

Post Trial Clarity: Volume 1 - DSD Processing of the 6176 and 6220 CUPS  
By Darryl Cotton 11/19/19

The following information was discovered post trial, from primarily the trial transcripts of Larry Geraci, Jim Bartell, Ahbay Schweitzer (TECHNE) and Gina Austin, collectively known as **Team Geraci**. But much of what will be referenced here also comes from the evidence that was presented Team Geraci's attorneys at trial as well as depositions that were taken pre-trial. I plan on addressing these issues here because in light of my loss at trial, what I'm about to share I believe goes to support my change in circumstances plea and support those anti-trust claims I intend to make.

I lost a jury decision because the better lawyers beat us and we had a judge who just wouldn't read and/or take anything seriously either I or my lawyers submitted to him. I'm not done seeking justice, in fact I'm attempting to have him recalled @ [RecallJudgeJoelWohlfeil.org](http://RecallJudgeJoelWohlfeil.org)

I believe the following information will show who was complicit in perpetuating this fraud on the DSD and Team Geraci side of things as it came to the players involved in the processing of the 6176 CUP which try as I might, Geraci ended up having full control over that process. I, as the property owner, had absolutely no say in it. Thus when it became clear to Geraci that with the lawsuit he had filed against me, one that by all rights had not a prayer of succeeding he had to take the best route available when it came to extricating himself from a no win situation with me. Ultimately that meant Geraci putting on a show in which it appeared that he was continuing to process the 6176 CUP to have it awarded he was simultaneously looking for a way to see it denied. That denial could come from there being either a problem with the 6176 property or by having a competing CUP apply within 1000' of my property and get theirs be awarded mine. Ultimately that is what happened.

Before we get into the Post Trial Clarity which this paper is about, please bear with me as we need to briefly consider what went into those drawings that were submitted to DSD and what effect that it had over the timeline and the CUP being denied by the City of San Diego at my 6176 property;

In his [Schweitzer Trial Testimony of 07/08/19](#) Page 210 line 05 describes as the First Set of Plans that were submitted to DSD would have been the [Exhibit 026 dates 10/26/16 - Completeness Review Plan Submittal](#)

Also in his [Schweitzer Trial Testimony 07/09/19](#) Page 50 Line 10 Schweitzer is asked to provide a timeline for when TECHNE submitted his drawings to DSD after the Completeness Review Drawings Comments were returned to him and he responds with;

*Set One on 02/22/17 [Set One Drawings](#)*

*Set Two on 09/11/17 [Set Two Drawings Cycle Issues Responses](#) I find it odd that the set two drawings were not included in the exhibits. Just the Responses. Could that be because around this time the building layout was being relocated to fit the 6220 requirements? The parcels are so similar I can see how they would have played that off if given the chance to do so. I want to see the drawings that were submitted on or around 09/11/17.*

*Set Three on 06/18/18 [Set Three Drawings](#)*

Next we can go back to 11/15/16 and have a look at those DSD comments in [Exhibit 047 Dated 11/15/16 – DSD Completeness Review Responses](#) in which there are two major issues that begin to take shape here that allow Geraci opportunities to control the CUP process, to be in his best financial interest depending upon what happens in the civil trial:

**Issue 1)** As shown in [Exhibit 028 - City of San Diego Land Development Manual](#) TECHNE highlights various task boxes described in the back of the manual between **Pages 028-008 and 028-018 as checklist requirements**. Of note;

**Item 10.7** Grading and Drainage was BOX HIGHLIGHTED which would have made it included in the original scope of work.

**Item 10.7.1** was not highlighted **but it is the requirement that the drawings be stamped by professionals licensed in the discipline they are submitting under**. This is especially important when it comes to the TECHNE Appeal of the 6220 CUP approval in [Exhibit 149 Dated 12/04/19](#) on page 149-027 Schweitzer does not highlight, nor reference 10.7.1 in his appeal arguments with a set of drawings that DSD accepted and approved on the 6220 project without 10.7.1 requirements having been met on the 6220 CUP application, but as TECHNE had done perfectly on the 6176 CUP application project drawings

**Issue 2) Item 13.0** is BOX HIGHLIGHTED which means as Other Technical Studies may be ordered after the FIRST REVIEW CYCLE. This is important because as of 10/26/16 Schweitzer knew that Other Technical Studies could be ordered i.e. Geotechnical Studies and in fact by highlighting this box Schweitzer was acknowledging this likelihood in his contract with Geraci/Berry.

It's clear that as of 11/15/16 in the [Exhibit 047 Dated 11/15/16 – DSD Completeness Review Responses](#) Schweitzer was aware that a Geotechnical Report was required for this project.

In the [Schweitzer Trial Testimony 07/08/19](#) as stated on **Page 220 Line 20**, that even though Schweitzer was aware the Geotechnical report was a requirement, under oath he stated that it was in an **email exchange he had with Geraci in Exhibit 048 dated 11/29/16** it was per the direction of Geraci to **not have this work done** in his terms; 'pushing to have you go forward around' the required geotechnical work.

In [Exhibit 047 dated 11/15/16](#) Page 006, DSD tells Schweitzer that he may submit an adjacent properties Geotechnical Report but it **HAS TO BE A REPORT DATED WITHIN 3 YEARS** of his submittal. This information is also available in The City of San Diego Geoguidelines section 2.4 of the [City of San Diego Geoguidelines](#) To add to his project delays, Schweitzer submitted geologic reports that were older than the allowed 3 year time frame for this project.

In the [Bartell Trial Transcript 07/10/19](#) on Page 27 Line 24 Bartell states that other than the Geotechnical Report there was nothing significant remaining for the CUP to be processed. **That is a LIE!**

In [Exhibit 124 dated 06/08/18](#) the SCST Geotechnical Report was presented to Berry on 06/08/18. In [Exhibit 145 - SCST Billings Statement](#) which puts any 'delay' at the last day they provided services which was, per their billing statement, on 05/23/18. Anything after this date per statements made by Geraci, Bartell and Schweitzer would have been 'nothing of significance, minor issues' once that report was completed and included in the next round full plan submittals which occurred on [Exhibit 136 dated 06/18/18 – Third and Final Full Plan Submittal](#)

In [Exhibit 58 dated 02/24/17 - Techne Cycle Review Responses](#) **Line item 38** lists the Geotechnical Report as 'N.A. having been removed from the CUP Submittal'.

In [Schweitzer Trial Testimony of 07/09/19](#) on **Page 21 Line 12** he describes why they submit a Cycle Review Response.

So now that we have the foundational stuff out of the way and since my arguments and evidence have to start somewhere, I'm going to use the SCST Report dated 05/23/18 as that first starting point since there was a significant amount of work performed after the 05/23/18 SCST Report was provided to TECHNE. In fact there was a significant amount of work that was performed after the [Exhibit 136 dated 06/18/18 – Third and Final Full Plan Submittal](#) as well.

**The remainder of this paper will go into each and every aspect of what creates a situation that proves, using their own evidence, that the lies at trial and in their depositions contradicts everything that their case depended upon to win the case and be awarded the CUP if they had actually wanted to but they did not, while they were in a race to complete DSD required tasks that should have been fairly and equally applied and were not to both the 6176 and 6220 CUP applications. In fact when comparing various contractor billing statements and by TECHNE, DSD and the City Treasurer it will become apparent that it took cooperation by DSD and Team Geraci to create the argument that Geraci prevailed on at trial and denied Cotton the opportunity to own a Marijuana Outlet on his property;**

In [Exhibit 143 - Mituza Traffic Consultants - Billings Statement](#) performs contract work, signed by Berry on 8/02/18 in the amount of \$4200. This is over 2 months after the SCST work was done.

In [Exhibit 146 - Snipes-Dye Civil Engineers – Billings Statement](#) dated 09/07/18 Snipes-Dye performs \$8,782.50 worth of work on the project. This was 3 months after the 06/18/18 drawings were submitted to DSD. This raises questions as to what type of engineering work Snipes-Dye had to do that was so expensive and so far after the last set of drawings had been submitted by TECHNE to DSD? For that we need to look at what happened between Team Geraci and Snipes-Dye starting with Exhibit 146:

146-001 shows payments received on;  
05/24/18 for \$ 2,000.00 This is referred to as a retainer to be applied to work to be performed.  
06/27/18 for \$ 1,365.00  
09/07/18 for \$ 8,782.50  
Totals \$12,147.50 Payments to Snipes-Dye

146-002 is the **Snipes-Dye Proposal to Berry dated 10/23/17** which describes the services they will perform.

146-002 thru 003 shows a fixed fee price of \$9,300.00, not including hourly charges for a Conceptual Grading Plan, a Preliminary Drainage Study and a Water Quality Study BMP Report.

146-004 shows that 7 months after the Proposal date **LST Investments** issues a check, signed by Geraci, not Berry, for the \$2,000 Snipes Dye shows as a retainer.

146-005 on **06/01/18 Snipes Dye shows a 30% percentage of completion with only the Conceptual Grading Plan**. No work had been done or charged on their other remaining tasks.

*Why are we just now doing a 'conceptual grading plan on a project that went to DSD on the first round of full submittal set on 02/22/17 (1.6 years later) or not caught on the 09/11/17 second rounds submittals but into the 06/18/18 round of submittals with a significant (\$8,782.50) portion of that work*

being done on 09/07/18 which is obviously work being performed after the 06/18/18 plan submittal date.

146-006 shows Snipes-Dye 06/01/18 billing for \$1,365.

146-007 shows LST Investments making a Snipes-Dye payment for \$1,365 on 06/27/18.

146-008 shows on 09/01/18 Snipes-Dye percentage of completion @ 100% for all their work.

146-009 shows page two shows billing due of \$8,782.50 but it also shows a breakdown of how that was arrived at. On 8/17/18 Juan Flores a CAD Technician at Snipes-Dye is revising the Conceptual Grading Plan per review comments from the City of San Diego and Coordinate to make the revisions and send to architect for his review.

*This will be a Team Geraci problem as can be seen in TECHNE's own billing statements where it shows TECHNE has billed Geraci for 3 different architects for 'purportedly' just the 6176 project with much of that work being done after the third and final plan submittal on 06/18/18. For that we need to take a moment to review [Exhibit 147 TECHNE Billing Statement](#)*

*But before we even do that we need to review who the Architect of Record was that TECHNE hired for the 6176 CUP application.*

*In [Exhibit 034 dated 10/31/16 - Berry Signs 4 DSD Required Documents](#) in which it can be seen on Page 001 in Section 5 the Licensed Design Professional is listed as Michael Morton, AIA.*

*Now we can return to [Exhibit 147 TECHNE Billing Statement](#) and review individual line item charges:*

*147-042 Morton 06/12/18 for 1.2 hours = 90.00*

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*147-042 Viguri 06/14/18 for 3.3 hours = 594.00*

*147-042 Viguri 06/15/18 for 1.5 hours = 270.00*

*147-045 Viguri 07/12/18 for 0.5 hours = 70.00*

*147-046 Viguri 07/12/18 for 1.5 hours = 210.00*

*147-046 Viguri 07/12/18 for 4.5 hours = 630.00*

*147-046 Viguri 07/13/18 for 5.3 hours = 742.00*

*147-047 Viguri 07/23/18 for 3 hours = 420.00*

*147-047 Viguri 07/24/18 for 3.5 hours = 490.00*

*147-047 Viguri 07/24/18 for 3 hours = 420.00*

*147-048 Viguri 07/25/18 for 2 hours = 280.00*

*147-048 Viguri 07/25/18 for 2.5 hours = 350.00*

*147-049 Viguri 07/30/18 for 0.5 hours = 70.00*

*147-050 Viguri 08/06/18 for 3.8 hours = 532.00*

*147-050 Viguri 08/06/18 for 3.6 hours = 504.00*

*147-050 Viguri 08/07/18 for 2.1 hours = 294.00*

*147-050 Viguri 08/07/18 for 1.7 hours = 238.00*

*147-051 Viguri 08/15/18 for 2.8 hours = 392.00*

*147-051 Viguri 08/15/18 for 1.3 hours = 182.00*

*147-052 Viguri 08/17/18 for 1.7 hours = 238.00*

-----*Totals 48.1 hours & \$6,926 spent outside of Morton AIA*

*147-057 Rollins 10/01/18 for 2.3 hours = 322.00*

147-057 Rollins 10/02/18 for 2.1 hours = 294.00  
147-057 Rollins 10/03/18 for 1.3 hours = 182.00  
147-060 Rollins 10/25/18 for 0.5 hours = 70.00  
147-060 Rollins 10/29/18 for 1.3 hours = 182.00 Prepared plans for City Resubmittal  
147-063 Rollins 10/31/18 for 0.5 hours = 70.00  
----- Totals 8 hours & \$1,120 spent outside of Viguiri or Morton  
-----Total combined Viguiri and Rollins billings = \$ 8,046.00

With this information the bottom line is that what was done architecturally and for engineering is NOT an insignificant amount of work. When Schweitzer states during trial that he couldn't recall for sure but he did not believe that there were any more submittals after the 06/18/18 submittal he was lying. Do we need some more anomalies that need explaining?

147-053 shows on 08/21/18 TECHNE charging a reimbursable expense for Submittal Package Number 5.  
147-055 on 10/28/18 LST Investments, ck no 4504 pays TECHNE \$ 10,000.00  
147-057 on 11/07/18 LST Investments, ck no 4507 pays TECHNE \$ 13,118.29  
147-062 on 12/04/18 LST Investments, ck no 4510 pays TECHNE \$ 7,245.20  
147-066 on 12/05/18 LST Investments, ck no 4511 pays TECHNE \$ 2,592.02

Of particular interest in this last payment is it goes to pay TECHNE invoice no 700 in the memo its paying invoice 700 as shown on 147-063 and 064. All you have to do is read these two pages and you can see numerous references to TECHNE resubmitting CUP charges. I like the one for 10/31/18 he charges 2.4 hours on page 147-063 that states; Resubmitted CUP discretionary to all disciplines'. Schweitzer never remembered any of this at trial? Where were all the city comments that brought on these post 06/18/18 resubmittals? We conveniently don't have them in the record either. Geraci and the damages he claims he suffered and I have to pay in the judgement are a direct result of these charges after the 06/18/18 submittal. What am I paying for?

To help answer these questions and before we can get back to the Snipes-Dye contract we need to understand other elements of what Schweitzer and TECHNE promise their clients;

In [Exhibit 12 dated 10/04/16 – TECHNE Design Services Contract](#) Schweitzer is asked on Page 178 Line 25 of [Schweitzer Trial Testimony 07/08/19](#) is asked to give an overview of the Contract Section C. On page 179 Line 27 is where he specifically address Section C.1.5 SEAL where in the Contract and in his testimony he agrees to have, **Licensed Design Professionals affix their seals and signatures to drawings and specifications produced or managed under this Agreement when required by law.**

In [Exhibit 028 - City of San Diego Land Development Manual](#) Page 028-013 under **Section 10.7.1** requires the drawings being submitted to be prepared and stamped by licensed architects and engineers registered for that discipline.

In the [Schweitzer Deposition of 01/30/19](#) Page 9 Line 2 when asked if TECHNE operates under any professional licenses he replies 'it does not'. So to be compliant with not only his their own contract requirements but those mandatory requirements for submitting these drawings to DSD he is going to have to have licensed design professionals do this work who will stamp and certify the drawings and specifications per those requirements.

To revisit, in [Schweitzer Trial Testimony 07/09/19](#) Page 50 Line 10 Schweitzer is asked to provide a timeline for when TECHNE submitted these properly stamped drawings to DSD and he responds with;

Set One on 02/22/17  
Set Two on 09/11/17  
Set Three on 06/18/18

*In a follow up question to that answer he is asked if there were any further submittals after the third set and he responded with; **I don't think there was, but I'm not 100 percent sure**'. For all practical purposes you could throw in the towel on TECHNE and Schweitzer right now. What I've shown in his own billings proves he's a liar but let's not stop just yet. We need to see who the architects were he paid and why so much work was done after the 06/18/18 plan submittal to help get down to who all was involved in denying me right in acquiring a CUP on my property*

Michael Rene Morton, AIA. Architect of Record: [CAAB License No C 19371](#)  
Works for: [Marenco Morton Architects](#)

Mark T Viguri, AIA: [CAAB License No C 25509](#)  
Works for [Pacific Architecture and Planning](#)

Geanine Rollins, Associate AIA: (Not licensed through CAAB) [Geanine Rollins Linked In Profile](#)  
Works for: [GNR Drafting Services](#)

*Finally on any of the drawings resubmitted after 06/18/18. Since Morton shows no line item billings from TECHNE after 06/12/18 I think it's only fair to know who did stamp the drawings on resubmittals? We should have seen these in the trial exhibits but we didn't. Who was the licensed architect that stamped any drawings submitted on the 6176 CUP after 06/18/18? Rollins, who we established is a CAD draft person and not an architect. She billed the project for the entire month of October 2018 for work an architect would have had to have stamped after her work was done. Viguri's the last licensed architect shown on the TECHNE billings and that was for work done on 08/17/18. The only way to get to the bottom of this will be to **subpoena the people named above as well as each person listed on the following documents and that includes any project manager that was overseeing either CUP at any time during the process;***

[6220 CUP Customer Information as of 05/31/18](#)  
[6220 CUP Customer Information as of 08/08/18](#)  
[6220 CUP Customer Information as of 11/07/18](#) TECHNE is listed as an agent on this post

Compared to:

[6176 CUP Customer Information as of 05/31/18](#)  
[6176 CUP Customer Information as of 11/07/18](#)  
[6176 CUP Customer Information as of 01/19/19](#) As you can see Michael Morton is still listed as the architect of record. Viguri or Rollins names never come up in the DSD website. And you can't blame this on DSD website update errors. They take people on and off this site regularly. Strom Permitting at 6220 would be a good point to make there when he went to FORMER Point of Contact Status and everything had to go through Magagna who is NOT a licensed architect. Also when you compare the information given by DSD on the 6176 to the 6220 project they NEVER list the architect. We have NO IDEA who was listed on the 6220 CUP Application unlike the 6176 CUP which in [Exhibit 34 - DS 3032 form that Berry had signed back on 10/31/16](#) plainly showed it was Michael Morton all the way through the 01/19/19 screen capture from the DSD website.

**Why the Project Managers versions of events will be important requires us to look at the payments Geraci made to TECHNE and the City Treasurer for the '6176' project. There are some serious anomalies here as well;**

When Geraci was questioned about the charges and payments made to the City Treasurer in [Geraci Trial Transcript 07/03/19](#) he states on Page 57 Line 10 that he had verified each of the charges shown in [Exhibit 137 - Federal Blvd Summary Payments](#) of which the summary amount of payments made to the City Treasurer is shown to be \$13,500 having been paid to them.

Now it's important to keep in mind that Geraci has been acting as an accountant for [Geraci Trial Transcript 07/03/19](#) oPage 56 Line 3 'for over 40 years'. One would think that based on that level of experience and because this was his evidence being presented at trial, there would be no discrepancies with the accounting. Well there are. Serious ones.

Once again, before we get back to finishing up with Snipes-Dye we need to look at the payments Geraci and TECHNE made to the City Treasurer with information from their own exhibits. For that we will have to look at the charges in [Exhibit 140 - City Treasurer Statement of Charges for the 6176 CUP Application](#) which breakdown as follows:

140-001 the ledger shows 4 payments having been made to the City Treasurer for a total of \$13,500.

The payments shown are as follows;

12/20/17 Ck No 4481 for	6,000.00
10/31/18 Ck No 4505 for	100.00
10/31/18 Ck no 4506 for	1,000.00
<u>11/01/18 CC for</u>	<u>6,400.00</u>
Total Payments:	13,500.00

Now before we even dig into Exhibit 140 we need to drill down a bit on the information we have in [Exhibit 147 TECHNE Billing Statement](#) .

147-003 thru 005 shows that on **10/31/16 Rebecca Berry** made a payment to the City Treasurer for \$8,800.00. This is obviously an accounting problem we see right out the gate. But before this can be explained as just loose accounting by Geraci it gets worse.

For that we go back to [Exhibit 140 - City Treasurer Statement of Charges for the 6176 CUP Application](#).

140-002 on 10/20/17 DSD Project Manager III Firouzeh Tirandazil issue an invoice to Rebecca Berry. On this invoice it can be seen that the DSD Project Manager II for this project was Cherlyn Cac. It's also stating that the Deposit Account amount \$14,245.00 and there have been credits of \$8,245.00 leaving a balance due of \$6,000.00 which is the amount of this invoice.

140-003 is page two of the invoice and the \$6,000 is being put in a DEPOSITS FUND as a Planning Subdivision Deposit. This 6176 project is nearly one year old and the \$6K is being called a deposit? It gets worse.

140-004 on 12/20/17 LST Investments pays the \$6,000

140-005 is a DSD Deposit Account Statement from 11/01/16 thru 11/30/16 showing an ending balance of \$8,245. The exhibit shows, what looks to be Berry's handwriting TECHNE paid this on 10/26/16

140-006 is a DSD Deposit Account Statement from 12/01/16 thru 12/31/16 showing an ending balance after a credit of \$91.70 from the previous month bill of \$8,153.30

140-007 is a DSD accounting of the \$91.70 credit for work done by Nathan White of DSD on the Project Submittal. I find this credit curious. I would want Nathan White subpoenaed to see what he actually did with the submittal process at 6176.

140-008 and 009 is a DSD Deposit Account Statement from 01/01/17 thru 01/31/17 still showing an ending balance of \$8,153.30. what is not clear when looking at these statements is what happened to the \$8,800.00 credit that would have been applied to the City Treasurer? Well for that to be investigated we need to go back to [Exhibit 147 TECHNE Billing Statement](#) where it can be seen to show up in the TECHNE chart of accounts in the second line item of 147-001. TECHNE is showing a City Treasurer check Berry wrote as a charge in their register. Something is very wrong/weird right here and it's about to get weirder. Remember these are Geraci's exhibits!!!

140-010 on 10/31/18 Schweitzer puts in an urgent request of two checks both made out to the City Treasurer. One is for \$100 and the other is for \$1,000. He actually sending Kenneth Adelson from his office to pick them up. This is urgent and it's 3 months after the 06/18/18 drawings were submitted. Where are the DSD Deposit Account Statements for the months not shown in the Exhibits? We'd expect to see every month from where they left off in 140-009 which would be 02/01/17 thru at least this urgent request on 10/31/18. What the hell happened? For that we just have to keep reading this exhibit.

140-011 shows both City Treasurer checks being issued immediately out of what looks to be the LST Investments account since these are the check numbers which match up to what is shown on 140-001 and confirmed to be the LST Investments account on 140-004. Again this looks to be Berry's handwriting (which is another oddity. This is a tax and financial center and they hand write all these checks out of LST Investments. Why? A bit of forensic accounting probably reveals that is a big cash in account that Mr. Geraci pushes his illegal dispensary money through and needs a bit of arm's length there too) What is unusual about these two checks though is they don't show the actual checks or the Geraci stamp signature.

140-012 on 09/26/18 shows a DSD invoice was issued by Tim Daly to Berry in the amount of \$6,400 showing that once again this is a charge for Planning Subdivision Deposit. This is getting fucking ridiculous! First of all these 6176 and 6220 CUP's for MMCC or MO depending on what time and project you're speaking about. They are NOT Subdivision Deposits! But what really frosts my ass is that you can see on this document that when it's all said and done \$20,645.00 had made its way into the DSD coffers. The \$14,245 was already in there and the \$6,400.00 CC payment makes it undeniable. If this guy is your accountant and he's representing you as an EA at an IRS hearing bringing in evidence to support your claims, based on what I'm seeing here, you're going to be in deep shit.

140-013 Page two of the above invoice

140-014 shows that on 11/01/18 Geraci paid by an LST Investments credit card the \$6,400 that was billed on 09/26. This begs the question? Geraci had lost the appeal at the hearing on 10/18/18. He has TECHNE Appeal [Exhibit 149 dated 12/04/18 'Dear Planning Commissioners' - A Techne Appeal to the 6220 CUP Approval](#) that ruling on 12/04/18 with an appeal that is so poorly crafted it had no hope, nor was it ever intended to overturn the original decision. I have loads of evidence to support that claim but I won't go into great detail here. That will come later. Suffice it to say for now that the 6220 CUP application, the hearing and the TECHNE appeal are easy to poke a hole in with the most obvious being

the drawings weren't stamped as per [Exhibit 028 - City of San Diego Land Development Manual](#) and Section 10.7.1 and there were not one but two licensed child care facilities that fell within the 1000' separation requirement for the 6220 CUP application [The 6176 and 6220 1000' Radius Maps Comparison and the 6220 CUP 10/18/18 Public Hearing](#) to be approved.

But if I'm Geraci and I'm quick to make that \$6,400 payment to the City Treasurer why don't I throw all by heavy artillery at the Appeal. I've got legal bills on the Geraci v Cotton case which are unrecoverable, I have \$20K just into the 6176 CUP permit and at trial I'm only asking for \$13,500? At the 6220 appeal I only spend \$1,245.00 [Exhibit 142 McElfresh Law Billing Statement](#) on McElfresh to support TECHNE in his arguments? That entire 6220 CUP process was a dog and pony show that was choreographed between Tirandazi, Cac, Bartell (who during the 6176 CUP application told Corina Young that 6176 was not going to pass since 'everyone hates Darryl') Schweitzer, Austin, Reed, Magagna, Geraci and Berry. Berry signing those checks and knowing that she was hiding money and fronting for Geraci makes her just as guilty as all of them.

**Now that we got through all that we can return to Snipes-Dye and look at specifically what was done and when.**

[Exhibit 122 dated 06/04/18 – Snipes-Dye Preliminary Hydrology/Drainage Study](#)

Page 122-002 Signed and stamped by Son P. Nguyen on -6/07/18. *I really want to see the engineer that signed and stamped the same report on 6220?*

Page 122-014 this is the first time I've noticed the entire site plan was changed from the first submitted set on 02/22/17 to what is shown on the 06/18/18 drawings where the proposed building is on the front right hand side of the parcel. I would **really** like to see the drawings that were submitted on 09/11/17 to see what brought that on or was that a nod to the way the 6220 site would have to lay out? Again not having any 3<sup>rd</sup> party court appointed administrator let this kind of thing happen without any oversight by anyone except Geraci.

[Exhibit 123 dated 06/04/18 – Snipes Dye Water Quality Study BMP Report](#)

Page 123-002 Signed and stamped by Son P. Nguyen on -6/07/18. *I really want to see the engineer that signed and stamped the same report on 6220?*

Page 123-014 shows a DSD required checklist, form DS-560 listing 6176 Federal Blvd as the project address.

Page 123-017 is signed by Snipes-Dye Design Engineer Ramon Esquer on 06/04/17. *This is telling because this work was likely done prior to the 09/11/17 submission which means that this form was properly tasked for that time but per [Exhibit 146 - Snipes-Dye Civil Engineers – Billings Statement](#) the project retainer wasn't taken until 05/24/18 and the Proposal was dated 10/23/17 I think this document raises more questions and Mr. Nguyen and Mr. Esquier should be subpoenaed to see what really went on here?*

In [Exhibit 134 dated 06/18/18 – CEQA Checklist](#) Schweitzer is submitting a CAP (CEQA) checklist 1.6 years late that had been previously required in [Exhibit 047 dated 11/15/16](#), Page 047-002 Item 5

In regards to CEQA requirements it's also noteworthy that, per **Cherlyn Cac's** testimony (who PM'd both the 6176 and 6220 CUP applications at various points in the process and then goes on to ENDORSE the 6220 project over the 6176 project) at the 6220 CUP 10/18/18 public hearing she **states that unlike the 6176 property, the 6220 property was 'categorically exempt' from CEQA requirements. This can be heard @ 0.40 seconds into the audio @:** [10/18/18 Audio Recording of the 6220 CUP Public Hearing](#)

Another element that was raised at trial was how Cotton supposedly hindered the Team Geraci relationship with the Community Planning Group (CPG) by initiating an email exchange with the Chairperson of the CPG, Mr. Ken Malbrough.

In the [Bartell Trial Transcript or 07/10/19](#) on Page 23 Line 19 and on Page 24 Line 19 of that transcript it was Bartell who states, under oath, that he told Malbrough that Cotton was not the applicant on the 6176 CUP application which caused Malbrough, within just 2 days of his first contact with Cotton and in direct violation of his responsibilities under [The Brown Act](#) where government officials are required by law to maintain open transparency with the public by ceasing all further communications with Cotton, the property owner within his CPG purview that is being denied a CUP without his assistance in preventing this.

In [Exhibit 152 Cottton and Malbrough emails dated 07/13/19](#) Malbrough did as he promised and has never responded to any of Cotton's emails however it did not stop Cotton from including Malbrough in subsequent emails that went to City Staff regarding what Cotton saw as unfair treatment of the 6176 CUP application in favor of the 6220 CUP application. One of the recipients of that email was Ms. Sokolowski, Deputy Director of DSD for the City of San Diego who did respond to that email by directing me to seek out project information at the Records Department. What a joke! In that email I'm giving her important information such as the links to the Community Planning Group's, which Malbrough is Chairperson for, agenda and citing specific issues of unlawful processing of a CUP and she responds with a canned answer that was not taken seriously and had no substantive value.

On [07/25/17 Cotton email to Cac and Malbrough with supporting attachments and links](#) what is clear evidence that needs to be reviewed and responded to by the City regarding Cotton's allegations of impropriety by DSD and certain staff including Malbrough.

On [07-27-18 Expanded Recipients email by Cotton to Malbrough and City Staff](#) having not been taken seriously in his previous email I expanded the list of recipients being warned about the 6220 CUP processing to include members of the Mayors and City Attorney's office as well.

In [Exhibit 131 dated 06/18/18 - TECNHE Cycle Issues Response](#) in which Schweitzer acknowledges in this response that once he receives comments from DSD on his last submittal he will 'contact the chair of the CPG'. Unlike the 6220 project that had gone from a 03/14/18 DSD Acceptance to a CPG hearing on 10/18/18 Schweitzer ignored the DSD instructions from 11/15/16 and based on his own comments here, still had not reached out to the CPG for over 19 months!

In [Exhibit 95 dated 05/10/17](#) Page 095-008 item numbers 10 - 14 are all NEW ISSUES that required the work of a Civil Engineer.

Page 095-005 also sites 'NEW ISSUES; for TECHNE to address which is **Item no 5**; the Geology Report and **Item no 7** which is to coordinate with planning on the Community Planning Group LUD consistency for a MMCC. **Page No 095-011 Item No 2** also instructs TECHNE to contact the Community Planning Group (CPG) to set a time for their '**next available meeting**' for their public project presentation. Unlike the 10/18/18 public presentation for the 6220 CUP this was never done for 6176 and the reason given for

that was that Cotton had hindered the relationship with the CPG by reaching out to the Chair, Kenneth Malbrough to find out if that CPG presentation date had been set. In this short email exchange you can see how Malbrough ceases all further communication with Cotton regarding the 6176 or 6220 CUP. It wasn't until Exhibit 131 dated 06/18/18, 18 months after having been instructed to do so that Schweitzer would get around to doing this.

In [Exhibit 95 dated 05/10/17- Cycle Review Reponses](#) items 10-15 are called out as New Items and go to what would have been required of Snipes-Dye Civil Engineering firm. While this work was performed it was not done until June 2018 which is a 16 month delay from when DSD had originally requested it on 02/22/17.

In [Exhibit 110 dated 9/07/17 - TECHNE Cycle Review Responses](#) TECHNE does not address items 10-15 in Exhibit 95 and claim in Para 5 that a Geotechnical report was submitted. This was their attempt to have an adjacent property geotechnical report submitted. The problem was none of those reports were within the required 3 year period of having been tested and Techne should have know that as it is in the geotechnical guidelines.

**Page 095-11 Items 1 and 2** both instruct Schweitzer to contact the Community Planning Group

In [Schweitzer Trial Testimony of 07/09/19](#) on **Page 53, Line 5 states that had the soils testing not have been holding up the CUP processing the likelihood that the 6176 CUP would have been completed before the** Schweitzer trial testimony **Page 31 Line 17** describes what the DSD Cycle Review Issues represents. He spends very little time on discussing these cycle responses because it's a landmine for Team Geraci if anyone who understands this drills down on the timeline.

In [Exhibit 105 date 07/24/17](#) is an email that Schweitzer sends to everyone on Team Geraci that acts like the Geotechnical Report is a 'new issue' that they have to contend with when he knew since the 11/15/16 that this was a requirement since [Exhibit 047 dated 11/15/16 - DCD Remaining Cycles Issues Report](#) was given to him.

If you've made it this far congratulations! You should probably go take a shower. But before you do let's see what their entire case was to come down to if ALL the evidence I've cited preciously was ignored;

The 6176 CUP started its process on October 2016 with a Public Notice of Application being dated 03/27/17. [6176 Notice of Application dated 03/27/17](#)

The 6220 CUP started its process in March of 2018 with a Public Notice of Application being dated 04/05/18. [6220 Notice of Application dated 04/05/18](#)

The 6176 CUP had a little over a one year head start over the 6220 CUP.

The 6176 CUP was being processed by a Team Geraci that had previously done between 10 and 20 cannabis related CUP's within the City of City of San Diego and were adept at the process and knew the timeline associated with the CUP processes.

The 6220 CUP was given a Community Planning Group Hearing in June of 2018 [CPG Minutes dated 06/18/18](#) which means it only took 3 months for the entire design process that included drawings to schedule a presentation and was scheduled for presentation at the next month's meeting. While Magagna did not make the next month's meeting he did make it to the September 2018 CPG meeting

and made his presentation [CPG Minutes dated 09/17/18](#) which was approved. With that CPG approval he was given an opportunity to make a formal presentation at the [6220 CUP 10/18/18 Public Hearing Presentation](#) which he does with the support of the CPG, DSD, his Land Use Attorney Cynthia Morgan Reed and a moving presentation he delivers which at the conclusion the Planning Commission voted for its approval. This means Magagna accomplished in 7 months what the skilled Team Geraci could not do in two years! In fact the 6176 CUP never even had a Community Planning Group presentation scheduled.

After having the court order granting Geraci's contractor SCST access to my property for the soils coring which would have led to a report that would have only required that company's determination that the property was not suitable for the proposed development I got involved in the by watching and listening to the on-site SCST Geologist's, Ms. Elizabeth White's comments while that work was being done on 05/11/18. Ms. White had been very cordial and outgoing during her work here. She stated without hesitation that upon her having performed the exploratory drilling the property represented no barriers to the proposed construction whatsoever. I wanted to memorialize that in an email and as you can see between the first and second email I sent she had not responded to me nor would she give me ANY information over the phone as to the state of the report her company was going to provide. I found this odd because this was NOT the same Elizabeth White I had met on 05/11/18, the day she had the drilling work done. Nonetheless my email laid out what would happen if the report came back negative and I left it at that.

Eventually the report was issued and it stated in [Exhibit 124 dated 06/08/18 - SCST Soils Report](#) that the property was suitable for the proposed development. Knowing what I know now from these post trial documents I believe Ms. White should be deposed to see if there had been any attempt by Team Geraci to have this project denied with a geotechnical soils report that did not support the proposed development. I'm not convinced that had it not been for my emails of [05/19/18 and 05/23/18 Cotton to White emails re soils report](#) which memorialized the statements White had made to me on 05/11/18 it would have been highly likely that the report SCST delivered would have deemed the site unsuitable for the proposed development as this was Geraci's contractor, it is a subjective determination and with that denial Geraci would have been off the hook for pursuing the 6176 CUP.

As to the 6 month delay I have been accused of causing the project, even if there would have been a 6 month delay and I'm not saying there was, the 6176 CUP was still not approved 5 months after the soils report was given to TECHNE. Straight math shows that by subtracting the claimed 6 month delay at 6176 it would have been an 18 month process which regardless of any delays real or invented, shows that the 6220 project was processed at light speed and the 6176 was processed at glacier speed. This in and of itself shows the fraud and conspiracy between these parties I had to endure. Add the evidence I've provided within this document and the level of corruption that had to exist to make this work is criminal. And if it is criminal charges we're talking about then this flowchart is a good place to start in identifying the characters and the roles they played.

[Canna-Greed: The Flowchart](#)