

August 6th, 2018

Sarah Rickard  
NYS DEC - Division of Water  
Bureau of Watershed Assessment and Management  
625 Broadway  
Albany, NY 12233  
[4pwlinfo@gw.dec.state.ny.us](mailto:4pwlinfo@gw.dec.state.ny.us)

### **Objection to Removing Newtown Creek from List of Impaired Waters**

Dear Ms. Rickard;

Please accept these comments regarding our strong objection to delisting Newtown Creek from the State's Section 303(d) List. Our organization has been working towards a restored, revealed and revitalized Newtown Creek since 2002. Central to our mission are continued environmental improvements that reduce threat to human and ecological health and allow for greater use of the waterbody. The proposed changes would do tremendous harm towards furthering these efforts and halt recent progress made by NYSDEC and NYCDEP. Outlined below are the primary reasons for our objection.

#### **24 Years is Not a Reasonable Period of Time**

The Long Term Control Plan (LTCP), approved by NYSDEC in 2018 outlines a total completion date of 2042. As we expressed during the LTCP planning process, we are strongly opposed to solutions that will only be complete 24 years from now. We believe that design work should begin immediately to reduce the 1.2 billion gallons of Combined Sewer Overflow that enter Newtown Creek next year. Furthermore, any delisting of the waterway should only be considered once an LTCP has been completed and evaluated.

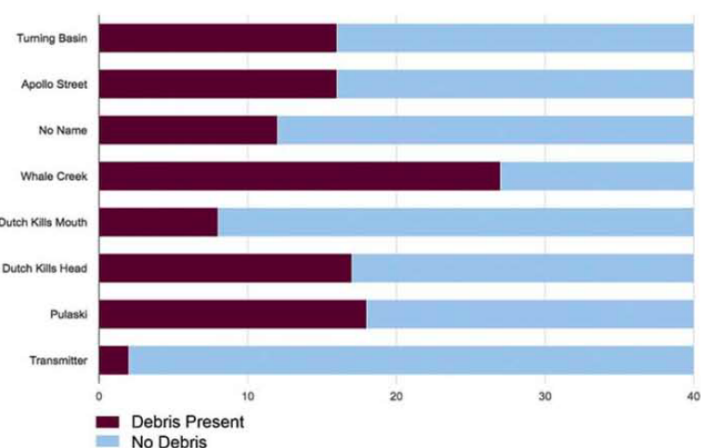
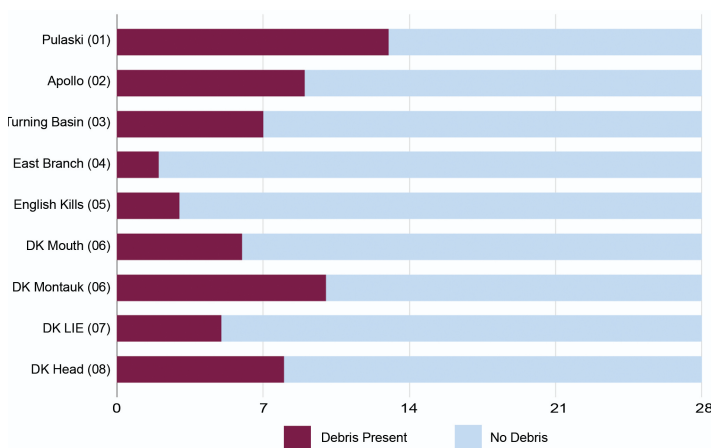
#### **Floatables Are a Growing Problem**

Newtown Creek suffers from many decades of industrial and urban pollution. While processes like the federal Superfund cleanup will address historical toxins present within the Creek and its sediments there is an ongoing environmental problem in Newtown Creek that has no real solution in place: marine debris, or floatables. The presence of floating trash in this stagnant waterway is significant, not just for the direct environmental threats of harming wildlife and leaching chemicals but the impacts it has on the users and potential users of the waterway. There is a growing body of community members that utilize the Creek for recreational uses, such as rowing and paddling and passive shoreline use. In regards to paddling, since 2011 two different community paddling organizations have been founded on Newtown Creek, the North Brooklyn Boat Club and HarborLAB. Combined, these organizations put thousands of people onto Newtown Creek each year. The presence of floatable trash is a direct deterrent to these users and we have heard many times about people not wanting to engage in recreational uses because the water looks so dirty. No one likes paddling through garbage and no one deserves to.

Our organization has been documenting the floatables problem for many years and have even included it as a parameter within our regular water quality patrols. Seen below are graphs summarizing the last two years of data and pictures from the same time period that document how horrific the floatables issue is. It should be noted that all pictures were taken in areas outside the 3 CSO floatable boom and in open waters.





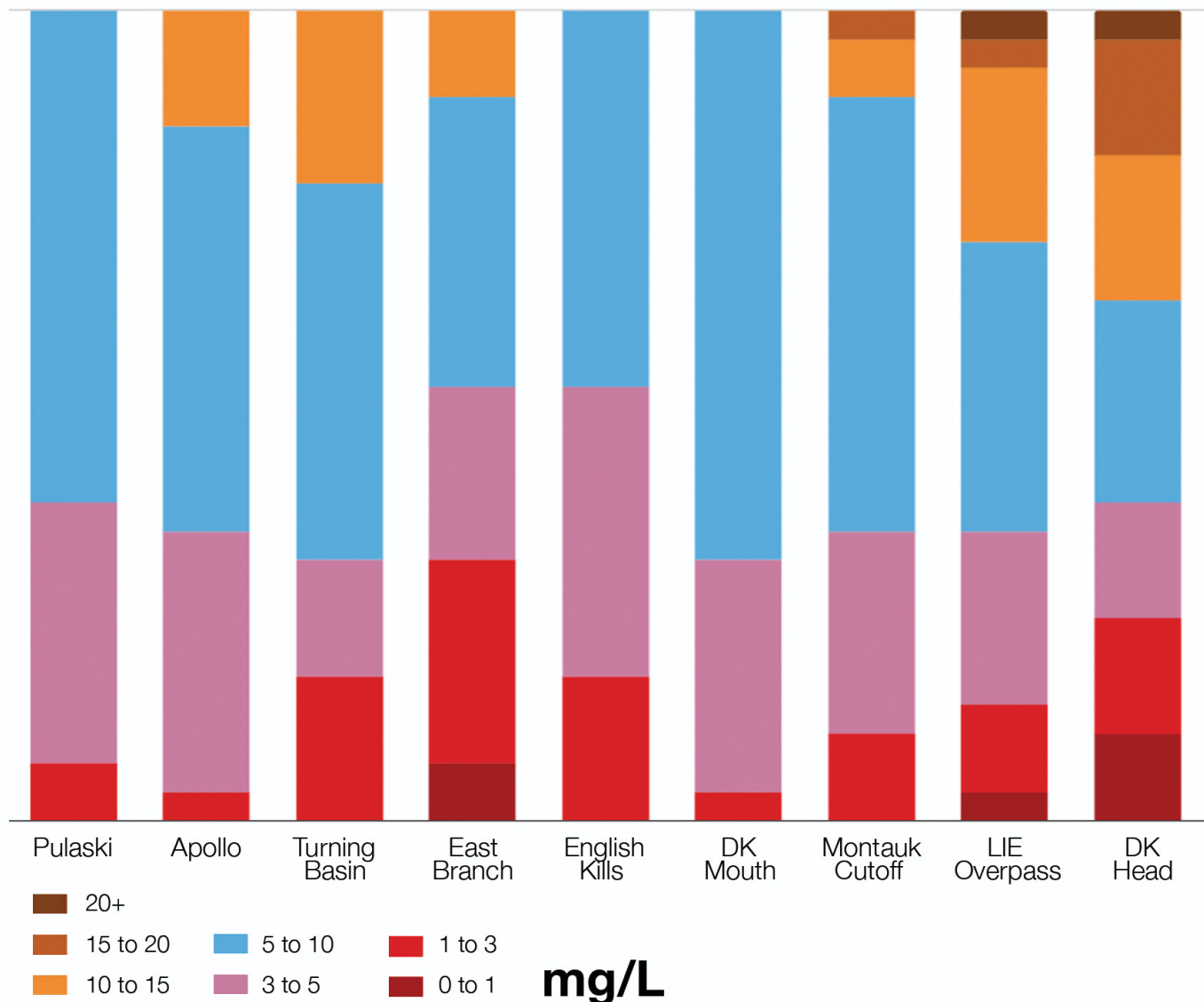


Total days with surface debris present at each sampling location. (2017 data left; 2016 data right). For more info visit:  
<http://www.newtowncreekalliance.org/water-quality-sampling/>

## Dissolved Oxygen Levels Highly Impaired

The issue with severely dissolved oxygen levels in the Creek has been well documented and acknowledged for many years. We do not see the aeration systems as a true solution to the problem and believe that DO levels only have a chance of rebounding to safer levels with drastic reductions to CSO volumes and improved natural function of the Creek (such as greater salt marsh habitat and shallower tributaries). Below is a graph showing our own DO sampling through the 2017 season at 10 different locations within Newtown Creek.

## Variance in Dissolved Oxygen Levels by Location



## Pathogen Levels Fail to Meet CWA Standards

Additionally, the conditions of Newtown Creek have been well documented regarding the amount of pathogens within the water. In addition to posing ecological health risks, having large amounts of sewage related bacteria within the waterbody poses a direct threat to human health and is often a major deterrent for those utilizing the waterway for recreational purposes. NYCDEP has a significant amount of data measuring coliform and enterococcus bacteria. Below is our data from 2017 showing Enterococcus readings and how nearly every site we tested within Newtown Creek failed to meet both the Geomean and STV standards of the Clean Water Act. We believe the State and City need to give more attention to reducing CSO and improving pathogen levels to bring the waterbody into compliance with the CWA.

Date	Pulaski	Apollo	Turning Basin	East Branch	English Kills	DK Mouth	DK Head
4.20.17	5	10	85	10	10	10	20
4.27.17	158	4352	3441	1201	3448	546	417
5.4.17	5	5	5	294	10	5	52
5.11.17	5	5	5	10	20	5	63
5.18.17	52	5	5	10	10	5	10
5.25.17	20	379	171	24,196	1674	5	24,196
6.1.17	31	5	5	30	185	20	20
6.8.17	5	5	10	10	10	20	5
6.15.17	331	246	432	15,531	10	10	52
6.22.17	228	5	10	776	171	767	1989
6.29.17	5	5	171	10	52	5	31
7.6.17	10	10	10	20	51	5	5
7.13.17	5	5	108	63	10	5	10
7.18.17	5	5	5	5	5	5	10
7.24.17	5	10	24,196	24,196	19,863	24,196	24,196
7.27.17	20	31	52	598	20	20	158
8.3.17	83	10	108	7556	52	20	109
8.10.17	5	5	315	10	41	20	20
8.17.17	20	5	10	1147	86	5	145
8.24.17	10	52	85	1726	41	10	52
8.31.17	20	5	20	465	119	5	10
9.7.17	197	482	464	24,196	6,294	496	24,196
9.14.17	5	5	52	5	20	5	20
9.21.17	5	10	30	85	122	5	119
9.28.17	5	5	63	158	31	20	85
10.5.17	5	5	10	41	5	5	5
10.10.17	259	285	2,909	24,196	733	4,106	8,664
10.12.17	52	41	63	10	85	95	5
GEOMEAN	17.66	16.45	60.45	180.02	58.34	23.11	83.79
STV	5 days	5 days	8 days	14 days	9 days	5 days	9 days

### Rainfall

Dry Weather
Wet Weather
1 Day Wet Weather

### Enterococcus

0 - 60	1,000 - 9,999
61 - 99	10,000 +
100 - 999	

In closing we welcome the opportunity to further discuss these issues and encourage the State to better engage in dialogue with the communities most impacted by decisions that directly impact waterways like Newtown Creek. We believe the public outreach component of this process has left much to be desired and the State is responsible for engaging and explaining these often dense regulations.

Sincerely,



Willis Elkins

*Program Manager*

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