

# SKANSKA

February 6, 2026

Letter No. 343  
BY-CRE-04635

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: Request for Reconsideration – Response to WSDOT SL-247 - PCO 112 Juanita Creek West Wetland Discovery**

## References:

1. WSDOT Serial Letter 9727-247, dated January 23, 2026
2. WSDOT Serial Letter 9727-191, dated December 24, 2025
3. WSDOT Serial Letter 9727-107, dated May 2, 2025
4. Skanska Letter SL-311, dated January 6, 2026
5. Skanska Letter No. 175 (BY-CRE-02401), dated April 11, 2025

Dear Ms. Pao:

Skanska USA Civil ("Skanska") is in receipt of WSDOT Serial Letter 9727-247, dated January 23, 2026, which denies Skanska's claim for \$14,311 in unforeseen administrative costs associated with the discovery of a previously unidentified wetland at Juanita Creek West. Skanska respectfully requests that WSDOT reconsider this denial based on the contract interpretation set forth below.

Without waiving any rights under Section 1-04.5 of the General Provisions, and expressly reserving the right to pursue formal protest and Disputes Review Board proceedings if reconsideration is denied, Skanska provides the following clarification of the applicable contract provisions.

## I. BACKGROUND

On April 2, 2025, Skanska's Environmental Compliance Manager discovered an unidentified slope/riverine wetland of approximately 1,127 square feet on the left bank of Juanita Creek West. The wetland, characterized by indicator species including skunk cabbage, lady fern, and solanum, as well as hydric soil conditions, was located directly within the Project's grading path for the Conceptual Design stream realignment.

Skanska timely notified WSDOT of this discovery via Letter No. 175 on April 11, 2025, reserving rights to cost and time compensation. WSDOT acknowledged the discovery in SL 9727-107 and agreed to coordinate permit modifications. WSDOT's subsequent correspondence has denied Skanska's claim for administrative costs on grounds that Skanska believes reflect an incomplete reading of the applicable contract provisions.

## II. RFP SECTION 2.8.5.4.5 - FULL CONTEXT

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WSDOT's denial relies primarily on RFP Section 2.8.5.4.5, titled "Additional Impacts." Skanska respectfully submits that the provision must be read in its full context. The complete provision states:

*"If the Design-Builder proposes changes that have the potential to result in impacts that are not considered in the environmental documents, permits, or approvals, the Design-Builder shall conduct field investigations to assess impacts to Sensitive Areas and to determine if additional and previously unidentified Sensitive Areas are present. If known or previously unidentified Sensitive Areas are present and would be impacted by the proposed change, or if previously unidentified Sensitive Areas are present that would be impacted by the Conceptual Plans, the Design-Builder shall provide the WSDOT Engineer with all information necessary to obtain a permit modification."*

(RFP Section 2.8.5.4.5, emphasis added.)

The operative framework of this provision is triggered by Design-Builder-proposed changes. The clause regarding previously unidentified Sensitive Areas impacted by the Conceptual Plans is subordinate to the threshold condition that the Design-Builder must have "propose[d] changes."

In this instance, Skanska proposed no changes. The wetland was discovered during review of WSDOT's Conceptual Design elements - specifically, the stream realignment and outfall location included in the Basic Configuration. WSDOT acknowledged in SL 9727-247 that the wetland "was within the Project's grading path" and that "the Project's Conceptual Design for the realigned stream channel would have impacted the newly discovered wetland." The impact would have resulted from WSDOT's design, not from any change proposed by Skanska.

### III. RFP SECTION 2.8.5.2.2 - APPLICABLE SCOPE

WSDOT also cites RFP Section 2.8.5.2.2, which addresses costs and delays resulting from "discovery of a previously unknown sensitive resource." The full provision specifies when this applies:

*"All costs, delays, or both that result from the discovery of a previously unknown sensitive resource (i.e., streams, wetlands, other protected waters, and archaeological resources) due to any Alternative Technical Concept (ATC), alternative construction method, or design change shall be the Design-Builder's responsibility, in accordance with Section 1-04 of the General Provisions."*

(RFP Section 2.8.5.2.2, emphasis added.)

The discovery at Juanita Creek West did not result from any ATC, alternative construction method, or design change proposed by Skanska. The wetland was discovered during the routine field verification required by RFP Section 2.8.5.3, which obligates the Design-Builder to "conduct an independent verification prior to the installation of HVF and HVSF to confirm that all Sensitive Areas have been identified." Skanska was performing this contractual obligation when it discovered a wetland that was not identified in WSDOT's baseline environmental documentation.

### IV. WSDOT'S BASELINE ENVIRONMENTAL DOCUMENTATION

RFP Section 2.8.5.3 states: "WSDOT prepared three reports to support environmental permitting for the Project: Wetland and Stream Assessment Report for the SR 522 to SR 527 ETL Project, Jurisdictional Ditch Assessment for the SR 522 to SR 527 ETL Project, and Wetland and Stream Assessment Report for Brickyard."

These WSDOT-prepared reports, together with the Joint Aquatic Resource Permit Applications (JARPA) included in Appendix P1 and P3, formed the environmental baseline for the Project. The JARPA figures for the Brickyard area do not depict any wetland on the left bank of Juanita Creek at the location where

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the wetland was discovered. The wetland indicators present - skunk cabbage, lady fern, and hydric soils - are standard markers that would typically be identified in wetland delineation surveys.

Skanska submits that when actual site conditions differ from those represented in WSDOT's baseline documentation - through no action or change proposed by the Design-Builder - the resulting administrative costs should be compensable.

## V. REQUEST FOR RECONSIDERATION

For the reasons stated above, Skanska respectfully requests that WSDOT reconsider its denial and:

1. Approve Skanska's claim for \$14,311 in unforeseen administrative costs; and
2. Acknowledge that the discovery of the previously unidentified wetland at Juanita Creek West resulted from conditions not depicted in WSDOT's baseline environmental documentation, rather than from any Design-Builder-proposed change.

Skanska believes this matter can be resolved through mutual agreement and requests the opportunity to discuss further at WSDOT's earliest convenience. As noted above, Skanska reserves all rights to additional cost and time impacts, as well as the right to pursue formal protest and DRB proceedings if reconsideration is not granted, per the contract and applicable law.

Please contact the undersigned to discuss resolution of this matter.

Respectfully,



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Patrick Prendergast, Vice President

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### **Attachments:**

N/A