

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

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ACTION OFFICE: EDO

To: Strosnider, NMSS
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AUTHOR: Larry Carver

AFFILIATION: NM

ADDRESSEE: Rocky Chase

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SUBJECT: Murray Acres Homeowners Association concerns about water quality

ACTION: Appropriate

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March 23, 2005

Mr. Rocky Chase, Manager
Closure Properties
Homestake Mining Company of California
136 E. South Temple, Suite 1300
Salt Lake City, UT 84111

Dear Mr. Chase:

Your letter dated February 4 demonstrates so well the "David & Goliath" situation our community faces. From your title, we assume your job is to handle situations like ours and you have the full legal, research, and technical resources of a large company behind you. We, on the other hand, are working-class people who had a difficult time gathering the money necessary to hire an attorney once and would find it difficult to do so again. (Your company knows this since your representatives can see it on a first-hand basis as they drive through our community, which we know you have recently done.)

To someone who has not been involved in this struggle, we are sure your letter seems like a reasoned, if condescending, response. We might give up now if we did not believe in the power of our democratic system of government. Instead, we are going to respond, point-by-point, to your letter and hope that our elected representatives and those people in the NRC, EPA and NMED, who have been hired to protect our health and environment, will come to our aid. We have some reason to be hopeful since Senator Bingaman and Representative Martinez have both expressed concern for our situation.

First, however, it is critical that you explain which corporate entity is responsible for the Mill Tailings adjacent to our Murray Acres community. We were told that Homestake Mining Company of California had been purchased by Barrick Gold and that we were now dealing with that company. Your response indicates Homestake Mining Company is still involved. We hereby request that you explain exactly how Homestake Mining Company is still involved as well as that company's relationship to Barrick Gold since we do not keep up with the mergers and acquisitions of large mining companies and are forced instead to rely on what we are told by company representatives.

1. Your characterization of our letter as full of "factual errors and inaccurate conclusions" is itself inaccurate and an obvious attempt to discredit us as uninformed, overwrought citizens. While our level of concern has risen upon receipt of your response, we are not uninformed and will respond to the type of rhetoric we have learned to expect from your company.

2. The issue of whether the mine operations that operated for over 40 years in the Ambrosia Lake area have contributed to the background levels your company is proposing may have been seriously considered, but we disagree with your conclusions and have

scheduled a meeting with the NMED to discuss specific reasons for our objections. We hope you are not suggesting that this is a settled point. If the point has been settled without our input, then the process has been subverted and we object to the conclusions for that reason as well. Also Mr. Chase, 25 years ago we might have agreed that "regulatory reviewers have no reason to sign off on background constituent levels that are not supportable by sound science and fact," but we are not that ignorant any longer. We have learned that "sound science and fact" can be debatable issues and can be twisted to suit political agendas. In the present case, the NRC has every reason to side with Homestake since doing so will benefit their future oversight.

3. Your next paragraph is an interesting attempt to sell the notion that because we live in a state and an area with high naturally-occurring concentrations of uranium that in fact our little farming community had such concentrations. You know as well as we that the occurrence of "high naturally-occurring concentrations of uranium in the groundwater" at any particular spot is erratic and highly unpredictable. You can provide no evidence that our wells contained such concentrations so you are left with exactly our point—no evidence. The rest is just a smoke screen, which we are sure others will recognize. The fact that you include an article on high concentration levels of uranium in water samples from Pojoaque, Nambe, and Tesuque would be laughable, if it were not insulting. We are not focusing on problems in Pojoaque, Nambe, and Tesuque. We do not even make claims regarding nearby communities. We are simply saying, once again, you have no actual evidence regarding historical concentrations in our community.

4. The rest of your letter shows that you did not carefully read our communication to you. We never suggested that our property values declined because the mill facility was built next to our homes many years ago. Our property values declined because we were forced to file suit against your company to obtain clean drinking water. The resulting publicity caused our property values to decline. As recently as three years ago, a home sale was lost because the buyers had heard about our problems with Homestake and the water and decided to buy elsewhere. There is no telling how many people in the community never looked at the house for the same reason. The real estate agent involved as well as the potential buyers still live in Grants and can be called for verification.

5. The lawsuit to which you refer—*Head v. Homestake Mining Co.*—continues to be a source of frustration and disappointment for us. You assert that we were represented by competent and experienced New Mexico counsel; we would vehemently dispute that assertion. We hired Tolousse and Tolousse, not because they had experience or any sort of reputation for successfully handling cases such as ours. We hired them because they agreed to work on a contingency basis. At the time, it sounded like a blessing. We had no idea then the forces that were aligned against us or the pressure that would be applied to our attorneys to cut a deal rather than engage in a protracted battle against a company with vast legal resources. With our attorneys recommending a settlement so they could get their money and the promise of free, clean water until our previous water supply was restored, we settled. We believed your Mr. Kennedy when he said the contamination would be cleared in ten years and looked forward to resuming our agricultural lifestyle by 1995. Furthermore, we did not believe our government officials would let the company

make such a statement if it were not true. As we said in our letter, we have paid and continue to pay a heavy price for our ignorance and vulnerability.

6. We have no idea why you are referring to the City of Milan's water conservation efforts since those efforts are unrelated to our request. If you are trying to paint us as a group opposed to water conservation efforts, we would think your recent survey of our community would assure you that most of our yards are very low water maintenance. Our objections to the Milan conservation efforts have to do with not being included in the regulatory process. You see, even though we are forced to use Milan's water, we have been told we have no voice in their policies because we are not residents of Milan. It is an interesting and another unfortunate situation due to Homestake's contamination, but not related to our request for a community water system, which was made in response to your proposal for totally inadequate background levels.

7. We stated in our January 16th letter that:

Two of our closest neighbors died prematurely. Homestake bought their property and everything on that property was removed. Although they [Homestake] assure us windblown contamination from the site poses no health risks and was not related to those deaths, we have learned to be less accepting of their assurances.

This is what we said and what we will continue to say in spite of your threat that we "refrain from such irresponsible and unsupported allegations involving such a serious matter." You characterize this statement as an allegation of premature deaths caused by Homestake's operations; we made no such allegation. The deaths are a sad fact and their heirs have recently filed suit as a result. Your company's actions after those deaths leave us with legitimate questions.

8. We could spend the next few months addressing the inadequacies of the health surveys/studies you cite. Again, you seem to be defending yourselves against charges that were not made. If you had read our letter carefully you would know that we are simply asking for a community water supply and an adequate permanent solution to the long-term remediation of the tailings site.

For those unfamiliar with the history of the site, here is a brief outline of events:

- 1961: Homestake given written notice of contamination by New Mexico state officials
- 1975: Water testing by NMED. Residents told not to use the water
- 1985: Milan water supplied. Partial water payments for 10 yrs. Promise of cleanup by 1995
- 2005: Water still contaminated. Latest projection for remediation is 2013-2014 but water will still not be potable.

9. It is telling that you put the word *promises* in quotation marks. That certainly has been our experience with your company—specifically that promises from Homestake are not what one would normally associate with that word. When your Mr. Edward Kennedy gave his word that the contamination would be cleared in ten years, we thought that was a

promise. We come from a rural background and at one time we believed that when someone says, particularly in public, that they promise on behalf of their company, that something would happen, it would happen. You can be proud that your company has taught us well that a company's *promises* are just words of conciliation and may be meaningless. It was a good lesson. At least we are not quite as naïve as we once were, but you will then understand how we might question your other "assurances," which have not even risen to the level of "promises."

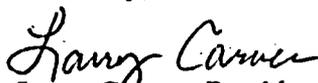
10. You state that "as a result of the [injection] program, the levels of constituents in all but one of the private wells in Murray Acres have been reduced to background levels." Your rhetoric would suggest this problem is solved; why are these people complaining? However, this is a very disturbing statement. Are we to assume then that the background levels have already been determined? If so, what happened to the input we were assured we would be allowed to give? If the regulatory agencies have made this deal against our objections, then where is our recourse? Once again, our vulnerability is clear.

Your last paragraph suggests that the only persons who may help us are our elected representatives. So we will send a copy of this response to them in the hope that they will help us resolve these concerns, which to those of us living with your contamination, are very "legitimate." We do however recognize that your definition of "legitimate" will probably be quite different than ours.

11. Finally, if you are unconcerned about potential health problems, please explain why your company continues to buy property in our community. You are certainly not interested in owning real estate here as Mr. Cox has stated on several occasions. You claim to have everything you need in place to clean the aquifers, so why purchase the Willcox, Ashcroft, and recently the Canaday properties within the Murray Acres subdivision?

Mr. Cox, the site manager, seems like a nice man who tries to placate the community to the best of his ability. However, he may be reaching the end of either his desire or ability to do so. We understand he recently said there is no way your company could provide a community water system for Murray Acres. We believe that, in fact, you could and should do so, however if it would be easier for you to drill us individual wells into the unpolluted aquifer, we would accept that as well. We further believe, and it is interesting that you did not address this point in your letter, that you need to begin work now on a satisfactory permanent solution to the mill tailings pollution so that Murray Acres and other communities are not adversely affected by this contamination in the future.

Sincerely,



Larry Carver, President
Murray Acres Community Association
Member signatures attached
P.O. Box 2970
Milan, NM 87021

Enclosures

Distribution:

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Lawrence Parnell, Barrick Gold Corp.
Al Cox, Barrick Gold Corp.
Office of the New Mexico State Engineer
Southwest Research and Information Center**

We, the undersigned members of the Murray Acres Community Association, have reviewed and concur with the attached letter. Once again, we ask you to give us a clean community water system or drill us individual wells into the uncontaminated aquifer and remove the contamination to a permanently-lined pond.

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Mr. Larry Carver
President
Murray Acres Homeowners Association
Box 2970
Milan, New Mexico 87021

Re: Murray Acres Homeowners Association

Dear Mr. Carver:

On behalf of Homestake Mining Company of California, I am responding to your January 16, 2005 letter to Mr. Al Cox. As demonstrated by the public meeting held in Grants in December 2004, and Mr. Cox's contact with you and other members of the Murray Acres Community Association, Homestake is committed to maintaining an open, substantive dialog with the communities in the vicinity of the Homestake mill. Accurate, factual information and credible scientific analysis are the foundations of Homestake's communications with the communities and the governmental agencies that regulate Homestake's activities at the mill. Homestake will continue to work with the communities and the regulatory agencies on that basis. The company expects the Murray Acres Homeowners Association and the other participants in ongoing communications to ensure the integrity of the process by committing to participate on that same basis as well. In that regard, the remainder of this letter corrects the factual errors and inaccurate conclusions presented in your letter to your elected representatives. In summary, Homestake does not agree that the proposed background water quality levels are invalid, that the mill was built next to an existing subdivision causing property values to decline, that Homestake has not kept its promises, or that the operation of the Homestake mill has injured the health, much less caused the death, of any resident of Murray Acres or any other subdivision in the area.

Background Water Quality Levels Are Not Invalid. Homestake understands that you are dissatisfied with the background water quality levels that are currently under consideration. The proposed levels are based on more than 20 years of groundwater sampling and a detailed understanding of the area's hydrology and geology. The Nuclear Regulatory Commission (NRC), the United States Environmental Protection Agency (EPA), and the New Mexico Environment Department (NMED) are participating in the review of the data, the analyses, and the methodologies used to develop the proposed levels. The issue of whether other mine sources, for example the historical Ambrosia Lake mine operations, could impact the proposed background levels was seriously considered. Homestake's hydrologist and the regulatory reviewers have all agreed that the background test wells were not impacted by Ambrosia Lake mine waters during the

period that the water quality data was collected for use in establishing background water quality at the site. The regulatory reviewers have no reason to sign off on background constituent levels that are not supportable by sound science and fact.

The Grants region was the richest uranium producing area in the United States. Its groundwater, like approximately 30% of the groundwater in New Mexico, contains uranium at levels that naturally exceed levels found in groundwater in locations without such mineralization. An early study conducted by the Atomic Energy Commission to locate uranium deposits identified groundwater wells in various formations that contained natural occurring uranium at anomalous levels. As you can see from the attached map, on which natural uranium groundwater concentrations are plotted, the Grants area that is shaded contains anomalously high naturally-occurring concentrations of uranium in the groundwater. The groundwater in this region is influenced by the fact that uranium bearing rocks outcrop in the San Mateo drainage system. The alluvial material is derived from the uranium-rich rocks in these outcrop formations, so the higher natural levels of uranium existing in the shallow groundwater are not surprising. Additionally, and as recently as this month, more and more areas of high natural uranium are being identified in New Mexico (see attached Albuquerque Journal article dated February 5, 2005 on the groundwater in the vicinity of the Pojoaque, Nambe, and Tesuque, NM areas). As the enclosed article indicates, Grants is not unique in New Mexico in having anomalously high levels of naturally-occurring background concentrations of certain elements, such as uranium, due to the State's geology.

The Mill Facility Was Not Built Next to the Murray Acres Subdivision Causing Property Values to Decline. Your letter suggests that the Homestake mill was built next to the Murray Acres subdivision *after* the subdivision was developed and homes had been constructed. In fact, the opposite is the case. One of the main reasons Homestake located the mill where it did was because, at the time, the land was remote from any residential development. The homes in the Murray Acres subdivision were not built until after the mill had been in operation, and residents in Murray Acres purchased their homes with full knowledge of the mill's location. If property values have declined in the Grants/Milan area, a more likely cause would be a reduction in demand due to the demise of the region's uranium production industry and the consequent loss of approximately one-third of the area's population.

Moreover, Homestake years ago settled claims brought by residents of Murray Acres who claimed diminished property values. In 1983, residents of Murray Acres and several other subdivisions sued Homestake in a lawsuit styled Head v. Homestake Mining Co. alleging property damage from Homestake's mill operations. These claims were promptly settled without any admission of liability by Homestake. Both sides were represented by competent and experienced New Mexico counsel. Each of the claimants released Homestake from all present or future claims for property damage allegedly resulting from the operation of the mill, including reduced property values.

Homestake Has Openly Communicated and Cooperated with the Community. The Homestake mill operated from May 1958 to December 1990. In 1975, a sampling program indicated that groundwater in part of the alluvial aquifer downgradient of the Homestake mill exhibited elevated selenium concentrations. Although the source of the selenium was not established at the time, Homestake voluntarily supplied bottled drinking water to residents of subdivisions downgradient of the mill. Homestake also joined with the New Mexico Environmental Improvement Division (NMEID) to implement an innovative aquifer protection and restoration program at the site. This program required the operation of groundwater injection and collection systems with quarterly and semi-annual monitoring of water level and water quality. An EPA Record of Decision dated September 1989 stated:

[M]onitoring results to date indicate that injection/collection efforts ... have been largely successful in flushing previously contaminated zones in the alluvium and underlying Upper Chinle aquifer resulting in onsite containment of tailings seepage.

The constituents initially considered most important by regulators, namely selenium and sulfate, were cleaned up to the then-current state standards in the Murray Acres and other subdivisions by 1992.

Also, please note that CERCLA activity at the site commenced in the 1980s, not the 1990s. In 1985, in a settlement with EPA, Homestake arranged to connect Murray Acres and the other residential areas to the City of Milan water system. In addition to paying for the costs of designing and constructing the necessary facilities for the connection, Homestake assumed the obligation to pay usage costs for the residents for a period of ten years. Homestake fulfilled that obligation completely. We understand some subdivision residents are displeased with the City of Milan's recent decision to require alternate day watering as a conservation measure. However, the City of Milan's water conservation program is unrelated to Homestake and its efforts.

Since Homestake initiated the groundwater remediation project at the site, these efforts have been well documented by annual public reports and findings. The groundwater remediation activities include the collection and placement of contaminated groundwater in lined evaporation ponds, the use of reverse osmosis to treat the water to acceptable standards, and injection of the clean water to the groundwater. These actions have been coupled with a remedial action program that has confined any seepage from its tailings area to Homestake's immediate property.

Allegedly Premature Deaths. We are unaware of any evidence to support the suggestion in your letter that two allegedly premature deaths were caused by Homestake's operations. We urge you to refrain from such irresponsible and unsupported allegations involving such a serious matter. In case you are unaware, on June 30, 1987, Homestake voluntarily entered into an Administrative Order of Consent with EPA to conduct an investigation of radon levels in and outside of residential structures in Murray Acres and

the other residential subdivisions to see if elevated levels attributable to the Homestake milling operations existed. The study spanned a period of fifteen months and included over 98% of the residences in the subdivisions. EPA reported the results in a Record of Decision dated September 1989, in which it concluded that Homestake's mill was *not* a significant factor contributing to radon concentrations in or outside of the homes. EPA found that the principle cause of the radon concentrations in the homes was local, native soil sources of radon and was a function of the type and quality of housing construction.

Similarly, in 1983, the Health Services Division of NMEID conducted two health-related surveys or studies. One was a health survey administered to individuals living in the four subdivisions. The second study looked at the quality of water in forty-two domestic wells in the area and, based on the levels of chemicals present, identified the adverse health effects one would expect from a review of published medical, environmental and public health literature.

The objective of the first study or health survey was to determine whether there was a statistically significant increase in more than a dozen diseases or health problems, including cancer, among the people living in the subdivisions. Eighty-six percent of the occupied residences participated in the study. After completing an extensive questionnaire, they were personally interviewed by specially trained health professionals. The data from the questionnaire and interviews were entered into a computer and analyzed by professional staff with the New Mexico Office of Epidemiology, who compared the community-specific data to published data regarding the incidence of the diseases nationally or state-wide. The study found no evidence of increased cancer, hypertension, heart disease, arthritis, stroke, kidney disease, neurological disease, thyroid disease, adverse pregnancy outcomes or menstrual problems. The study found a lower than expected incidence of skin rash and severe headaches. Although the study did find a higher than expected number of gall bladder problems, the finding was limited to the male participants, who comprised a minority of the study population. More important, as discussed below, gall bladder problems are not among the adverse health effects to be expected from regular use of the well water.

The second health effects study concluded that the only adverse health effects one would expect from consuming water from the wells over an extended period were (1) a laxative effect and (2) a possible, but small, increase in the risk of developing high blood pressure. Particularly noteworthy was the finding that chronic diarrhea was most commonly reported by persons who consumed no well water, while those who used the most well water had a lower incidence of the problem.

Both studies took place before Homestake provided subdivision residents the opportunity to obtain water at its expense from the City of Milan. Thus, the results are not confounded by use of Milan water. The results of the studies are consistent with the sworn statements by various litigants in the Head v. Homestake case that they were not aware of any physical injury due to the operation of the Homestake facility.

Mr. Larry Carver
February 24, 2005
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Homestake Has Kept Its Closure Promises. In your letter, you state that Homestake has not kept its "promises" concerning the closure of the Grants facility. Our closure efforts have been extremely proactive and effective in addressing groundwater issues at the Grants facility. This site is the only uranium mill site that has instituted a significant flushing program, removed great quantities of water and operated a reverse osmosis system. The groundwater injection/collection system at Grants has operated longer than any other mill site, and this aggressive program is more extensive than any other uranium site in the country. As a result of the program, the levels of constituents in all but one of the private wells in Murray Acres have been reduced to background levels. Homestake will continue to work with the regulatory agencies and nearby residents to make this program a success.

You are correct that Homestake prides itself in working with its neighbors. Al Cox, the site manager, will continue to provide your association with detailed information regarding the site and is available to meet with you at your convenience to discuss any legitimate concerns. We believe our closure effort is continuing to make progress based on the sound science, appropriate modeling, and sampling coupled with appropriate input from regulatory oversight agencies and, in turn, informing members of the community concerning our progress.

Very truly yours,


Rocky Chase
Manager, Closure Properties

Enclosures

Distribution:

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Jake Ingram, New Mexico Environment Department
Kevin Myers, New Mexico Environment Department
Al Cox, Homestake Mining Company of California

Uranium Found In Private Wells

High levels discovered in water samples from Pojoaque, Nambé and Tesuque

BY ADAM RANKIN
Journal Northern Bureau

LOS ALAMOS — Many private drinking water wells in Pojoaque, Nambé and Tesuque have high levels of naturally occurring uranium, in many cases well above federal standards.

Of the 447 water samples collected last summer and fall, about half exceed the 30 parts per billion drinking water standard. Of the samples that exceeded the standard, about 10 percent were 10 times more than the limit or higher.

"We got some that were 100 times the standard, actually more than that, one was about 300 times the standard," said Steve Wust, hydrologist for Santa Fe County, which helped organize the testing.

The U.S. Environmental Protection Agency reports that total uranium levels above 30 parts per billion increase the risk of kidney failure from chemical toxicity and the risk of potential carcinogenic effects from uranium's radioactive decay.

"I knew there was uranium around, but I was surprised to see both how many there were (above the standard) and how high they were," Wust said, adding that results are still being interpreted and mapped. He said all residents who supplied water for testing have been notified of the results and which constituents are above safe drinking water standards.

The water samples were collected at a series of water fairs in Nambé and Tesuque and two in Pojoaque, then tested with the cooperation of the state Environment Department and Los Alamos National Laboratory.

Wust said the county, LANL's Water Research Technical Assistance Office and NMED are planning to hold a public meeting in Pojoaque, possibly in April, to explain the results and the long-term health risks.

The uranium is a naturally occurring element in much of the area's deep, underlying basement igneous and metamorphic rock, as well as in volcanic tuff found closer to the surface, Wust said.

The highest readings were from water taken nearest the Sangre de Cristo Mountains, where the basement rock is closest to the surface, he said.

Uranium wasn't the primary concern going into the sampling, which was set up to evaluate the potential need for a regional waste-water treatment facility, he said.

"We expected to see that if we were getting contamination from septic tanks that we should see a lot of nitrate; we didn't see much nitrate at all, but we did see a lot of uranium," Wust said.

The area affected is under consideration for a \$280 million regional water supply system as part of the 1966 Aamodt water rights case now in settlement negotiations.

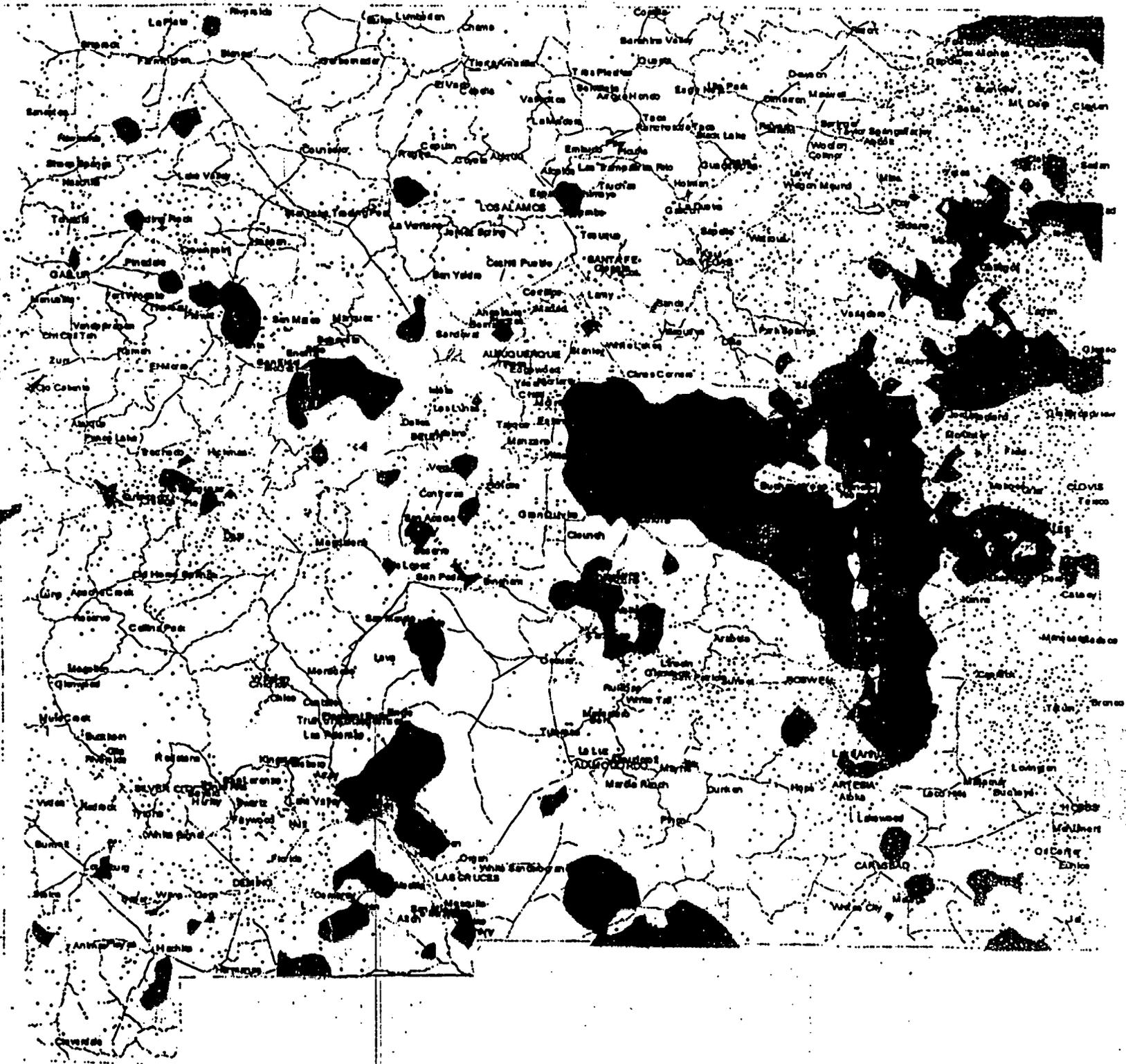
Non-Indian and commercial water users in an area that stretches from Tesuque to Pojoaque would be required to disconnect their wells and transfer their water rights to a private, nonprofit regional water agency in exchange for treated water service. But non-Indian residents in the area have voiced significant opposition to the idea of capping their private wells.

Wust said people have expressed concerns that one of his recommendations for solving the uranium problem is to build a regional water supply system, such as the one proposed through the Aamodt settlement.

"This is not an endorsement or even a comment (on Aamodt), it is just a technical conclusion about one way to handle natural contaminants in water," he said.

Other solutions include residential treatment units that use reverse osmosis, distillation or anion exchange.

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