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**Santolina Opponents Remain Determined After
Disappointing Court of Appeals Decision**

**Court of Appeals Affirms District Court Denial of Appeals of
Level B1 Master Plan and Level B1 Development Agreement**

ALBUQUERQUE, NM—Opponents of the Santolina Development project responded today to the Court of Appeals decision handed out on Thursday, April 20, 2022, that affirmed the District Court decision denying their appeals of the Level B1 Master Plan and the Level B1 Development Agreement.

Opponents of Santolina—including the SouthWest Organizing Project (SWOP), South Valley Regional Association of Acequias (SVRAA), the Center for Social Sustainable Systems (CESOSS), Pajarito Village Association, the South Valley Coalition of Neighborhood Associations, plus several individuals—had argued in their appeal that the District Court erred in upholding Bernalillo County’s approval of the Santolina Level B Master Plan and Development Agreement.

The New Mexico Environmental Law Center (NMELC), on behalf of its clients, argued that the planning process is quasi judicial, meaning community members are entitled to impartial decision makers and an administrative standard of review. In upholding the District Court’s decision that the Level B planning process is legislative, the Court of Appeals has held that, unless the planning process relied on by Bernalillo County is unconstitutional, the approval of a master plan will likely stand.

NMELC also argued that, because the Zone Map Amendment (ZMA) was not in place while the Level B planning was happening, any planning was invalid.

NMELC Staff Attorney Maslyn Locke explained, “The District Court agreed that a valid ZMA is required before a level A and level B plan can be considered, but held that, because the County had appealed an earlier decision reversing the approval of the zone map amendment, that stayed/paused the process and the planning could proceed as if the ZMA was in place.”

The Santolina Development project has been stalled by community efforts and numerous legal challenges brought by community members dating back to 2013. The project’s original proposal called for 37,000 residences housing approximately 95,000 people on Albuquerque’s West Mesa. At full build-out, Santolina is estimated to use 3.8 billion gallons of water or 11,700 acre feet of water per year. Opponents have criticized the project for:

- being **piecemeal**—not planned— development
- being a **sprawl** development project
- violating provisions in the **Planned Communities Criteria**
- violating the **No Net Expense** criteria
- grabbing massive amounts of **water** that is already in short supply during a historic mega **drought** the likes of which has not been seen in 1200 years, which would especially impact traditional acequia farmers downstream

Marcia Fernandez, a traditional small farmer in the South Valley, said: “I'm surprised and saddened by the Court's decision, but I think everyone needs to know that we are not going away! We will continue our fight because it is the right thing to do.”

Jorge Garcia, Executive Director of the Center for Social Sustainable Systems (CESOSS), said, "It is disappointing that the Court of Appeals ruled to affirm the District Court decisions made on the Level B1 Master Plan and Level B1 Development agreement for Santolina. If the court disregards the fact that government agencies ignore and contravene their own rules, then what kind of check and balances can we expect in the future from our judicial and bureaucratic systems?"

Santiago Maestas, President of the South Valley Regional Association of Acequias, said, “Farmers don’t waste water! Sembradores no gastan agua!”

Western Albuquerque Land Holdings (WALH), the local developer of the Barclays of London-financed Santolina project, submitted an amended Level A Master Plan and Level BII Master Plan to the Bernalillo County Planning Commission (CPC) earlier this year, seeking to develop a portion of the Santolina land for uses that, allegedly, require little to no water or infrastructure. Despite County staff recommending approval of both plans, the CPC recommended denial of both plans on March 2, 2022.

Both plans are expected to be heard by the Bernalillo County Commission as early as June.

Also, after the New Mexico Legislature's Special Session, Governor Michelle Lujan Grisham signed into law the Junior Bill which included setting aside \$50,000 for an [economic impact study](#) of Santolina to be performed by the UNM Bureau of Business and Economic Research (BBER). The study will "evaluate the fiscal impact on state and local governments of the proposed Santolina development in Bernalillo county." Opponents of the project have pointed out that projected job numbers provided by the developer are based on outdated population estimates.

The Santolina development project has also emerged as a key issue in several election campaigns including for County Commissioner and two House District races. Several candidates tout opposition to Santolina as one of their key priorities.

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The 4/20/22 Court of Appeals decision is **attached**.

The earlier District Court decisions—the Brickhouse decision on the B1 Master Plan and the Franchini decision on the B1 Development Agreement—are also **attached**.

Below is a summary of the proceedings:

On 12/23/19, the District Court issued its decision affirming the County's Level B Master Plan. The Court made three major holdings: (1) the decision to approve the Level B Master Plan was legislative; not quasi-judicial and thus the legislative, rather than administrative standard of review applies; (2) under that standard of review, the Level B Master Plan is valid; and (3) the ZMA was valid at the time the Level B Master Plan was approved since the County appealed the ZMA ruling.

On 1/13/20, the District Court also issued its Amended Order of Dismissal, upholding the County's approval of the Level B Development Agreement. The Court held that (1) the Development Agreement (DA) cannot be reviewed by the Court because there is no statutory right to appeal the DA's approval; (2) the DA is not a zoning decision, and the DA is not impermissible contract zoning; (3) the DA is not reviewable by the Court because the proceedings were not quasi-judicial or adjudicatory; (4) to the extent the decision can be reviewed at all, it is a legislative standard of review – i.e. the constitutional validity of the decision – and therefore the Court will not consider whether the DA was supported by substantial evidence.

In January and February of 2020 respectively, NMELC, on behalf of its clients, asked the Court of Appeals to review these two district court decisions. In July 2020, the Court of Appeals consolidated the two appeals. Briefing was completed mid-December 2020. It is this decision, upholding the decisions of the District Court, that was issued on April 20, 2022.

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