

February 24, 2026

Patrick Prendergast, P.E.
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Bothell, WA 98011

WSDOT SL No. 9727-280

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

Subject: **Interpretive Engineering Decision – Juanita Creek Fish Passage – Lateral
Migration Requirements (Issue SKA-0303)**

Mr. Prendergast:

WSDOT is in receipt of Skanska Letter No. 337, dated January 30, 2026, regarding lateral migration design requirements at the Juanita Creek Fish Passage (I-405 MP 21.94). This letter constitutes an Interpretive Engineering Decision pursuant to RFP Section 1-03.5.

After reviewing the assertions and supporting documentation, WSDOT does not concur that RCSR comments directed a change to Contract requirements, nor does WSDOT agree that an Owner-Initiated Change is warranted.

1. Contract Requirements Control

Table 2.30-B designates Juanita Creek as “Yes” for “Is the risk of Lateral Migration (Structural) low?” and RFP Section 2.30.5.2.1 establishes that Table 2.30-B governs where conflicts exist. WSDOT agrees that Juanita Creek is contractually designated as low lateral migration risk and that this designation controls. However:

- No written direction was issued by WSDOT requiring Juanita Creek to be treated as “not low.”
- No modification to Table 2.30-B was issued
- No written direction was provided instructing the Design-Builder to apply Figure 8.1.10-2 (Scour WITH Lateral Migration) in lieu of Figure 8.1.10-1.

RFP Section 1-02.1 explicitly states that review comments and meeting discussions do not amend Contract requirements and do not relieve the Design-Builder of design responsibility. Accordingly, RCSR comments cannot constitute direction to exceed Contract requirements.

2. RCSR Comments Did Not Direct a Change

Skanska asserts that Comments 40, 41, 129, 188, 191, 195, and 196 constituted directions to incorporate lateral migration.

WSDOT's review of these comments shows:

- The comments were requests for clarification, reconciliation, or additional discussion with Design Builder.
- No comment directed that Juanita Creek be reclassified as "not low."
- All comments were closed.

Notably:

- Comment 41 was closed by the WSDOT Design Manager on July 28, 2025.
- Comment 196 requested clarification of conclusions based on the Design-Builder's own analysis and explicitly allowed revision if incorrect.

Preliminary Comments on the Juanita Creek East Portal comment 3 and comment 4 referenced the requirements of BDM 8.1.10 for evaluation of total scour. BDM 8.1.10 is a pre-existing Mandatory Standard that applies to all retaining walls constructed along rivers and streams, regardless of the lateral migration classification in Table 2.30-B. Those comments did not direct, imply, or require reclassification of lateral migration risk under the Contract.

The Design-Builder retained full discretion to design in accordance with Table 2.30-B.

Comment 196 from WSDOT states: "a) Could you make your conclusion clear and complete based on the info you have, 2) Please the term 'NOT low' is used. Based on what I read, it seems like this should be your summary. 'Based on the available geologic and geomorphic understanding described in section 2, the risk of lateral migration is NOT low. The existing sediments/soils in the bed and banks are considered erodible. Beavers/beavers dams are present in the watershed. It is possible that the channel could shift or change. We were not able to determine the amount the channel has changed historically.' If this is not correct, please revise"

WSDOT requests clarification regarding what specific design elements were modified to account for lateral migration and the technical basis for those changes. At this time, the Juanita Creek Hydraulic Design Report has not been finalized as RFC, and total scour calculations have not been formally finalized or approved.

Further, the RFC submittal for the Juanita Creek East Portal indicates that the calculated bottom of total scour elevation remains well above the pile tip elevations. Based on the information currently available to WSDOT, the pile embedment depths appear to be governed by constructability considerations related to tunnel footing installation rather than by scour requirements. The footing elevations have not changed between the preliminary, final, and RFC submittals of the Juanita Creek East Portal.

3. Design Narrative Was Developed by the Design-Builder

The design narrative incorporating lateral migration at Juanita Creek originated from the Design-Builder's own analysis and assumptions and WSDOT did not direct the Design-Builder to assume lateral migration for scour purposes.

4. Timeline Does Not Support Owner Direction

The sequence of events are the following:

- July 8, 2024 – Preliminary Juanita Creek Hydraulic Design Report submitted.
- January 28, 2025 – Final Juanita Creek Hydraulic Design Report submitted.
- March 25, 2025 – Preliminary Juanita Creek East Portal design submitted.
- July 15, 2025 – Fish Passage Task Force minutes state that the Contract definition of low lateral migration would be followed.
- July 28, 2025 – WSDOT Comments on lateral migration were closed consistent with Contract terms: lateral migration at Juanita Creek is defined as low and shall be followed, otherwise need a DBIC from Design Builder.
- September 16, 2025 – Final Juanita Creek East Portal submittal included updated pile depths. The submittal occurred after the Fish Passage Task Force meeting and WSDOT comment closure on lateral migration on July 28, 2025.
- December 31, 2025 – RFC Juanita Creek East Portal submittal contained no changes relative to the final design regarding pile depth.

The Design-Builder proceeded to RFC release after lateral migration was clarified as “low.” WSDOT did not issue direction between July clarification nor RFC release requiring inclusion of lateral migration.

5. Cost Impact Assertions

Skanska attributes approximately \$5.47M in cost impacts due to incorporation of lateral migration.

WSDOT notes:

- The Design-Builder has not demonstrated a written directive requiring application of a “not low” methodology.
- The Hydraulic Design Report has not yet been finalized for RFC.
- Total scour calculations remain subject to finalization.

6. Buried Riprap Countermeasures

WSDOT requests clarification regarding the design basis for buried riprap. It is WSDOT's understanding that the buried riprap is designed based on the contract requirements from Sections 2.6.6.3.1 and 2.13.4 and is unrelated to lateral migration.

WSDOT requests a targeted discussion if this is not the case and would like to work together to ensure the design drivers are understood and resolutions can be achieved on a path forward to meet the above requirements.

7. WSDOT Position

WSDOT's position is as follows:

1. Table 2.30-B governs and designates Juanita Creek as low lateral migration risk.
2. No written direction was issued requiring application of a “not low” methodology.
3. RCSR comments did not amend Contract requirements.
4. The Design-Builder retained responsibility for reconciling its design assumptions with Contract language prior to RFC release.
5. No Owner-Initiated Change is warranted based on the information presented.

WSDOT remains committed to cooperative resolution while maintaining adherence to the Contract requirements.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Evelyn Pao', written in a cursive style.

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

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