email (Evelyn Pao) to Skanska: WSDOT does not concur with "low" classification. Cites Section 2.30.5.2.1 and mandatory standards. Referenced in SL 116 as "the email transmitted 4/21/25."
2025-06-13	WSDOT	SL 116: IED issued. Directs application of "not low" per Section 2.30.5.2.1
2025-06-27	Skanska	LTR 204: Response to IED. Disputes interpretation
2025-07-09	WSDOT	SL 125: RE: LTR 204
2025-07-17	Skanska	LTR 214: Requests workshop
2025-07-21	WSDOT	SL 127: Agrees to workshop
2025-07-23	Skanska	LTR 215: Pre-workshop AECOM position letter
2025-08-07	Both	Workshop held. Multi-discipline discussion, no resolution
2025-08-15	WSDOT	SL 139: Withholds determination while Skanska explores alternatives
2025-10-13	WSDOT	SL 178: CLOMR guidance. Warns of 12-18 month timeline
2025-12-17	WSDOT	SL 220: Follow-up. No compliant solution presented. Reiterated protest option
2025-12-30	Skanska	LTR 309: Notice of Protest. PCO 126. Requests 75-day extension
2025-12-31	WSDOT	SL 228: Denies 75-day request. Supplemental due Jan 16, 2026
2026-01-16	Skanska	LTR 322: Supplemental. 138 pages. AECOM analysis. Cost estimates \$450K-\$7.8M
2026-01-29	WSDOT	SL 252: Written Determination. Protest denied as "without merit"
2026-02-10	Skanska	DRAFT pier scour analysis for DAR Bridge submitted under protest
2026-02-12	Skanska	LTR 348: Notice of Dispute. Formal DRB escalation. Introduces Section 1-03.1 argument
2026-02-17	Skanska	DRAFT drilled shaft evaluation. Concludes current DAR Bridge design accommodates "not low" scour
2026-02-20	WSDOT	SL 269: Acknowledges dispute. Awaits written DRB referral

6 Affected Submittals

6.1 CRE-00888 (Sub 17.02): Draft Final Hydraulic Design (FHD)

Skanska submitted the Draft FHD (CRE-00888) on July 16, 2024. The submittal applied a "low" lateral migration classification for the Sammamish River bridges.

WSDOT issued RCSR review comments on August 6, 2024. Comment #3 (L. Assink, Appendix A) stated: "There needs to be some geotechnical data showing that the risk is low, I don't think there's enough information here to change the original determination of not low." Comment #4 stated: "The piers closest to the channel should be designed for scour assuming the channel can move that far." This was the first written WSDOT position on the "not low" requirement.

The submittal was not closed. What followed was an iterative informal review process, documented in Skanska LTR 322, involving over-the-shoulder (OTS) document exchanges, technical meetings, and WSDOT technical review. See Section 6.3 below.

Skanska submitted a revised FHD on March 4, 2025. The conclusion was unchanged: "no significant lateral migration." WSDOT did not concur.

6.2 CRE-01059 (Sub 19.05): Zero Rise Report

Skanska submitted the Zero Rise Report (CRE-01059) on August 20, 2024. The report was based on the "low" lateral migration classification.

WSDOT's RCSR review on September 10, 2024 identified a pipe size discrepancy only. The submittal was not closed. It was blocked pending resolution of the lateral migration dispute. The zero-rise analysis depends on the scour methodology, which changes depending on whether "low" or "not low" applies.

6.3 Over-the-Shoulder Documents and Informal Reviews (Sep 2024 - Jan 2025)

Between the initial RCSR comments (August 2024) and WSDOT's notification that the FHD was rejected (January 2025, per LTR 322), the parties engaged in an iterative informal review process. The events below are documented in Skanska LTR 322. Supporting documents are pending from the engineering team.

September 10, 2024: Skanska/AECOM presented geotechnical data and lateral migration analysis to the Fish Passage Task Force per WSDOT request.

September 30, 2024: Luke Assink (WSDOT) responded in writing that WSDOT considers lateral migration risk "low" only when geotechnical exploration shows non-erodible materials.

October 25, 2024: Skanska/AECOM transmitted an over-the-shoulder copy of the revised FHD to WSDOT, updated based on the August RCSR comments.

November 26, 2024: Meeting on lateral migration. Skanska/AECOM and WSDOT independently concluded little to no channel movement since 1964. Dispute unresolved.

December 23, 2024: Skanska/AECOM transmitted a revised FHD to WSDOT via email, including Level 1, Level 2, and Level 3 analysis with BSTEM modeling.

January 10, 2025: WSDOT provided technical comments on the December 23 revised FHD regarding the downstream boundary condition in the hydraulic model.

January 13, 2025: WSDOT rejected the FHD. Review comments not resolved.

January 21, 2025: Additional WSDOT comments (Gabe Ng, Alan Black, Darrel Sofield) on the December 23 revised FHD.

6.4 Draft Scour Analysis and Shaft Evaluation (February 2026)

Skanska submitted a draft pier scour analysis for the DAR Bridge on February 10, 2026, and a draft drilled shaft evaluation on February 17, 2026. Both were submitted under protest per the IED.

The draft analysis evaluates the current DAR Bridge shaft design under "not low" lateral migration scour and concludes the design is structurally adequate. Only the DAR Bridge has been analyzed. The Ramp Bridge and Mainline Bridge have not been evaluated. WSDOT review is in progress.

7 WSDOT Position

7.1 Contract Language: "Shall Apply" Is Dispositive

"Shall Apply" Plain Meaning and Addendum Sequencing

WSDOT: Section 2.30.5.2.1 states the "not low" lateral migration determination in the Sammamish River Migration Risk Assessment "shall apply." This language mandates the "not low" determination as a contract requirement.

Skanska: H26 was added first as "reference only." "Shall apply" was added later. No fixed intent.

WSDOT: The Contract was signed as a whole. Addendum 14 added the "shall apply" language after Addendum 9 added H26. WSDOT refined the requirement to be more explicit, not less.

H26 "Further Analysis" Language

Skanska: H26 says the determination "will require further analysis during final design." Therefore analysis can refine or override the determination.

WSDOT: H26 reads: "The risk of channel migration... is NOT LOW and therefore will require further analysis during final design." "Therefore" shows the further analysis is a consequence of the NOT LOW determination, not a license to revisit it. The Design-Builder must do further analysis because the risk is not low, not to determine whether it is. Skanska's reading renders Section 2.30.5.2.1 meaningless.

Specific Governs General

Skanska: The Contract must be read as an integrated whole, including FHD analysis requirements.

WSDOT: The explicit "shall apply" in Section 2.30.5.2.1 is a specific mandate that controls over general FHD analysis requirements.

7.2 Engineering Analysis Cannot Override Contract Language

Hydraulics Manual Methodology

Skanska: The contract-incorporated March 2022 Hydraulics Manual lacked lateral migration methodology.

WSDOT: Section 2.30.5.2.1 is self-contained. It does not depend on the Hydraulics Manual to establish the "not low" requirement. The manual provides methodology for compliance. The requirement derives from Section 2.30.5.2.1.

AECOM Analysis Results

Skanska: BSTEM, HEC-20, and FHWA Rapid Assessment demonstrate the risk is actually "low."

WSDOT: Engineering analysis cannot override explicit contract language. The proper mechanism to change the classification is a DBIC under Section 1-04.4(2). No such request has been submitted.

7.3 IED Authority: No Entitlement

WSDOT: Section 1-03.5: "No Interpretive Engineering Decision by WSDOT shall form the basis for an increase in the Contract Price or extension of the Contract Time, unless WSDOT expressly provides otherwise in writing." WSDOT did not expressly provide otherwise. SL 116 interprets existing requirements. It creates no entitlement.

7.4 Pre-Award Notice and Constructive Knowledge

WSDOT: Section 1-03.5 provides that the Design-Builder had the "opportunity and obligation, prior to submission of its Proposal, to review the terms and conditions of the Contract Documents and to bring to the attention of WSDOT any conflicts or ambiguities contained therein." Appendix H26 was added via Addendum 9 (January 26, 2023). Section 2.30.5.2.1 was added via Addendum 14 (March 2, 2023). Skanska submitted its Proposal on May 30, 2023 and certified via Form A that it had reviewed all RFP documents including all addenda. Skanska raised no conflicts or ambiguities regarding lateral migration before or after Proposal submission. The contract was awarded July 27, 2023 and executed Aug 10, 2023.

7.5 Silent Deviation

WSDOT: The Design-Builder did not file a DBIC, did not submit an OIC, and did not flag the departure from the contractual classification. WSDOT discovered the "low" application during FHD review. The Design-Builder unilaterally substituted its own determination for the contract requirement. The proper path was straightforward: comply with "not low," or file a DBIC under Section 1-04.4(2) to propose changing the classification. Skanska explicitly rejected the DBIC path in its Notice of Dispute.

7.6 LTR 322 Procedural Deficiencies

WSDOT: No schedule analysis per Section 1-04.5(2)(d). Cost estimates are "preliminary and subject to refinement," incomplete per Section 1-04.5(2)(c). No Section 408 analysis. No BFE impact analysis.

7.7 WSDOT Good Faith

WSDOT: Participated in workshop (Aug 7, 2025). Withheld determination for exploration of alternatives (SL 139). Offered dual compliance paths (structural or countermeasures). Provided CLOMR guidance (SL 178).

Skanska: WSDOT has not provided sufficient information to assess a path forward.

WSDOT: Direction given through SL 116 (IED, June 2025), workshop (August 2025), SL 139, SL 178 (CLOMR guidance), SL 220 (follow-up). Multiple compliance paths identified (structural or countermeasures per HEC-23).

7.8 H26 Classification Under Section 1-03.1

Skanska: H26 is "called out as a mandatory requirement" in Section 2.30.5.2.1, elevating it from Reference Document to Contract Document.

WSDOT: Even if elevated, H26 says "NOT LOW," which supports WSDOT's position, not Skanska's. Section 2.30.5.2.1 is the requirement source, not H26. The mandate is self-executing.

7.9 Delay

Skanska: WSDOT's position is delaying dependent design activities, DAR Bridge (April 2026).

WSDOT: The "not low" determination and "shall apply" mandate have been in the Contract Documents since January and March 2023. Skanska had the obligation to review these provisions before Proposal submission (May 30, 2023) per Section 1-03.5. The IED was issued June 2025. Schedule risk results from proceeding with a non-compliant design for nearly two years after WSDOT first stated its position in writing (August 2024 RCSR). Per Section 1-03.5, the IED creates no schedule entitlement.

8 Conclusion

The contract language is unambiguous. Section 2.30.5.2.1 mandates application of the "not low" lateral migration determination ("shall apply") to the Sammamish River structures. The Design-Builder did not raise any conflicts or ambiguities before Proposal submission and did not pursue a DBIC to change the classification.

Skanska/AECOM's draft scour analysis suggests the DAR Bridge foundations may accommodate "not low" lateral migration without modification. If confirmed, a collaborative resolution on that structure may be viable, narrowing the dispute's practical impact. The Ramp Bridge and Mainline Bridge have not been evaluated.

9 Recommendations Sought From the DRB

Does Section 2.30.5.2.1 Certain Structure and Channel Design Characteristics, of the Technical Requirements require the Design-Builder to apply the "not low" lateral migration determination to Sammamish River structures, or does it permit the Design-Builder to reach a different determination through independent analysis?

10 List of Attachments

1. RFP Section 2.30.5.2.1 Certain Structure and Channel Design Characteristics
2. Appendix H26: Sammamish River Migration Risk Assessment
3. Appendix D01: BDM Section 7.1.7 Scour Requirements
4. Appendix B04_2: Design Memorandum (April 28, 2023)
5. RFP Section 1-03.5 Ambiguities / Interpretive Engineering Decisions
6. RFP Section 1-04.4(2) Design-Builder Initiated Changes
7. SL 116: Interpretive Engineering Decision (June 13, 2025)
8. LTR 204: Design-Builder Response to IED (June 27, 2025)
9. SL 139: WSDOT Withholds Determination (August 15, 2025)
10. SL 178: CLOMR Guidance (October 13, 2025)
11. SL 220: Follow-up (December 17, 2025)
12. LTR 309: Notice of Protest (December 30, 2025)
13. LTR 322: Supplement to Protest 003 (January 16, 2026)
14. SL 252: Written Determination (January 29, 2026)
15. LTR 348: Notice of Dispute (February 12, 2026)
16. SL 269: WSDOT Acknowledges Dispute (February 20, 2026)
17. Skanska/AECOM DRAFT Scour Analysis and Drilled Shaft Evaluation (February 10 and 17, 2026)
18. Addendum 9 (January 26, 2023)
19. Addendum 14 (March 2, 2023)
20. Form A Certification
21. SL 125: RE: LTR 204 (July 9, 2025)
22. SL 127: Agrees to Workshop (July 21, 2025)
23. CRE-00888 (Sub 17.02) RCSR -- WSDOT review comments (August 6, 2024). Comments #3 and #4
24. CRE-01059 (Sub 19.05) -- Zero Rise Report for Sammamish River (August 20, 2024) and WSDOT RCSR (September 10, 2024).