



**San Diego County**  
**Local Agency Formation Commission**  
 Regional Service Planning | Subdivision of the State of California

**7b**

**AGENDA REPORT**  
 Business | Information

February 1, 2021

**TO:** Commissioners

**FROM:** Keene Simonds, Executive Officer  
 Priscilla Allen, Analyst I

**SUBJECT: Informational Report on the Sustainable Groundwater Management Act |  
 Local Implementation and Relationship with LAFCO’s Duties and Powers**

**SUMMARY**

The San Diego County Local Agency Formation Commission (LAFCO) will receive an informational report on the Sustainable Groundwater Management Act (SGMA) and its central requirements for local governments to take various and ongoing actions to improve the health of at-risk groundwater basins. The report has been prepared as part of the adopted workplan and provides background information on SGMA and the current and planned activities of the three Groundwater Sustainability Agencies (GSAs) formed under the legislation in San Diego County. The report also addresses SGMA’s intersection with LAFCO’s regulatory and planning duties involving municipal services; the latter having evolved now through SGMA to include groundwater management. The report is for discussion and feedback and identifies potential activities for the Commission to align with SGMA’s ongoing implementation and shared interests in orderly and sustainable growth.

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## BACKGROUND

### Sustainable Groundwater Management Act

SGMA was signed into law on September 16, 2014 by Governor Jerry Brown. The legislation became effective on January 1, 2015 and marked the State's coordinated response to address depleting groundwater resources throughout California after long periods of drought and evidence of withdrawals (pumping) far exceeding natural replenishments. To this end, and to mitigate the detrimental effects of lowering groundwater levels, SGMA establishes groundwater management thresholds and directs local agencies to form GSAs for critical-high, high, and medium priority basins, as determined by the Department of Water Resources.<sup>1</sup> GSAs' may be comprised of one or more local public agencies that have water supply, water management, or land use responsibilities in the affected basins. The statute also allows certain non-governmental agencies to have a formal stakeholder role within GSAs, including – but not limited to – Native American Tribes. SGMA also specifies counties serve as default GSAs for any qualifying basins within their jurisdictions if no other actions are taken. GSA formations follow an application process with the Department of Water Resources and culminates in a local noticed hearing. GSAs are governed by joint-power agreements (JPAs), memorandum of understandings (MOUs), or other legal agreements. June 30<sup>th</sup>, 2017 served as the initial deadline for GSAs to be formed for all critical-high, high, to medium priority basins. Basins subsequently identified as critical-high, high, or medium priorities have two years thereafter to establish GSAs.

### GSA Duties and Powers

Once established, GSAs are tasked with assessing the conditions of the basin and implementing a locally developed Groundwater Sustainability Plan (GSP) to guide the management and long-term reliability of groundwater basins over 20-year horizons. GSPs must be developed with participation from interested parties and submitted to the Department of Water Resources to determine content adequacy. Should it determine a GSP is not adequate, the State Water Resources Control Board is authorized to establish an alternative management plan, and this includes assuming all related enforcement powers. GSAs must also provide annual reports to the Department of Water Resources and track measurable objectives in the GSPs through ongoing monitoring programs with cumulative results analyzed in five-year cycles. GSAs are authorized with all the following powers.

- Adopt rules and regulations and establish ordinances by resolution
- Acquire and appropriate water rights, and conduct investigations
- Require groundwater metering
- Regulate groundwater extraction
- Establish and collect fees subject to Proposition 218
- Conduct enforcement

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<sup>1</sup> The Department of Water Resources is responsible for updating groundwater basin conditions as part of its annual Bulletin 118 report.

GSPs for basins in critical condition were required to be adopted by January 1, 2020. High and medium priority basins must adopt GSPs by January 1, 2022. Basins that subsequently qualify as critical-high, high, or medium priorities have two years to adopt GSPs after their GSA forms.

## DISCUSSION

This informational report and proceeding discussion focus on SGMA implementation in San Diego County. The report has been prepared consistent with the adopted workplan to provide a primer on local GSA activities and the statute's relationship with LAFCO's duties and powers. The report also serves as a pivot opportunity for the Commission to take future activities in aligning and/or instructing future LAFCO actions.

### GSA in San Diego County

The Department of Water Resources currently identifies 515 total groundwater basins in California. Of this total statewide amount, 94 groundwater basins qualify either as critical-high, high, or medium priority and therefore must establish GSAs and accompanying GSPs under SGMA. Three (3) basins – Borrego Springs, San Pasqual Valley, and Upper San Luis Rey Valley – are located within San Diego County and are further described below.

- Borrego Springs Subbasin

This subbasin lies in northeast San Diego County and spans approximately 98 square miles in size and designated as a critical-high priority.<sup>2</sup> It is part of a larger basin – Borrego Valley – that extends east into western Imperial County. (The remainder of the Borrego Valley Basin is the Ocotillo Wells Subbasin and classified by the Department of Water Resources as a low priority.) The subbasin includes the unincorporated community of Borrego Springs along with the Borrego Springs Resorts and Country Club with a total estimated population of 3,500. A GSA was initially formed in October 2016 between the County of San Diego and the Borrego Water District. The County subsequently withdrew from the GSA to facilitate an alternative legal agreement endorsed by the Borrego Water District and several stakeholders, which was filed as a stipulated judgement in the San Diego Superior Court in January of 2020.<sup>3</sup> The judgement is pending Court approval and would transition governance over the subbasin to a five-member Watermaster Board to appropriate groundwater rights and allowances.<sup>4</sup>

- San Pasqual Valley Basin

This basin lies in central San Diego County and spans approximately seven square miles in size and designated as a medium priority. It extends along the Santa Ysabel Creek between Lake Hodges to the west and Schoolhouse Canyon to the east. The basin includes mostly unincorporated lands along with portions of the City of San Diego's

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<sup>2</sup> There are only 21 basins/subbasins in California that qualify as critical high priority.

<sup>3</sup> The case has since been transferred to the Orange County Superior Court to avoid a conflict of interest.

<sup>4</sup> The five-member Watermaster Board as proposed in the stipulated judgement would include a representative from the Borrego Water District and the County of San Diego with the three remaining members representing residential, agricultural, and resort interests in the Borrego area and would be appointed by each entity.

Pasqual Valley and Rancho Bernardo neighborhoods. The total estimated resident population is 110. The County of San Diego and City of San Diego entered into an agreement in June 2017 to create the San Pasqual Valley GSA. Work on the GSP is now underway with a draft expected to be ready for public review in April -May 2021.

- Upper San Luis Rey Valley Subbasin

This subbasin lies in northcentral San Diego County and spans approximately 30 square miles in size and designated as a medium priority. It is part of a larger basin – San Luis Rey Valley – that extends between Oceanside to the west and the Pauma Valley to the east. (The remainder of the San Luis Rey Valley Basin is the Lower Subbasin and subsequently reclassified as a low priority.) The subbasin includes the unincorporated communities of Pala and Rincon with a total estimated resident population of 4,209. An initial GSA was formed in June 2017 and included the County of San Diego, Yuima Municipal Water District, Pauma Valley Community Services District, and Upper San Luis Rey Resource Conservation District. The County subsequently withdrew in November 2018 and a new agreement was entered into in June 2020 by the remaining agencies and tasked Yuima Municipal Water District as the project lead. Work on the GSP is now underway and ahead of the January 1, 2022 deadline.<sup>5</sup> A dispute is also underway and tied to San Luis Rey Indian Water Authority’s objection to Upper San Luis Rey Resource Conservation District’s inclusion in the GSA without having received approval from LAFCO to activate its water conservation/distribution powers.<sup>6</sup> The dispute, notably, came to light as part of a separately scheduled and ongoing municipal service review involving the Upper San Luis Rey Resource Conservation District and is further addressed as part of Agenda Item 7a for the February 1<sup>st</sup> meeting.

Maps showing all three GSAs are provided as Attachments One, Two, and Three.

### Relationship Between GSAs and LAFCOs

SGMA does not provide a direct relationship between GSAs and LAFCOs. The statute authorizes local agencies with land use powers, water supply, water management, or equivalents to form GSAs for qualifying basins. GSA boundaries must include all of the affected basins as mapped by the Department of Water Resources, which leads most GSAs to comprise multiple agencies and/or include counties. Nonetheless, LAFCOs have an indirect relationship through its regulatory powers and can serve to facilitate GSAs’ (a) creation, (b) expansion, and/or (c) eligibility through the following actions.

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<sup>5</sup> Pauma Valley GSA has identified the following local stakeholders: Tribes (Pala, Pauma, Rincon, La Jolla, San Pasqual) and San Luis Rey Indian Water Authority; Non-purveying Municipal Water Districts (Mootamai, Pauma, San Luis Rey); Valley Center MWD; Rainbow MWD; Farm Bureau; Mutual Water Companies (Lazy H, Pauma Ridge, Pauma Valley, Pauma Estates, Peppercorn, Rancho Pauma, Rincon Oaks); Private Pumpers in Pauma Valley (within and outside imported water supply); County Water Authority (imported water strategy).

<sup>6</sup> The San Luis Rey Indian Water Authority is a federally chartered government agency created by five Mission bands: La Jolla; Pala; Pauma; Rincon; and San Pasqual. The Authority’s mission is to ensure the bands are involved in plans regarding the San Luis Rey River Basin’s water use and supply.

- Formations Leading to GSAs  
LAFCO may form one or more special districts with authorization to provide water supply, water management, or their equivalent for the subsequent purpose of creating and/or joining GSAs. Relatedly, formations may also serve to create successor agencies for existing GSAs. Formations can only be initiated by landowner and voter petitions, local agency resolutions, or directly by LAFCOs.
- Annexations to GSAs to Sync with Basins  
LAFCOs may annex lands to cities or special districts that concurrently serve as GSAs to sync their jurisdictional boundaries with the entirety of the affected groundwater basin (the latter subject to mapping – and remapping – by the Department of Water Resources through Bulletin 118). Annexations can only be initiated by landowner and voter petitions or local agency resolutions.
- Latent Power Activations for GSA Eligibility  
LAFCOs may activate special districts’ latent powers to provide water supply, water management authority, or their equivalent under their principal act that otherwise have been inactive and in doing so districts become eligible to form or join GSAs. Latent power activations can only be initiated by special districts’ resolutions.

## ANALYSIS

SGMA represents a significant policy change for the State of California to transition groundwater management from a voluntary to mandatory basis. The significance is reflected in empowering GSAs to regulate, meter, and tax otherwise private groundwater uses that historically extend beyond the purview of State and local government. The significance is also not yet at full scope given the relative infancy of the legislation and reasonable expectation it will continue to evolve and expand both in terms of reach and powers. LAFCOs have a role – albeit indirectly – as outlined in the preceding section (i.e. special district formations, annexations, and latent power activations) that similarly has not come into full focus. Notwithstanding these variables, the following four activities merit consideration by San Diego LAFCO in response to SGMA and the shared interest in orderly and sustainable growth.

- Establish “groundwater management” as a standalone special district municipal function/class and – among other places – incorporate into Policy Rule No. 4.
- Document groundwater management activities and/or opportunities in municipal services reviews as appropriate going forward.
- Request “interested party” status with all existing GSAs as well as with the County of San Diego and in doing so ensure opportunities in statute to participate/comment on GSA activities – including the preparation and implementation of GSPs.
- Expand the LAFCO website to include information on groundwater basins and GSA programs in San Diego County.

## RECOMMENDATION

It is recommended San Diego LAFCO discuss the informational report on SGMA and provide related feedback to staff – including direction to return with specific actions.

## ALTERNATIVES FOR ACTION

The item is being presented to San Diego LAFCO for discussion and feedback only.

## PROCEDURES

This item has been placed on San Diego LAFCO's agenda for discussion as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Invite any comments from the public.
- 3) Discuss item and provide feedback as requested.

On behalf of the Executive Officer,



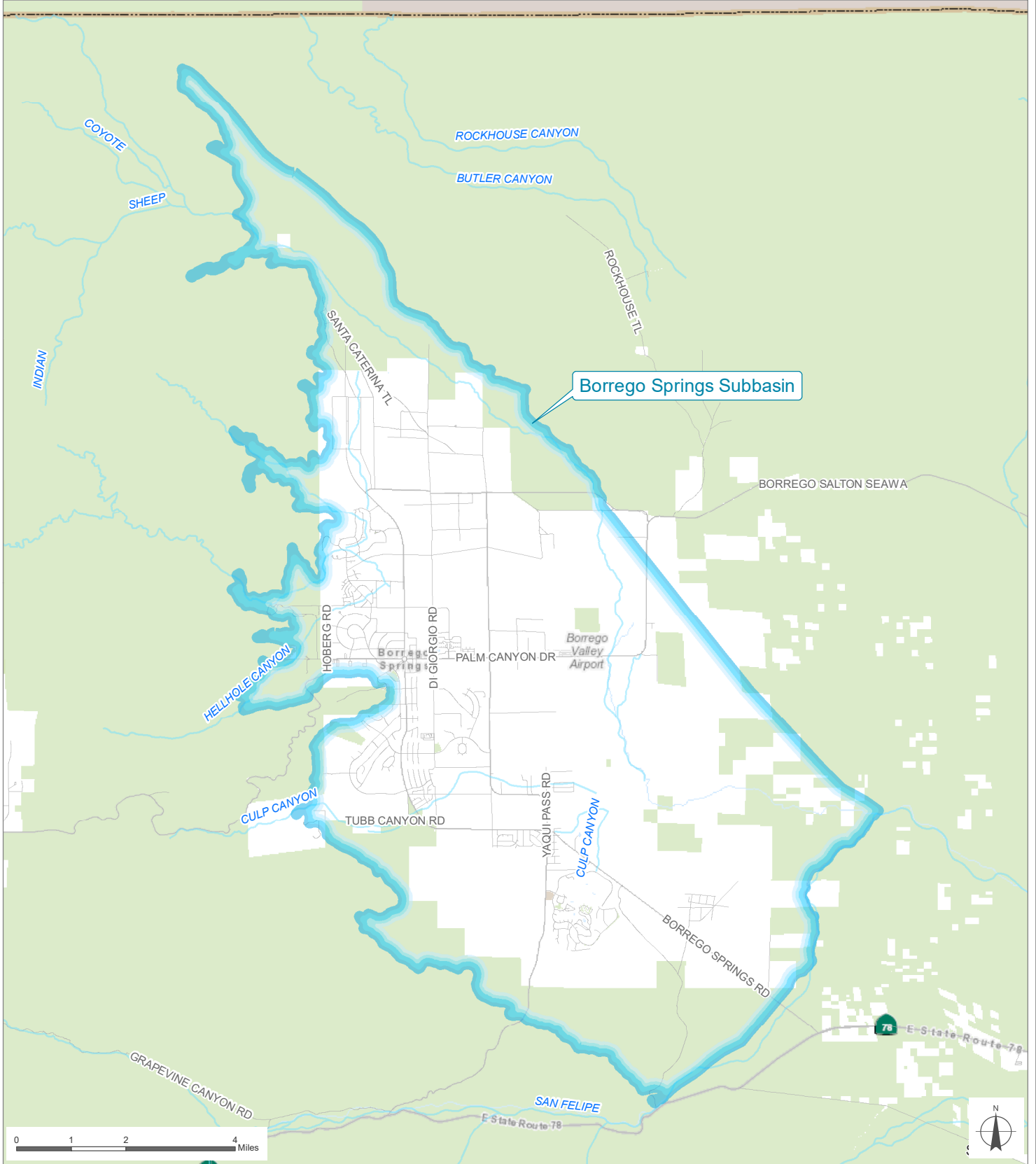
Priscilla Allen  
Analyst I

Attachments:

- 1) Map: Borrego Springs GSA
- 2) Map: San Pasqual Valley GSA
- 3) Map: Upper San Luis Rey GSA



# Borrego Springs Subbasin

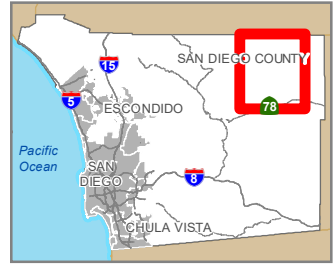



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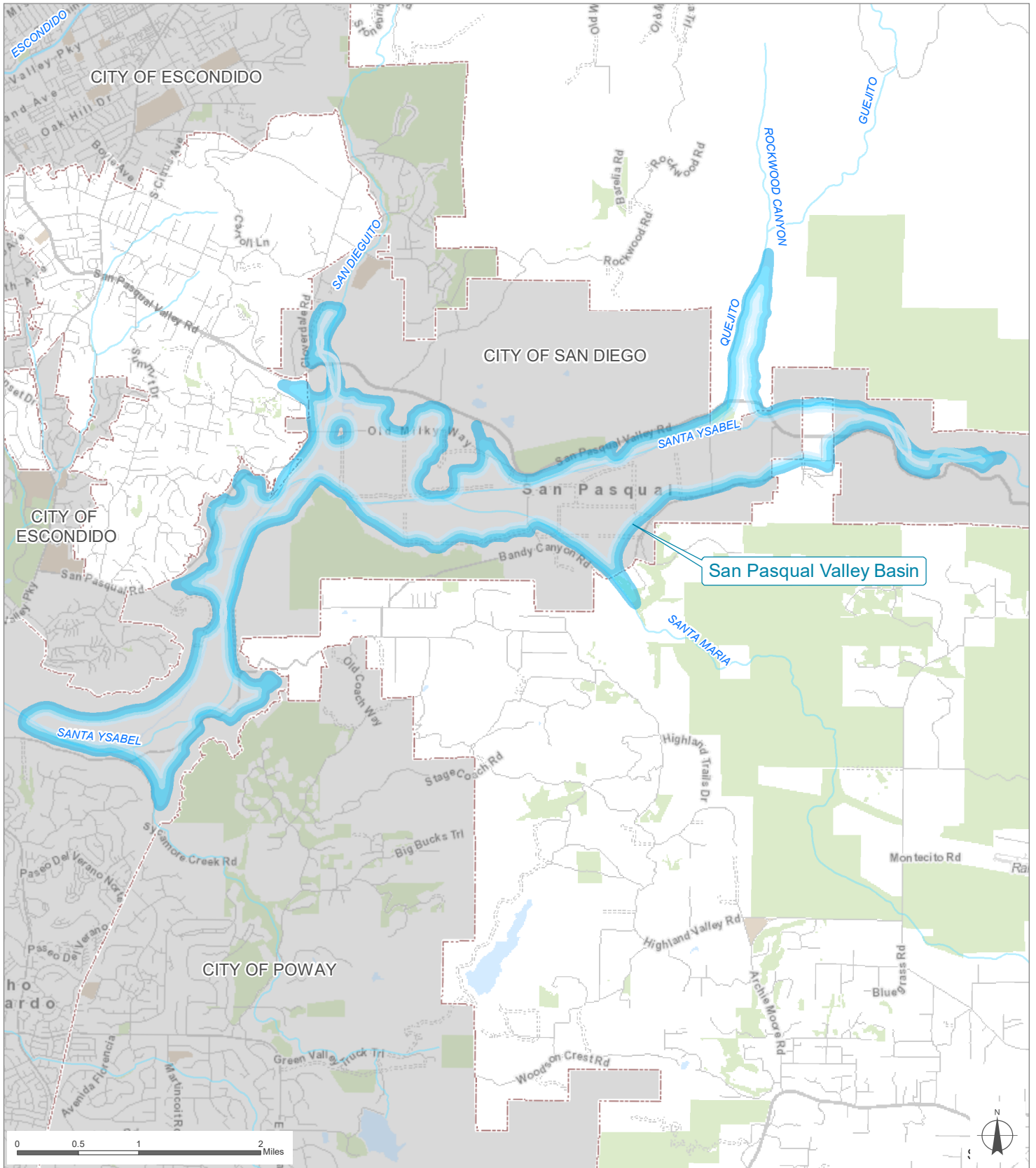
 Borrego Springs Subbasin



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# San Pasqual Valley Basin



San Pasqual Valley Basin



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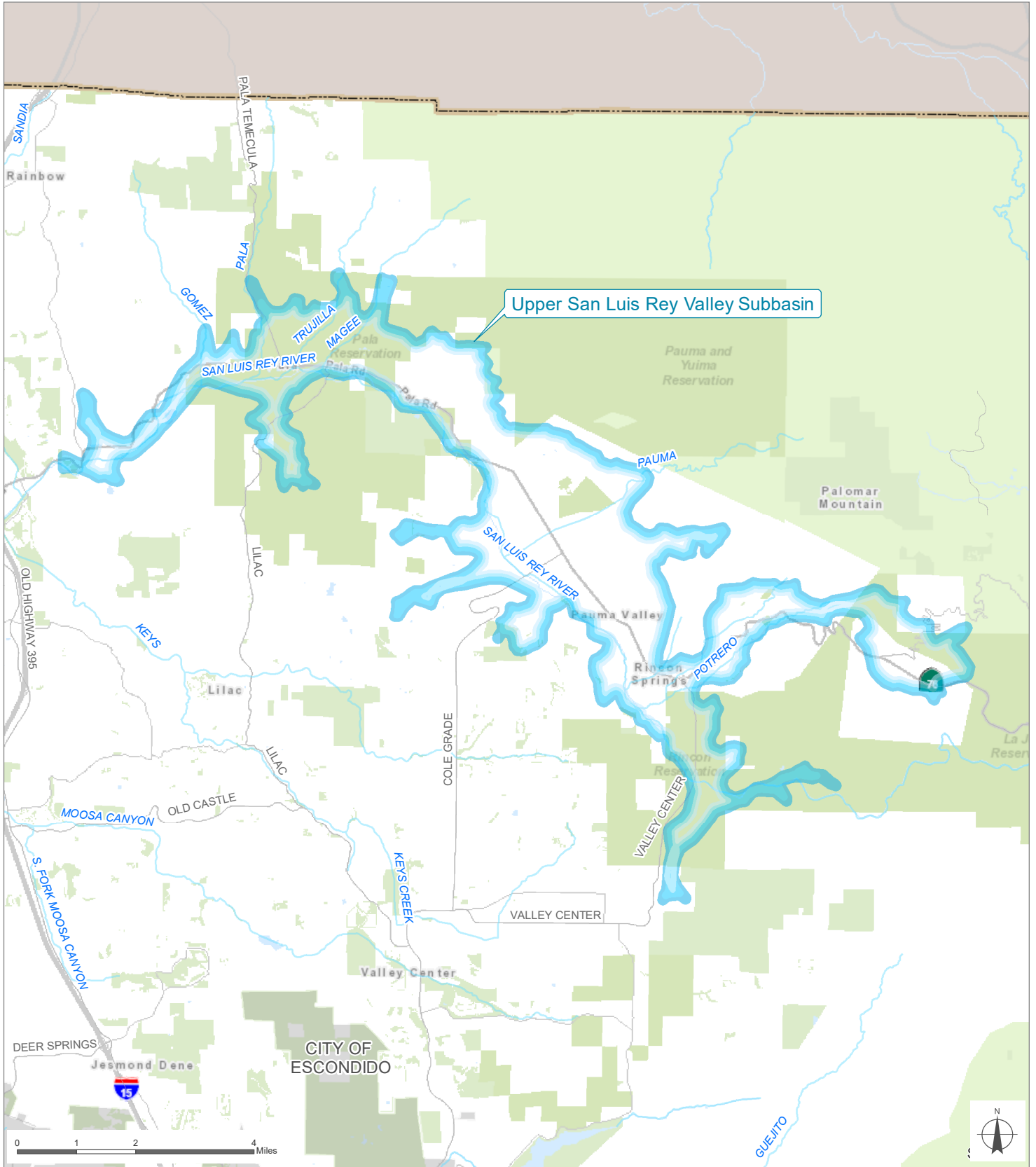



San Pasqual Valley Basin



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# Upper San Luis Rey Valley Subbasin

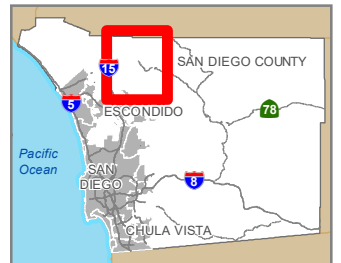



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 Upper San Luis Rey Valley Subbasin



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