

Sample Motion to Intervene

This sample has a combination fill in the blank and a descriptive format. Text that is underlined should be replaced with the information stated in the parentheses. Within the body of the motion, descriptive paragraphs are provided to inform you of what should be included in each individual section. In addition, a sample paragraph is provided within brackets for each of the major sections. The sample paragraphs were prepared for a motion submitted by the Idaho Council of Trout Unlimited, with changes to make them more generally applicable.

UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

RE: <u>(Company Applying for Permit)</u>)	Project:
Application for Preliminary Permit)	<u>(Project Name)</u>
For <u>(Name of Proposed Project)</u> on the)	<u>(FERC No. _____)</u>
<u>(Name of River and Location)</u>)	MOTION TO INTERVENE
_____)	OF THE <u>(YOUR NAME OR</u>
)	<u>ORGANIZATION)</u>

I. Introduction

On (Date of Notice), the Federal Energy Regulatory Commission (FERC) issued a notice regarding a preliminary permit application for the (Project Name), (FERC No.) on the (Name of River and Location). In accordance with Rule 214 of FERC’s Rules of Practice and Procedure, 18 C.F.R. § 385.214, (Your Name or Organization) moves to intervene in the (Company Applying for Permit)’s application for a preliminary permit.

II. Statement of Interest

In the statement of interest section you should introduce yourself or the organization you represent. It is important to demonstrate how you or your group are directly connected to the site of the proposed project. You should state that you or your members use the proposed site and state for what purposes, such as recreational use or aesthetic enjoyment, and if possible, state how you or your members will be affected by the proposed project.

Example Paragraph

[The Idaho Council of Trout Unlimited is a non-profit conservation organization dedicated to protecting and restoring naturally sustaining salmonid fisheries and the habitat upon which these magnificent fish depend. ITU has over 1,500 members in the state of Idaho, and is part of the larger network of Trout Unlimited affiliate state councils that includes over 130,000 members nationwide. ITU has worked on important hydro-

relicensing projects throughout Idaho, including an extremely successful collaborative effort to relicense the ABC Project on the Spelling Fork River in Idaho. We are extremely concerned about any proposal to modify or add generating capacity to the existing XYZ Dam structure, and will work to ensure that any such proposal contains sufficient protection and mitigation measures so that the wild trout fishery is not impacted. Further, Trout Unlimited members fish and recreate in the XYZ River Basin, and own businesses that depend on the continued protection and restoration of the XYZ River wild trout fishery. ITU has a considerable interest in the protection, restoration, and enhancement of the XYZ River and the wild trout populations contained therein.]

III. Grounds for Intervention

In order to be allowed to intervene, you must have a “legal” interest in the proceeding. FERC regulations allow someone who may be directly affected by the proceeding, such as a customer, consumer, or competitor, to intervene. FERC regulations also allow intervention by someone whose participation is in the public interest, that regulation is found in 18 C.F.R. §385.214(b)(2)(iii). Intervening to represent the public interest will be the grounds that most conservation groups use to become a part of the proceedings.

Example Paragraph

[The ITU intervention in the XYZ Dam Project preliminary permit application process is in the public interest as required by 18 C.F.R. § 385.214(b)(2)(iii). No other party in the proceeding will be able to adequately protect these interests. Accordingly, ITU has a direct and substantial interest in the outcome of this preliminary permit application process.]

IV. Statement of Position

The “statement of position” is your opportunity to tell the Commission about the area that will be affected by the proposed project and the possible affects of the proposed project. You should be sure to raise legal concerns about the proposed project and discuss the economic impact of the project on the community. If you have special

knowledge about the area of the proposed project, the stream involved, the biology to be affected, or historical or cultural significance of the project area include that information in your motion to intervene as well. Be sure to tell the Commission about the historical or cultural sites that might be disturbed by the preliminary studies for the proposed project and mention the wildlife and biology that will be affected by the proposed project, especially species that are listed as endangered or threatened.

Example Paragraph

[ITU wishes to impart to the Commission the importance of the XYZ River. Originating in headwater reaches in Idaho's majestic Alphabet Basin, the XYZ River meanders through some of the most stunning country in the West. Even though the XYZ has been a "working river" for decades, it remains a tremendous wild trout fishery, and will become even better so long as wild fish concerns are fully protected from future encroachment. This is a very unique river system, and the current wild trout fishery below XYZ Dam contributes greatly to local economic interests. We will be seeking appropriate license conditions and will oppose any license that does not adequately protect the above stated interests.]

(Your Name or Organization) wishes to be informed regarding progress reports or any other filings by the preliminary permit applicant. This includes being added to all official service and mailing lists regarding the aforementioned preliminary permit application. Please send such information to the following contacts:

(List Names & Addresses)