



9/18/2025

Letter No. 235
BY-CRE-03595

Evelyn Pao, P.E., Project Director
Washington State Department of Transportation
18911 N Creek Pkwy S, Suite 150
Bothell, WA 98011

Project: I-405, Brickyard to SR 527 Improvement Project
Contract No: 009727

Subject: Notice of WSDOT-Initiated Change: Juanita Creek Temporary Stream Diversion & Use of Angular Rock

Dear Ms. Pao:

Skanska is in receipt of WSDOT SL No. 9727-151, dated September 5, 2025, rejecting Skanska's request for a WSDOT-Initiated Change (NIC) to remove the angular rock and reconstruct a scour pad in compliance with Washington Department of Fish and Wildlife (WDFW). Skanska respectfully submits the following position, asserting contractual compliance and WSDOT responsibility:

Skanska's Design Compliance

- Skanska's installation of RESP Class C angular rock was approved under the Juanita Creek Overwinter Bypass Plan (Permit No. 2021-4-857+01, APP ID: 26582) permit modification to the Hydraulic Project Approval permit (HPA) by WDFW and became a permit requirement.
- The design strictly followed the contractual hierarchy of documents (RFP Section 2.30.3.1), with the WSDOT Hydraulic Manual as the primary design authority.
- The document submitted to WDFW to modify the HPA permit provided the opportunity for WDFW to review our plan to provide comment on the design of the bypass, however WDFW did not and then proceeded to approve the modification to the HPA.
- Section 3-4.7 of the Hydraulic Manual supports the use of Class C rock for energy dissipation at high-velocity outlets. The Temporary Stream Diversion Plan (TSDP) incorporated both plunge pools and angular rock, fully meeting technical requirements and good engineering practices. Further, during the RCSR phase, the design was adjusted to address comments from WSDOT and the City of



Kirkland to specifically address the impacts from the anticipated discharge flow velocities.

Technical Necessity of Angular Rock

- Site-specific hydraulic conditions, including peak flow velocities and scour potential, necessitated the use of angular rock to achieve the intended energy dissipation and stability.
- This approach was documented in One Atlas's Technical Memorandum submitted to WSDOT and WDFW on August 8, 2025.
- The approved design was fully compliant with contract requirements and met the intent of both the Hydraulic Manual and project-specific permits.

Post-Construction Agency Comments – WSDOT Responsibility

- Skanska received WDFW's directive to replace angular rock after construction was completed. At that point, it was physically impossible for Skanska to incorporate these comments prior to execution.
- WSDOT was fully aware of Skanska's construction schedule and sequencing. By approving the TSDP and allowing construction to proceed on schedule, WSDOT assumed responsibility for any subsequent agency feedback received post-construction.
- WSDOT Specification 2.1 explicitly acknowledges that agencies may impose additional requirements after completion of the Design-Builder's design, and that coordination of these requirements is the responsibility of WSDOT. Skanska has complied with all requirements under this specification, including notification to WSDOT.
- WSDOT acts in a central role of authority as the approver in the submittal approval process as well as agent to the HPA modification approval. WSDOT has the obligation to provide thorough design review.

Impact of Post-Construction Changes

- The directive to remove and replace approved angular rock is outside of Skanska's control and constitutes a WSDOT-directed change.
- Any cost, schedule, or contractual impacts resulting from this post-construction change are the responsibility of WSDOT, not Skanska.

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- Skanska requests that WSDOT promptly issue an Owner-Initiated Change (OIC) to cover all associated impacts, including recovery of all costs and schedule delays caused by this retroactive requirement.

Skanska protests WSDOT's refusal to issue an OIC. The original design fully complied with the approved TSDP, Hydraulic Manual guidance, and contract requirements. WSDOT's post-construction directive to replace angular rock constitutes a change initiated by WSDOT, and Skanska is entitled to just compensation for all cost and schedule impacts, as explicitly provided under the contract and applicable law.

We again request that WSDOT promptly issue an Owner-Initiated Change (OIC) to address all associated impacts resulting from the replacement of the angular rock with rounded rock per the direction received from the Washington Department of Fish and Wildlife.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Patrick Prendergast, Vice President

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