

**OPERATING AGREEMENT FOR HUDEMAN SLOUGH PUBLIC FISHING-ACCESS
("Agreement")**

This Operating Agreement is made and entered **into DATE** , between the COUNTY OF SONOMA hereinafter called the "OPERATOR" and the STATE OF CALIFORNIA, acting through the Department of Fish and Wildlife, hereinafter called "STATE". Operator and State hereby agree as follows:

I. RECITALS

- (a) State has under its control certain lands described in Exhibit C hereof on which the project hereinafter described is located.
- (b) State, in cooperation with Operator, developed said lands for fishing access purposes in 1962, and Operator operated and maintained same through a Cooperative Agreement with the State since.
- (c) The development, improvement, use, operation, and maintenance of said access on a cooperative basis between Operator and State is herein referred to as the "Project".

II. GENERAL TERMS AND CONDITIONS

- (e) **PROJECT NAME:** The name of this Project is the Hudeman Slough Public Fishing Access. This name shall be used in all documents, signs, publications, brochures, general literature or news releases, and Operator shall not rename the Project without the approval of the State.
- (f) **EXHIBITS:** This Agreement incorporates by reference Exhibit A (Standard Terms and Conditions), Exhibit B (Project Area MAP, Exhibit C (Project Area Photo), and Exhibit D (Project Legal Description)
- (g) **PROJECT DEVELOPMENT:** Any development or improvement of facilities on said area as described in Exhibit B hereof, will be carried out by separate agreement. Within ninety (90) days of completion of construction of any development or improvement of facilities, Operator shall submit a copy of "as built" plans of such development or improvement to State.
- (h) **TERM:** The term of this agreement is (25) years commencing with the date hereof. This agreement may be extended or amended by mutual agreement of the parties hereto, or terminated as hereinafter provided.
- (i) **NOTICES:** Notices required between the Operator and State will be deemed to have been given when mailed to the respective addresses below, first class postage fully prepaid thereon:

OPERATOR

Director
Sonoma County Regional Parks Department
2300 County Center Drive, Ste 120A
Santa Rosa, CA 95403

STATE

California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090

SIGNATURES

OPERATOR

STATE OF CALIFORNIA

County of Sonoma

Department of Fish and Wildlife

By: _____

By: _____

Name: _____

Title: Chair, Board of Supervisors

Date Signed: _____

Date signed: _____

Attest: _____

EXHIBIT A
STANDARD TERMS AND CONDITIONS TO OPERATING AGREEMENT

I. SCOPE AND PURPOSE

1. **SCOPE:** This Agreement pertains to the facilities and improvements as described in Exhibit B hereof and to the area owned by the State of California, Department of Fish and Wildlife, as shown in Exhibit C hereof. The development, use, operation and maintenance of such facilities on the described area is called the Project.
2. **PURPOSE AND USE:** The Project premises and every part thereof shall be used only for sport fishing or wildlife-related or appropriate educational or recreational activities or other activities not incompatible thereto. Subject to Paragraph 6 hereof, Operator may use the premises for temporary or special purposes through agreement with others. The premises and Project facilities shall, unless otherwise specifically provided herein and consistent with Operator's standard policies and procedures, be available without charge and there shall be no restrictions to public ingress or egress from dawn to dusk except when necessary for maintenance, repair, public safety, security or for protection of the structure or facilities. Operator shall notify State within 48 hours of making such closures. The operating hours will be extended to two hours before dawn and two hours after dusk solely for waterfowl hunting purposes during the waterfowl hunting season.

II. MAINTENANCE AND OPERATION

3. **MAINTENANCE:** Operator shall provide all normal Project maintenance and operation of the area and improvements thereon for and in accordance with the purposes expressed and, except for occurrences beyond the control of the Operator, or "Acts of God", shall make all reasonable and necessary repairs, replace broken, damaged or worn structural components or fixtures so as to keep the structures and facilities in a safe useable condition, and perform housekeeping operations as required so as to keep the premises and improvements clean, attractive, and free of accumulations of litter, garbage, vandalism, or debris. Equipment and materials not needed for daily operations of Operator shall not be stored or stockpiled on the premises.
4. **ADDITIONAL IMPROVEMENTS:** Except as provided by separate agreement as herein above described, State shall not be obligated to make or cause to be made any further developments, or to make improvements or repairs to any structures or facilities within the Project area. However, Operator may at its own cost place or construct on the premises any structures, alterations or improvements in addition to those set forth and described herein as the Project, provided that they:
 - (a) are in accord with the purposes herein set forth;
 - (b) are constructed, maintained and operated for the use, enjoyment, service and protection of the public;
 - (c) do not directly or indirectly reduce, restrict or interfere with the primary purposes of the Project;
 - (d) have the prior written approval of State.
5. **PROJECT SIGNS:** A Project sign will be provided as a part of the Project improvements, installed within the Project area, and maintained by Operator showing the name of the Project, the Operator and the State agency or agencies involved. The location and makeup of the Project sign,

including dimensions, materials and lettering shall be as mutually agreed upon by Operator and State. Directional signs shall also be installed and maintained by Operator as required on or off the site to direct the public to the Project or Project facilities, or for safe and appropriate public use of the area and Project facilities.

6. **CONCESSIONS**: Operator may enter into agreements with others to provide services, conveniences or facilities to complement the Project improvements provided that:
- (a) the purpose of any such agreement is consistent with the purposes and uses described herein;
 - (b) any revenues received by Operator from such concession agreements be deposited in a special account identified with the Project and be used solely for operation and maintenance of Project;
 - (c) Operator maintains adequate records of revenues and expenditures relating to any such concession agreements and make them available for audit when requested by State; and
 - (d) such agreements including the percentages of revenue to be distributed to Concessionaire and Operator, are approved by the State prior to award be approved by State prior to award.

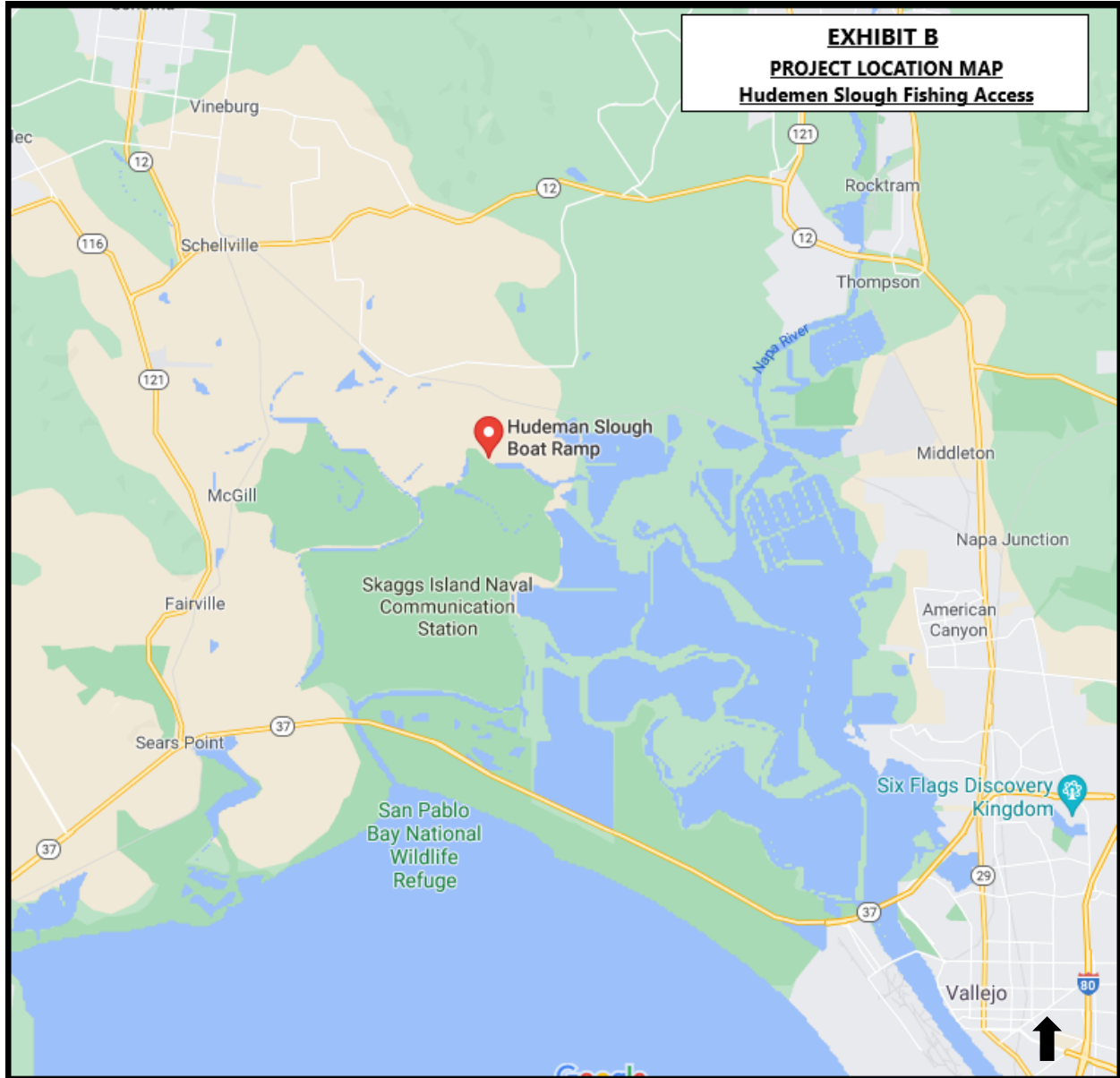
III. GENERAL PROVISIONS

7. **ASSIGNMENT**: Operator shall not assign this agreement in whole or in part, nor delegate any of its rights, duties or interests herein without unless otherwise specifically provided for in this agreement.
8. **LIABILITY**: Operator hereby waives all claims and recourse against State including the right to contributions for any loss or damage arising from, growing out of, or in any way connected with or incident to this agreement or the Project except claims arising from the concurrent or sole negligence of State, its officers, agents and employees. Further, Operator shall indemnify, hold harmless and defend State, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability arising out of the design, construction, operation, maintenance, existence or failure of the Project. If State is named as co- defendant pursuant to Government Code Sections 895 et seq., Operator shall notify State and represent it, unless State elects to represent itself, in which case State shall bear its own litigation costs, expenses and attorney's fees.
9. **INDEPENDENT CONTRACTOR**: Operator and any of its officers, agents and employees shall, in the performance of this agreement, act in an independent capacity and not as officers, agents or employees of State.
10. **NONDISCRIMINATION**: Operator hereby certifies that in the performance of its responsibilities and duties under this agreement and in the administration of any concession agreement for services or accommodations, it will comply with all State and federal non-discrimination laws, and the area will be open and accessible for the use and enjoyment of the general public on equal and reasonable terms.
11. **BREACH**: In the event Operator breaches any of the terms and conditions of this agreement, State may, upon written notice to Operator of such breach, require Operator to commence in good faith to remedy the breach within ninety (90) days of the notice, or a reasonable extension of this period in case of an emergency situation which is beyond the control of Operator. If Operator fails to remedy the breach in the time allowed, State may at its option terminate the Agreement by

giving notice as hereinafter provided, or correct any deficiency or cause of breach and charge Operator all reasonable costs in connection therewith, including administrative costs.

12. **TERMINATION:** This agreement shall be for the term commencing with the date hereof and ending twenty-five (25) years thereafter. The Operator hereby agrees that the State may terminate this agreement at any time during the term hereof by giving notice to the Operator at least ninety (90) days prior to the date when such termination shall become effective. The Operator may terminate this agreement only with the consent of the State, and if the State so consents, such termination shall be effective on such date as the parties may agree.
13. **WAIVER OF RIGHTS:** It is the intention of the parties to this Agreement that from time to time either party may waive certain of its rights under the Agreement. Any such waiver by the parties hereto of their rights with respect to default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any other default or matter.
14. **REMEDIES NOT EXCLUSIVE:** The use by either State or Operator of any remedy specified in the Agreement for the enforcement of the Agreement is not exclusive and shall not deprive the party using such remedy, or limit the application of any other remedy provided by law.
15. **SUCCESSORS AND ASSIGNS:** This Agreement and all its provisions shall apply to and bind the successors and assigns of the parties hereto.
16. **OPINIONS AND DETERMINATIONS:** Where the terms of the Agreement provide for action to be based upon the opinion, judgement, approval, review, or determination of either State or Operator, such terms are not intended to be and shall never be construed as permitting such opinion, judgement, approval, review or determination to be arbitrary, capricious or unreasonable.
17. **Incorporation of Prior Agreements; Amendments.** This Agreement contains all the agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Agreement may be modified in writing only, signed by the State and Operator.

PROJECT: Hudeman Slough Fishing Access
SONOMA COUNTY



PROJECT: Hudeman Slough Fishing Access
SONOMA COUNTY



EXHIBIT D
HUDEMAN SLOUGH PUBLIC ACCESS SONOMA COUNTY
LEGAL DESCRIPTION

DESCRIPTION: All that certain real property situate, lying and being in the County of Sonoma, State of California, bounded and described as follows:

That parcel containing 4.44 acres, more or less, being a portion of Parcel 5 on the Record on Survey Map of properties of M. B. Skaggs and Estalla I. Skaggs, Sonoma County, California, filed September 4, 1953 in Book 54 of Maps, pages 7 to 12, inclusive, in the Office of the County Recorder of Sonoma County: Commencing at the intersection of the northwesterly line of the U.S. Government Road R/W "K" with the southerly boundary of said Parcel 5, said southerly boundary being the northerly boundary of Hudeman Slough;

- (1) thence North 34° 41' 00" East, 248.46 feet to the point of intersection of Course No. 79 L and Course No. 792 of said Record of Survey;
- (2) thence North 48° 30' 30" West, 1,027.72 feet to a point lying northeasterly, 125 feet at right angles to Course No. 259 of said Record of Survey;
- (3) thence North 88° 27' 30" West, 200.01 feet to the point of intersection of Course No. 251) and Course No. 260 of said Record of Survey;
- (4) thence South 49° 46' 40" East, 413.60 feet;
- (5) thence South 32° 52' 10" East, 365.37 feet;
- (6) thence South 40° 08' 10" East, 260.70 feet to a point lying North 51° 15' 40" West, 187.46 feet from beginning;
- (7) thence South 51° 15' 40" East, 187.46 feet to the point of beginning.

A.P. 128-491-9