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Dear Mr. Regaignon and Ms. Hudlet,

Thank you for becoming involved in the matters surrounding the MIRA/Tres Santos mega-development in Todos Santos, BCS, Mexico. Mr. Barrios has taken exception to my article entitled [When Mindfulness Goes Wrong: a Mega-Development’s Deceptive Branding in Mexico](http://www.counterpunch.org/2015/09/18/when-mindfulness-goes-wrong-a-mega-developments-deceptive-branding-in-mexico/). I take full responsibility for this piece, but I was not aware that the news website [www.sinembargo.mx](http://www.sinembargo.mx) would pick up my story. While they represented clearly and thoroughly the problems faced by Todos Santos, in particular with regards to the Tres Santos mega-development, there are a few inaccuracies in their article. For instance, and as Mr. Barrios well states, the photograph of construction equipment that they published is erroneously attributed, it is in fact a publicity photograph taken from the Tres Santos website.

I am the sole author of the original article questioning Tres Santos’ deceptive practices, and I hope you will post my counter response to MIRA and to Mr. Barrios in order to encourage a fully transparent conversation between the Todos Santos community and the MIRA/Tres Santos mega-development.

Mr. Barrios closes his letter by stating: “Thank you again for the opportunity to submit these facts to contradict allegations by parties unknown to us at this time.” However, the links he includes in his response all lead to publicity and promotional material for the Tres Santos project, not to facts. As MIRA controls and is in possession of all of the documentation that would substantiate the points made in Mr. Barrios’ letter, MIRA has now put itself under the obligation to come forward and provide copies of all the underlying documentation for the assertions made in the response to my article. Only a full public disclosure will ensure complete transparency and make it possible for Tres Santos to build community trust—which at this point is as eroded and inexistent as the beach in Punta Lobos.

I am not aware of any documentation that has been made public or that has been supplied by the respective governmental agencies with regards to the statements made by Mr. Barrios. If any document that I specifically request below has already been published, I apologize in advance for the inconvenience and respectfully request that a duplicate be made available. Below I list Mr. Barrios’ questionable assertions, with my responses.

1) “*We are building a land-based desalination plant… that received environmental approval by SEMARNAT (The Secretariat of Environment and Natural Resources) based on a number of scientific studies.”* No scientific study has been made public, nor has SEMARNAT’s approval been released. All relevant documents should be made public, together with the underlying scientific studies for salt-water concessions and/or desalination plant in the township of Todos Santos and Punta Lobos, as per the obligations set forth by the Environmental Impact Statement Authorization.

2) “*Tres Santos has paid the local water authority (OOMSAPAS) for water rights to bring additional water into the local water supply so as not to put any further demands on the local system. All of the water that Tres Santos is currently using, and will use prior to the operation of the desalination plant, is to be added to the existing municipal supply.”* This statement is untrue and misleading. One cannot “pay” OOMSAPAS for additional water rights, in fact, this is not legal. OOMSAPAS is the municipal water authority, and is the only authority that can lawfully provide potable water for residents and businesses within the municipality of La Paz, where Tres Santos is located. They are also tasked with managing the municipal water infrastructure. They do not “sell” water rights. The only authority that can lawfully issue water rights is CONAGUA, the National Water Commission. Furthermore, the water rights are not for sale, water is a national commodity and is not a resource that can be speculated with. It is not sold, rather, its use and exploitation is granted via federal water concessions. CONAGUA provides all municipal OOMSAPA authorities with a water concession for municipal potable water use. Each concession spells out the terms and conditions that the water user has to meet and comply with to keep his/her concession in a lawful order. To “sell” water rights or purchase water rights from OOMSAPAS would be illegal and a breach of the terms of their concession.

OOMSAPAS obtains and extracts its water from an old ejido agricultural well whose rights were at one point transferred to the municipal government. Just as all other concession holders in the Todos Santos aquifer, OOMSAPAS, obtain and extract their water from the very same aquifer. Historically the Todos Santos aquifer has been in deficit, i.e, there is a greater demand then there is supply, so it is simply impossible to “add” more water than what is actually physically stored underground, short of making it rain. It is only through rain that the aquifer is recharged. The developer would have to have purchased water rights from another concession holder and then transferred them to OOMSAPA, but this is still dependent upon the actual availability of water, which is not sufficient to handle the needs of Tres Santos. Even if it were enough, we would still be faced with an unsustainable mega-project that promised not to use ground water or municipal water to supply their development, when in fact this is exactly what is being done.

Why did OOMSAPA all of a sudden deem it viable to supply water to the development, given the fact that twice in 2013 it denied Tres Santos water contracts citing a lack of adequate infrastructure and lack of availability of water? What has changed from then to now? Where is the water coming from? What was the original use of that water? Was the transfer lawful? Is it lawful to purchase water rights for the public municipal water authority to be destined to a private development that will have a closed water system that does not feed the rest of the community? Is it fair to provide 400,000 liters of water to a private development, when the Todos Santos municipal water infrastructure for the rest of its residents only has a capacity of 300,000 liters? Is it fair that when the developer pumps water into its enormous holding tank, while other residents cannot get water because the system is depleted? What is currently happening is by no means “mindful”, let alone sustainable, lawful or just.

During the last century, Todos Santos has gone through three extreme droughts that severely impacted the livelihood of its residents, at times when it was less populated than it is today, even without taking into account the growth proposed by Tres Santos.

3) “*Inspectors from SEMARNAT conducted a site inspection and confirmed the species before any plants were removed. SEMARNAT recommended we move some other second growth plant species, care for them in a nursery and then replant elsewhere in the area, which we have done*.” The permit to remove and transplant protected flora (permiso para desmonte y rescate de flora protegida) should be released, as should the corresponding report on the rehabilitation of all the plants (informe de rehabilitación, transferencia y plantación), substantiating photographs and the SEMARNAT on-site inspection reports.

4) “*The Beach community at Tres Santos will not take over any part of the beach that has been concessioned to the fishermen. We have committed to that in word as well as in writing. The fishermen have not been displaced from the main area they have always used for their activities.”* Both photographic and video evidence exist that fully contradicts this claim, as well as Mr. Barrios’ disingenuous assertion that the sea wall’s effectiveness has been demonstrated and that the beach erosion caused by tropical storm Linda was filled back. Not only has the beach eroded further, making it extremely difficult for the fishermen to store and launch their pangas, but the large rocks that have been placed there by the developers now have been exposed are damaging motors and propellers, extremely expensive equipment that a small fishing cooperative cannot afford to maintain. For just one example of ample evidence contradicting Mr. Barrios’ claims, please see the following video that was made by BajaSurTV, showing the plight of the fishing cooperative:

https://www.youtube.com/watch?v=owrMMQOii6U

MIRA should provide all documentation regarding any concessions obtained from the fishing cooperatives, as well as from all federal agencies for any activities regarding use of any beach land in the federal zone.

5) “*We have built a sea wall at Punta Lobos, designed by coastal engineers to protect both the beach and the new construction*.” To assure the concerned public and the fishermen, MIRA is asked to provide all of the data, diagrams, photographs, reports and commentary from these referenced experts, including the studies that would demonstrate that calculations were made so that historic storm surges that have measured, by some accounts, 20–30 feet would not crest the sea wall and adversely affect the buildings constructed by MIRA. Additionally, MIRA should provide applications and permits allowing construction in the federal zone (less than 20 meters behind the high tide mark), as the sea wall is clearly located in the federal zone.

5) Under the boldfaced Community Impact heading, Mr. Barrios states: “*The first phase of development includes just 34 homes in Town and 40 at the Beach. The plan also calls for a boutique hotel, a restaurant, a coffee shop, the garden and a farmer’s market. None of the buildings will be taller than two stories, and the average home size is 1,500 square feet. While the zoning for Tres Santos allows for a large number of homes over 25 years, our plans do not*.” Nonetheless, the zoning at 4,472 houses, hotels and other buildings and businesses was based on the level of zoning requested by MIRA/Tres Santos in its MIA application (Environmental Impact Statement). If Tres Santos’ plans do not allow for such a scale of development, as claimed, then why was zoning requested at a mega-development level? Why would they construct such an expensive desalination plant for the modest development they describe? What are the true build-out plans of MIRA/Tres Santos that led them to voluntarily set that level of approved build-out capacity? Does Tres Santos have plans to sell off parcels to other developers who will then build to the zoning limits?

Mr. Barrios mentions ‘a boutique hotel’ apparently referring to one hotel, that being the beachfront Bunkhouse Hotel San Cristobal. However, Tres Santos also has plans to build an 80-room hotel in the Town Farm area. Why has Mr. Barrios failed to mention this extremely large second hotel structure, which will be more than six times larger than any hotel currently operating in Todos Santos?

Mr. Barrios refers to there being two areas under development, ‘Beach’ and ‘Town’ yet MIRA/Tres Santos is advertising a third development area referred to as ‘Hillside’. Mr. Barrios needs to clarify this discrepancy. Also needing explanation is that on the document “[Exhibit I: CSU Farm Land Layout Option A](http://truthsantos.org/wp-content/uploads/2015/04/Exhibit-I-to-Trust-Agr_Research-Farm-Land-.pdf)”, there are two locations marked as a “Residential Area” which appear to be outside of what is understood to be the “Town Farm” area. Mr. Barrios is asked to provide the layout of the 34 homes in town, the restaurant, the coffee shop, the garden and the farmer’s market, as well as where the planned 80 room hotel will be situated. If the 34 homes are not included in the surrounding Exhibit I Farm Layout, the proposed plans and densities for those two additional areas is requested.

Tres Santos needs to make their plans public, and needs to be accountable for these plans. Without this evidence, the community has no reason to believe their intentions, especially given the recent happenings at Punta Lobos and the development’s murky negotiations with water rights.

Mr. Barrios claims that my article is unsubstantiated and that it unfairly stigmatizes the Tres Santos development. I beg to differ. Please note that none of my comments regarding the unethical requirements that Tres Santos has made on Colorado State University’s campus have been denied. The community opposition I describe is also impossible to put into question. “TRUTH SANTOS” has over 1,200 followers on Facebook, “Salvemos Punta Lobos” has almost 1,500 followers, and the public Facebook group “Salvemos Todos Santos de los MEGADESARROLLOS” has more than 5,000 members. All of these groups are vocal in their opposition to Tres Santos.

Should Mr. Barrios be able to fully corroborate his claims with complete transparency, make all requested information available to the public, and answer all of my questions, I will be happy to update and circulate a corrected version of my article.

Sincerely,

Viviane Mahieux

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