

LAFCO – Is It Working?

1. Summary

The Local Agency Formation Commission (LAFCO) was originally formed to:

- encourage the orderly formation of local governmental agencies
- preserve agricultural land resources
- discourage urban sprawl

It performed this job effectively, leaving few remaining areas likely to incorporate into new cities. Therefore, LAFCO's focus has recently evolved to:

- facilitating the incorporation of unincorporated islands
- conducting Municipal Service Reviews (MSRs) to plan for future delivery and funding of municipal services
- updating Sphere of Influence (SOI) determinations

Obstacles to these processes include:

- island residents who do not want a new address
- legislation mandated by the State of California
- sewer vs. septic systems
- outside influence,
- city vs. county code enforcement
- increase of government fees

LAFCO is working to overcome these obstacles with the support of the Orange County Board of Supervisors, stakeholder involvement, and innovative use of the MSR process.

The education of island residents about improved delivery of local services, improved public safety provisions, and improved representation through city councils will increase the opportunity for a favorable annexation. When LAFCO is successful, the county can focus on regional, not local, services to county residents.

Some Acronyms and Abbreviations in this Report

CKH Act	Cortese-Knox-Hertzberg Local Government Act
“Unincorporated Island”	County-run area surrounded by cities
LAFCO	Local Agency Formation Commission
MSRs	Municipal Service Reviews
OC	Orange County
SOI	Sphere of Influence
VLF	Vehicle License Fee

2. Introduction and Purpose

The grand jury chose to study LAFCO to determine if the stakeholders (county, cities, LAFCO, special districts) are effectively working toward the annexation of the unincorporated islands and the development of MSRs and SOIs, as set forth by the legislature and commission.

3. Method of Study

During the study for this report, the grand jury:

- interviewed county and city elected officials
- attended city council and planning commission meetings, LAFCO commission meetings, and public hearings
- reviewed documents listed in Section 8, Bibliography

4. Background

4.1 LAFCO History

After World War II, California experienced dramatic growth in population and economic development. With this boom came demands for housing, jobs, and public services. To accommodate the demands, the state approved the formation of many new local government agencies. Lack of coordination and adequate planning led to a multitude of overlapping, inefficient jurisdictional and service boundaries, and the premature conversion and loss of California agricultural and open space lands.

The Local Agency Formation Commission changed through legislation.

- In 1959 California Governor Edmond G. Brown, Sr., created the Commission on Metropolitan Area Problems.
- In 1963, the California Legislature created the Local Agency Formation Commissions, or "LAFCOs", operating in each county except San Francisco.
- In 2000 San Francisco LAFCO was formed in response to both the passage of the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH Act) and local needs to address certain service provision issues. The CKH Act mandated that all LAFCOs become independent of the county, and all agencies that are eligible to seat members on LAFCO must contribute to the LAFCO budget.

Today, throughout California, there are LAFCOs in every one of the 58 counties, working with over 400 cities and 3,000 special districts. The counties originally provided funding for LAFCOs. However, in recent years the state changed the funding source from being entirely a county responsibility to a shared expense of one-third county, one-third cities, and one-third special districts.

Following the 1994 bankruptcy, Orange County initiated a restructuring plan of county government and reviewed its approach to providing services. The study resulted in the conclusion that providing municipal, city-level services to unincorporated islands is

duplicative and costly. Residents in these areas can be more efficiently served by surrounding cities. Additionally, the county wanted to focus on the business of providing regional, not local, services to county residents.

As part of the 2002–2004 strategic plan, the Orange County LAFCO Commission adopted four guiding principles to reflect its identity, role, and function in local government. These principles were designed to assist the commission in setting policy guidelines and direction, and as a means to clarify how LAFCO will interact with outside organizations and groups. The principles adopted by the commission are:

- LAFCO is a proactive agency dedicated to serving the present and future citizens of Orange County, LAFCO's constituents, and the local agencies that serve and represent the citizens of Orange County.
- LAFCO is committed to adding value to local government by addressing the present and future regional municipal service needs of the county and its citizens.
- A key role of LAFCO is facilitating and fostering cooperation, coordination, and collaboration between Orange County's local governments in the interest of the citizenry.
- LAFCO is dedicated to engaging and educating the county's citizenry through public outreach and by maintaining an open and inclusive public process.

In 2005 Orange County LAFCO revised its mission statement to reflect that statewide LAFCOs have been given broader regional authority to study when, where, and how municipal services are delivered to the public. In January the commission approved a new mission statement to reflect the ongoing development of Orange County LAFCO:

LAFCO serves the citizens of Orange County by facilitating constructive changes in governmental structure and boundaries through special studies, programs, and actions that resolve intergovernmental issues, foster orderly development and governance, and promote the efficient delivery of services. LAFCO also serves as a resource for local governments and citizens by providing a structure for sharing information among stakeholders in Orange County.

In practice, this has meant helping new cities incorporate and assisting with the annexation of unincorporated county islands into the appropriate city. In addition, LAFCO assesses the future ability of cities and special districts to deliver services through MSRs, and evaluates spheres of influence to ensure accuracy and reasonableness.

To help accomplish these objectives, LAFCOs have been given specific authorities:

- regulate the boundary changes proposed by other public agencies or individuals
- determine spheres of influence for all local governmental agencies
- provide a comprehensive study designed to better inform all involved about the provision of municipal services

- initiate proposals that include the dissolution or consolidation of special districts or merging of existing districts
- approve contracts to provide services outside of agency boundaries
- act in accordance with locally adopted policies

4.2 LAFCO Commission

The Orange County LAFCO has eleven commissioners representing four segments of the population:

- cities (two members and one alternate)
- special districts (two members and one alternate)
- county (two members and one alternate)
- public (one member and one alternate)

Appointment is four years with no limit on reappointments. Meetings are held monthly at a predetermined location. Agenda and meeting minutes are available on line at www.calafco.org.

4.3 Unincorporated Islands Program

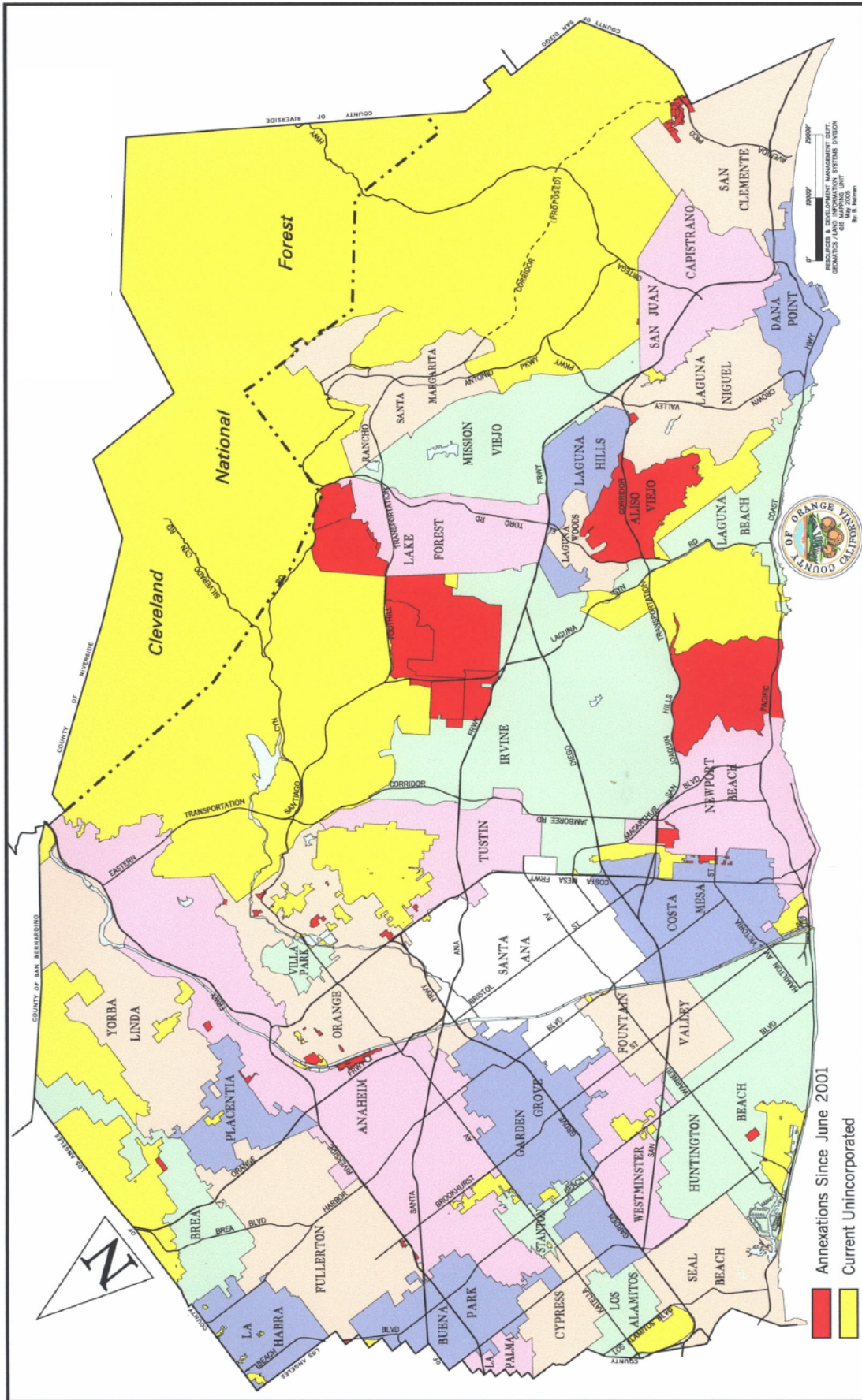
The Unincorporated Islands Program is a collaborative effort of LAFCO, the County of Orange, and the League of Cities to assist in the transition of unincorporated islands from county to city jurisdiction. The unincorporated islands are often surrounded by a city but, for a variety of reasons, never became a part of that city. The county governs these islands, not the city. Although local services for unincorporated islands are provided by the county, it is more efficient to have a neighboring city provide services directly to the residents. Annexation often results in a higher level of local services for the island residents. Transferring the islands to cities will eliminate the need for county services in those areas, saving the county money in the long run.

According to LAFCO:

Yet, as county funding becomes more constrained and multiple service demands compete for funds, maintaining adequate levels of service for unincorporated areas will become more challenging.

Cities provide their residents a variety of local services: Police and fire protection, planning, street maintenance, code enforcement, trash removal, and park and recreation services. The county's primary role is to provide regional services—courts, social services, health care, flood control, housing, and community development—on a countywide basis.

When the program began in 1994, there were 50 unincorporated islands identified. Currently, 26 have been annexed and at least 13 more are being considered by the respective cities for filing. See map, page 5, of islands within the county.



Current Cities and County Annexations since June 2001
Orange County, California
(Map from Resources & Development Management Department, County of Orange)

New legislation, effective January 1, 2005, doubles the size of unincorporated islands that can be annexed without a vote of the residents from 75 to 150 acres. This seems to be a clear indication of the state legislature's desire for the continued annexation of unincorporated islands to surrounding cities.

However, conflicting with this intent, in August of 2004 the California Legislature approved Assembly Bill 2115, a Vehicle License Fee (VLF) for property tax swap, as a part of a state-local budget agreement. The effect of this is to substantially reduce the added revenues that come with annexation, depending on the build-out of the area at the time of annexation. The more built out the area prior to annexation, the less the property tax value of the area, and the greater the revenue loss for the annexing city.

Since the cities are already reluctant to take on the provision of services for these islands, which typically have little or no commercial base, the annexation of unincorporated islands, particularly developed areas, will be impacted by the new state funding structure.

Assembly Bill 2115 has resulted in fewer financial incentives for cities to become involved in the annexation process. Public agencies will experience tighter financial constraints through 2008 as a result of this legislation and the state's continuing budget crisis. After that, they will lose even the meager revenues that have been provided to fill in for the lost VLF.

4.4 The Annexation Process

In the annexation process, LAFCO staff and representatives from the county and the annexing city go into the community to conduct public workshops with residents and explain the who, what, where, when, how, and why of the island program.

The first step in the process is a consultation between the city and LAFCO about annexing the county island. If approved, the residents are notified by letter and a series of neighborhood meetings is held. From here the request is taken before the LAFCO Commission for final approval. At all of the meetings, residents have the opportunity to ask questions and express their views of the process. The governmental agencies are very interested in working with island residents to address their concerns and identify how annexation will benefit their community.

Some of the annexation benefits shared with island residents are:

- ***Sewer connections would be established:*** Many island septic systems are old and in need of repair or replacement. The city and the county have offered to share some of the financial impact by providing a main line hookup to the sewer line, leaving only the expense of the residential/commercial connection to the property owner. Aging septic systems are of concern to the county because improperly maintained systems can contaminate water runoff, posing a health problem.
- ***Code enforcement would be improved:*** A city can improve enforcement by being closer to the problem. The county must dispatch workers over longer distance and cannot take advantage of multiple stops along the way, as is the case for city workers. This is

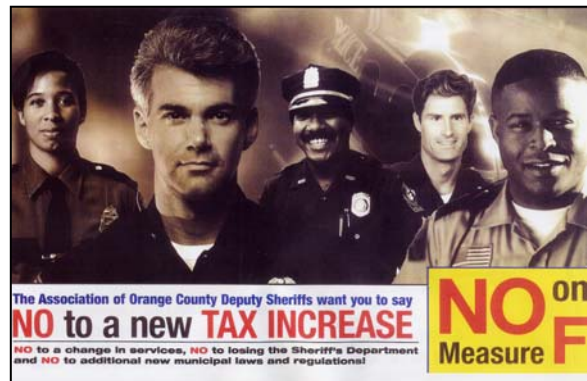
time consuming and puts excessive wear on county equipment. Some residents located in the unincorporated islands prefer to live without this improved service, but many want to clean up their neighborhoods, improve their quality of life and increase their property values.

- ***Governance would be improved:*** Those living in an unincorporated island have only one locally elected official available to represent the many municipal concerns of residents. That elected official is the district’s County Supervisor, who has many other constituents to consider. If annexed into a city, that number increases significantly from one to perhaps seven (depending on the size of the city) elected city council members. The opportunity for improved governance is a tremendous benefit.
- ***Safety services would be improved:*** Among safety services (police and fire) throughout the county there are mutual agreements between the county and cities to provide quality service to the residents. “Safety first” has always been a government priority to all county residents. However, a benefit of the annexation could be increased patrols by the local police. Another consideration is that routine calls from an unincorporated island go to the Sheriff’s Communication Center, where a unit is dispatched for response. If annexed, that call would go directly to the local agency. Response time could be improved, providing better service to residents. Because of the “safety first” mutual agreement, the cities are often providing the service while the county is receiving the revenue from the island residents.

There are challenges to be addressed by those working toward annexation. Some of the challenges are:

- cities’ reluctance to take on residential areas without additional revenue
- island residents who do not want to change their address, especially to what is perceived as a “less desirable” address
- State of California legislation, such as Assembly Bill 2115, Vehicle License Fee (VLF) for Property Tax Swap of 2004
- the need for unincorporated islands to upgrade to a sewer system
- city fees that are higher than county fees
- city versus county code enforcement
- lobbying by special interest organizations to influence residents prior to annexation vote

To help the city pay for the costs of providing services to the island, the county and the annexing city can enter into a formal document. This memorandum of understanding identifies needs within the island that could be a shared expense. Also, the agreement can describe resources



Flyer distributed to island residents prior to Yorba Linda vote for annexation

that are important to the residents that would be continued at county expense for a specified period of time.

Education about the benefits of annexation is key to obtaining residents' support. As a body, the Board of Supervisors supports the annexation of the unincorporated islands. However, as individuals, several supervisors support the concept of self-determination. They believe the island residents should be allowed to vote whether to remain within the jurisdiction of the county, or be annexed. Also, supervisors believe it is the responsibility of the annexing city to convince residents that annexation is to their benefit. County staff is involved in the annexation process, but the district's supervisor is not.

If for whatever reason(s) the annexation fails and the island remains the responsibility of the county, there cannot be another vote on the same annexation for one year. As the islands become fewer and farther apart, they will cost more for the county to serve, and will likely receive poorer service. In an effort to recoup these costs, there is the very real probability of the county creating an assessment district. This would assess the residents an annual fee, to be paid through their property tax assessment, for the cost of county services provided to the unincorporated island. This is a future consideration that has not been strongly "pushed" by the county when discussing annexation options. However, it is likely to be a growing concern.

There has been an occasion when an outside group with a vested interest has influenced the annexation process. In November of 2004, the Association of Orange County Deputy Sheriffs opposed the annexation process in Yorba Linda. They distributed fliers to residents asking for a "no" vote on the local measure. As stated on the flier, they did not support a change in police services and did not support losing deputy positions. The annexation was defeated.

4.5 Municipal Service Review (MSR) Program

Municipal service reviews look at how services are currently provided in a particular geographic area. They work with local providers and users to estimate how future growth and other changes that may take place in that area over the next 15 to 20 years will affect service provision. Also, the MSRs identify gaps or shortfalls in service and possible opportunities to lessen those gaps.

Two types of MSRs were approved during LAFCO's 2004 Strategic Planning Session, "vertical" and "horizontal."

1. ***vertical MSRs***: focus on all services in a limited geographic area.
2. ***horizontal MSRs***: Although none has been completed, these are much larger in geographic range but smaller in their scope of study. They are directed at a countywide level and are intended to address a certain municipal service that stakeholders believe will present challenges to local and county agencies over the next 15 to 20 years as Orange County continues to grow. Examples would be water, sewer, or transportation.

Two vertical MSR reports have been successfully completed. The MSR reports turned out to be a proactive and comprehensive process. They have brought to light some long-term difficulties that the areas will be facing, providing an opportunity for local government to develop options and plans for addressing these concerns. Most of the stakeholders were enthusiastic about the opportunity to plan for the future in a collaborative setting. They were particularly pleased that recreation and open space concerns of the residents were considered.

Government Code Section 56430 states that as part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

- growth and population projections for the affected area
- infrastructure needs or deficiencies
- financing constraints and opportunities
- cost avoidance opportunities
- opportunities for rate restructuring by the service providers
- opportunities for shared facilities
- government structure options, including advantages and disadvantages of consolidation or reorganization of service providers
- local accountability and governance

The MSR determinations are interdependent. Some of the issues may overlap with each other, and information about one may affect others. Determinations are statements that draw conclusions based on:

- service and infrastructure data
- population and growth projections
- agency profiles, and
- fiscal data

The determinations are presented to the LAFCO Commission for their review and adoption. However, the Commission is not required to take action on any options identified in the vision plan or in the MSR report. The process is intended to be a coordinated effort to give residents the opportunity to work together in finding answers to issues raised in their Vision Plan and in the LAFCO MSR.

The MSR process is time and labor intensive for LAFCO staff, participating agencies, and communities. Although the first two MSR reports were learning experiences for all involved, each took almost 50 percent of LAFCO's total staff time over the twelve-month period. It is a statutory requirement that LAFCOs conduct MSR reports on all governmental agencies within their geographical boundaries by the year 2006. However, due to the staff time required in producing the MSR reports and other existing LAFCO responsibilities, this deadline will not be met.

4.6 Spheres of Influence

The sphere of influence (SOI) determination is the process to plan for the probable future boundaries of a city or district. Government Code Section 56425 provides specific direction for the Commission to follow to enact policies designed to promote the logical and orderly development of areas within the sphere. Examples are city boundaries, water district boundaries, and sewer district boundaries.

The SOIs for most entities in Orange County have not been updated for more than twenty years. The legislative deadline to complete the first five-year cycle of SOI updates will end on January 1, 2006. Of the 34 cities in Orange County, 28 have not been updated and, of the 36 special districts, 35 have not been updated as of January 1, 2005. While there are no penalties connected to the deadline, the lack of updated spheres increases the chance of possible litigation because of confusion over boundaries. Updating spheres should be considered a priority and should be done together with MSRs. Accurate and reasonable SOIs are key to orderly annexation of unincorporated areas and potential merger of inefficient districts. At the current rate, LAFCO will not have the SOI updates completed until 2008.

5. Findings

Under California Penal Code Sections 933 and 933.05, responses are required to all findings. The 2004-2005 Orange County Grand Jury has arrived at the following findings:

- 5.1** *Communicating the benefits of annexation:* The Board of Supervisors does not actively communicate the benefits of annexation to residents in unincorporated islands.
- 5.2** *Willingness of cities to annex:* Assembly Bill 2115 (VLF for property tax swap) may negatively impact the willingness of cities to annex residential islands.
- 5.3** *Septic systems:* The septic systems in the unincorporated islands represent a long-term problem for the county.
- 5.4** *Generating revenue:* In the future, the creation of an assessment district within an unincorporated island may be necessary to generate revenue to pay for county services.
- 5.5** *LAFCO will miss due date for MSRs:* Due to staff time required to develop a Municipal Service Review, Orange County LAFCO will not meet the statutory requirement to complete MSRs by January 1, 2006.

- 5.6** LAFCO will miss due date for SOIs: The sphere of influence reviews for 28 cities and 35 special districts in Orange County will not be accomplished by the statutory deadline of January 1, 2006.

Responses to Findings 5.1 through 5.6 are required from the Orange County Board of Supervisors.

Responses to Findings 5.2, 5.5, and 5.6 are required from LAFCO.

6. Recommendations

In accordance with California Penal Code sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Officer of the Superior Court. Based on the findings, the 2004-2005 Orange County Grand Jury makes the following recommendations:

- 6.1** Communicating the benefits of annexation: The supervisor of an annexing island should become directly involved in the annexation process by explaining the benefits of annexation and the need for the county to eliminate the costs necessary to govern the islands. (See Finding 5.1.)
- 6.2** Willingness of cities to annex: To financially assist the annexing city, the Board of Supervisors should continue to develop memoranda of understanding with the appropriate cities and special districts, providing agreed-upon incentives. (See Finding 5.2.)
- 6.3** Septic systems: The county should continue to work with the annexing city to develop a cooperative plan to provide sewer service to residents and businesses that are currently using a septic system. (See Finding 5.3.)
- 6.4** Generating revenue: Board of Supervisors should inform island residents of the possibility of an assessment district and associated costs if the annexation process fails. (See Finding 5.4.)

- 6.5** *LAFCO will miss due dates for MSRs and SOIs:* Orange County LAFCO should fill its vacant positions in order to complete the MSRs and SOIs in as timely a manner as possible. (See Findings 5.5 and 5.6.)

Responses to Recommendations 6.1 through 6.5 are required from the Orange County Board of Supervisors.

Responses to Recommendation 6.5 are required from LAFCO.

7. Acronyms and Abbreviations in this

CKH Act	Cortese-Knox-Hertzberg Local Government Act
Unincorporated Island	County-run area surrounded by cities
LAFCO	Local Agency Formation Commission
MSRs	Municipal Service Reviews
OC	Orange County
SOI	Sphere of Influence
VLF	Vehicle License Fee

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