

# Ironhouse Sanitary District Board Update: Jersey Island



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# Jersey Island Project Status

***In August 2017***, the District engaged MRG to prepare an initial analysis of Jersey Island's suitability for alternative revenue-generating uses.

***In September 2017*** MRG provided the Board an update on the regulatory constraints impacting the Island's development potential and the Project's next steps.

***In December 2017*** MRG provided the Board with a report which identified various options and opportunities for the District to improve the Island's economic situation, diversify the uses on the Island and expand the value of the Island.

At that meeting the Board requested MRG and staff explore further a number of the potential uses and potential partners and provide a Next Steps recommendation for consideration.



# Jersey Island—Project Focus

In conducting the project, MRG participated in meetings and calls with regulators and prospective investors, conducted research and assessed various partnership options and alternatives, focusing on:

- Generation of additional revenue;
- Reduction of the District's costs for maintenance of the Island;
- Bringing partners in to jointly participate in the Island's ownership and operations; and
- Spreading the potentially significant economic risk the Island represents.



# Jersey Island—Potential Island Uses

- Mitigation Banks – Assess the feasibility of one or more mitigation banks for protected species with an experienced partner with expertise, financing and resources which may include acquisition;
- Dredge Spoils Disposition – Explore use of a portion of the Island for the placement of dredged material by a public or private entity which could manage the site, generate revenue for the District and assist in the maintenance of the Island which may include acquisition of a portion of the site;
- Wind Energy – Assess wind energy feasibility with an alternative energy producer — Marin Clean Energy (MCE). If the project is feasible, MCE will develop a proposal for use of the site, manage the construction, operation and maintenance of the facilities — and provide a revenue stream to the District.



# Jersey Island—Potential Island Uses

- Carbon Credits - Assess the potential of a portion of the Island for use as a carbon credit revenue generating activity. Rice farming, tule farming and other types of carbon storage activities would be evaluated as Carbon Credit activities and could replace some of the current agricultural activities;
- Park Development - Exploration of the potential for use of a portion of the Island by the East Bay Regional Park District for public recreational activities.
- Alternate Approach to Cattle Management - Explore alternative management of the District's cattle and agricultural activities. The District currently uses employees' to conduct the agricultural operations. These activities could be conducted by a contractor or to a mitigation bank partner to reduce the District's operating costs.



# Jersey Island—Department of Water Resources

- The Department of Water Resources, which initially indicated interest has been unable to provide additional information despite repeated outreach efforts.
- Our research indicates that the Department of Water Resources represents a potential funding source for a mitigation banks, habitat preservation projects and carbon sequestration projects, but not a direct purchaser at this time.
- The District should be prepared to respond to DWR if it expresses interest in acquiring Jersey Island in the future.



# Jersey Island—Importance of One Partner

- MRG believes having one experienced management partner with the resources and experience to work with the District to evaluate and execute opportunities for alternate uses on Jersey Island will increase the likelihood of success .
- This approach would ensure cooperation and collaboration among the potential users and simplify the relationship between ISD staff and the multiple uses that could be pursued on Jersey Island.
- Working with an experienced private sector partner would also bring financial resources to the projects and increase the potential for returns to the District.
- MRG believes there are a number of potential partners with which the the District could consider establishing a partnership with for management of the Island on an ongoing basis.



# Jersey Island—Next Steps

## *Recommended Next Steps*

We recommend the District issue a Request for Qualifications for a potential partner to manage the Island, identify appropriate development opportunities and pursue their implementation. This involves:

- Development of an appropriate RFQ.
- Identification of potential proposers.
- Evaluation of the RFQ responses and development of a recommendation for Board consideration.
- Negotiation of an agreement with the preferred partner.
- Board review and consideration of the agreement, if approved the agreement is executed.



# Jersey Island—Next Steps

## *Recommended Next Steps (continued)*

Once a preferred partner is identified and an agreement approved:

- The partner would conduct a number of feasibility analyses for various uses on the Island and develop recommendations on potential additional or modified uses.
- The District would consider those uses and, depending on the specifics of the use the partner and District would undertake the necessary actions to develop the uses on the site.
- During the term of the agreement the partner will be required to report regularly to the District and demonstrate progress on the identified uses.



# Jersey Island

## *Board Questions & Discussion*





# IRONHOUSE SANITARY DISTRICT

## Recommended Next Steps - Jersey Island Alternate Uses

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**Attachment**

1. December 19, 2017 MRG report - Analysis and Recommendations for Utilization of Jersey Island
2. Delta Plan Certificate of Consistency Flow Chart

## ***I. Background***

In August 2017, the Ironhouse Sanitary District (“District”) engaged Municipal Resource Group, LLC (“MRG”) to review Jersey Island’s current revenue-generating activities and provide the District with an analysis of the Island’s suitability for alternative revenue-generating uses. The District also requested MRG explore alternative ownership or stewardship options congruent with the District’s goals.

On September 19, 2017, MRG presented a project status report to the Board and received input from the Board regarding potential alternate uses.

On December 19, 2017, MRG presented the Board a draft report entitled “Analysis and Recommendations for Utilization of Jersey Island.” That report is attached as **Attachment A**. The report includes discussions of: Jersey Island Today, the Regulatory Environment, Property Ownership Risks, Strategies to Enhance Fiscal Performance, and Recommended Next Steps. During the December 19, 2017 Board meeting, MRG indicated that there were continuing discussions with parties interested in Jersey Island scheduled in January 2018. MRG stated it would return to the Board with its final recommendations after those discussions.

Those discussions occurred, and this report presents MRG’s Final Recommendations regarding Jersey Island next steps.

The alternatives we identified in the December report all initially appear to conform to the zoning, land use, regulatory agency and environmental constraints we identified during the project. We have confirmed that each of the areas listed below could potentially be included in the future utilization of the Island. Our current report outlines a process we believe will provide the District with the opportunity to select a partner in exploring and ultimately achieving completion of these items:

- Establishment of one or more mitigation banks for protected species with an experienced partner who brings expertise, financing and resources to the proposed use;
- Exploration of use of a portion of the Island for the placement of dredged material by a public entity such as the Port of Stockton, which could manage the site, generate revenue for the District and assist in the maintenance of the Island;
- Formation of a partnership with an alternative energy producer — Marin Clean Energy (MCE), which will be the alternative energy provider for Contra Costa County in 2018. The activity would initially include a feasibility analysis of the suitability of the Island for placement of windmills on the site. MCE would conduct the study. If feasible, MCE would develop a proposal for use of the site and manage the construction, operation and maintenance of the facilities — and provide a revenue stream to the District;
- Exploration of the potential of a portion of the Island for use as a carbon credit revenue generating activity. State law and the State’s Cap and Trade Program create a market for carbon capture for entities needing to offset their CO<sub>2</sub>-generating activities. Rice farming, tule farming, and other types of carbon storage activities are being evaluated as carbon credit activities and could replace some of the current agricultural activities;

- Exploration of the potential for use of a portion of the Island by the East Bay Regional Park District for recreational activities by the public. Expanded access to the Delta as a natural resource would benefit both public agencies; and
- Consideration of alternative management of the District's cattle and agricultural activities. The District currently conducts the agriculturally related activities and maintenance of on-Island facilities using District employees. A portion of the employees' activities are related to the agricultural operations, which could be relegated to either a contractor or to a mitigation bank partner. It is common for mitigation bank management to include cattle operations and other agricultural activities. We believe the total per-employee cost could be significantly reduced by this modification.

***II. Recommended Next Steps – Issue Request for Qualifications, Select a Partner and Enter Agreement to Explore Full Range of Potential Uses on Entire Island***

MRG believes that there are parties interested in partnering with the District on the development of multiple alternate uses *on the entire Island* to enhance Jersey Island's financial performance. Given the diversity of potential uses on the Island described in the December 19, 2017 report (e.g. mitigation banks, dredge spoils disposition, energy uses, carbon sequestration, etc.), having one entity that enters into an agreement with the District to evaluate prospective new uses on the entire Island would be a significant advantage over pursuing individual uses with different entities on different parts of the Island.

The advantages of working with a single entity to address uses on the entire Island include:

- Efficient communication between District and one entity;
- A clear line of responsibility and accountability for activities on the Island;
- More efficient coordination with existing easement holders;
- Identification and implementation of synergies between the mosaic of alternate uses if an entity has authority to pursue uses on the entire Island;
- An opportunity for the entity to provide recommendations regarding modifications to current cattle and farming operations (those uses currently impact the majority of the Island's acreage); and,
- A greater scale for prospective uses if one entity has authority to pursue uses on the entire Island.

The recommended next steps are as follows:

- A. Staff develops a Request for Qualifications (RFQ) document that would solicit responses from entities that would be capable of proposals for management and development of the Island and presents the RFQ to the Board for review and approval;
- B. Staff issues the RFQ to targeted firms and makes it available on the District website;
- C. Staff evaluates RFQ respondents and prepares a recommendation for a partner for the Board's consideration;
- D. The Board reviews the staff's recommendation, selects a preferred partner, and directs staff to negotiate an Agreement with the preferred partner;
- E. Staff negotiates Agreement with the preferred partner;
- F. The Board considers and approves the Agreement with the preferred partner; and
- G. The Agreement is executed and the partner begins to implement its terms to pursue alternate uses for the Island.

These steps and a projected timeframe are discussed in the following sections:

#### **A. Development and Issuance of RFQ**

MRG recommends the issuance of a streamlined RFQ to identify a preferred partner. An RFQ is a competitive solicitation process. The RFQ would be designed to identify the strongest partner based on past performance, financial capabilities, understanding of regulatory issues impacting land uses, and experience with potential alternate uses. MRG recommends that the RFQ be a simple document targeted to qualified entities, including potential partners identified during the past several months.

The RFQ should include the following sections/request for information from respondents:

1. Background information on Jersey Island for prospective proposers, which will include current uses, desired outcomes, current issues/constraints, applicable regulatory processes, and a description of the RFQ evaluation process;
2. Developer/Team Information;
3. Experience with regulatory agencies in the Delta, including the Delta Protection Commission, the Delta Stewardship Council, and the Department of Water Resources (DWR);
4. Previous Development Experience/Experience with Potential Jersey Island uses;
5. Ability to collaborate and coordinate with the District's key partner agencies, Reclamation District (RD) 830 and DWR, regarding preserving the integrity and current configuration of Jersey Island levees critical to preserving water quality in the Delta;
6. Financial Capability to Execute Project; and
7. References from other organizations/entities currently or previously worked with.

#### **B. Evaluation of RFQ Respondents**

The RFQ submissions would be consistently evaluated against criteria established in the RFQ. There would be a written evaluation and scoring of each submission. There would also be an interview component of the selection process.

#### **C. Selection of Preferred Partner/Direction to Negotiate Agreement**

Staff would recommend to the Board a preferred partner. The Board would consider the recommendation and either approve the recommended partner or provide alternate direction to staff. If the Board approves the preferred partner, it could direct staff to negotiate an agreement in collaboration with the Board legal counsel. The Board would identify the parameters and objectives of the agreement as part of the direction provided to staff.

#### **D. Negotiation of Agreement**

Staff, with assistance from legal counsel, would negotiate an agreement with the preferred partner. The agreement could take a variety of forms (e.g. partnership agreement, option to long term lease/acquisition of portions of the property). The basic anticipated terms, subject to negotiation and further revision/modification, would be:

1. Exclusivity – The District would agree to work exclusively with the partner;
2. Feasibility analysis – The partner would agree to begin feasibility analyses of alternate uses on the Island and consult with the District on activities that would qualify as “Covered Actions” in the Delta Plan;
3. Early consultation with the Delta Stewardship Council – The partner would agree to participate with the District staff in early consultations with Delta Stewardship Council staff to review the proposed activities that would constitute “Covered Actions” in the Delta Plan, and obtain feedback on consistency with the Delta Plan, best available science, and adaptive management strategies;
4. Entitlement processing – The partner would agree to participate with the District in obtaining the regulatory approvals required from regulatory agencies in the Delta necessary to implement the agreement, including Contra Costa County, the Delta Protection Commission, and the Delta Stewardship Council;
5. Development option for developer to implement alternate uses – After securing any required regulatory approvals, the partner would have the ability to use portions of the Island suitable for the proposed alternate uses on a long-term basis;
6. Financial structure to recapture investment – The partner would agree to invest capital in the assessment of certain uses on Jersey Island. The agreement would identify how that investment is recaptured by future revenue from alternate uses as well as define the revenue-sharing arrangement with the District;
7. Levee maintenance –The District and the partner would agree on terms regarding the District’s ongoing commitment to levee maintenance and any future cost sharing of maintenance obligations by the two parties; and
8. Cattle and farming operations – The agreement would acknowledge that alternate uses that could enhance the financial performance of Jersey Island may impact existing cattle and farming operations. The method for relocating or modifying current uses would be addressed in the agreement. The partner would develop a proposal to address the costs of the existing cattle/farming operations.

In addition to addressing the issues above, District objectives in the negotiation of an agreement would likely include:

1. Capital requirements – The District would clearly identify its expectations and requirement that the partner commit to a certain threshold of investment in the feasibility analyses period;
2. Performance requirements – The District would identify time benchmarks for the partner to conduct feasibility analyses and to achieve milestones in the regulatory process in a timely manner, and would include a termination clause for lack of performance.
3. Regulatory compliance - The District would require the partner to meet the regulatory requirements of agencies that have jurisdiction on Jersey Island and obtain approvals, permits, and findings of consistency with the Delta Plan;
4. Contingencies – The District and partner would identify contingency plans in the event that proposed alternate uses are challenged or deemed infeasible during the regulatory process; and
5. Communication structure – The District and partner would establish communication and partner reporting frequency.

#### **E. Approval of Agreement**

The agreement would be presented to the Board at a public meeting. Formal Board approval of the agreement would be required.

#### **F. Execution of Agreement**

After Board approval, the agreement would be executed. Staff would begin working with the partner to implement the terms of the agreement, beginning with facilitating access to the Island for the feasibility analyses.

#### **G. Commencement of Feasibility Analyses/Collaboration with Agencies Regarding Regulatory Process**

As described in the December 2017 report included as **Attachment 1**, alternate uses on Jersey Island will be subject to the regulatory process of other agencies with jurisdiction in the Delta. It is anticipated that once the District has approved a proposed agreement/project, additional approvals will be required from:

1. Contra Costa County – land use approvals, CEQA, and permits;
2. The Delta Protection Commission – consistency with the Land Use and Resource Management Plan; and
3. The Delta Stewardship Council – Certificate of Consistency with the Delta Plan.

Ultimately, a proposed project may not proceed until it has obtained the Certificate of Consistency with the Delta Plan. For reference, this report includes as **Attachment 2** a flow chart of the Delta Stewardship Council’s Certification of Consistency Process.

### ***III. Projected Timeframe***

The projected timeframe for the next steps in this process are as follows:

April 2018 – Develop and Receive Board Authority to Issue RFQ;

May 14, 2018 – Issue RFQ;

June 29, 2018 – Responses to RFQ due;

July 30, 2018 – Staff completes review of responses;

August 2018 – Board approves preferred partner and directs staff to negotiate agreement;

September 2018 – Board considers approval of agreement with preferred partner;

October 2018 – Agreement executed;

October 2018-December 2019 – Staff and partner work collaboratively as partner conducts feasibility analyses;

October 2018-February 2019 – Staff and partner seek early consultation with Delta Stewardship Council for consistency with Delta Plan; and

February 2019-conclusion of project – Staff and partner proceed with regulatory process.

Quarterly updates regarding the progress of the partner (e.g. feasibility analyses, identification of recommended enhancements to current operations) could be included in the quarterly Jersey Island Board updates.

***IV. Current Uses***

The approach described above would allow the partner and staff to evaluate the current cattle and farming uses together. MRG believes that potential partners would likely have experience in cattle and/or farming operations. One element of the agreement with the preferred partner could define the ability of the partner to assume management responsibilities for the cattle and/or farming operations, or the process by which the current operations would be modified or transitioned to alternate uses.

**ATTACHMENT A**