July 16, 2019

Honorable Kirk H. Nakamura  
Presiding Judge of the Superior Court of California  
700 Civic Center Drive West  
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, “Re-Opening Irvine Lake A Win-Win for Taxpayers and Outdoor Enthusiasts”

Dear Judge Nakamura:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors and the County Executive Office.

If you have any questions, please contact Lala Oca Ragen of the County Executive Office at 714-834-7219.

Sincerely,

Frank Kim  
County Executive Officer

Enclosure

cc: Orange County Grand Jury  
Lala Oca Ragen, Assistant Deputy Chief Operating Officer, County Executive Office
Responses to Findings and Recommendations 2018-19
Grand Jury Report:

“Re-Opening Irvine Lake A Win-Win for Taxpayers and Outdoor Enthusiasts”

**SUMMARY RESPONSE STATEMENT:**

On May 13, 2019, the Grand Jury released a report entitled: “Re-Opening Irvine Lake – A Win-Win for Taxpayers and Outdoor Enthusiasts.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors and OC Community Resources/OC Parks. The combined response is below:

**FINDINGS AND RESPONSES:**

**F.1.** In the past SWD (Serrano Water District) has used revenue from its recreation rights as one of its sources to offset costs for maintenance and replacement of capital investments in water infrastructure.

Response: Disagrees wholly with the finding. OC Parks is not privy to information of SWD uses of revenue.

**F.2.** For OC Parks the revenue from rights and property assigned by TIC (The Irvine Company) will be the source to cover costs associated with the restoration, maintenance and repairs of the newly-dedicated open space.

Response: Agrees with the finding.

**F.3.** Without sufficient historical financial information from SWD, OC Parks cannot project future financial opportunities at Irvine Lake.

Response: Disagrees partially with the finding. The best way of projecting future revenue would be from SWD’s historical financial receipts. However, OC Parks could undertake an assessment of comparable reservoir operations within the region and make assumptions about future costs and revenues associated with water-based recreation in context of the reservoir.
F.4. Minimal effort to engage one another, a lack of creative proposals and slow responsiveness between OC Parks and the water districts have allowed negotiations to stall.

Response: Disagrees partially with the finding. OC Parks started in 2015 with a proposed 75% / 25% split (consistent with 75-25 share of recreation rights), offered to negotiate a lump sum for full buyout, and later offered rent for short-term fishing. The ideas were rejected by SWD. OC Parks asked for information from SWD to create a proposal, but did not receive financial information. Although negotiations over recreation rights remain an issue to be resolved, there has been substantial effort by the County in collaboration with TIC and Irvine Ranch Water District (IRWD) to resolve other outstanding required conditions before the County can accept TIC’s 75% lake recreation rights.

F.5. Although not a party to any recreation rights, IRWD (Irvine Ranch Water District) does have a right of approval over decisions affecting water use rights and water quality. Therefore, settling easement rights issues in a successor document to the 2003 Memorandum of Understanding (MOU) among SWD, IRWD and TIC is required prior to concluding negotiations on recreation rights. Parties expect to complete this in the first half of 2019.

Response: Disagrees partially with the finding. Although the County was not a party to the 2003 MOU, SWD, TIC and IRWD have expressed to the County that a successor document among all four parties is desirable as a precursor to recreation rights. Negotiations are underway and may extend into the second half of 2019.

F.6. SWD, OC Parks and IRWD acknowledge that to maximize recreational opportunities a more stable Irvine Lake water level is desirable.

Response: Agrees with the finding.

F.7. A master plan for recreational activities remains to be developed.

Response: Agrees with the finding.
RECOMMENDATIONS AND RESPONSES:

R1. If an impasse still exists between SWD and OC Parks on basic terms of water-based recreation rights the parties should use a neutral outside resource such as solution focused good faith mediation by September 30, 2019, to achieve resolution. (F1, F2, F3 & F6)

Response: The recommendation has not yet been implemented, but will be implemented in the future. The County would be willing to engage in the use of a neutral outside resource for mediation or arbitration by September 30, 2019 contingent on SWD agreeing to participate.

R2. If an impasse still exists between SWD and OC Parks on basic terms of water-based recreation rights, OC Parks should, by September 30, 2019, request from TIC a separation of those rights described in IOD (Irrevocable Offer of Dedication) from the remaining road parcels, easements and Recreation Land Parcel and a transfer of all but the water recreation rights to OC Parks. (F1, F2, F3 & F6)

Response: The recommendation has been implemented. On June 11, 2019, the Board of Supervisors approved transfer of fee title and 29 acre recreation land parcel as well as assignment of license for RV storage operation. Road easements and recreation rights will be addressed in a long-term successor MOU under which negotiations are underway.

R3. By September 30, 2019, SWD should provide full financial disclosure of historical operating information for water-based recreation activity, at a minimum for the period 2011-2016, in sufficient detail to allow OC Parks to evaluate any recreation rights buyout offer or other specific management proposal. Absent such information, SWD and OC Parks should negotiate and present to their respective governing bodies a management agreement to continue operating water-based recreation at Irvine Lake and share revenue, expenses and net profits. (F3)

Response: The recommendation has not yet been implemented, but will be implemented in the future. In 2015 the County made a request for financials associated with lake recreation, and reiterated the same request in a letter to the water districts sent May 23, 2019. The County is willing to participate in negotiations with SWD. The County sent a letter to SWD on June 11 to set out the County’s proposal regarding the short-term shoreline fishing, as well as present a framework for negotiation or a long-term agreement.
R.4 If by December 31, 2019 resolution has not been reached as to the reopening of Irvine Lake for water recreation, staff for SWD, IRWD and OC Parks should post on their respective websites and submit to their governing body for discussion in a public meeting their perspective as to the obstacles to reopening the lake and what plan they have to resolve the issue. (F4)

Response: The recommendation has not yet been implemented, but will be implemented in the future. Staff will submit a memo to the Board of Supervisors prior to December 31, 2019 advising of the status of the negotiations and recommendation for resolution.

R.5 By December 31, 2019, SWD, IRWD and OC Parks should explore the economic feasibility of establishing and maintaining Irvine Lake at a minimum water level based on expected income and other potential cost offsets. (F5 & F6)

Response: The recommendation has not yet been implemented, but will be implemented in the future. This will occur in conjunction with the public planning process that is scheduled to be initiated by March 31, 2020.

R.6 By March 31, 2020, once recreation rights are determined, OC Parks should hold open public planning meetings to address possible uses and activities, and their location at Irvine Lake, that result in the development of a multi-year Recreational Master Plan. This planning would include examining other public/private models within Orange County and Southern California for covering future capital costs and minimizing any liability associated with boating. This also would include general cost benefit or financial feasibility analysis for the recreational uses under consideration. (F7)

Response: The recommendation has not yet been implemented, but will be implemented in the future. OC Parks will initiate the public planning process for recreation at Irvine Lake (e.g., park plan) by March 31, 2020.