

# Notice of Exemption

---

To: Office of Planning and Research

P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

From: (Public Agency): City of Poway Public Works  
Department

14467 Lake Poway Road  
Poway, CA 92064

(Address)

County Clerk

County of: San Diego

1600 Pacific Highway

San Diego, CA 92101

Project Title: City of Poway Hazardous Mitigation Grant Program

Project Applicant: City of Poway

Project Location – Specific:

The proposed project would take place within three locations. The Twin Peaks Road project area is located along Twin Peaks Road, between Pomerado Road and Midland Road, approximately 2.5 miles northeast of the junction of State Route 56 and Interstate 15 (I-15). The Espola Road project area is located along Espola Road, between Valle Verde Road and Titan Way, approximately 2.75 miles east of I-15, as it passes through the community of Rancho Bernardo. Lastly, the Green Valley Open Space area, comprised of seven parcels, is located near the northwest portion of the City, just east of the Espola Road project area (see Figure 1, Project Location).

Project Location – City: Poway

Project Location – County: San Diego

Description of Nature, Purpose and Beneficiaries of Project:

The City of Poway (City) is proposing to reduce fire fuel loads and make emergency evacuation routes safer for residents in the event of a wildfire through the strategic removal of hazardous trees along 4.6 miles of rights-of-way (ROW) within two major evacuation routes (Espola Road and Twin Peaks Road), as well as within the 20.88-acre Green Valley Open Space Area, located just west of Espola Road, in San Diego County, California (project site; see Figure 1, Project Location). The City was awarded a \$1.4 million Hazardous Mitigation Grant Program (HMGP) from the Federal Emergency Management Agency (FEMA). The project consists of removal of a maximum of 2,713 non-native and invasive trees and vegetation, as well as trimming/pruning of limbs for a maximum 3,902 trees. The project would also include understory fuel reduction to reduce the volume of non-native and invasive tree saplings [4" in Diameter at Breast Height (DBH) or smaller]. All project activities would be conducted by a qualified tree contractor and City staff Felling is anticipated to also occur, and would utilize hand crews with chainsaws, pruning saws, pruning shears, and hand tools. No grading, excavation, ground disturbing activities, or road construction activities would be conducted under the proposed project.

## **Twin Peaks Road and Espola Road**

Proposed activities along Twin Peaks Road and Espola Road would consist of tree removals only and would take place within previously graded margins of roadways and/or areas that have been graded and developed in association with proximate urban residential neighborhoods. Approximately 610 non-native trees were identified for removal along the Espola Road ROW. In addition, approximately 635 non-native trees are identified for removal along Twin Peaks Road and are located along the ROW and on private properties, which are classified as a City prescriptive easement. The City will conduct outreach to coordinate homeowner consent from 89 property owners for any trees removed within the prescriptive easement. There are 27 existing native trees within the Twin Peaks Road and Espola Road project areas. However, no native trees will be removed as part of the proposed project except for any dead or severely diseased native trees. Trimming/pruning of limbs could occur on a maximum 2,441 healthy non-native trees and existing native trees (for any dead or severely diseased native trees or if necessary to reduce the fire ladder) along Espola Road and Twin Peaks Road. Pruning may be performed, to the minimum extent necessary, on any tree (including natives) displaying unhealthy or hazardous attributes including dead branches, poor structure, diseased or dying limbs, or canopy contact with structures or ground. Pruning cuts and clearing cuts that reduce the length of a branch back to live lateral branch large enough to assume apical dominance. Typically, at least one-third the diameter of the cut parent branch performed to encourage tree health and reduction of fire risk. The trees identified for removal and trimming/pruning range in size from 4" - 63" DBH.

Heavy equipment associated with the activities along Twin Peaks Road and Espola Road are anticipated to include bucket trucks, chippers, stump grinder, and haul trucks and would be stationed on existing paved public roadways adjacent to the targeted trees. All work would occur from the roadside and/or existing ROW. All trees would be cut at grade and stumps would be grinded. Root systems would be left in place. Motorized equipment and chippers would be used to move and process the cut material or mulch on site before it is removed by truck to the off-site staging or disposal facility. Biomass from the tree removal process along Twin Peaks Road and Espola Road would go to a local recycling facility.

## **Green Valley Open Space Area**

The proposed activities within the Green Valley Open Space Area would include removal of approximately 1,468 trees (although approximately 1,871 trees were identified for removal, only 1,468 are being targeted for removal, as

403 are native trees). Although no native trees are targeted for removal under the project, removal of native trees may still occur to any dead or severely diseased native trees. The trees identified for removal range in size from 4" - 99" DBH. The trimming/pruning of limbs would occur on approximately 1,461 trees not targeted for removal, including 403 native trees. Additional activities at the Green Valley Open Space Area would also include understory fuel reduction that will occur to reduce the volume of non-native and invasive tree seedling and tree volunteers (less than 4" DBH) and vegetation. Only non-native trees (e.g., eucalyptus, pepper trees, tamarisk, palms) and vegetation (e.g., pampas grass) would be removed except for any dead or severely diseased native trees and native riparian vegetation would be left in place. Vegetation and trees removed would be cut at grade, and stumps may be grinded with roots remaining in place to provide soil stability.

Heavy equipment anticipated at the Green Valley Open Space Area would include crew trucks; bucket trucks; a chipper; low ground pressure-rubber tracked skid steer with a forestry head for chip-mulch-mastication of vegetation; a low ground pressure tracked excavator with a forestry head for chip-mulch-mastication of vegetation; wheeled loader; and 40-yard dumpsters, as needed. Trees identified for removal would be felled using industry standard logging methods with or against the lean toward desirable open areas upland and would be mulched in place to create a suitable ground cover to reduce the risk of fire and erosion and to store beneficial nutrient and carbon on site. All trees to be cut at grade and the tree stumps and root system would be left in place to maintain soil integrity and avoid any potential ground disturbance and potential erosion. Herbicides would be used on the cut stumps for the tree species known to be prolific sprouters to prevent new growth. Felled trees may also be transported to designated staging areas to be chipped, spread, or hauled away with dump truck or 40-yard dumpster.

### **Project Design Features**

In order to ensure no significant environmental impacts would occur as a result of the project, the following project design features would be implemented.

### **Biological Resources**

In order to comply with the Migratory Bird Treaty Act and California Fish and Game Code Section 3516, which protects nesting birds, tree removal will preferentially occur during the avian non-breeding season (August 1 through March 1). If the project requires that work be initiated during the breeding season for nesting birds (March 1–September 30), in order to avoid direct impacts on active nests, a pre-construction survey will be conducted in the study area by qualified biologists for nesting birds and/or raptors within three days prior to project activities. If the biologist does not find any active nests within or immediately adjacent to the impact areas, the vegetation clearing work will be allowed to proceed. If the biologist finds an active nest within or immediately adjacent to the work area and determines that the nest may be impacted or breeding activities substantially disrupted, the biologist will delineate an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the activity. Work can proceed into the buffer when the qualified biologist has determined that the nest is no longer active or if appropriate noise mitigation is in place.

### **Wetlands and Channels**

Tree work within creek or creek banks, where unavoidable, shall be conducted with extra scrutiny and shall be limited to hand crews, hand tools, chainsaws, ropes, cables, winches, craning and other such grappling tools. Equipment shall be limited to top of bank away from jurisdictional areas except where approved crossings occur. If any tree material/debris lands in or around creek areas, that material/debris shall be removed.

Crossing a creek section with equipment shall be limited to necessary sections, where no other access solution exists, and shall occur using one of the following methods.

- If conditions allow, a steel plate shall be temporarily placed from top of bank to top of bank spanning the creek bed.
- Care shall be taken to hand place high density flexible rubber mats similar in size as 4' x 6' x 1/2" thick on the creek bottom and bank following the natural contours of the creek and creek bank. Mats shall be placed temporarily to provide an adequate barrier avoiding any creek contact or disturbance with equipment and provide a suitable crossing of essential equipment. Temporary crossings shall be removed when tree activity is complete, and access is no longer needed.

All work will utilize existing natural contours and right of way for access, staging, and perimeter work.

### **Noise**

The project would comply with the City's Noise Ordinance, outlined in Chapter 8.08 of the City's Municipal Code, which provides the following specific day/hour restrictions and noise standards:

- No equipment, or combination of equipment regardless of age or date of acquisition, shall be operated so as to cause noise at a level in excess of 75 decibel (dB) for more than eight hours, or acceptable decibel allowance (e.g., 87 dB + 12 for up to 30 min.), measured at the property line from the noise source for construction activities.
- Restricts hours of construction to 7:00 a.m. to 5:00 p.m., Monday through Saturday.

While project activities could occur from 7:00 a.m. to 5:00 p.m. Monday through Friday, chainsaws, woodchippers, felling, loading, hauling, etc. would occur within more limited hours (e.g., 9:00 a.m. to 3:00 p.m.). Project activities would be prohibited on Saturdays and weekday holidays. Additionally, noise dampening standards and accessories shall be utilized to the maximum extent possible and the locations for access and staging shall be carefully chosen to be as far away from residences, wherever possible. Throughout the project, all foreseeable work activities shall be evaluated (noise monitoring) for noise reduction and noise mitigation methods and measures shall be applied to the maximum extent practicable.

**Air Quality**

Dust control and air quality standards for this project shall include the following:

- 1) All trucks and equipment accessing and working in and around the project site shall adhere to standard operating procedures for dust control, utilizing effective methods to reduce or mitigate suspended particles resulting from work activities;
- 2) Trucks and equipment shall be in good working order and maintained and tuned in accordance with manufacturer's specifications and compliant to current emission standards, including Tier 4 Final Air Pollution Control District – San Diego County required equipment, where possible;
- 3) Idling times shall be minimized, either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes;
- 4) Work during unfavorable weather conditions, including excessive wind/Santa Ana events, shall be avoided to reduce unnecessary contributions to dust and particle suspension;
- 5) Access and staging areas shall be prepared and stabilized with wood chips and mulch utilized from existing materials on site to reduce contact with and disturbance of bare soil;
- 6) Access throughout project site shall be restricted to only work vehicles and equipment traveling at low speeds below the ability to create draft or lift;
- 7) Water application shall be utilized at ingress and egress locations, as needed, and at higher dust, particle, and spark activity locations, and;
- 8) Trucks hauling and transporting relevant material (e.g., mulch, trees, tree debris) shall be covered.

Name of Public Agency Approving Project: City of Poway Public Works Department

Name of Person or Agency Carrying Out Project: City of Poway Public Works Department

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Sec. 15304, Minor Alterations to Land
- Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

The City has made the determination that the project is exempt from CEQA pursuant to one ministerial exemption, CEQA Guidelines Section 15268, and one categorical exemption, CEQA Guidelines Section 15304, Minor Alterations to Land. The use of an exemption must not result in a cumulative impact, must not result in a significant impact as a result of unusual circumstances, must not affect resources visible from a scenic highway, must not be located on a hazardous waste site, and must not affect historic resources. In addition, a Class 4 exemption, which would apply to the project, is qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. The rationale that explains why these proposed improvements are exempt from CEQA is outlined below.

**Ministerial Exemption 15268**, applies to projects that are considered "ministerial." Per CEQA Guidelines Section 15268, the determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis. The City has made this determination pursuant to the City Tree Removal Permit, outlined in Section 12.32.110 of the City's Municipal Code, which applies to trees growing on public property and public ROW. Section 12.32.110, states that "no person, including the City, shall remove a public tree or a tree growing on a public right-of-way without first obtaining a tree removal permit issued by the Director of Public Services or his/her designee. The City shall notify the adjoining property owner and occupant 10 days prior to the removal of a tree within the public right-of-way on classified residential streets. The tree removal permit authorizing the removal of a specific tree on public property or on a public right-of-way shall be subject to terms and conditions deemed appropriate by the Director of Public Services or his/her designee. The Director of Public Services shall review each tree removal permit application and make a recommendation as to whether the permit shall be issued or denied. The Director of Development Services is responsible for tree removal permit record keeping." Per Section 12.32.110 of the City's Municipal Code, the City shall obtain a tree removal permit for trees located on public property and public ROW. In addition, some trees along Twin Peaks Road are located within private property. Therefore, per Section 12.32.150, Private Tree Removal Permit, of the City's Municipal Code, "the property owner shall first obtain a private tree removal permit authorizing the removal of a private tree that is a native tree or a heritage tree subject to terms and conditions deemed appropriate by the Director of Development Services or his/her designee." The private properties along Twin Peaks Road are classified as a City prescriptive easement. The City will conduct outreach to coordinate homeowner consent from 89 property owners for any trees removed within the prescriptive easement and obtain the necessary permits on behalf of the property owner. Section 16.42.010 of the City's Municipal Code requires a grading permit for any grading, excavation, earth moving, filling, clearing, brushing, or grubbing on natural or existing grade, but exempts clearing and brushing of vegetation that is a potential fire hazard without significant damage to habitat (subsection K). Section 8.76.030 of the City's Municipal Code requires the reduction and removal of flammable vegetation deemed to be a fire hazard and public nuisance by the Fire Marshal or Director of Development Services. Because this is an administrative permit, that is anticipated to be granted, with limited or no replacement mitigation required. Therefore, through implementation of the existing tree removal regulations outlined in the City's Municipal Code, the project would be considered ministerial. Consistent with these findings for a ministerial exemption, the Poway Fire Department Interim Fire Chief and the City's Director of Development Services confirm that the project qualifies for an exemption under

Section 15268.

In addition, the proposed project would be exempt from CEQA per **Categorical Exemption 15304, Minor Alterations to Land** which indicates that "minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Examples include, but are not limited to: i) fuel management activities within 30 feet of structures to reduce the volume of flammable vegetation, provided that the activities will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. This exemption shall apply to fuel management activities within 100 feet of a structure if the public agency having fire protection responsibility for the area has determined that 100 feet of fuel clearance is required due to extra hazardous fire conditions." Although the proposed project would result in removal of trees, the proposed project would implement fuel management with the goal of providing fire suppression through vegetation removal. The City consulted the U.S. Army Corps of Engineers (ACOE), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildfire (CDFW) at a round table meeting on February 9, 2021, hosted by CDFW and attended by 14 other agencies, to confirm jurisdictional interest or if there are any additional information/notifications needed by the resource agencies prior to scheduling project activities for the Green Valley Open Space Area. ACOE and RWQCB indicated that there is no interest in assuming jurisdiction or a need to apply for a certification based on the scope, nature, and impacts of the project. CDFW has indicated a request for more information regarding impacts to nesting activities, and natural resource inventory. A biological technical memorandum (memo) was prepared for the proposed activities at Twin Peaks Road and Espola Road while an additional biological technical memo was prepared for the proposed activities at the Green Valley Open Space Area (biological technical memos) (Dudek 2022a; Dudek 2022b). The biological technical memos included literature review and field survey of the project site and determined that no federally or state-listed wildlife species have a potential to occur within the project site. Only the migratory California species of special concern, yellow warbler, has a moderate potential to occur within the Green Valley Open Space Area. However, the project would adhere to nesting bird protections; therefore, the project would not result in direct or indirect impacts to special-status wildlife species or nesting birds. Impacts to the yellow warbler or other or nesting bird species would be further reduced because native trees would be protected. Through compliance with the MBTA, to be incorporated as a project design feature (see Project Description, above), the proposed project would not result in impacts to biological resources. No native tree species would be removed under the proposed project except for any dead or severely diseased native trees. In addition, the biological technical memos determined that the Green Valley Open Space Area contains several potentially sensitive vegetation communities including southern arroyo willow riparian forest, southern coast live oak riparian forest, and coast live oak woodland. However, protections will be in place to only remove dead or severely diseased and non-native and invasive tree species and only trim native trees up where necessary to reduce "fire-ladder" tendencies. All native trees and vegetation will be maintained and protected in place unless they are dead or severely diseased. Lastly, the Green Valley Open Space Area contains US Army Corps of Engineers, California Department of Fish and Wildlife, and Regional Water Quality Control Board jurisdictional water features. However, each agency has been approached and concurs that with implementation of the project design features listed above (see Project Description, above); therefore, no potentially jurisdictional areas will be affected. Lastly, the project would comply with the City's Municipal Code, as it relates to tree removal. As discussed above and in the biological technical memos, no replacement mitigation would be required under the proposed project. Lastly, the project would be consistent with the Poway Natural Community Conservation Plan (NCCP)/Habitat Conservation Plan (HCP) Subarea Plan Area.


In addition, a Section 106 review was performed for the proposed project and the results were included in the Poway HMGF Hazardous Tree Removal Project Section 106 Review Memo (Dudek 2022c). The Section 106 review memo included a records search to identify any previously recorded historic properties that may be located within the area of potential effects (APE). There are no historic properties located within the APE that are listed or potentially eligible for the National Register of Historic Places or California Register of Historical Resources. Therefore, no impacts to existing historic properties would occur as a result of the proposed project. Additionally, all trees would be cut at grade. Since there would be no ground disturbing activities, it is anticipated that there would be no effects to previously undiscovered historic properties by the proposed project. The project is not located in the vicinity of a state scenic highway and therefore would not affect resources visible from a scenic highway. In addition, the project would be largely located within existing ROW or open space areas and no ground disturbance would occur. Therefore, the project is not anticipated to be located on a hazardous waste site or result in impacts associated with hazardous waste (DSTC 2022, SWRCB 2022, Water Board 2022a, and Water Board 2022b). Because no impacts would occur as a result of the proposed project, it is not anticipated that the project would not result in cumulative impacts. Lastly, consistent with these findings for a ministerial exemption, the Poway Fire Department Interim Fire Chief and the City's Director of Development Services confirm that the project qualifies for an exemption under Section 15304(i).

For the above reasons, City finds that the proposed project would be exempt from CEQA.

Lead Agency  
Contact Person: David De Vries Area Code/Telephone/Extension: 858-668-4604

**If filed by applicant:**

- 1. Attach certified document of exemption finding.
- 2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature:  Date: 4-6-22 Title: City Planner

Signed by Lead Agency  Signed by Applicant

Attachments:

Figure 1 – Project Location

References:

City of Poway. Findings by the Fire Chief and Director of Development Services. April 4, 2022.

DTSC (Department of Toxic Substances Control). 2022. Envirostar database. Accessed March 31, 2022.  
[https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site\\_type=CSITES,FU DS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29](https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FU DS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29)

Dudek 2022a. Draft Biological Technical Memorandum and Impacts Analysis for the Twin Peaks Road/Espola Road Tree Grant Project. March 16, 2022.

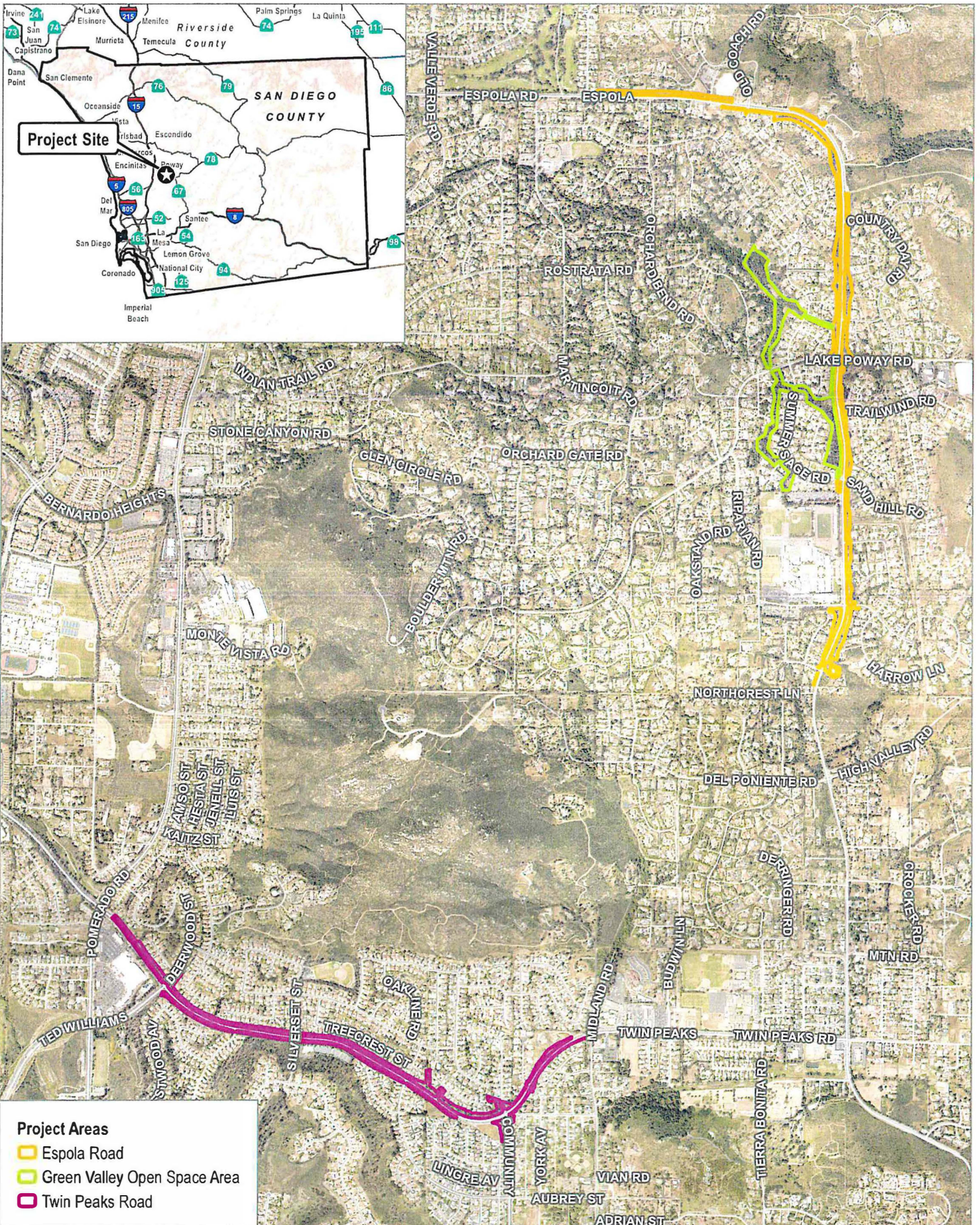
Dudek 2022b. Biological Constraints Letter Report for the Green Valley Tree Grant Project. March 25, 2022.

Dudek 2022c. Poway HMGP Hazardous Tree Removal Project Section 106 Review. February 14, 2022.

SWRCB (State Water Resource Control Board). 2022. Geotracker Database Accessed March 3, 2022  
[https://geotracker.waterboards.ca.gov/search?CMD=search&case\\_number=&business\\_name=&main\\_street\\_name=&city=&zip=&county=&SITE\\_TYPE=LUFT&oilfield=&STATUS=&BRANCH=&MASTER\\_BASE=&Search=Search](https://geotracker.waterboards.ca.gov/search?CMD=search&case_number=&business_name=&main_street_name=&city=&zip=&county=&SITE_TYPE=LUFT&oilfield=&STATUS=&BRANCH=&MASTER_BASE=&Search=Search)

Water Board. 2022a List of solid waste disposal sites. Accessed March 31, 2022.  
<http://calepa.ca.gov/wpcontent/uploads/sites/6/2016/10/SiteCleanup-CorteseList-CurrentList.pdf>

Water Board 2022b. List of “Active” CDO and CAO from Water Board. Accessed March 31, 2022.  
[Http://calepa.ca.gov/SiteCleanup/CorteseList/](http://calepa.ca.gov/SiteCleanup/CorteseList/)



SOURCE: DigitalGlobe 2017

**FIGURE 1**  
Project Location  
Poway Tree Grant Project