



*Sea and  
Sage Audubon*

P.O. BOX 5447, IRVINE, CA 92616-5447

(949) 261-7963

October 20, 2021

California State Lands Commission  
100 Howe Avenue Suite 100-South  
Sacramento, CA 95825

**RE: Item 21, October 21, 2021: Orange County Flood Control District lease  
renewal—*SUPPORT STAFF Report 21***

Dear Members of the Commission:

I am writing on behalf of Sea and Sage Audubon Society, an Orange County Chapter of the National Audubon Society. We wish to express our strong support for Staff **Report 21** regarding the Orange County Flood Control District lease application for the Santa Ana River, Orange County.

Our mission is to protect birds, other wildlife and their habitats and we have a long, history working to protect sensitive bords and habitats at the mouth of the Santa Ana River. In 1964 we funded the first fence surrounding the least tern breeding colony along the north edge of the river. Due to success of the fence the preserve was expanded and was later officially recognized as the first California least tern Preserve Endangered Species Act. We continue to invest a significant amount of effort working with the preserve and terns and we also work towards the local recovery of the Endangered western snowy plover which also uses the river mouth. In the last few years there been as many as 14 separate nesting attempts (up from zero nests just a few years back) near the river on Huntington State Beach. Both these listed species and other birds rely on the Santa Ana River and the immediate beach habitats.

Illegal activities in river, including the use of the area for off-leash and on-leash dogs has long been recognized as major factor impacting the breeding success of both these species locally. The original fence around the tern colony was erected to help stop dogs and people from literally trampling least tern nests. While the fence, which now encloses a much larger preserve, has been successful in reducing direct impacts to the nests, illegal activities outside the colony continue to result in significant impacts on tern and plover foraging, courtship and breeding and raising young.

Provisions recommended in Staff Report 21 would provide significant relief and help improve the protection of the California least tern and the western snowy plover. We request that you support the recommendations made by staff and approve a 2-year conditioned lease.

Thank you for your consideration,

Scott Thomas

A handwritten signature in blue ink, appearing to read "Scott Thomas". The signature is fluid and cursive, with the first name "Scott" and last name "Thomas" clearly distinguishable.

Conservation Vice Chair

Contact: 949 293-2915

October 20, 2021

California State Lands Commission  
100 Howe Avenue Suite 100 South  
Sacramento, CA 95825

**Re: Item 21, October 21, 2021**  
**Comments and supporting documentation**  
**Orange County Flood Control District lease renewal**

Honorable Commissioners:

Following a careful review of the staff report for the above-referenced, I am preparing what I hope you'll find to be meaningful testimony for tomorrow's hearing. However, as I review my talking points, I am not sure that I will be able to cover all the points I have in mind in three minutes. This flood control channel issue is something I have been working on via the Coastal Commission for over six years, so there's a lot of history and it's a very complex issue as I explained in my first comment letter last week prior to the staff report being posted.

Staff has done a good job of detailing the challenges related to the County's refusal to enforce their ordinances in the river mouth since the County Board of Supervisors attempted to convert this area into a dog beach in 2016. Numerous environmental organizations have been working together to protect and preserve the Western Snowy Plover, Least Tern and Dune Habitat in this area since the County announced the conversion of this flood control channel into a "dog beach." Endangered Habitats League has shared with you the monitoring report produced by Orange County Coastkeeper (OCCK) that very clearly shows that the Orange County Sheriffs Department has not complied with the 2020 Coastal Development Permit (CDP) conditions that required the County to improve conditions for the two previously mentioned bird species through meaningful enforcement.

I am attaching for your review and consideration the County's first annual monitoring report that was required under this CDP issued in 2020:

**Application 5-19-1032 (Orange County Dept. of Public Works)** Application of Orange County Department of Public Works to install educational and no trespassing signage along up-coast and down-coast rock jetties near Santa Ana River Outlet to protect sensitive bird species in Huntington Beach, and Newport Beach, Orange County. (MR-LB) (NOTE: The Commission's enforcement division has opened an investigation into potential Coastal Act violations associated with this item and site, as is explained further in the staff report.)

This report once again clearly illustrates that the County never issued a citation, thus there have been no improvements in the heavy dog traffic and impacts to the bird species. During the 2020 Coastal Commission hearing, the Commissioners made it very clear through the deliberation process that they felt enforcement was key to helping resolve the impacts from dogs and paragliders in the mouth of the river/flood control channel.

Thank you to your staff for their hard work on this complicated issue. I support their recommendation for a shorter term lease of two years that includes a review and re-application process after the first year.

Looking forward to speaking with you tomorrow.

Respectfully,

A handwritten signature in cursive script that reads "Penny Elia". The ink is dark and the signature is fluid.

Penny Elia

Attachment: July 8, 2020 – July 8, 2021 Annual Activity Report

The attached material was submitted to the Commission as public comment for the Commission's October 21, 2021 meeting. The Commission has posted it on the CSLC website to provide the public with access to a true and correct copy of the submitted material in advance of the meeting. The Commission does not endorse this material, and has not vetted or curated it. Additionally, the Commission has not curated or vetted graphics, photos, and other visual images contained in this material.

**California Coastal Commission**  
South Coast Region  
301 Ocean Boulevard, Suite 100  
Long Beach, CA 90802



**Santa Ana River Mouth Signage**  
**CDP Number 5-19-1032**  
**July 8, 2020 – July 8, 2021 Annual Activity Report**

**Submitted July 7, 2021**

Prepared by:

Samantha Pilon, Regulatory Permits  
OC Public Works  
601 N. Ross Street  
Santa Ana, CA 92701  
714-647-3923

## Background

This Annual Activity Report was prepared in accordance with Coastal Development Permit (CDP) No. 5-19-1032 that was approved on July 8, 2020 and issued on August 13, 2020. This CDP was obtained for the installation of educational and regulatory signs at the Santa Ana River Outlet that is located on unincorporated Orange County land between the cities of Newport Beach and Huntington Beach. The signs were installed on November 17, 2020. Please see attached photos of the signs.

As requested by Coastal Commission staff in a letter to the County dated June 12, 2019, the Orange County Sheriff's Department conducted routine visits to the outlet to enforce no trespassing regulations within the County owned section of the Santa Ana River Mouth. The primary goal was to enforce County no-trespassing rules within the Flood Control District's right of way. During these visits, the sheriff(s) would notify the public of the ordinances and would request that they vacate the river mouth within the Flood Control District right of way.

Citations would only be given if non-compliance occurred after notification of the no trespassing ordinance. The Sheriff's Department reported that everyone who was warned vacated the premises. Table 1 includes the number of visits conducted by OC Sheriff personnel, the number of warnings given, the number of citations issued, and the number of arrests for each month since Commission approval was granted (August 2020 – June 2021). The number of visits per month vary based on the deputies' availability for that month. Deputies would often go above their required duties to visit multiple times a day if their workload allowed which is why the number of visits were so high during the first five months.

**Table 1**

Month	Visits	Warnings	Citations	Arrests
August 2020	45	732	0	0
September 2020	40	556	0	0
October 2020*	38	79	0	0
November 2020*	47	63	0	0
December 2020	49	150	0	0
January 2021	23	148	0	0
February 2021	20	115	0	0
March 2021	30	235	0	0
April 2021	23	202	0	0
May 2021	19	103	0	0
June 2021	23	192	0	0

**\*Months where dredging of the river mouth took place**

## Attachment 1 – Photos of the installed signs.



*Photo 1: No trespassing sign installed on the Huntington Beach Side of the mouth. Sign was installed on the line that depicts the end of the County's land rights at the river mouth.*



Nov 17, 2020 at 9:57:57 AM  
+33.630339,-117.958876  
Huntington Beach



*Photo 2: Educational sign installed on the Huntington Beach side of the mouth.*

Nov 17, 2020 at 11:26:23 AM  
+33.629591,-117.957100  
Newport Beach



*Photo 3: No-trespassing sign installed on the Newport Beach side of the mouth. Sign was installed on the line that depicts the end of the County's land rights at the river mouth.*



Nov 17, 2020 at 11:27:03 AM  
+33.629556,-117.957131  
Newport Beach



*Photo 4: Educational sign installed on the Newport Beach side of the river mouth.*

The attached material was submitted to the Commission as public comment for the Commission's October 21, 2021 meeting. The Commission has posted it on the CSLC website to provide the public with access to a true and correct copy of the submitted material in advance of the meeting. The Commission does not endorse this material, and has not vetted or curated it. Additionally, the Commission has not curated or vetted graphics, photos, and other visual images contained in this material.

# ENDANGERED HABITATS LEAGUE

DEDICATED TO ECOSYSTEM PROTECTION AND SUSTAINABLE LAND USE



October 20, 2021

California State Lands Commission  
100 Howe Avenue Suite 100-South  
Sacramento, CA 95825  
<CSLC.Commissionmeetings@slc.ca.gov>

**RE: Item 21, October 21, 2021: Orange County Flood Control District lease renewal—*SUPPORT***

Dear Members of the Commission:

Endangered Habitats League (EHL) *strongly supports* the term and conditions of the proposed lease renewal. For your reference, EHL is a Southern California conservation group dedicated to ecosystem protection, sustainable land use, and collaborative conflict resolution.

EHL is deeply concerned over illegal activities on the state land leased to the Orange County Flood Control District (District). As accurately detailed in the staff report, these activities—rampant trespassing, on-and off-leash dogs, hang gliders—are profoundly harmful to federally listed endangered species, the California least tern and the western snowy plover.

Even though prohibited by the County's own ordinances, EHL and others have been unsuccessful in working with the California Coastal Commission and the County of Orange in securing effective enforcement. Signage and minimal actions by the Sheriff have had no significant impact, as documented by Orange County Coastkeeper in its "Santa Ana River Mouth Monitoring Project January-June 2021 Report." (Enclosed) The problems in enforcement have worsened by Orange County's misunderstanding of its jurisdiction, which has now been cleared up.

We commend your staff in recognizing the Commission's responsibility to help prevent illegal activities on state-owned lands through *conditions* on the lease. These conditions provide an *alternative pathway* to enforcement of existing County regulations via the California Coastal Commission and the Department of Fish and Wildlife. A relatively short term for the lease—2 years—is *essential* in order to provide adequate accountability for anticipated enforcement efforts. We strongly urge retention of the 2-year term, with a 1-yr review.

EHL would also like to point out the availability of long-term solutions for all these recreational activities in the form of nearby beaches which do not present

endangered species conflicts. This would be a constructive approach for the County to take.

In conclusion, we ask you to move forward on the lease, including its term and conditions. We look forward to continuing to work with your Commission on this matter.

Yours truly,

A handwritten signature in blue ink, appearing to read "Dan Silver", with a stylized flourish at the end.

Dan Silver  
Executive Director

Enclosure

Santa Ana River Mouth Monitoring Project January-June 2021 Report, Orange County  
Coastkeeper

## **Santa Ana River Mouth Monitoring Project January-June 2021 Report**



Orange County Coastkeeper (Coastkeeper) is a nonprofit clean water organization that serves as a proactive steward of our fresh- and saltwater ecosystems. We work collaboratively with diverse groups in the public and private sectors to achieve healthy, accessible, and sustainable water resources for the region. We implement innovative, effective programs in education, advocacy, restoration, research, enforcement, and conservation.

The Santa Ana River Mouth Monitoring Project (SAR Project) enlists volunteers, community groups and local government to monitor human, dog and bird activity in the Santa Ana River Mouth area, a 13.2 acre parcel of land that is owned by four agencies including the California State Lands Commission, California State Parks, the County of Orange, and the City of Newport Beach. Due to the fragmented ownership of the area management of activities and law enforcement



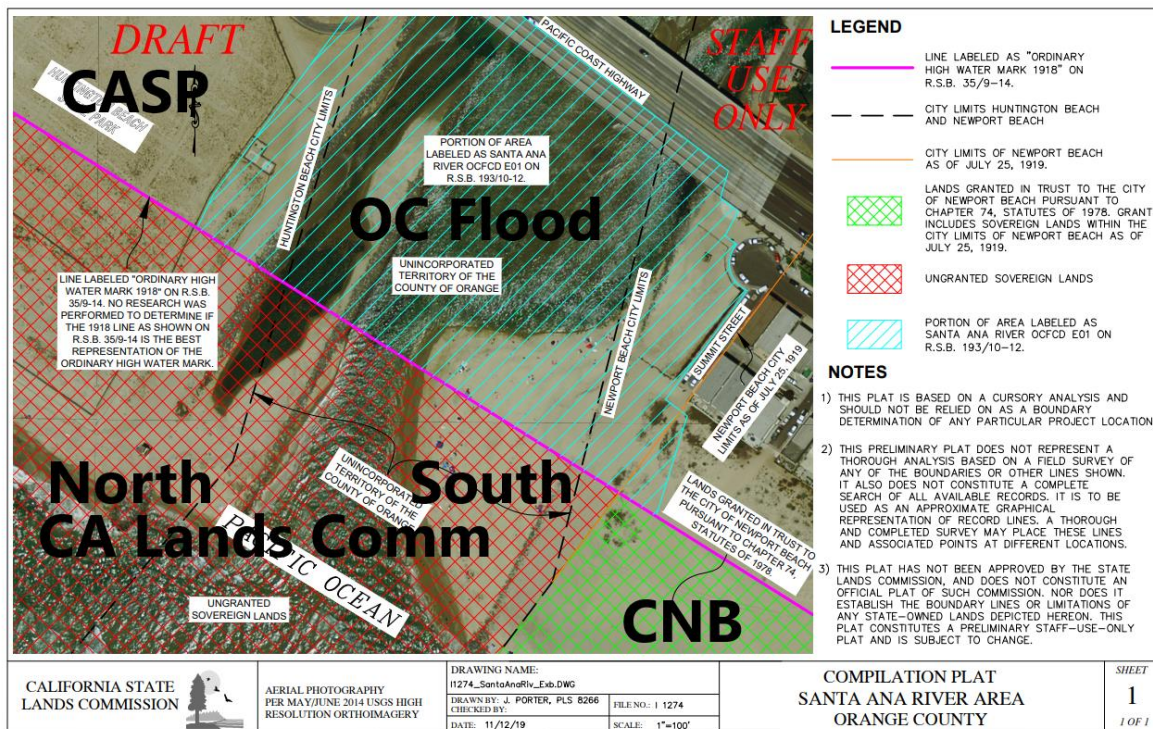
in the area have been difficult. The initial six months of the SAR Project covered in this report January 2021 and June 2021 was run as a pilot program by Orange County Coastkeeper (OCCK) with funding from the City of Newport Beach. The project is continuing with funding from the City of Newport Beach Community Grants Program and the Rose Foundation. The goal of the SAR project is to monitor human, dog and bird use of the area and to provide education and outreach to residents and visitors about the Wildlife Management Area at the Santa Ana River Mouth and the endangered species that reside within it.

## Executive Summary

After initial program development of the pilot study monitoring of the area began on February 9th, 2021. Final revisions of the study protocol were completed by March 23rd, 2021 and all subsequent surveys followed a standard protocol that is used for all surveys.

As of June 30, 2021 151 surveys at the Santa Ana River Mouth were completed by 26 trained volunteers. In the 151 surveys collected, 5,375 humans and 1,096 dogs were observed, of the dogs 894 were off-leash and 202 on-leash. Two drones were observed and all but eight surveys documented dogs in the Santa Ana River Mouth in only 8 completed surveys. Dogs off-leash accounted for 82 percent the dogs observed. No citations were observed to be issued by Law Enforcement. California State Parks Law Enforcement was called out by staff once for repeated bird flushing on 6/18/2021 on County of Orange and California State Parks Property by a dog owner and their dog.

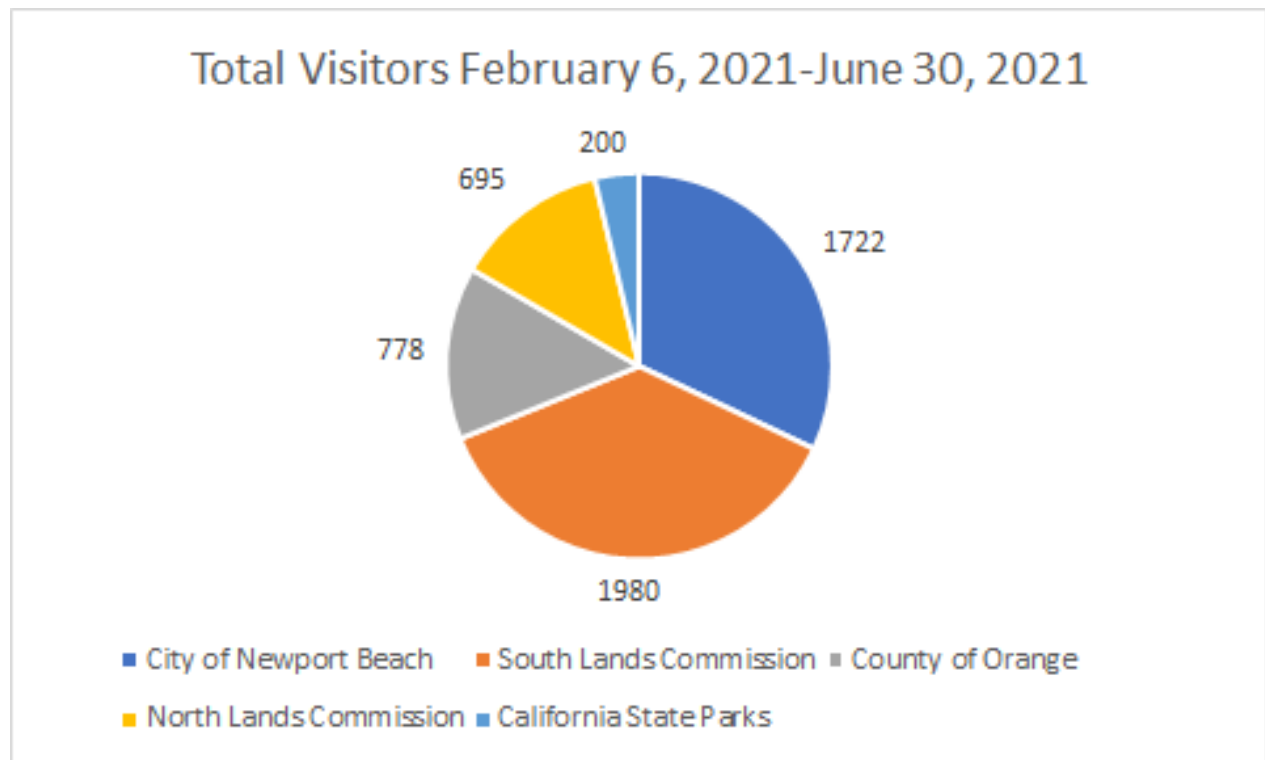
## GRAPHS AND MAP



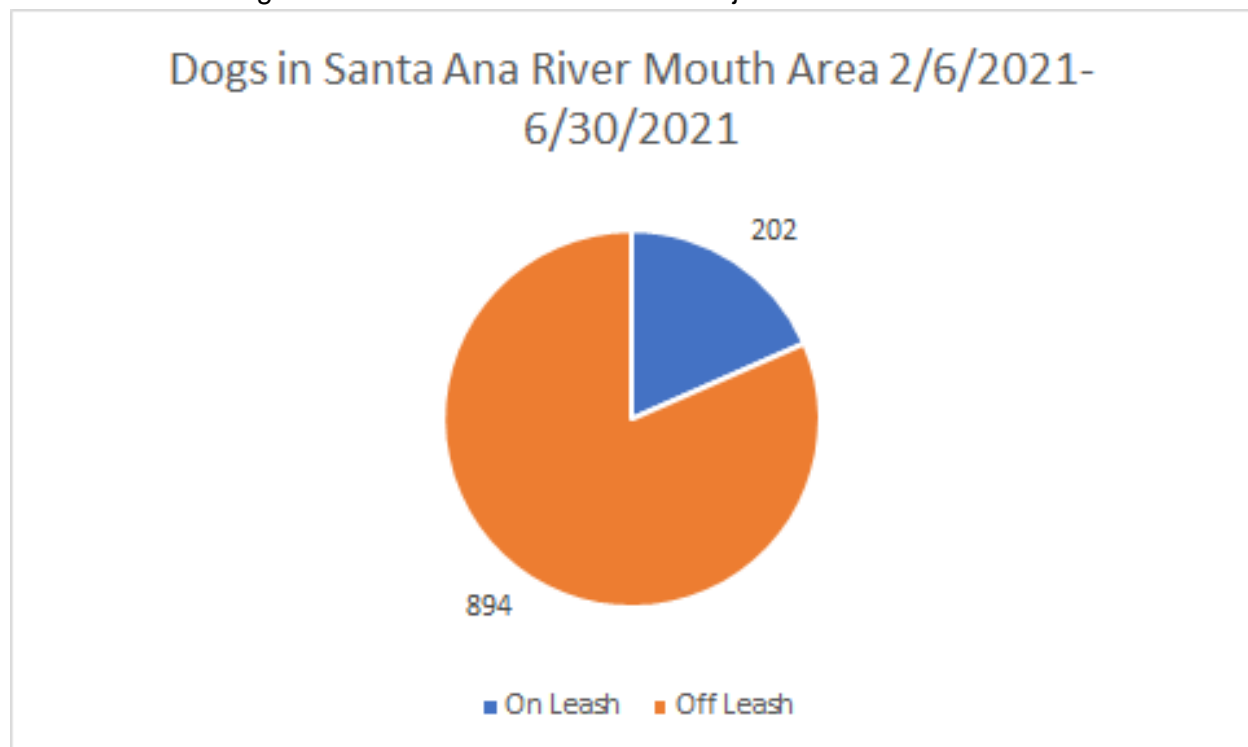
(Map of Santa Ana River Mouth with property names overlaid. California State Lands Commission property was split into North and South portions of the map after March 23rd, divided by the location of the river mouth during surveys, to improve our ability to understand access use in the area better.)



Total number of visitors based on location:

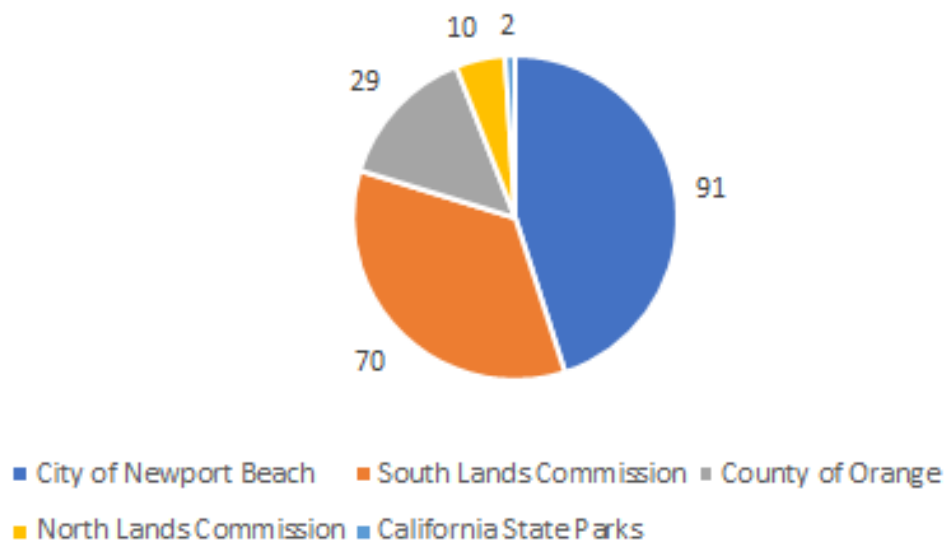


Total number of dogs in the Santa Ana River Mouth Project Area:



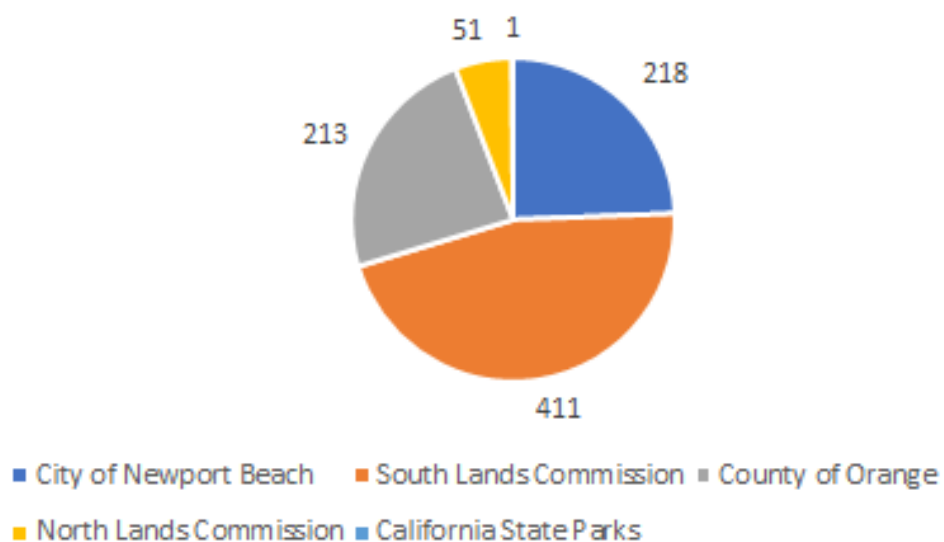
Locations of dogs recorded on leash:

### Dogs On-Leash By Land Manager Organization 2/6/2021-6/30/2021



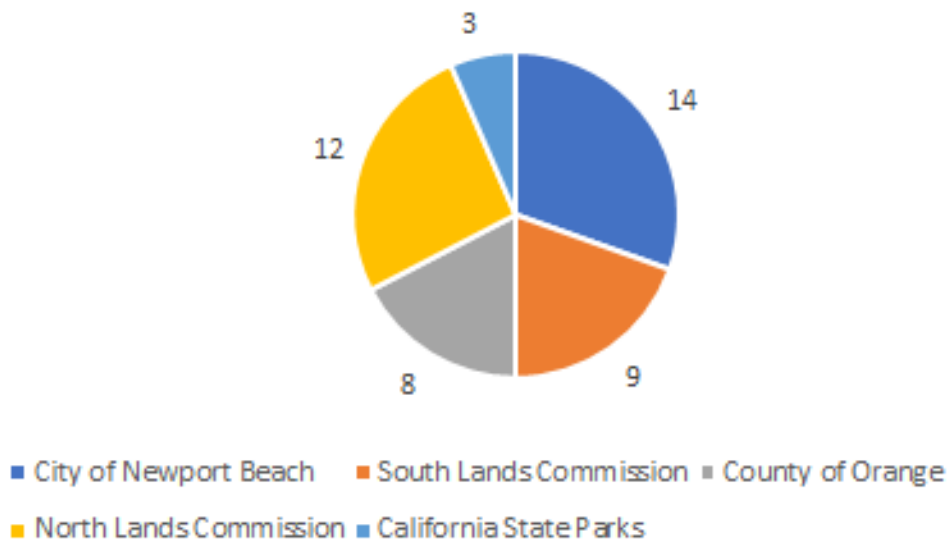
Locations of dogs recorded off leash:

### Dogs Off-Leash by Land Manager Organization 2/6/2021-6/30/2021



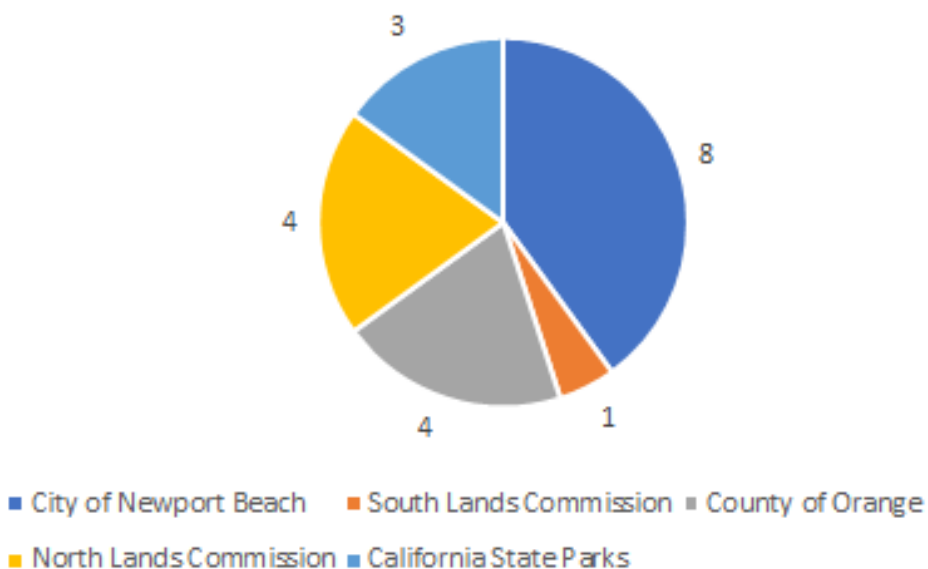
Recorded disturbances:

### Total Number of Instances of Bird Disturbance by Land Owner 2/6/2021-6/30/2021



(Bird disturbance defined as when birds are present on a part of the beach and are approached by humans and/or dogs and they depart the beach.)

### Law Enforcement Officers Present by Land Area



### Training

Training took place with two components, an online one hour Zoom training that took place in February 2021 was recorded and distributed to new volunteers who were unable to attend the initial Zoom training session. Volunteers then met with Volunteer Coordinator Suzanne Welsh at the

Santa Ana River Mouth to go over the monitoring protocol and to go over the property map in person. Volunteers were trained to monitor human recreation use, dog use, and were instructed how to fill out the data sheet to track other uses like drones, disturbances to birds (where birds are approached by humans or dogs and leave the area), and to denote law enforcement officer presence.

### **Outreach Table**



During this project Orange County Coastkeeper was able to conduct an outreach table for beach visitors. Visitors were given pamphlets detailing information about California Least Terns and Western Snowy Plovers. Additional information about the laws regarding dogs in the area and free biodegradable waste bags were provided to visitors as well. Between May 15th, 2021 and June 30th, 2021 the outreach table was set up five times and one virtual outreach event was held as well. Overall OC Coastkeeper has engaged 387 visitors with its outreach table and virtual outreach event.

### **COVID-19 Impacts**

The greatest impact to this project was a delay in implementing the outreach table due to COVID-19 restrictions and vaccine availability. Staff was able to begin the outreach program in May after full vaccination status was met.

### **Next Steps**

Our next steps in this project include additional volunteer recruitment from the local community as well as a continuation of the outreach table.

**Lunetta, Kim@SLC**

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**From:** SoCal 350 <socalclimateaction@gmail.com>  
**Sent:** Sunday, October 17, 2021 12:06 PM  
**To:** CSLC CommissionMeetings  
**Subject:** COMMENT: Orange County Flood Control District - Item 21

**Attention:** This email originated from outside of SLC and should be treated with extra caution.

Good Day -

We submit this email on Sunday morning with concern that we continue to wait for a staff report to make substantive comments.

Our collective environmental NGOs that have been following this issue for years and testifying at CCC hearings, have advocated the SLC staff to postpone this item until their originally planned hearing of December given the fact that negotiations with the County of Orange Flood Control District have not come together as yet.

When our environmental NGOs originally met via Zoom with SLC staff months ago about this longstanding issue we have been fighting for six years, we were advised that this item couldn't be heard until December due to the complexities involved, including how to deal with the impacts of trespassing and off-leash dogs on Western Snowy Plover and Least Tern that are impacted significantly by these intrusions. However, here we are just days from the hearing without a staff report. This lack makes it extremely difficult to organize speakers from our communities. We are deeply concerned how the staff report would deal hearsay we have received from one CDFW warden last Sunday when the County began opening the protective berm in the Santa Ana River mouth following the recent oil spill. Our monitors noted an oil sheen on the water in the river mouth, thus the Sierra Club call to CalTips and a request for oversight.

Once again, we ask for a postponement of this item to allow for true public participation. SLC staff is unable to advise, as of Friday afternoon, when a staff report will be posted. This is unfair to all parties involved. The reason we are given for the late staff report posting is that SLC staff is still "negotiating" with the County. If the County was at all interested in complying with SLC staff's requests, these "negotiations" could have been wrapped up weeks ago. The County has pushed back on CCC staff for the last six years and now they are doing the same with SLC staff. All to the detriment of the finite natural resources in this area.

Thank you for considering our request for a postponement until "negotiations" can be completed and the public allowed adequate time to review the staff report and make substantive and meaningful comments next week.

Sincerely,

Jack Eidt

SoCal 350 Climate Action

Jack Eidt  
Director - Wild Heritage Partners  
Co-Founder/Steering Committee – [SoCal 350 Climate Action](#)  
Executive Producer – [EcoJustice Radio](#)

Publisher - [WilderUtopia.com](http://WilderUtopia.com) - Coexisting into the Great Unknown  
Connect on [Facebook](#) and [Twitter - @WilderUtopia](#)  
Office 323 362 6737

**From:** PENNY ELIA <[REDACTED]>  
**Sent:** Saturday, October 16, 2021 10:46 AM  
**To:** CSLC CommissionMeetings  
**Subject:** COMMENT - Orange County Flood Control District - Item #21

**Attention:** This email originated from outside of SLC and should be treated with extra caution.

Good morning -

I am submitting this email on Saturday morning as I have been waiting for some time for a staff report so that I could actually make substantive comments.

Our collective environmental NGOs that have been following this issue for years and testifying at CCC hearings, have begged SLC staff to postpone this item until their originally planned hearing of December given the fact that negotiations with the County of Orange Flood Control District seem to have failed thus far.

When our environmental NGOs originally met via Zoom with SLC staff months ago about this longstanding issue we have been fighting for six years, we were advised that this item couldn't possibly be heard until December due to the complexities involved, including how to deal with the impacts of trespassing and off-leash dogs on Western Snowy Plover and Least Tern that are attempting to utilize this area unsuccessfully. However, here we are in October just days from the hearing without a staff report. This lack of staff report makes it extremely difficult, if not impossible, to organize speakers from the environmental community. We are all merely guessing at what might be in the staff report given the hearsay we have received from one CDFW warden last Sunday when the County began opening the protective berm in the Santa Ana River mouth following the recent oil spill. Our monitors noted an oil sheen on the water in the river mouth, thus our call to CalTips and a request for oversight.

Once again, we ask for a postponement of this item to allow for true public participation. SLC staff is unable to advise, as of Friday afternoon, when a staff report will be posted. This is unfair to all parties involved. The reason we are given for the late staff report posting is that SLC staff is still "negotiating" with the County. If the County was at all interested in complying with SLC staff's requests, these "negotiations" could have been wrapped up weeks ago. The County has pushed back on CCC staff for the last six years and now they are doing the same with SLC staff. All to the detriment of the finite natural resources in this area.

Thank you for considering our request for a postponement until "negotiations" can be completed and the public allowed adequate time to review the staff report and make substantive and meaningful comments next week.

Sincerely,

Penny Elia

Sierra Club

[REDACTED]

**Lunetta, Kim@SLC**

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**From:** Dan Silver < >  
**Sent:** Saturday, October 16, 2021 1:30 PM  
**To:** CSLC CommissionMeetings  
**Subject:** Item 21, October 21, 2021

Attention: This email originated from outside of SLC and should be treated with extra caution.

Gentlepersons:

On behalf of Endangered Habitats League, I would like to respectfully request postponement. The Orange County lease renewal is a complex matter and, at this time, the staff report is not available. It would be beneficial to the public to allow adequate time for review and comment.

Thank you for your consideration

Sincerely,  
Dan Silver

Dan Silver, Executive Director  
Endangered Habitats League

[REDACTED]  
Los Angeles, CA 90069-4267

[REDACTED]