

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

2375 Northside Drive, Suite 100, San Diego, CA 92108  
Phone (619) 516-1990 • Fax (619) 516-1994  
<http://www.waterboards.ca.gov/sandiego/>

**Amendment No. 1 to Clean Water Act Section 401  
Water Quality Certification No. 10C-045**

**PROJECT:** North Education Center Project  
Water Quality Certification No. 10C-045

**APPLICANT:** Palomar Community College District  
1140 West Mission Road  
San Marcos, CA 92069

WDID 9 000002091  
Party ID. 521012  
Place ID. 753776  
Reg. Meas. ID. 374576

On December 1, 2010, Clean Water Act Section 401 Water Quality Certification No. 10C-045 (Certification) was issued to the Palomar Community College District (Applicant) for the North Education Center Project (Project).

By letter dated March 27, 2013, Helix Environmental Planning, on behalf of the Applicant, requested the Certification be amended to change the proposed off-site compensatory mitigation to all on-site mitigation.

Based on the Applicant's request, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is amending the Certification to replace the proposed off-site mitigation with on-site mitigation within the "Native Area." Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions and other requirements of Certification No. 10C-045 remain in full force and effect. The following changes are made to Certification No. 10C-045 and are shown in underline/strikeout format to indicate added and removed language:

The following modifications to the Certification, shown below in underline/strikeout format, are hereby effective and enforceable requirements of the Certification. Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions and other requirements of Certification No. 10C-045 remain in full force and effect.

**1. Page 1, APPLICANT is modified as follows:**

~~Kelly Hudson-Maelsaag~~

**2. Page 2, STANDARD CONDITIONS is replaced as follows:**

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

**3. Page 4, ADDITIONAL CONDITION 13 is added as follows:**

13. This Certification shall expire upon a) the expiration or retraction of the Clean Water Act section 404 permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the amended date of issuance of this Certification, whichever occurs first.

**4. Page 7, MITIGATION CONDITION 2 is modified as follows:**

- a) On-site mitigation resulting in the combined establishment and enhancement of ~~4.16~~ 7.73 acres of the water of the U.S. and State, as follows:
  - 1. Establishment of ~~0.76~~ 2.62 acre of Alkali meadow.
  - 2. Enhancement (~~3.40~~ 4.85 acres) of ~~1.96~~ 2.24 acres Alkali meadow, ~~0.78~~ 2.41 acre Southern cottonwood-willow riparian forest, ~~0.52~~ 0.20 acre of disturbed Coyote bush scrub, and ~~0.14~~ 0.20 acre of non-native grassland and 0.20 acre of Southern willow scrub.
  - 3. Restoration of 0.26 acres of Alkali meadow and Southern cottonwood-willow riparian forest
- b) ~~Off-site mitigation (Fenton Ranch) resulting in the combined establishment and enhancement of 3.97 acres of waters of the U.S. and State, as follows:~~
  - 1. ~~Establishment (0.95 acre) of 0.60 acre of Southern cottonwood-willow riparian forest and 0.35 acre of Southern willow scrub.~~
  - 2. ~~Enhancement (3.02 acres) of 1.62 acres of Southern cottonwood-willow riparian forest and 1.40 acres of Southern willow scrub.~~

	<u>Impacts</u> (acres)	<u>Impacts</u> (linear ft.)	<u>Mitigation</u> <u>for Impacts</u> (acres) <sup>1</sup>	<u>Mitigation</u> <u>Ratio</u> (area mitigated :area impacted)	<u>Mitigation</u> <u>for Impacts</u> (linear ft.)	<u>Mitigation</u> <u>Ratio</u> (linear feet mitigated :linear feet impacted)
<b><u>Permanent</u> <u>Impacts</u></b>						
<u>Wetlands</u>	<u>1.55</u>	<u>286</u>	<u>2.62</u> <u>Establishment</u>  <u>0.26</u> <u>Restoration</u>  <u>4.85</u> <u>Enhancement</u>	<u>5:1</u>	<u>2,356</u>	<u>8.2:1</u>

1. Wetland establishment, enhancement, and restoration on-site at the Palomar College North mitigation site.
2. All areas of temporary impacts must be restored to pre-project contours and re-vegetated with native species.

**5. Page 8, MITIGATION CONDITION 3 is modified as follows:**

The proposed mitigation, monitoring and maintenance must be implemented as described in the Palomar College North Draft Wetland Restoration Plan (Prepared by Helix Environmental Planning, ~~January 19, 2010~~ February 5, 2014), and the Preliminary Conceptual Wetlands Mitigation Plan for the Palomar College North Educational Center (prepared by Dudek, April 2010).

**6. Page 9, MITIGATION CONDITION 9 is replaced as follows:**

**Annual Compensatory Mitigation Monitoring Report.** The Applicant must submit compensatory mitigation monitoring reports, annually, by March 1 of each year containing sufficient information to demonstrate how the compensatory mitigation project is progressing towards accomplishing its objectives and meeting its performance standards. The monitoring period for each Annual Compensatory Mitigation Monitoring Report shall be January 1<sup>st</sup> through December 31<sup>st</sup> of each year. Mitigation monitoring reports must be submitted annually, for a period of not less than five years, sufficient to demonstrate that the compensatory mitigation project has accomplished its objectives and met ecological success performance standards contained in the Mitigation Plan. Following Project implementation the San Diego Water Board may reduce or waive compensatory mitigation monitoring requirements upon a determination that performance standards have been achieved. Conversely, the San Diego Water Board may extend the monitoring period beyond five years upon a determination that the performance standards have not been met or the compensatory mitigation project is not on track to meet them.

The monitoring reports must include, but not be limited to, the following information:

- A. Names, qualifications, and affiliations of the persons contributing to the report;
- B. An evaluation, qualifications, and affiliations of the persons contributing to the report;
- C. A description of the following mitigation site(s) characteristics:
  - 1. Detritus cover;
  - 2. General topographic complexity;
  - 3. General upstream and downstream habitat and hydrologic connectivity;  
and
  - 4. Source of hydrology;
- D. Monitoring data interpretations and conclusions as to how the compensatory mitigation project(s) is progressing towards meeting performance standards and whether the performance standards have been met;
- E. A description of the progress toward implementing a plan to manage the compensatory mitigation project after performance standards have been achieved to ensure the long term sustainability of the resource in perpetuity, including a discussion of long term financing mechanisms, the party responsible for long term management, and a timetable for future steps;
- F. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
- G. Stream photo documentation, including all areas of permanent and temporary impact, prior to and after project construction, and mitigation sites, including all areas of permanent and temporary impact, prior to and after project construction. Photo documentation must be conducted in accordance with guidelines posted at [http://www.waterboards.ca.gov/sandiego/water\\_issues/programs/401\\_certification/docs/401c/401PhotoDocRB9V713.pdf](http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf). In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced;
- H. As built drawings of the compensatory mitigation project site(s), no bigger than 11"X17"; and
- I. A survey report documenting boundaries of the compensatory mitigation site(s).

**8. MITIGATION CONDITION 12 is added as follows:**

**Performance Standards.** Compensatory mitigation required under this Certification shall be considered achieved once it has met the ecological success performance

standards contained in Section 10, Tables 12, 13, and 14, of the Mitigation Plan to the satisfaction of the San Diego Water Board.

**9. MITIGATION CONDITION 13 is added as follows:**

**Long Term Management and Maintenance Plan.** Within 12 months from issuance of this Amendment, the Applicant must submit and implement an acceptable Long Term Management and Maintenance Plan to manage the compensatory mitigation project after performance standards have been achieved to ensure the long term sustainability of the resource in perpetuity, including a discussion of long term financing mechanisms, the party responsible for long term management, and a timetable for future steps.

**10. MITIGATION CONDITION 14 is added as follows:**

**Long Term Management and Maintenance.** The compensatory mitigation site(s), must be managed, protected, and maintained, in perpetuity, in conformance with the long term management plan and the final ecological success performance standards identified in the Mitigation Plan. The aquatic habitats, riparian areas, buffers and uplands that comprise the mitigation site(s) must be protected in perpetuity from land-use and maintenance activities that may threaten water quality or beneficial uses within the mitigation area(s) in a manner consistent with the following requirements:

- A. Any maintenance activities on the mitigation site(s) that do not contribute to the success of the mitigation site(s) and enhancement of beneficial uses and ecological functions and services are prohibited;
- B. Maintenance activities must be limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species, and remedial measures deemed necessary for the success of the compensatory mitigation project;
- C. The Mitigation site(s) must be maintained, in perpetuity, free of perennial exotic plant species including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the mitigation site(s); and
- D. If at any time a catastrophic natural event (e.g., fire, flood) causes damage(s) to the mitigation site(s) or other deficiencies in the compensatory mitigation project, the Applicant must take prompt and appropriate action to repair the damage(s) including replanting the affected area(s) and address any other deficiencies. The San Diego Water Board may require additional monitoring by the Applicant to assess how the compensatory mitigation site(s) or project is responding to a catastrophic natural event.

**11. MITIGATION CONDITION 15 is added as follows:**

**Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**

**12. Page 12, REPORTING CONDITION 7 is replaced as follows:**

**Electronic and Paper Media Documents.** The Applicant must submit all reports and information under required under this Certification in electronic format via e-mail to [SanDiego@waterboards.ca.gov](mailto:SanDiego@waterboards.ca.gov). Documents over 50 megabytes (MB) will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board  
San Diego Region  
Attn: 401 Certification No. 10C-045:753776:amonji  
2375 Northside Drive, Suite 100  
San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF) format, and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. 10C-045:753776:amonji.

**13. Page 13, REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON is modified as follows:**

~~Mike Porter Alan Monji~~  
~~California Regional Water Quality Control Board, San Diego Region~~  
~~9174 Sky Park Court~~  
~~San Diego, CA 92123-4340~~  
~~858-467-2726 619-521-3968~~  
~~[mporter@rb9.swrcb.ca.gov](mailto:mporter@rb9.swrcb.ca.gov) [Alan.Monji@waterboards.ca.gov](mailto:Alan.Monji@waterboards.ca.gov)~~

**14. ATTACHMENT 1, Applicant is modified as follows:**

~~Kelly Hudson-Maelsaac~~

**15. ATTACHMENT 1, Compensatory Mitigation is modified as follows:**

Compensatory mitigation is described in the Palomar College North Draft Wetland Restoration Plan prepared by Helix Environmental Planning, ~~January 19, 2010~~ February 5, 2014, and the Preliminary Conceptual Wetlands Mitigation Plan for the Palomar College North Educational Center prepared by DUDEK, April 2010.

Compensatory mitigation for the proposed impacts will consist of:

On-site mitigation resulting in the combined establishment and enhancement of ~~4.16~~ 7.73 acres of waters of the U.S. and State, as follows:

- Establishment of ~~0.76~~ 2.62 acre of Alkali meadow.
- Enhancement (~~3.40~~ 4.85 acres) of ~~1.96~~ 2.24 acres Alkali meadow, ~~0.78~~ 2.41 acre Southern cottonwood-willow riparian forest, ~~0.52~~ acre of ~~disturbed Coyote bush scrub~~, and ~~0.14~~ acre of ~~non-native grassland/pasture~~ and 0.20 acre of Southern willow scrub.
- Restoration of 0.26 acres of Alkali meadow and Southern cottonwood-willow riparian forest.

~~Off-site mitigation (Fenton Ranch) resulting in the combined creation and enhancement of 3.97 acres of waters of the U.S. and State, as follows:~~

- ~~• Establishment (0.95 acre) of 0.60 acre of Southern cottonwood-willow riparian forest and 0.35 acre of Southern willow scrub.~~
- ~~• Enhancement (3.02 acres) of 1.62 acres of Southern cottonwood-willow riparian forest and 1.40 acres of Southern willow scrub.~~

The overall compensatory mitigation is ~~8.13~~ 7.73 acres of establishment, restoration, and enhancement.

**16. ATTACHMENT 2, Distribution List is modified as follows:**

~~Ms. Michelle Mattson~~ Mr. Winston Zack  
U.S. Army Corps of Engineers  
Regulatory Division  
South Coast Branch, San Diego Section  
~~Therese.O.Bradford~~ Winston.S.Zack@usace.army.mil


~~Mr. Darren Bradford~~ Kevin Hupf  
California Department of Fish and Game Wildlife  
South Coast Region  
Habitat Conservation Planning – North  
Dbradfordf@dfg.ca.gov

Kevin.Hupf@wildlife.ca.gov

**17. ATTACHMENT 5, Mitigation Maps Figures 1, 2, and 3 are replaced with Figures 1, 2a, 2b, and 3 from the "Palomar Community College – North Education Center Draft Wetland Restoration Plan", dated February 5, 2014.**

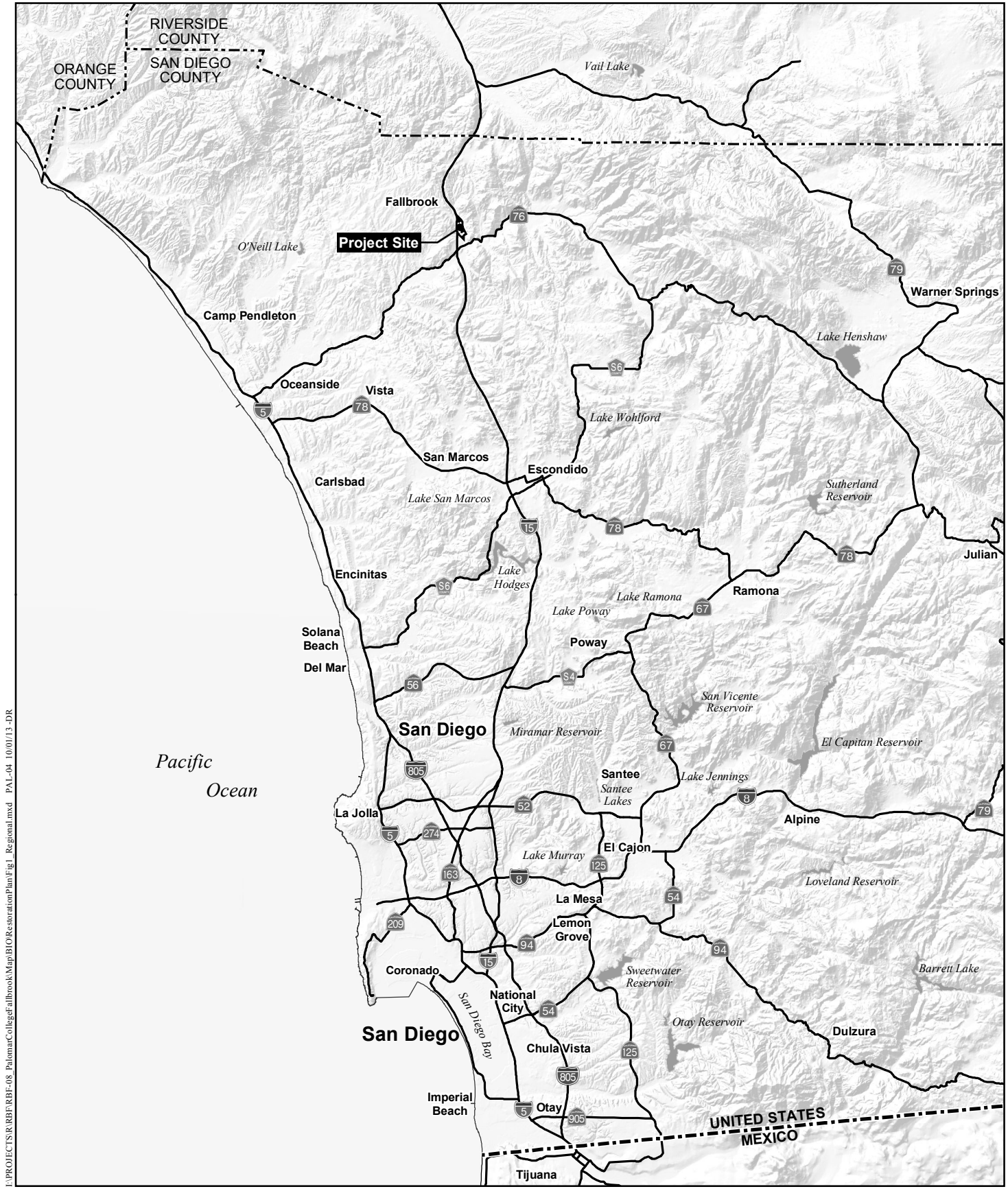
**Notification.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification Amendment. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No.1 to Certification No. 10C-045 issued on July 10, 2015.

  
\_\_\_\_\_  
David W. Gibson  
Executive Officer  
Regional Water Quality Control Board

10 July 2015  
Date

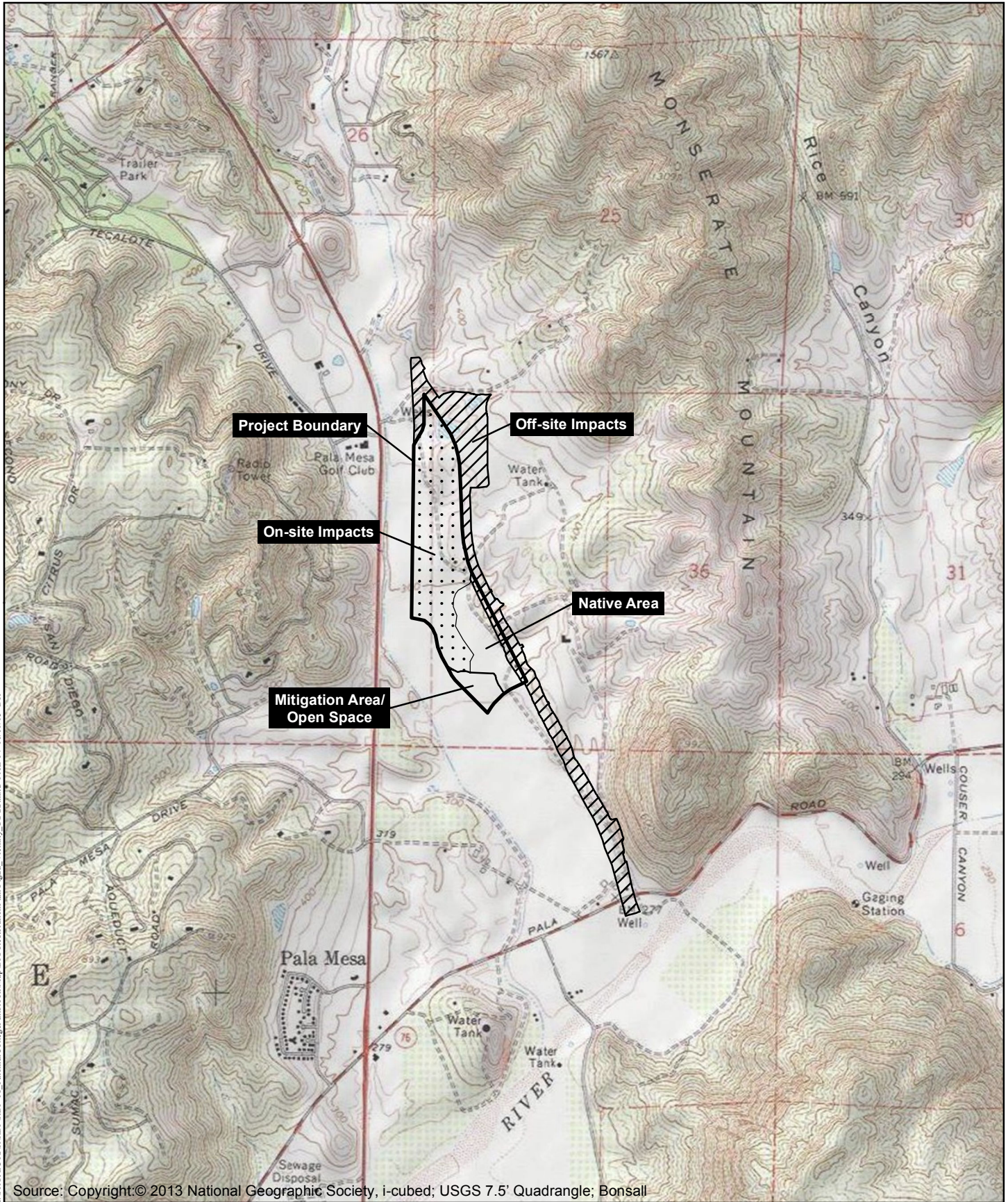




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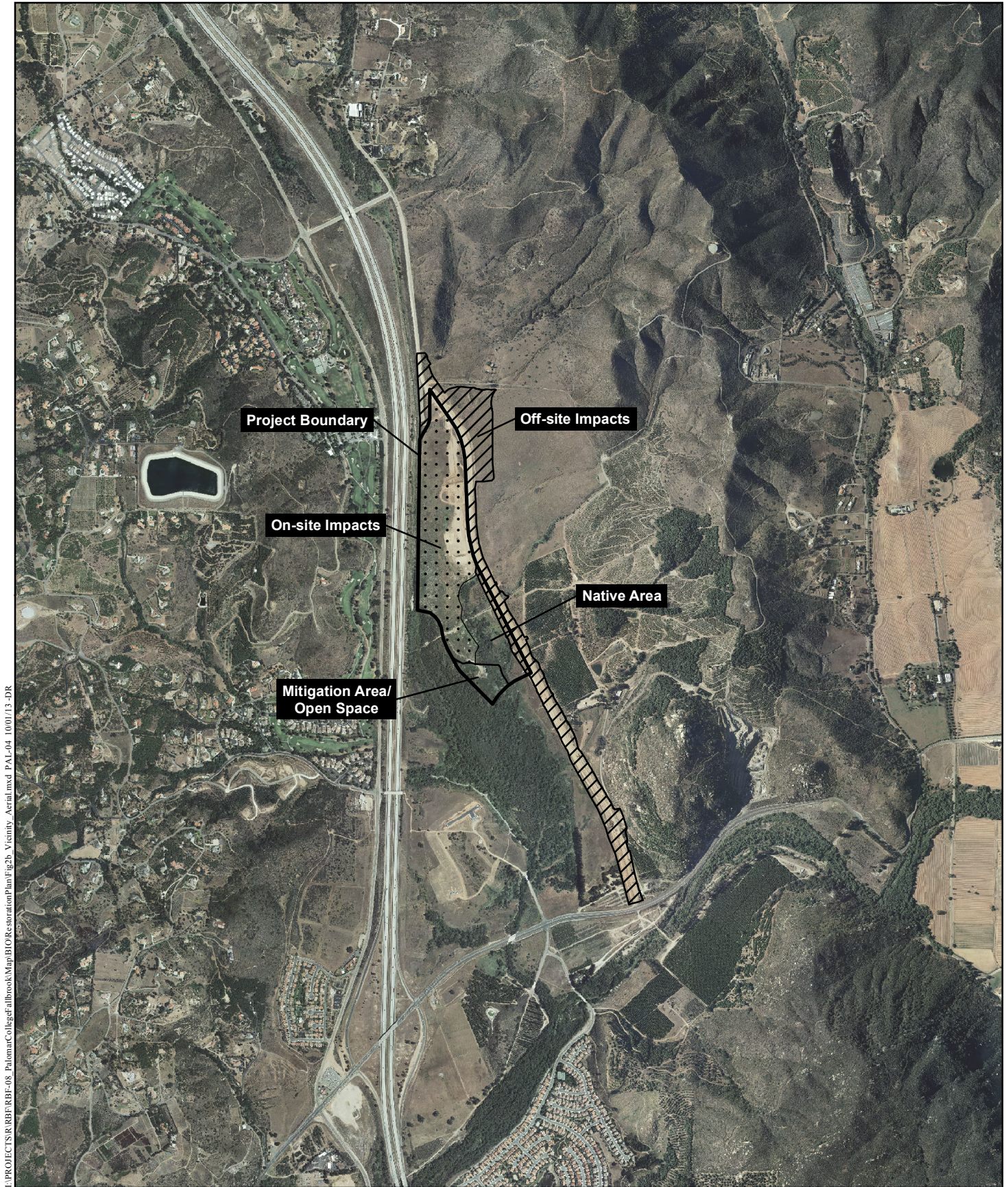
## Regional Location Map

PALOMAR COLLEGE NORTH



**Project Vicinity Map (USGS Topography)**

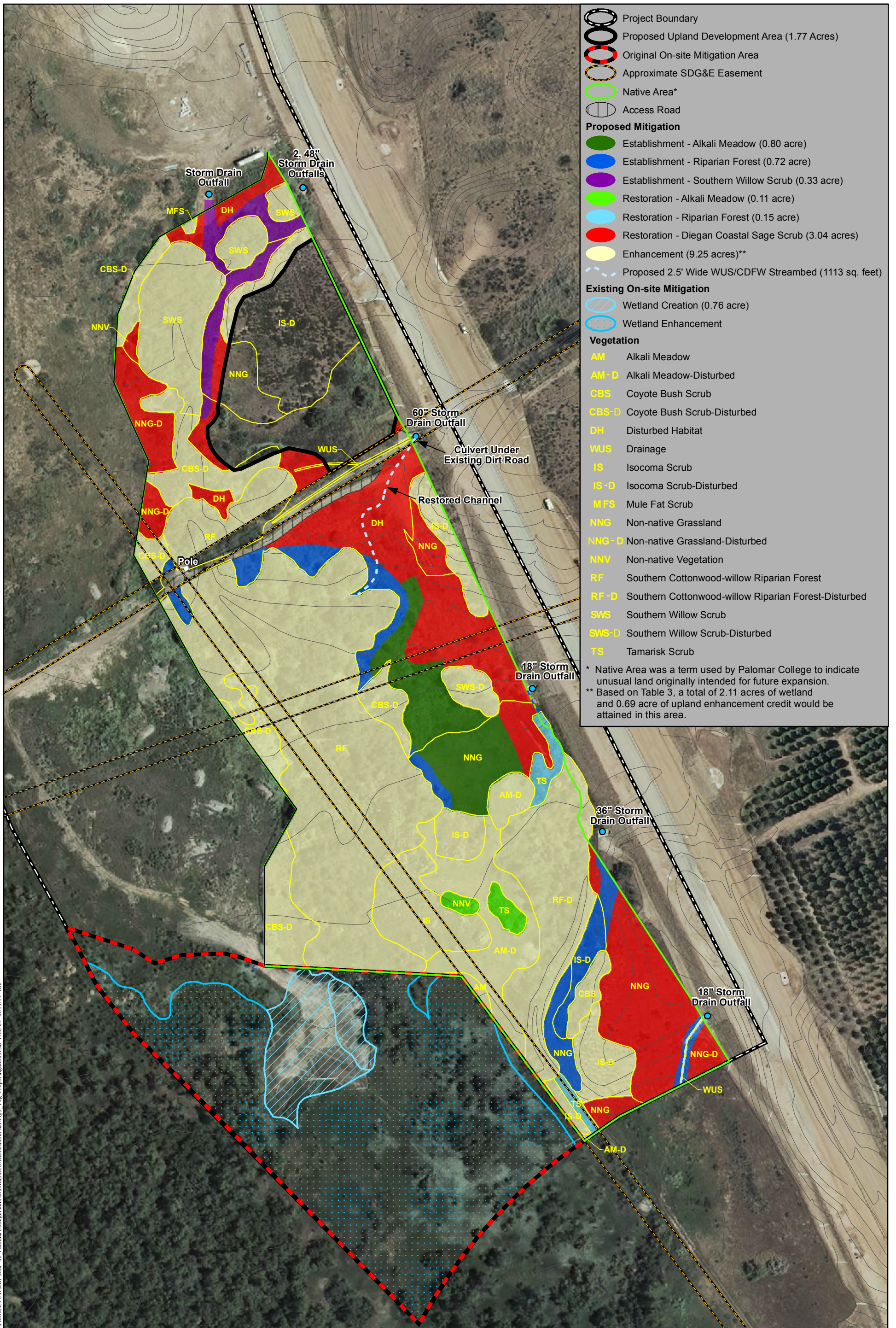
PALOMAR COLLEGE NORTH



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**Project Vicinity Map (Aerial Photograph)**

PALOMAR COLLEGE NORTH



**Future Phase (Native Area) Vegetation/Proposed Mitigation**

PALOMAR COLLEGE NORTH