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Via U.S. Mail
Regional Freedom of Information Officer
U.S. Environmental Protection Agency, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 Sixth Avenue, ETPA-124
Seattle, Washington 98101

Re: FOIA Request Regarding Leavenworth National Fish Hatchery

Dear Regional Freedom of Information Officer:

This is a request for records within the custody and/or control of the United States Environmental Protection Agency ("EPA") submitted under the Freedom of Information Act, 5 U.S.C. § 552, *as amended*, on behalf of the Wild Fish Conservancy. This request relates to the Leavenworth National Fish Hatchery operated by the United States Fish and Wildlife Service ("FWS") and located near Leavenworth, Washington (the "Hatchery").

Please provide copies of all documents generated, created, modified, received, submitted, and/or issued by EPA since March 28, 2017, related to the Hatchery. **Excluded** from this request are any discharge monitoring reports (i.e., DMRs) and associated worksheets submitted by FWS. This request includes:

1. Documents (other than DMRs), including any communications, from and/or to FWS related to the Hatchery;

2. Documents related to the Clean Water Act section 402 permitting process for the Hatchery and/or the former Clean Water Act section 402 permit for the Hatchery, including any draft permit and any communication on such matters with the Hatchery, the Washington Department of Ecology, the United States Fish and Wildlife Service, the National Marine Fisheries Service, and/or members of the public;

3. Documents related to the Clean Water Act section 401 certification process for the Hatchery and/or the former Clean Water Act section 401 certification for the Hatchery, including any draft 401 certification and/or any communication on such matters with the Hatchery, the Washington Department of Ecology, the United States

Fish and Wildlife Service, the National Marine Fisheries Service, and/or members of the public;

4. Documents related to any consultation under section 7(a)(2) of the Endangered Species Act on effects of the Hatchery, including any final or draft biological assessment, final or draft biological evaluation, final or draft biological opinion, and/or any communication on such matters with the Hatchery, the United States Fish and Wildlife Service, the Washington Department of Ecology, the National Marine Fisheries Service, and/or members of the public.

Please let me know if you have any questions regarding the scope of this request. Please also respond to this request within the time allowed by law.

This request is made on behalf of Wild Fish Conservancy. Wild Fish Conservancy is a non-profit member-based conservation organization with approximately 2,400 members. Wild Fish Conservancy actively informs the public on matters affecting water quality, fish, and fish habitat in Washington. Through publications, commentary to the press, sponsorship of educational programs and events, and the development of an institutional expertise regarding water quality, fish, and fish habitat, it has become very involved in the development of a statewide agenda for the protection of these resources. Wild Fish Conservancy has lobbied, litigated, and publicly commented on federal and other actions that affect waters in Washington.

Wild Fish Conservancy requests that all fees be waived because "disclosure of the information is in the public interest...and is not primarily in the commercial interest of the requestor." 5 U.S.C. 552(a)(4)(A)(iii). Wild Fish Conservancy is seeking this information in order to understand and help the public understand EPA's evaluations and authorizations of the Hatchery, including discharges of pollutants from the Hatchery to Icicle Creek. Release of the requested information is in interest of the general public in that it will further an understanding of EPA's evaluations, processes, and determinations regarding the Hatchery and its effluent discharges.

1. The records concern the operations or activities of the Government.

The FOIA request is, by its terms, limited to identifiable operations and activities of EPA.

2. The release of the requested records is likely to contribute to public understanding of government operations.

The requested documents relate to the government's processes and evaluations for a government-owned Hatchery and its effluent discharges to Icicle Creek. The information will be evaluated by Wild Fish Conservancy (or retained experts) and then, along with the evaluations, released to the public. The requested documents will therefore contribute to public understanding of government operations, as Wild Fish Conservancy will identify the federal government as the source of the base information.

3. *The release of requested records will contribute significantly to public understanding of the governmental activities.*

Production of the records is likely to contribute significantly to public understanding of the operations or activities of the government. Wild Fish Conservancy is a 501(c)(3) organization in Washington state dedicated to the recovery and conservation of the region's wild-fish ecosystems. Through science, education, and advocacy, Wild Fish Conservancy promotes technically and socially responsible habitat, hatchery and harvest management to better sustain the region's wild-fish heritage.

The organization was founded in 1989 under the name Washington Trout. In February 2007, the organization's name was changed to Wild Fish Conservancy in order to better communicate its goals and strategies, and to minimize ambiguities regarding its mission and affiliations. Since 1989, Wild Fish Conservancy has built a reputation among public and tribal agencies, the business community, scientific institutions, and environmental and community organizations for effectiveness, technical credibility, and a focus on the resource.

Wild Fish Conservancy has a staff of nineteen professional scientists, advocates, and educators, and a Board of Directors made up of dedicated and accomplished scientists, natural-resource managers, business people, and activists. The organization works closely with a broad and dynamic coalition of regional and national conservation organizations, academic institutions, community organizations, and other scientists. Wild Fish Conservancy is often relied on by other conservation advocates for its technical expertise in wild-fish ecology, and the Wild Fish Conservancy staff has developed mutually respectful, professional relationships with key management and policy personnel at all relevant local, state, tribal, and federal agencies.

Because of the experience of the organization and the staff in understanding issues surrounding fish and aquatic resources in this region, Wild Fish Conservancy is well-suited to increase the public's understanding of EPA's processes on and evaluation of the effluent discharges at the Hatchery. More detail on the specific qualifications of the organization's staff can be found at the website, www.wildfishconservancy.org.

In addition to its general interest described above, Wild Fish Conservancy has a particular interest in issues related to the operation of fish hatcheries. In fact, the organization has for some time been one of the few advocacy groups calling for a more detailed examination of hatchery practices. The only National Pollutant Discharge Elimination System permit for the Hatchery was issued in 1974. The Hatchery's effluent therefore has not been evaluated under or subjected to updated technology-based or water-quality based effluent limits for several decades. Wild Fish Conservancy has been involved in various processes and studies related to the habitat and ecology of Icicle Creek. Aside from the recent draft permit and associated fact sheet, EPA has not publically release information related to its processes on and evaluations of effluent at the Hatchery. Release of the requested information and analysis thereof conducted by a third party such as Wild Fish Conservancy will therefore contribute significantly to the public's understanding of the Hatchery's impacts on Icicle Creek, the river's restoration potential, and thus, the operations of the federal government. The information contained in the released records

will be only one part of Wild Fish Conservancy's analysis of the Hatchery and of EPA's evaluation thereof.

Wild Fish Conservancy will use the requested documents to further the public's understanding of EPA's processes and evaluations and of the Hatchery's impacts through reports and/or other means, including public presentations. Wild Fish Conservancy publishes a detailed annual report of its activities and makes additional periodic electronic reports to its members (there are approximately 3,000 names on WFC's electronic mailing list). The staff of Wild Fish Conservancy presents findings of its activities to civic and other organizations throughout the year. In addition, Wild Fish Conservancy is represented on various committees and boards charged with restoration of watersheds and recovery of fish or ecosystems in Washington and the information gained will be communicated to the general public and interested parties through those venues as well. Lastly, Wild Fish Conservancy communicates regularly with other conservation groups and these groups often reciprocate and report on each other's findings. Recent activities conducted by Wild Fish Conservancy on examining hatchery practices have generated significant public interest (relative to other natural resource issues), and information received in the requested records will be incorporated into Wild Fish Conservancy's ongoing work.

Wild Fish Conservancy is unaware of this information being otherwise available to the public and this information will therefore significantly contribute to the public's understanding of the subject matter of the request.

4. Disclosure would not serve a commercial interest of the requestor.

Disclosure is in no way connected with any commercial interest of the requestor, as Wild Fish Conservancy is a nonprofit, nonpartisan public interest organization

If access to any of the requested records is denied, please note that the Freedom of Information Act provides that if only portions of a requested file are exempted from release, the remainder must still be released. I therefore request that I be provided with all non-exempt portions that are reasonably segregable. I further request that you describe the deleted material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies in this instance. Please separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements will be helpful in deciding whether to appeal an adverse determination, and in formulating arguments in case an appeal is taken. Your agency's written justification might also help to avoid unnecessary litigation. I reserve our rights to appeal the withholding or deletion of any information and expect that you will list the office and address where such an appeal can be sent.

Access to the requested records should be granted within the time prescribed by law. Failure to respond in a timely manner shall be viewed as a denial of this request and the requestor may immediately file an administrative appeal.

Please contact me if you have any questions about this request, particularly concerning the identity of the records requested. Thank you in advance for your assistance in this matter.

Very truly yours,

Very truly yours,

KAMPMEIER & KNUTSEN, PLLC

By: _____
Brian A. Knutsen