



Foothills Water Network

January 3, 2014

Hon. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Via Electronic Submittal

**RE: COMMENTS ON ARCHON ENERGY 1 INC.'S. DRAFT STUDY PLAN
FOR DAGUERRE POINT DAM HYDROELECTRIC PROJECT (P-14432)**

Dear Secretary Bose:

The Foothills Water Network (FWN) and its member organizations submit this letter in response to Archon Energy 1 Inc.'s (Applicant) Study Plan for the Daguerre Point Dam Hydroelectric Project (Proposed Project) filed on November 6, 2013. FWN appreciates the Applicant's effort to respond to the requests for information submitted by FWN on February 18, 2013 as part of its Comments on the Pre-Application Document (PAD) (e-Library no: 20130219-5040). However, the Study Plan is deficient in several ways as noted by the State Water Resources Control Board's recent filing (e-Library no: 20131125-5017) and described with additional detail below.

Foothills Water Network

This response was jointly developed and has been signed by non-governmental organizations and by individuals participating in the licensing process for the Proposed Project. FWN represents a broad group of non-governmental organizations and water resource stakeholders in the Yuba, Bear, and American River watersheds. The overall goal of the FWN is to provide a forum that increases the effectiveness of non-profit conservation organizations to achieve river and watershed restoration and protection benefits for the Yuba, Bear, and American Rivers. This includes negotiations at the county, state, and federal levels, with an immediate focus on the FERC processes.

FWN stakeholders have been active participants in several processes involving fishery and flow issues in the lower Yuba River for over fifteen years including the Yuba Accord, relicensing of the Yuba River Development Project (FERC # 2246), the Yuba Salmon Forum, and the Daguerre Point Dam Fish Passage Improvement Project. FWN has a continuing interest in ensuring that the Proposed Project does not complicate or otherwise negatively impact the outcome of these processes.

*Comments of the Foothills Water Network on
Archon Energy 1 Inc.'s Draft Study Plan*

General Comments

FWN is concerned that the Applicant continues to commit to an aggressive Project schedule that does not realistically account for the time that will be needed to adequately consult, design studies, implement and complete required studies, and construct the Project. For example, the study plan suggests a schedule for implementing field activities in 2013 and 2014, including fish handling activities for which necessary permits require a year to obtain. Moreover, the study plan does not accurately characterize the status and/or efforts of other existing forums on the lower Yuba River. The Summary of Existing Work Efforts contains numerous mischaracterizations and omissions, including:

- Associating the Yuba Salmon Forum with the Yuba Accord River Management Team (the Forum warrants a separate summary of objectives and process);
- Describing NOAA’s Biological Opinion (2012) as “the source of most of the studies proposed by the agencies in their comment letters to the PAD” which it is not;
- Omitting reference to numerous technical memoranda produced by YCWA in the last year for the relicensing of the Yuba River Development Project (FERC #2246).

We note the absence of Yuba County Water Agency from the list of consulted groups and the importance of YCWA due to ownership of likely-affected diversion structures and their central role in many relevant studies of the Lower Yuba River. We encourage the Applicant to spend more time becoming familiar with how to accomplish projects and necessary studies on the Lower Yuba River and in the context of work that may have incidental take of listed Central Valley spring-run Chinook salmon or steelhead. This will facilitate the development of a more realistic study and project schedule.

In addition, FWN recommends the following:

1. Development of a complete project description detailing project facility specifications prior to study plan design;
2. Additional consultation with entities working on the lower Yuba River for the purpose of refining studies and study coordination;
3. Evaluation of potential project impacts prior to project construction (a study plan should not rely on a post-construction phase to complete this evaluation); and
4. Completion of studies to meet information requests by the resource agencies and inclusion of study reports in the Draft License Application.

The Applicant should resubmit its study plan with a more specific and comprehensive description of the project and pre-project studies and a more realistic timeframe for implementation as soon as practicable.

SPECIFIC COMMENTS ON STUDY PLANS

The study plan does not include several study elements that FWN recommended in its comments on the PAD. The recommended studies would provide information needed to accurately

characterize the Project's potential impacts on aquatic and other resources and develop appropriate protective conditions. We refer the Commission and the Applicant to FWN comments on the PAD for detail. Generally, the draft study plan disregards the following necessary studies or information gaps:

- The safety and stability of the Daguerre Point Dam during and following construction of the Proposed Project;
- Potential impacts to water quality resulting from construction of the Proposed Project, including mercury mobilization;
- The current state of recreational activities at Daguerre Point Dam, and an assessment of changes to the distance and elevation gain of portage around the Proposed Project compared to existing conditions.

All three fisheries studies (predation, downstream migration and fish behavior) warrant a carefully designed study plan developed in coordination with the California Department of Fish and Wildlife, the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Use of acoustic tags and/or telemetry will be required to obtain the necessary pre-construction information. Current study design efforts underway for the Yuba River Development Project Relicensing (FERC #2246), and specifically studies 7.11 and 7.11a would be informative for candidate methods and a study design process.

Thank you for considering these comments. FWN welcomes innovative and collaborative approaches to improving fish passage at Daguerre Point Dam and is not opposed to new hydropower projects that provide a public benefit without undue impacts to the river, fish and recreational resources. Please keep us informed of your efforts to plan the Daguerre Point Hydropower Project.

If you have comments or questions, please contact Traci Van Thull, Coordinator of the Foothills Water Network at 530-919-3219 or traci@foothillswaternetwork.org.

Respectfully,

Foothills Water Network Yuba-Bear Working Group



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Archon Energy 1 Inc.'s Draft Study Plan*

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A handwritten signature in black ink, which appears to read "Frank Rinella". The signature is written in a cursive style with a long horizontal line extending to the right.

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