

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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| Peabody Trout Creek Reservoir Project |) | Project No. P-14446-000 |
| |) | |
| Application for Preliminary Permit |) | |

**NOTICE OF INTERVENTION, OR IN THE ALTERNATIVE, MOTION TO
INTERVENE OF UPPER YAMPA WATER CONSERVANCY DISTRICT**

Pursuant to 18 C.F.R. §§ 385.212 and 385.214, the Upper Yampa Water Conservancy District (“Upper Yampa District”) hereby files this Notice of Intervention, or in the alternative, Motion to Intervene in the proceedings concerning Peabody Trout Creek Reservoir Project’s application for a preliminary permit, Project No. 14446-000. In support of this motion, the Upper Yampa District states as follows:

I. INTRODUCTION

On November 30, 2012, Peabody Trout Creek Reservoir, LLC (“Peabody”) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Trout Creek Project to be located on Trout Creek, near Steamboat Springs, Routt County, Colorado. Notice of the application was published in the Federal Register on December 11, 2012. 77 Fed. Reg. 73,650 (Dec. 11, 2012).

Upper Yampa District is a Colorado Water Conservancy District organized pursuant to Articles 1 through 8 of Title 37 of the Colorado Revised Statutes. As such, Upper Yampa District is a political subdivision of the State of Colorado which holds vested water rights and controls and makes use of water in Routt County and a portion of Moffat County, Colorado. The mission of the Upper Yampa District is, “[t]o lead water

resource management within the District's boundaries by responsibly conserving, protecting, developing, providing and enhancing the water resources of the Yampa River Basin. The District will initiate and participate in projects that embody and promote the protection of water rights, provide broad benefits to District constituents and develop projects that provide responsible conservation, responsible growth, beneficial water storage and usage, and public awareness within the Upper Yampa Water Conservancy District." Yampa's participation in this proceeding under will be in accordance with and in furtherance of its statutory powers and purposes, and will be in accord with its mission statement, as it may appear. Yampa's Motion to Intervene is therefore in the public interest.

II. STATEMENT OF INTEREST, BASIS FOR INTERVENTION OF RIGHT AND GROUNDS FOR INTERVENTION

Upper Yampa District, pursuant to 18 CFR §385.214, hereby states its interest and grounds for intervention, as follow:

- A. Statement of Interest: Upper Yampa District is a political subdivision of the State of Colorado, organized for purposes as generally set out in C.R.S. 37-2-101, *et seq.* Upper Yampa District is also a municipality under Colorado law and within the meaning of the Federal Power Act.
- B. Right to Participate: Upper Yampa District's right to participate in this proceeding is set out in its organic statute and the petition and orders establishing the District. Upper Yampa District claims right to participate in this proceeding under both Rule 214(a)(2) and 214(a)(3).

C. Preliminary Matters: Because this matter is at a preliminary stage Upper Yampa District takes no position regarding the application of Peabody in this matter at this time, but reserves the right to assert its interests and those of its constituents as they may appear. Among these interests are Upper Yampa District's interests pursuant to its governing purposes and powers, as set forth above, as a consumer of electricity, and as a holder of vested water rights. Upper Yampa District further states that as a Colorado Water Conservancy District, its participation is manifestly in the public interest.

III. CONCLUSION AND REQUEST FOR RELIEF

Upper Yampa District respectfully requests that FERC determine that:

1. Upper Yampa District has and represents interests which may be affected by the outcome of this proceeding;
2. Upper Yampa District also has interests as a Colorado Water Conservancy District; and,
3. Upper Yampa District's participation in this proceeding is in the public interest.

Upper Yampa District also specifically requests that the Commission confirm its intervention or grant this motion for intervention and make Upper Yampa District a party in this proceeding regarding the Peabody Trout Creek Reservoir Project (P-14446-000) located in Routt County, Colorado.

Upper Yampa District reserves the right to make additional comments, and to raise further issues, as its interests become known. All correspondence and communications concerning this proceeding should be sent to the following:

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And,

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Respectfully submitted this 11th day of February 2013.

DIETZE AND DAVIS, P.C.

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**SPECIAL COUNSEL FOR UPPER YAMPA
WATER CONSERVANCY DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of February, 2013 caused to be served the foregoing **NOTICE OF INTERVENTION, OR IN THE ALTERNATIVE, MOTION TO INTERVENE OF UPPER YAMPA WATER CONSERVANCY DISTRICT** upon the parties as set out on the FERC service list via email and/or by depositing in the U.S. Mail with first class postage affixed as follows:

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