

NYS Assembly Health Committee  
Hearing on Water Quality and Contamination

11:00 am Monday, September 12, 2016

Legislative Auditorium  
William H. Rogers Building  
725 Veterans Memorial Highway, Smithtown

by Simon Kinsella  
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**Purpose:** To examine water contamination situations and assess the effectiveness and implementation of laws and public policies in protecting water quality and public health.

**Example Situation (car wash):** The Town of East Hampton is currently considering an application for a Car Wash franchise in Wainscott – [www.TommyCarWash.com](http://www.TommyCarWash.com) – less than one mile upstream from Georgica Pond and Wainscott.

The proposed car wash is of serious concern for the health, not just of the wildlife and ecosystems immediately downstream, but importantly for the health of those who drink water from wells downstream, eat fish and crabs from the ponds downstream, or swim in the waters downstream.

East Hampton Town relies 100% upon its water aquifer for drinking water. Ninety percent (90%) of people living on eastern Long Island derive their drinking water from a well less than 3 miles from where they live. Our natural wildlife, pristine beaches and the bucolic scenery about Georgica Pond and Wainscott Pond also depend 100% upon the watershed upstream.

People come to eastern Long Island for the water – water provides for surfing, sailing & swimming; water provides the unique light that attract so many artists; water provides for the seafood that restaurants serve and for a large industry built on seafood for export; water provides for our drinking and for the water in which we bath ... and we are even largely made up of water ourselves – we are 60% water.

Without safe fresh water, eastern Long Island will fade like a ghost. Yet despite the paramount importance of water, our water is not adequately protected and is currently under threat.

**Regulatory Framework:** Despite the proposed site for the car washing being with the immediate watersheds of both Georgica Pond and Wainscott Pond, it falls outside the regulatory areas designed for the protection of the water supply, namely: The East Hampton Scenic Area of Statewide Significance (SASS), the Water Recharge Overlay District (WRO), the Harbor Protect Overlay (HPO), the Peconic Bay and Environs Critical Environmental Area (CEA) and adjacent CEA. There is no single organizational body that protects our water supply, instead it is made up of a patchwork of ineffective governmental and non-governmental organizations. In fighting against the proposed car wash, the only method I have found is to rely on traffic laws because there is no effective law that I know of that will protect our fresh water supply.

**Problem:** There are many families that live downstream from the proposed car wash which have no protection for their well drinking water. Many thousands of people recreate in Georgica Pond each year who also have no protection from toxins entering into the water upstream. This poses a potentially grave health risk. Only a few years ago local Wainscott families and visitors could fish for White Perch and go crabbing for Blue Crab directly from Georgica Pond. Children especially loved the deliciously fresh and fun meal.

Georgica Pond has been closed these past two summers to fishing and crabbing due to Microcystin (a gastrointestinal toxin) and Anatoxin (a neurotoxin). Both toxins are directly caused by excess phosphates and nitrates. On May 31, 2016, for example, Wainscott Pond experienced a very early algal bloom that was twelve (12) times the New York State threshold (of 25 µg/l) for recreational activity and sixty (60) times the New York State threshold (of 5 µg/l) for drinking water. In early August, Wainscott Pond experienced another algal bloom that was fourteen (14) times the New York State threshold (of 25 µg/l) for recreational activity and sixty nine (69) times the New York State threshold (of 5 µg/l) for drinking water. If there were adequate laws, we wouldn't have had to close Georgica Pond or have the problems with Wainscott Pond.

**Car Wash Toxins:** The Applicant for the car wash proposes to discharge what it calls "*Bio Sludge*"<sup>1</sup> into the ground via "*sub surface disposal.*" Of the estimated 1,500 – 2,000 gallons of chemicals that will be stored at any one-time onsite, it is reasonable to expect (based on an analysis of chemical products sold), that about 75% will be acutely toxic to men and women with published warnings that include: "*May damage fertility or the unborn child*" "*Extremely corrosive to mucous membranes, mouth, throat and stomach and other organs*" and "*Causes severe skin burns and eye damage.*" Three chemicals sold warn: "*Fatal if Swallowed*", and two other chemicals warn: "*Fatal in contact with skin.*"<sup>2</sup>

<sup>1</sup> Aqua Bio Technologies, Biological Waste Water Restoration System Report, page 2

<sup>2</sup> Globally Harmonized System of Classification and Labelling of Chemicals (GHS), Safety Data Sheet (SDS)

Nearly all the chemicals sold (97%) have warnings not to allow the cleaning chemicals to enter the ground or waterways and/or that the cleaning chemicals are toxic to aquatic life.

It only takes one absent-minded employee who is most likely earning a minimum wage to accidentally spill a 55-gallon drum of hazardous chemicals, or for a truck driver unloading a skid to accidentally drop five 55-gallon drums containing hazardous chemicals, to pollute our groundwater.

Of greater concern is a pervading culture of recklessness insofar as there is no mention anywhere of disaster recovery plan for when there is a spillage of hazardous chemicals.

The car wash franchise claims to recycle its water by using a Biological Waste Water Restoration system, but this system is NOT a system designed to eliminate hazardous chemicals and harsh detergents from entering into our drinking water or from harming our wildlife. The water recycling system has NOT been certified or approved by the Environmental Protection Agency (EPA), the Department of Environmental Conservation (DEC), or any other environmental organization. It has NOT been accredited as a system that complies with any environmental standards whatsoever.

The car wash franchise has failed to address many contaminants that have been cited by the EPA and that car washes are known to produce, most notably – phosphates (which cause excessive growth of nuisance plants in water bodies); benzene, lead, zinc, chromium, arsenic, nitrates, and other metals; pesticides and herbicides; detergents (including biodegradable detergents that can be poisonous to fish); chemicals, such as hydrofluoric acid and ammonium bifluoride products (ABF), and solvent based solutions (that are harmful to living organisms); or chemicals and oils used to maintain cleaning machinery (for automatic systems).

Where the car wash franchise documents cite “BOD<sup>3</sup> levels less than [sic] 150 mg/l”, note that this is extremely high for recycled water. This is 150 times the level found in most pristine rivers. Moderately polluted rivers may have a BOD in the range of 2 - 8 mg/l. Municipal sewage (treated by a three-stage process) would have a BOD value of about 20 mg/l. In fact, this BOD level is closest to that found in untreated sewage<sup>4</sup>.

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<sup>3</sup> Biochemical Oxygen Demand

<sup>4</sup> Untreated sewage levels vary, but can be as low as 200 mg/l in the US.

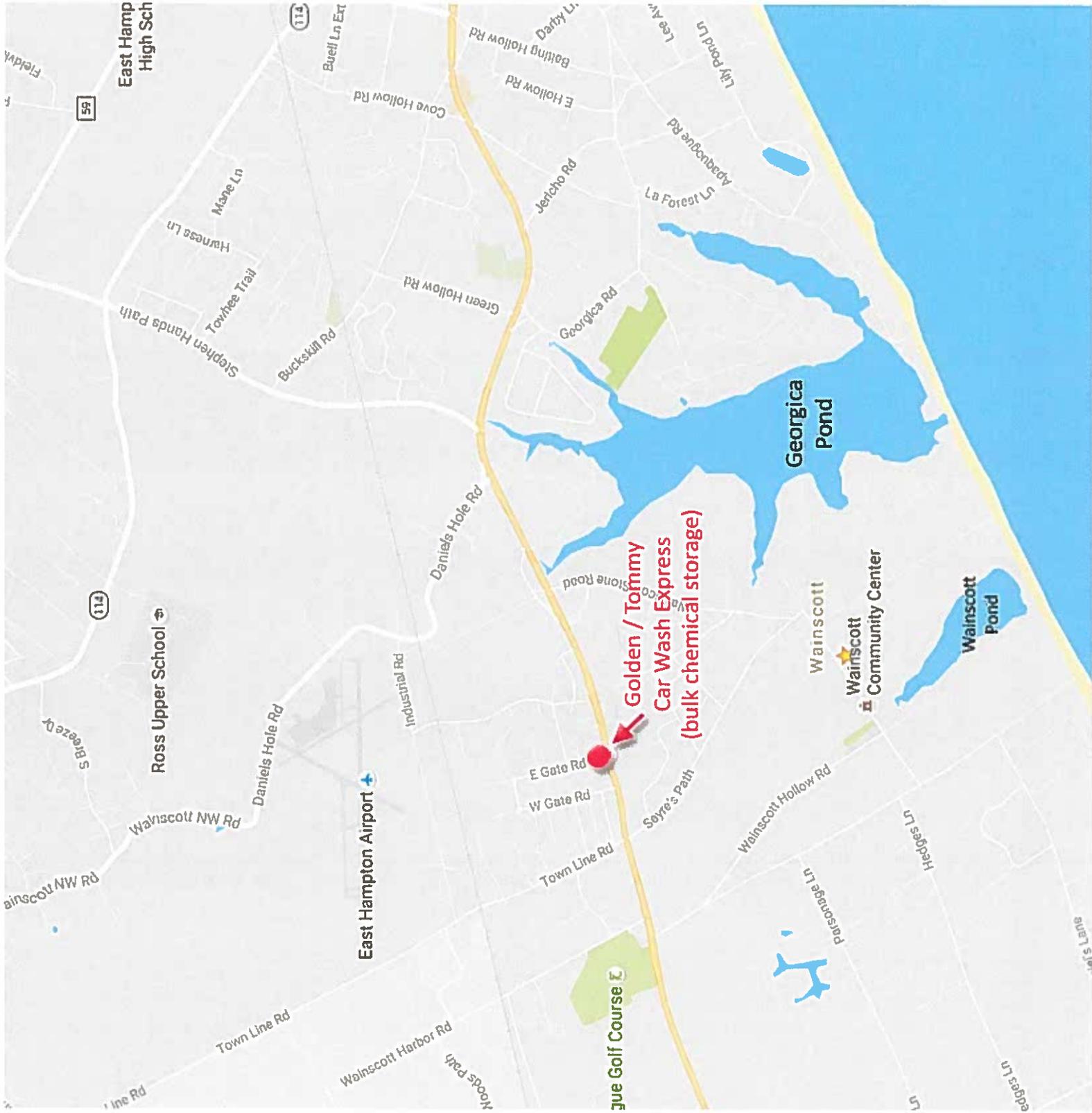
- The Applicant makes no reference anywhere to residual detergents and cleaning chemicals which drip from cars after exiting the car wash, nor any mention of spot-washing cars with a brush or towel outside the confines of an enclosed car wash, nor any mention of the wastewater created by industrial-size loads of towels and rags that will have to be washed separately in washing machines.

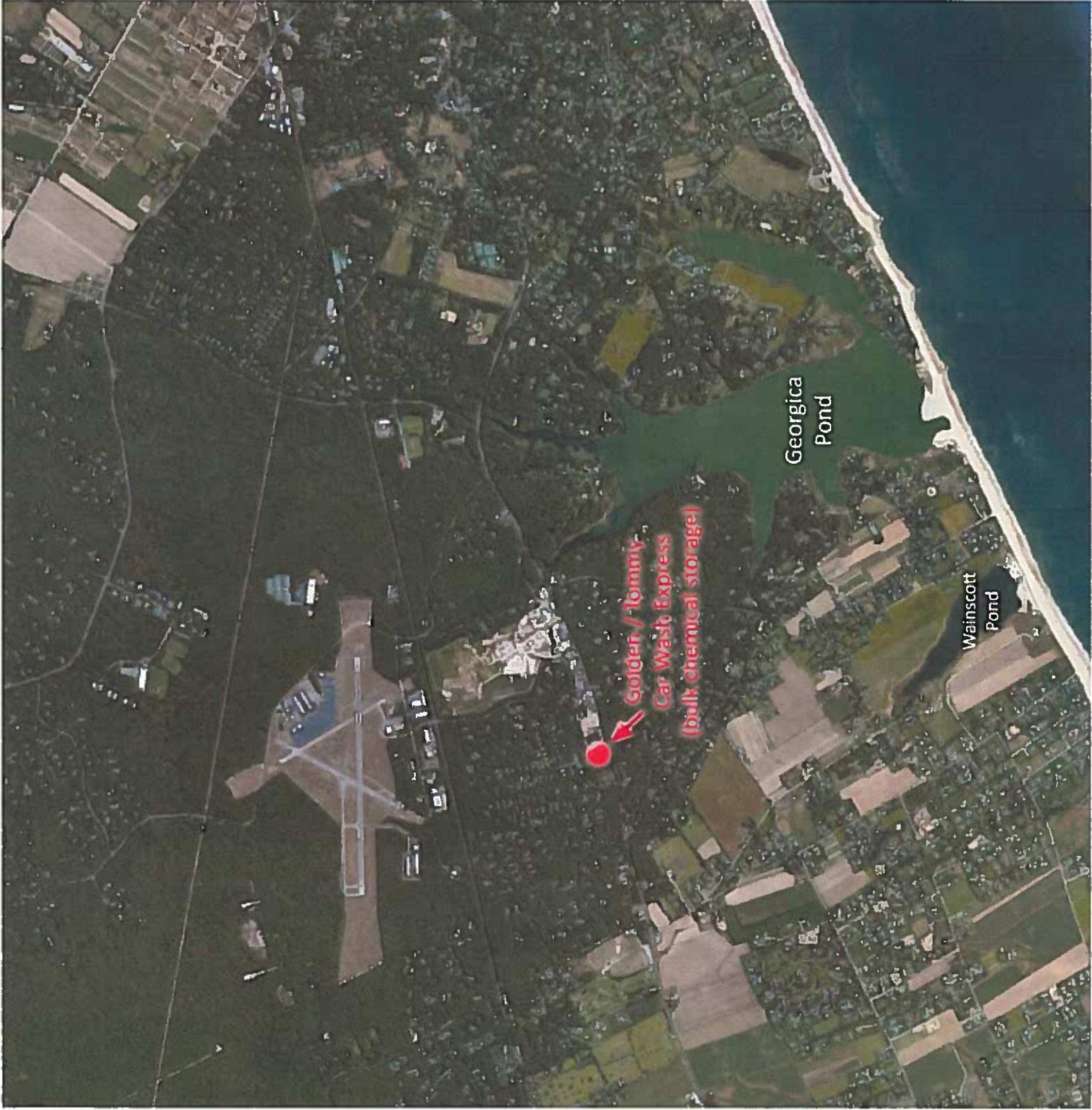
The issue of code compliance and oversight has not been addressed. Who will be testing the water for chemicals and ensuring that the car wash franchise will not releasing its "*Bio Sludge*" directly down the storm water drains?

No one has offered any guarantee that a car wash franchise will not negatively impact our drinking water, nor has anyone offered any guarantee that it will not harm our unique ecosystem.

Conclusion:

If this committee asks me whether the laws and public policies in protecting water quality and public health are effective and adequate such that they protect the quality of our water – my answer is no. There are hundreds, if not thousands of people who live on eastern Long Island who have very little protection for their fresh water supply. I am one of them.





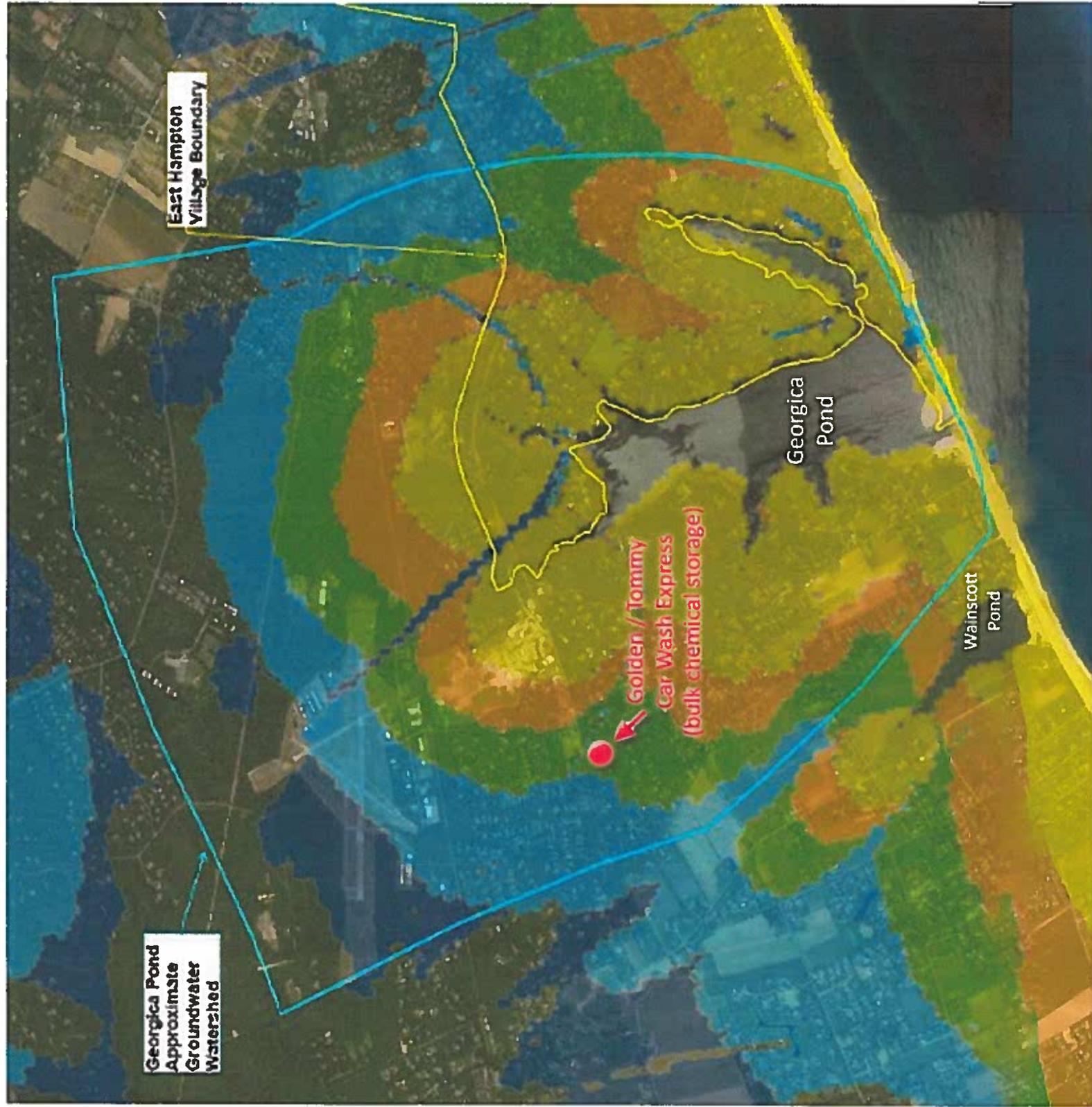
Georgica Pond

Golden / Tommy  
Car Wash Express  
(bulk chemical storage)

Waincott Pond



Date	Name	Tentative cyano ID	Microcystin Toxin [ug/L]	Av. Green	Av. Bluegreen	Av. Diatoms	Av. Cryptophyte	Av. total conc.
2-May	Waincott Pond North			67.3	4.12	0.0	5.8	77.3
2-May	Waincott Pond South			118.4	11.90	0.0	1.0	131.4
16-May	Waincott Pond North			141.0	12.30	0.0	11.6	164.9
16-May	Waincott Pond South			157.9	17.27	0.0	5.7	180.8
26-May	Waincott Pond South		0.8	36.4	123.22	0.0	34.4	194.0
31-May	Waincott Pond North	Anabaena spiroides	2.83	0.0	299.66	0.0	67.1	366.8
31-May	Waincott Pond South	Anabaena spiroides	1.4	0.0	286.21	0.0	99.7	385.9
2-Jun	Waincott Pond South	Anabaena spiroides	2.9	0.0	246.74	0.0	67.3	314.1
9-Jun	Waincott Pond South	Anabaena spiroides	0.07	11.5	55.64	0.0	35.4	102.3
15-Jun	Waincott Pond South			54.9	7.32	0.0	3.7	65.9
23-Jun	Waincott Pond South			389.3	14.39	0.0	18.9	422.5
29-Jun	Waincott Pond South	Aphanocapsa	0.11	404.7	40.75	0.0	28.3	473.7
7-Jul	Waincott Pond South	unknown		189.0	74.00	0.0	14.8	277.8
14-Jul	Waincott-Kitchen Reverse Osmosis			0.1	0.47	0.0	0.0	0.6
14-Jul	Waincott- Kitchen			0.2	0.50	0.0	0.0	0.7
14-Jul	Waincott- Master Bathroom			0.2	0.45	0.0	0.0	0.6
14-Jul	Waincott- Outside Tap			0.2	0.43	0.0	0.0	0.6
14-Jul	Waincott Pond South	Microcystis viridis		154.1	76.41	0.0	22.7	253.1
14-Jul	Waincott Pond North	Microcystis viridis		117.8	66.14	0.0	26.4	210.3
16-Jul	WAINSCOTT-REVERSE OSMOSIS FILTER	No cells seen		0.0	0.65	0.0	0.2	0.8
16-Jul	WAINSCOTT-KITCHEN	No cells seen		0.1	0.54	0.0	0.3	0.9
16-Jul	WAINSCOTT-IRRIGATION TAP	No cells seen		0.0	0.44	0.0	0.2	0.6
16-Jul	WAINSCOTT-SHOWER	No cells seen		0.0	0.50	0.0	0.1	0.6
18-Jul	WAINSCOTT-IRRIGATION TAP	No cells seen		0.0	0.40	0.0	0.1	0.5
18-Jul	WAINSCOTT-KITCHEN	No cells seen		0.0	0.47	0.0	0.1	0.6
18-Jul	WAINSCOTT-SHOWER	No cells seen		0.0	0.32	0.0	0.1	0.4
18-Jul	WAINSCOTT-REVERSE OSMOSIS FILTER	No cells seen		0.0	0.35	0.0	0.1	0.4
18-Jul	WAINSCOTT-SWIMMING POOL	No cells seen		0.0	0.36	0.0	0.1	0.5
20-Jul	Waincott Pond South	Anabaena spiroides, some Microcystis	0.13	94.9	113.59	0.0	22.7	231.2
27-Jul	Waincott Pond South	Anabaena spiroides	<0.34	14.5	273.90	0.0	77.4	365.8
3-Aug	Waincott Pond South	Anabaena spiroides	0.05	0.0	346.78	0.0	85.3	432.1
10-Aug	Waincott Pond South	Anabaena spiroides, Microcystis	0.05	38.1	209.61	0.0	65.8	313.5



East Hampton  
Village Boundary

Georgica Pond  
Approximate  
Groundwater  
Watershed

Golden / Tommy  
Car Wash Express  
(bulk chemical storage)

Georgica  
Pond

Wainscott  
Pond

# East Hampton SASS

Scenic Area of  
Statewide Significance

# East Hampton Village

Scenic Area of Local  
Significance

## Wainscott

Scenic Area of Local  
Significance

Golden/Tommy  
Car Wash Express  
(bulk chemical storage)

Montauk Highway

Georgica  
Pond

Wainscott  
Pond

Georgica/Wainscott  
SASS Subunit

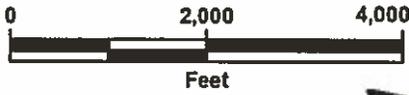


# ZONING LEGEND

<b>A10</b> A10 RESIDENCE	<b>A5</b> A5 RESIDENCE	<b>A3</b> A3 RESIDENCE	<b>A2</b> A2 RESIDENCE	<b>A</b> A RESIDENCE	<b>B</b> B RESIDENCE				
<b>455</b> URBAN REVENUE MAP Redesign (20 second)	<b>MF</b> MF MULTI-FAMILY	<b>CB</b> CB CENTRAL BUSINESS	<b>CI</b> CI COMMERCIAL / INDUSTRIAL	<b>CS</b> CS COMMERCIAL - SERVICE	<b>NB</b> NB NEIGHBORHOOD BUSINESS	<b>WF</b> WF WATERPROOF	<b>RS</b> RS RESORT	<b>PC</b> PC PARK & CONSERVATION	<b>LBO</b> LIMITED BUSINESS OVERLAY (Priority Inv.)
<b>AHD</b> AFFORDABLE HOUSING OVERLAY	<b>AO</b> AGRICULTURAL OVERLAY	<b>WRO</b> WATER RECHARGE OVERLAY	<b>HPOD</b> HARBOR PROTECTION OVERLAY	<b>ROD</b> RECREATIONAL OVERLAY DISTRICT	<b>AMAS</b> AMASSETT HISTORIC DISTRICT	<b>BLUPP</b> BLUPP ROAD HISTORIC DISTRICT	<b>MA</b> MONTAUK ASSOCIATION HISTORIC DISTRICT	<b>MSD</b> MONTAUK SOUTH DISTRICT	<b>SPR</b> SPRING HISTORIC DISTRICT



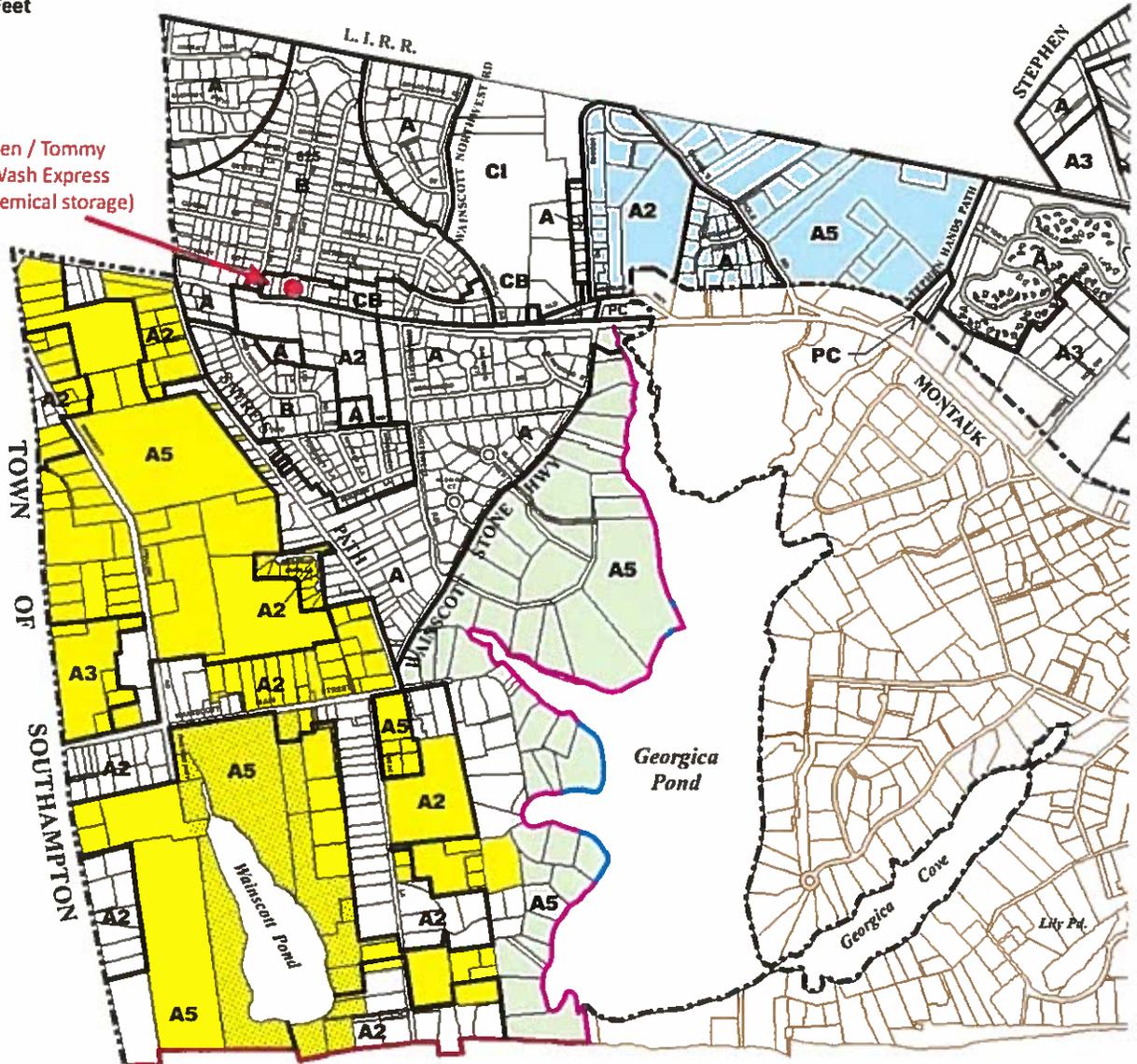
SCALE: 1" = 2,000 Ft



## COASTAL EROSION OVERLAY ZONES

- Coastal Erosion Overlay Zone 1, Ocean littoral zone,** including bluffs, dunes, beaches, and nearshore areas. This zone is predominantly free of erosion control structures. \_\_\_\_\_
- Coastal Erosion Overlay Zone 2, Bay littoral zone,** including bluffs, dunes, beaches, and nearshore areas, which is predominantly free of erosion control structures. \_\_\_\_\_
- Coastal Erosion Overlay Zone 3, Bay littoral zone,** including bluffs, dunes, beaches, and nearshore areas, which contains erosion control structures which are colored and discontinuous, or which have no substantial flooding or erosion protection function. \_\_\_\_\_
- Coastal Erosion Overlay Zone 4, Bay littoral zone,** including bluffs, dunes, beaches, and nearshore areas, which contains numerous erosion control structures. Within this zone the loss of natural resources and features such as bluffs, dunes, and beaches mean that in many cases erosion control structures provide the only remaining protection against flooding and erosion. \_\_\_\_\_

Golden / Tommy  
Car Wash Express  
(bulk chemical storage)



# Peconic Bay and Environs Critical Environmental Area (CEA)

Effective Date of Designation: 11-13-1988

Designating Agency: Suffolk County



**SAFETY DATA SHEET**

**SECTION I IDENTIFICATION**

PRODUCT NAME: **DEGRIMER MAXX**  
PRODUCT CODE: Fluid 2-4750 P/N: 4750 - 4752 - 4753  
CHEMICAL FAMILY: ACIDIC CLEANER

Pg. 1/5  
Version 4  
5/6/2015  
Meets GHS requirements

MANUFACTURER NAME: CUL-MAC INDUSTRIES  
ADDRESS: 3720 S. VENOY RD.  
WAYNE, MI 48184  
PHONE: (800) 626-5089  
EMERGENCY PHONE: (866) 214-4235 (3E COMPANY)

**SECTION II HAZARD IDENTIFICATION**



**HAZARD STATEMENTS:**

**H300:**  
**H312:**  
**H314:**  
**H318:**  
**H333:**  
**H400:**

**DANGER:**

**Fatal if Swallowed**  
Harmful in Contact with Skin  
Causes Severe Skin Burns and Eye Damage  
Causes Serious Eye Damage  
May be Harmful if Inhaled  
**Very Toxic to Aquatic Life**

**Safety Data Sheet (SDS)**

**Section 1 - Chemical Product and Company Information**

Product Name: Magic Presoak

Product Code: CW258

**Section 2 - Hazards**

According to Regulation 2012 OSHA Hazard Communication Standard: 29 CFR Part 1910.1200

**GHS Hazards**

**H302** Harmful if swallowed  
**H310** Fatal in contact with skin  
**H314** Causes severe skin burns and eye damage  
**H318** Causes serious eye damage  
**H331** Toxic if inhaled