



April 24, 2026

Letter No. 411
BY-CRE- 05320

Evelyn Pao, P.E., Project Director
Washington State Department of Transportation
I-405/SR 167 Program
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 Protest 021 – Issue SKA-0320 - Fish Passage Streambed Material Gradation

Dear Ms. Pao:

Skanska USA Civil West California District Inc. ("Skanska") submits this letter as a formal Notice of Protest pursuant to GP 1-04.5(1) of Contract No. 009727, in response to WSDOT SL No. 9727-318, dated April 10, 2026, in which WSDOT denied Skanska's Notice of Equitable Adjustment (Skanska LTR 388) and supplemental exhibits (Skanska LTR 392). Skanska disputes WSDOT's determination in its entirety. Concurrent with this letter, Skanska transmits AECOM Technical Services, Inc.'s ("AECOM") Notice of Protest, dated April 22, 2026, as an enclosure.

I. WSDOT Provided Written Direction to Proceed with Over-Coarsened Material

WSDOT SL 318 asserts that "no field explanations or interpretations provided by WSDOT at any meetings" can be deemed to constitute direction under GP 1-02.1, and that no Written Change Order was issued. Skanska respectfully disagrees. The project record contains written direction from WSDOT that is distinct from, and not encompassed by, the meeting-discussion exclusion of GP 1-02.1.

On November 1, 2024, Alex Strom, P.E., WSDOT's designated I-405/SR 167 Corridor Program GEC Fish Passage Lead, provided written directions to AECOM via email correspondence. This email is not a "field explanation" at a meeting, it is written correspondence from WSDOT's authorized technical lead, providing specific, documented direction to proceed with the upsized sediment approach. Mr. Strom directed AECOM to: (1) document calculations showing the need for upsized material; (2) document that AECOM followed WSDOT directives from the Streambed Material Decision Tree; (3) document the sediment-starved system conditions; and (4) justify upsizing per WSDOT Hydraulics Manual guidelines. Each of these conditions were satisfied by AECOM and complied with this written direction in good faith.

Furthermore, the official project meeting minutes for Fish Passage Task Force Meeting (TFM) #18, dated August 27, 2024, prepared, distributed, and never formally disputed by WSDOT, record the following as official meeting minutes: "Per WSDOT: Northfork Perry, Queensborough 405, Stream 25L, and Juanita proceed with 20% larger sediment than existing showing that it will scour and will be mobile with narrative within document that Shields equation does not take into account wood." This direction was reaffirmed in TFM #19, dated September 10, 2024, which records the agreed path forward as: "Continue with over-coarsened channel for Juanita and SR 527 FHDs." These are the official documented project records, not informal field notes, and they establish WSDOT's direction to the Design-Build team.

II. WSDOT Cannot Direct the Decision Tree Process and Then Deny the Result

WSDOT SL 318 argues that the Hydraulics Manual Streambed Material Decision Tree requires a prior agreement between WSDOT and WDFW before over-coarsened material may be used, and that no such agreement was reached. This argument is undermined by the project record. It was WSDOT itself through its GEC Fish Passage Lead that directed AECOM to follow the Decision Tree process and document the conditions supporting the over-coarsened approach. WSDOT assigned action items to AECOM at TFM

#16 (July 30, 2024) to provide the path-forward documentation. WSDOT subsequently deliberated internally (TFM #17, August 13, 2024) and then formally directed AECOM to proceed (TFM #18, August 27, 2024).

The absence of a formal WSDOT-WDFW written agreement does not shift responsibility to the Design-Builder when WSDOT's own technical lead directed the Design-Build team to follow the Decision Tree and proceed with the over-coarsened approach. WSDOT cannot direct a design path, accept fourteen months of design development in that direction, and then retroactively characterize the entire effort as a unilateral Design-Builder decision for which no compensation is due.

III. GP 1-05.1 Required Compliance with WSDOT Direction

GP 1-05.1 provides that "the Design-Builder shall perform as directed by the WSDOT Engineer in a diligent manner and without delay." Skanska and AECOM complied with this obligation. The Design-Build team performed precisely as directed by WSDOT's authorized technical personnel. WSDOT now seeks to characterize that compliance as a unilateral Design-Builder decision. Skanska submits that the Design-Builder cannot be held responsible for following WSDOT's direction while simultaneously being denied compensation when that direction is reversed. WSDOT's reversal of its own direction beginning in early 2025, after fourteen months of coordinated design development, constitutes a compensable constructive change under GP 1-04.4, regardless of whether a formal Written Change Order was issued.

IV. WSDOT's Fourteen-Month Acquiescence Constitutes Ratification

From July 2024 through January 2025, WSDOT reviewed design submissions, participated in bi-weekly TFMs, and at no point formally objected to the over-coarsened design approach or issued direction to return to Table 2.30-B compliance. WSDOT's Fish Passage Design Packages were submitted in that period and were under active review. WSDOT's failure to timely object to the design approach and its active participation in advancing that approach, constitutes ratification of the directed design path. Skanska asserts that WSDOT cannot belatedly deny having issued direction when the project record, including its own meeting minutes and email correspondence, demonstrates otherwise.

V. Juanita Creek OIC Request Remains Valid

WSDOT SL 318 does not specifically address the Juanita Creek OIC request on the merits. Both parties have acknowledged that site constraints at Juanita Creek justify a sediment gradation larger than the 20% threshold in Table 2.30-B. WSDOT's own February 24, 2026 Fish Passage TFM records the agreed path forward at Juanita Creek as requiring a gradation above 20% of the existing condition, supported by site justification language in the FHD. Skanska reiterates its request for a formal OIC at Juanita Creek consistent with this acknowledged departure from Table 2.30-B.

VI. Request for Extension of Time to Submit Supplemental Written Statement

Pursuant to GP 1-04.5(2), Skanska intends to supplement this written protest with a comprehensive written statement. Consistent with WSDOT's direction in SL 318 that each crossing be addressed separately, the supplemental written statement will be organized with a dedicated section for each of the four fish passage crossings — Juanita Creek, Queensborough SR-527, Queensborough I-405, and North Fork Perry Creek — each containing: (1) a site-specific factual record of the direction events and reliance actions; (2) a site-specific causation analysis tying WSDOT's direction and reversal to discrete rework and delay; and (3) site-specific preliminary cost and schedule impact estimates. Given the volume and complexity of the project record spanning July 2024 through the present, the standard 14-calendar-day supplemental period is insufficient to prepare this level of site-by-site detail. Skanska, consistent with AECOM's request in its April 22, 2026 letter, respectfully requests an extension of 50 calendar days from the date of this letter to submit the supplemental written statement. Expectant supplemental delivery date will be Friday, June 12, 2026.

VII. Reservation of Rights

This letter is submitted 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 herein shall be



interpreted as a modification or waiver of Skanska's right to assert the same. Skanska expressly preserves all rights related to each of the four fish passage crossings addressed herein.

Respectfully

A handwritten signature in black ink, appearing to read 'PP', is positioned above a horizontal line.

Patrick Prendergast, Vice President

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

Attachments:

1. *AECOM Notice of Protest – PCN-00148, dated April 22, 2026*
2. *Previously transmitted supporting documentation (TFM #16–#19 Meeting Minutes and 2024 WSDOT-AECOM Email Correspondence) enclosed with Skanska LTR 388 and LTR 392, receipt confirmed by WSDOT SL No. 9727-318.*



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4/22/2026

Via E-mail

Kyle Sharrer
Skanska USA Civil West California
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**RE: I-405, Brickyard to SR 527 Improvement Project
Contract No:009727
AECOM Response to WSDOT SL No. 9727-318 - Streambed Material Gradation - Notice of Protest (PCN 00148 – WDFW Sediment Size)**

Dear Kyle:

AECOM acknowledges receipt of WSDOT's correspondence (WSDOT SL No. 9727-318), dated April 10, 2026. In this letter, WSDOT rejected Skanska's formal notice of a WSDOT Initiated Change (See Skanska Letter No. 388 entitled Notice of Equitable Adjustment - Owner-Directed Changes to Fish Passage Streambed Material Gradation (Issue SKA-0320), dated March 27, 2026) pertaining to WDFW Sediment Size.

As AECOM disagrees with the WSDOT Engineer's Written Determination set forth in the aforementioned letter, we are hereby submitting a formal notice of protest in accordance with Section 1-04.5 (1) of the RFP. The protest is based on the assertion that AECOM is entitled to equitable adjustments to the Contract Price and Contract Time due to guidance and direction provided by WSDOT. WSDOT's letter alleges that WSDOT did not direct the design build team to proceed using over-coarsened streambed material and that design progression using the over coarsened material was decided by the design team. The project record shows this assertion is incorrect and that WSDOT provided direct and explicit guidance and direction to move forward with the materials determined during preliminary design. This is proven by the attached email from Alex Strom (WSDOT) in Skanska's letter 388.

Furthermore, pursuant to Section 1-04.5 (2) of the RFP, AECOM intends to supplement this written protest. Given the substantial time required to prepare a comprehensive report detailing the relevant facts and their impacts, the standard timeframe of 14 calendar days is insufficient. Therefore, AECOM respectfully requests an extension of 50 calendar days to ensure the development of an exhaustive and detailed supplemental submission. As WSDOT has directed that each of the four fish passage crossings be addressed separately, the timeline for resolution will increase and result in additional effort. AECOM believes that this is unnecessary, however, AECOM will comply with the WSDOT direction in its forthcoming supplemental letter.

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 protest and request for an extension of time to WSDOT per the Design-Build Contract.

Yours sincerely,

AECOM Technical Services, Inc.

A handwritten signature in black ink, appearing to read 'Jon Guerrero', with a stylized, flowing script.

Jon Guerrero, PE

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E: jon.guerrero@aecom.com

cc: Evan Grant (AECOM)

Richard Patterson (AECOM)