

**RECORDED REQUESTED BY AND
WHEN RECORDED, RETURN TO:**

Serrano Water District
18021 East Lincoln Street
Villa Park, CA 92861
Attn: General Manager

WITH A CONFORMED COPY TO:

OC Parks
13042 Old Myford Road
Irvine, CA 92602
Attn: Director, OC Parks

Assessor's Parcel No. 105-361-70,-73,-77 & -86
Exempt from Filing Fees per Gov. C 6103

(Space above line for Recorder's use only)

**EASEMENT AGREEMENT
(Access and Utilities at Santiago Reservoir)**

This Easement Agreement ("**Easement Agreement**") is effective as of the date of its recordation in the Official Records of Orange County, California ("**Effective Date**") and is between the COUNTY OF ORANGE ("**County**"), a political subdivision of the State of California, and SERRANO WATER DISTRICT, a political subdivision of the State of California formed and operating under the Irrigation District Law, California Water Code Section 20500 *et seq.* ("**SWD**").

A. The Irvine Company, a Delaware limited liability company ("**TIC**"), SWD, and Irvine Ranch Water District, a California water district organized under and existing pursuant to Section 34000 *et seq.* of the California Water Code ("**IRWD**") are parties to that certain *Memorandum of Understanding - Irvine Lake* dated April 30, 2003 (the "**MOU**") related to that certain dam and reservoir facility commonly known as "Irvine Lake" or the "Santiago Reservoir" (the "**Reservoir Property**" or "**Reservoir**") and County's property in the vicinity of the Reservoir ("**County's Property**").

B. IRWD and SWD own fee title to the Reservoir Property and require access for the purpose of the operation and maintenance of the Reservoir.

C. Pursuant to that certain *Assignment and Assumption Agreement* between TIC and County dated August 27, 2019 and recorded in the official records of the County of Orange as OR # 2019000330638, September 4, 2019, TIC granted to the County all right, title and interest to two segments of a paved access road that upon acceptance became a part of the County's Property. The County's access road parcels are described in that certain Gift Deed (4.5-Acre Access Road Parcel – East Orange Area II) recorded September 4, 2019 as Instrument No. 2019000330637 of Official Records of Orange County, California ("**Road Parcels**").

D. In accordance with the provisions of the MOU, County wishes to convey to SWD an easement for access to the Reservoir through County's Property, subject to the terms and conditions of this Easement Agreement, in exchange for a reciprocal access easement across a segment of access road that lies within the Reservoir Property and IRWD's authorization for TIC to transfer its recreational rights to Irvine Lake to the County.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Grant of Easement. County hereby grants to SWD, its invitees, employees, agents, and contractors a non-exclusive easement (collectively, the "**Easement**") in, on, over, under, through, along, and across the Road Parcels, more particularly described on Exhibit A and depicted on Exhibit B (the "**Easement Area**") for the purposes of (a) ingress and egress, and (b) installation, operation, maintenance, repair, and replacement (including upsizing) of utilities and the Reservoir and any related appurtenances. The parties hereto recognize that the Road Parcels were improved in the past with certain roadway improvements which the County has determined are suitable for periodic park and County uses, and that at this time the County has no intention, nor duty, to further improve the Road Parcels ("**Roadway**").

2. Subject to Matters of Record or Apparent. In addition to the terms and conditions set forth in this Easement Agreement, the Easement conveyed to SWD hereunder shall be subject to all easements, covenants, conditions, restrictions, reservations, rights and rights-of-way of record or apparent or of which SWD has actual notice.

3. Non-Exclusive Rights. SWD's use of the Easement Area shall be non-exclusive, and County retains the rights to use and to grant to others the non-exclusive right to use the property burdened by the Easement for any and all lawful purposes, to the extent such uses, or any of them, do not unreasonably interfere with the exercise by SWD of the Easement granted hereunder. County's reserved rights shall include without limitation, the right, but not the obligation, to construct, relocate, maintain and use roadways, pipelines and utilities in, on, over, under, through, along, and across the Easement Area, subject to Section 11 (Indemnity).

4. Appurtenant to the Reservoir. The Easement is appurtenant to the Reservoir Property, which shall be the dominant tenement and the County's Property is the servient tenement.

5. Construction or Improvement of Roadway. SWD may construct or improve the Roadway on the Easement Area, subject to compliance with the following requirements:

a. All construction must be in accordance with all applicable requirements of any governmental authorities having jurisdiction (the "**Governing Agencies**").

b. All construction must: (i) comply with the plans for same approved by the Governing Agencies; and (ii) be performed in a manner so that sediment erosion and other pollutant drainage into the Reservoir does not exceed amounts permissible under: (a) law, (b)

agreements between the parties to this Agreement, and (c) permits issued by Governing Agencies in connection with construction of the Roadway.

c. All materials and equipment used in the construction work must be stored or stockpiled solely on SWD's Property and the Easement Area and not within any other area of County-owned property, unless otherwise done in accordance with the terms of this Easement Agreement or with prior written permission from the County.

d. County will not have any responsibility or obligation whatsoever for construction of the Roadway improvements, and all responsibility for the funding and the performance of such work will rest solely with SWD.

e. SWD shall obtain, at its own expense, all necessary permits and authorizations from the Governing Agencies related to construction of the Roadway.

f. SWD shall notify County in writing not less than 30 calendar days prior to commencement of construction of any improvements within the Easement Area. SWD shall promptly record a notice of completion with the County Recorder of Orange County and shall pay all claims for labor and material incurred with respect to the work activities of SWD hereunder that could become a lien upon the Easement Area.

g. During the course of construction of any Roadway improvements by SWD, SWD may enter and use that portion of the County property that is adjacent to and within twenty-five (25) feet of the Easement Area (the "**Adjacent Work Area**") as necessary to construct, including staging, those improvements. SWD's exercise of the right in this Subsection (g) is subject to all restrictions contained in this Agreement with respect to construction on and use of the Easement Area, and is further subject to the express limitation that SWD partake in these rights without unreasonable interference with County operations and that SWD comply with all environmental and other laws and regulations, for which SWD shall have sole responsibility for compliance. Upon completion of the Roadway, SWD shall restore any portion of the Adjacent Work Area so used by SWD, so far as is practical, to the same condition in which it was prior to the construction activity, after which SWD's temporary rights to use the Adjacent Work Area shall terminate.

h. If SWD damages any portion of the Easement Area during SWD's construction activities, SWD shall, at its sole cost and expense, promptly repair and restore the same to the condition that existed prior to the damage.

i. SWD shall not cause any liens of any kind to be filed against the Easement Area as a result of the SWD's construction of the Roadway improvements. If any such lien is filed, SWD shall, at its sole cost and expense, take such actions as are necessary to cause the lien to be satisfied and discharged or to cause such lien to be removed of record.

j. The parties hereto recognize that the SWD's non-exclusive use of the Easement Area is for the purposes of access of cars and light trucks, as well as pedestrian uses. County shall maintain the Easement Area in accordance with the County's Operations and

Maintenance standards for park facilities and will provide additional maintenance on an as-needed basis, as determined by County. In the event that CWD requires a more intense (i.e., large trucks or equipment) use of the Easement Area than as maintained by the County, SWD shall be responsible for any necessary additional improvement of the Easement Area to meet its needs.

6. Compliance with Law. SWD will be responsible for complying with all laws, ordinances and regulations with respect to its use of the Easement.

7. Relocation. County reserves the right, after delivery of prior written notice to SWD, to relocate or realign the Easement Area and any utility lines within the Easement Area at no cost to SWD. County's right to relocate or realign all or a portion of the Easement Area shall be conditioned upon the furnishing by County to SWD of a good and sufficient grant of easement for a feasible relocation or realignment of the Easement Area, to be determined solely by County, which amended grant of easement shall be in a form substantially similar to this Easement Agreement, except for changes necessitated by the relocation or realignment. This right to cause the Easement Area to be relocated at County's expense may be exercised as many times as County shall elect, provided the realigned Easement Area includes comparable improvements (e.g. gravel, asphalt, or paved road) that existed prior to the relocation maintained by the County. Any relocation or realignment of the Easement Area, whether temporary or permanent, performed to accommodate SWD's use and benefit of the Easement shall be at the sole cost of SWD and must be approved by County in its sole and absolute discretion.

8. Term of the Easement. The term of the Easement will be from the date of recordation of this Agreement in the Official Records of Orange County, California, until the first to occur of:

a. Use of the Easement Area for any purpose not expressly permitted herein or violation (including failure to perform) by SWD of any of its obligations contained herein where such unpermitted use or violation is not cured within thirty (30) days of SWD's receipt of written notice thereof from the County (or if such matter is not reasonably capable of cure within such period, SWD has not commenced such cure within such period and thereafter diligently pursued such cure to completion).

b. Cessation of use of the Easements by SWD for a period of one (1) year, unless SWD gives the County written notice prior to the termination of such one (1) year period of the reason for such suspension of use and of SWD's intention to resume such use.

c. Relocation of the Easement Area as provided in Section 7 above.

d. Upon termination of the Easement for any of the reasons provided above, SWD shall promptly execute and deliver to the County, in recordable form, such quitclaims or releases as may be necessary to confirm or effect such termination and to relinquish any rights or claim of SWD to the portion of the Easement Area subject to the terminated Easement.

9. Damage and Repairs. If SWD damages any portion of the Easement Area or any other property of County during its activities under this Easement Agreement, SWD shall, at its sole cost and expense, promptly repair and restore the same to the condition that existed prior to the damage; provided, however, that prior to any such repair, SWD shall, within thirty (30) days of the damage, review its planned repair with County to confirm that such repair will be done to the reasonable specifications of County. SWD shall not cause any liens of any kind to be filed against the Easement Area or any other portion of County's Property as a result of such repair activities.

10. Failure to Perform. To the extent that the repair of any SWD damage is not completed by SWD within thirty (30) business days of SWD's receipt of County's approval of SWD's proposed repair as described in Section 9 above (or if such damage is not capable of repair within such period, if SWD has not commenced such repair within such period and diligently thereafter completed such repairs), then County may perform such repair and the cost thereof shall be paid by SWD within sixty (60) days of its receipt of County's invoice and backup documentation substantiating the work performed.

11. Indemnity. SWD shall indemnify, defend, and hold County and any other person or entity controlling, controlled by or under common control with County, and each of their elected officials, officers, directors, employees, representatives, agents, successors and assigns (collectively, the "**County Indemnitees**") harmless from and against any and all claims, obligations, damages, liabilities, costs, and expenses (including but not limited to attorneys' fees and costs), whether made against or incurred by County or any other Indemnitee (collectively, "**Claims**"), arising out of or related to injuries to or death of any person or damage to any property resulting from or caused by: (a) use of the Easement Area by SWD, its officers, directors, employees, invitees, contractors, and agents, and the respective employees thereof; and/or (b) breach of any of the terms of this Easement Agreement by SWD; provided, however, that the obligation to indemnify shall not apply to the extent that any Claim is determined by a court of competent jurisdiction to have been caused by the negligence or intentional misconduct of the County Indemnitees or any of them. Payment of any Claim shall not be a condition precedent to enforcement of the indemnity obligations contained herein. SWD's and County Indemnitees' obligations under this Section shall survive until lapse of the applicable statutory period for limitation of actions, irrespective of whether the easement rights set forth herein have expired or been terminated.

County shall defend, indemnify, protect and hold harmless SWD and all of their elected and appointed officials, directors, officers, employees, agents, representatives, successors and assigns (collectively, the "**SWD Indemnitees**") from all Claims arising out of or related to injuries to or death of any person or damage to any property resulting from or caused by: (a) use of the Easement Area by County, its officers, directors, employees, invitees (including the general public), contractors, and agents, and the respective employees thereof; or (b) County's construction of improvements within the Easement Area; provided, however, that the obligation to indemnify shall not apply to the extent that any Claim is determined by a court of competent jurisdiction to have been caused by the active negligence or intentional misconduct of the SWD

Indemnitees or any of them. Payment of any Claim shall not be a condition precedent to enforcement of the indemnity obligations contained herein.

12. Controlling Law. This Easement Agreement shall be governed by and interpreted in accordance with the laws of the State of California.

13. Attorneys' Fees. In any proceeding between the parties seeking enforcement of or attempting to construe any of the terms and provisions of this Easement Agreement, including, without limitation, any litigation seeking legal, declaratory or other relief, each Party shall bear its own costs, including but not limited to attorneys' fees and costs.

14. Notices. Any notice, demand or other communication to be given by either party to the other hereunder shall be given by personal service, Federal Express or other reputable overnight delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, addressed to the parties at their respective addresses as follows:

IF TO SWD: Serrano Water District
18021 East Lincoln Street
Villa Park, CA 92861
Attn: General Manager

IF TO COUNTY: OC Parks
13042 Old Myford Road
Irvine, CA 92602
Attn: Director, OC Parks

Any such notice shall be deemed to have been given upon delivery or, if mailed, forty-eight (48) hours after deposit in the mail as aforesaid. Either party may change the address where it desires to receive notice upon giving written notice of such request to the other party.

15. Construction. Headings at the beginning of any section of this Easement Agreement are solely for the convenience of the parties and are not a part of this Easement Agreement. This Easement Agreement shall not be construed as if it has been prepared by either party, but rather as if both parties have prepared the same.

16. Waiver; Remedies. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party hereto of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

17. Successors. Any assignment of the rights conferred upon SWD herein may only be assigned with the permission of County, whose permission shall not be unreasonably withheld. Assignment of SWD's rights to another public entity shall be deemed acceptable to County. The provisions of this Easement Agreement shall be binding upon and inure to the benefit of the parties hereto and each of their respective successors and assigns.

18. No Third Party Beneficiaries. No person or entity other than the parties to this Easement Agreement shall be deemed to be a third party beneficiary hereof, and nothing in this Easement Agreement, either express or implied, is intended to confer upon any person or entity, other than the parties to this Easement Agreement (and their respective successors and assigns), any rights, remedies, obligations or liabilities under or by reason of this Easement Agreement.

19. Entire Agreement. This Easement Agreement, including the exhibits attached hereto which are incorporated herein by this reference, contains the entire agreement between the parties relating to the rights granted herein and the obligations herein assumed. Any oral representations or modifications concerning this document shall be of no force or effect except a subsequent modification in writing, signed by the party to be charged.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date first set forth above.

COUNTY OF ORANGE

APPROVED AS TO FORM:

By:

Thomas A. Miller

By: _____
Michael A. Haubert
Deputy County Counsel

SERRANO WATER DISTRICT

APPROVED AS TO FORM:

By: _____
President & Director

By: _____
Jeremy N. Jungreis
General Counsel

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On _____, 20___, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(SEAL)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

On _____, 20___, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(SEAL)

EXHIBIT A**LEGAL DESCRIPTION OF ACCESS ROAD PARCEL
BLACK STAR WILDERNESS PARK – PR32C-111**

A strip of land, 30.00 feet wide, over those portion of Blocks 78 and 79 of Irvine's Subdivision, in the unincorporated territory of the County of Orange, State of California, as shown on a map recorded in Book 1, Page 88 of Miscellaneous Record Maps in the office of the County Recorder of said County, lying 15.00 feet on each side of the following described centerline;

Beginning at a point on the centerline of Santiago Canyon Road, 60.00 feet wide, as described on the right-of-way document recorded September 29, 1958, in Book 4430, Page 94 of Official Records of said County, distant northwesterly 72.49 feet, along a curve concave northeasterly having a radius of 2038.00 feet, from the southeasterly terminus of the curve described as concave northeasterly, having a radius of 2038.00 feet, a delta of 37°03'00" and an arc length of 1317.86 feet in said document, a radial line to said point bears North 25°11'00" East; thence leaving said centerline non-tangent from said curve, North 24°44'44" East 541.52 feet to a curve concave westerly having a radius of 600.00 feet; thence northerly 252.79 feet along said curve through a central angle of 24°08'23"; thence North 0°36'21" East 1326.73 feet to a curve concave easterly having a radius of 900.00 feet; thence northerly 492.78 feet along said curve through a central angle of 31°22'16"; thence North 31°58'37" East 139.46 feet to a curve concave southeasterly having a radius of 635.00 feet; thence northeasterly 493.33 feet along said curve through a central angle of 44°30'47"; thence North 76°29'24" East 132.49 feet to a curve concave northerly having a radius of 685.00 feet; thence easterly 111.06 feet along said curve through a central angle of 9°17'22"; thence North 67°12'02" East 110.22 feet to a curve concave southerly having a radius of 735.00 feet; thence easterly 279.75 feet along said curve through a central angle of 21°48'27"; thence North 89°00'29" East 381.51 feet to a curve concave southerly having a radius of 785.00 feet; thence easterly 148.22 feet along said curve through a central angle of 10°49'05"; thence South 80°10'26" East 633.40 feet to a curve concave northerly having a radius of 1415.00 feet; thence easterly 577.88 feet along said curve through a central angle of 23°23'58"; thence North 76°25'36" East 327.88 feet to a curve concave northwesterly having a radius of 145.00 feet; thence northeasterly 192.62 feet along said curve through a central angle of 76°06'44"; thence North 0°18'52" East 351.69 feet;

Revised: December 5, 2014

August 8, 2003

WO No. 949-173

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H&A Legal No 5760

By H. Foss

Checked By R. Wheeler/rg

thence North 2°19'12" West 253.59 feet to a curve concave southwesterly having a radius of 80.00 feet; thence northwesterly 66.57 feet along said curve through a central angle of 47°40'48"; thence North 50°00'00" West 48.63 feet to the general southerly line of the Irvine Lake Boundary Described in Grant Deed recorded April 3, 2002 as Instrument no. 20020279521 of Official Records and also as shown on Record of Survey No. 2001-1044, filed in Book 188, Pages 25 through 29, inclusive, of Records of Surveys, both in the office of the County Recorder of said County.

Except that portion included the area described in the document recorded April 3, 2002, as Instrument No. 20020279521 of said Official Records.

Also except that portion included within said right-of-way of Santiago Canyon Road.

The side lines of said strip to be prolonged or shortened to terminate on said boundary.

As more particularly shown on Exhibit "B" attached hereto and made a part hereof.



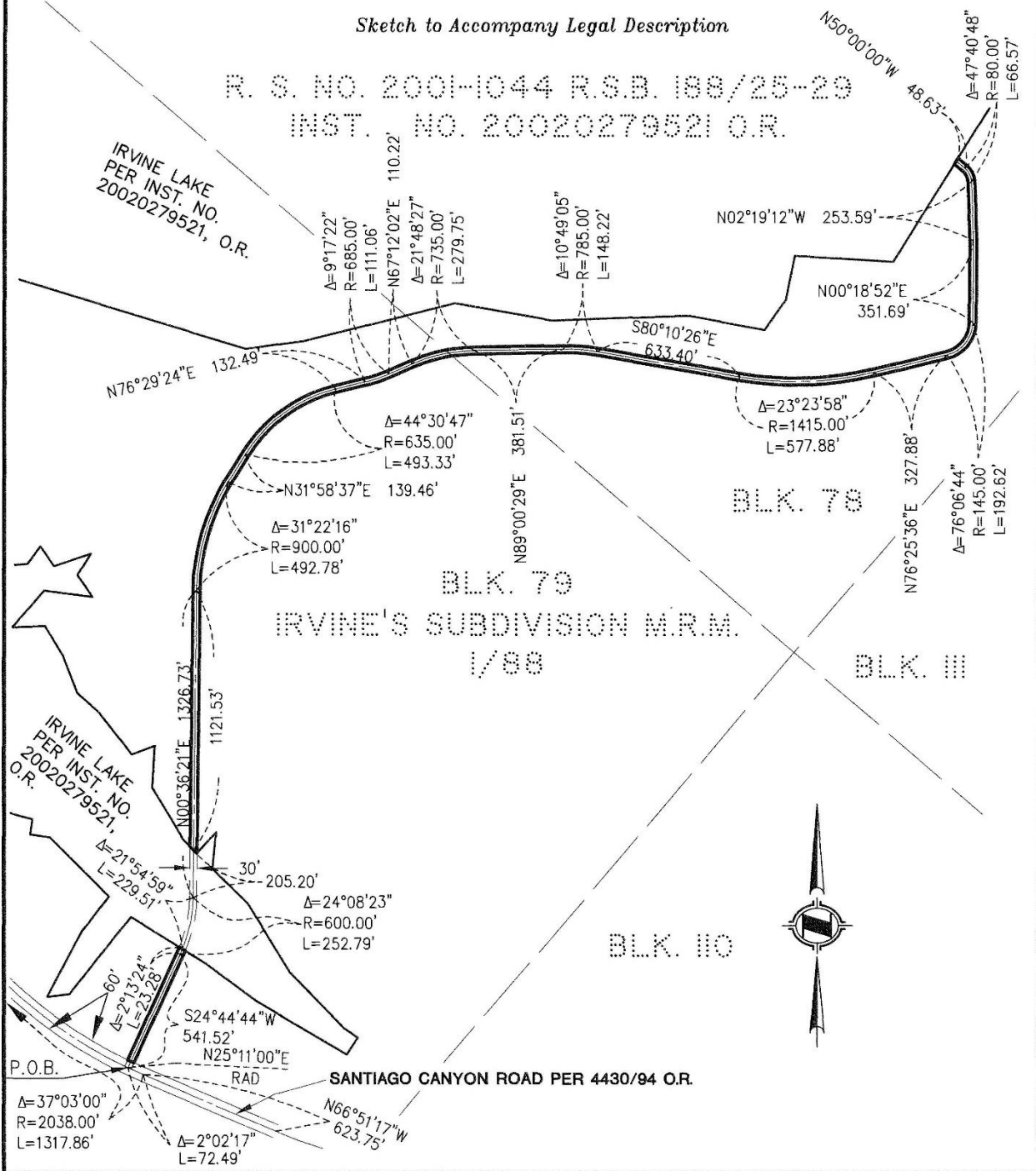
Robert L. Wheeler IV, L.S. No. 8639
Date: 12/05/14




EXHIBIT "B"

Sketch to Accompany Legal Description

R. S. NO. 2001-1044 R.S.B. 188/25-29
INST. NO. 20020279521 O.R.



 HUNSAKER & ASSOCIATES IRVINE, INC. PLANNING ■ ENGINEERING ■ SURVEYING Three Hughes • Irvine, CA 92618 • PH: (949) 583-1010 • FX: (949) 583-0759		DEPICTION OF ACCESS ROAD PARCEL UNINCORPORATED TERRITORY OF THE COUNTY OF ORANGE, STATE OF CALIFORNIA	
DATE: 08/08/03	REV. DATE: 12/05/14	.DWG By: FOSS/GILL	CK'd By: R. WHEELER
I:\LakeLegals\ld\5760\sht01.dwg		SCALE: 1"=600'	W.O. 949-173CX
		H&A LEGAL No. 5760	SHEET 1 OF 1

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the attached Easement Agreement (Access and Utilities at Santiago Reservoir) to the SERRANO WATER DISTRICT, a political subdivision of the State of California, is hereby accepted by the undersigned officer on behalf of the Board of Directors pursuant to authority conferred by Resolution No. _____ of the Board of Directors, adopted on _____, and the grantee consents to recordation thereof by its duly authorized officer.

SERRANO WATER DISTRICT

Dated: _____

By: _____