

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1010-UIC-E **TCEQ ID:** RN102360039 **CASE NO.:** 33920  
**RESPONDENT NAME:** Mestena Uranium, L.L.C.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input checked="" type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mestena Uranium, 755 County Road 315, Encino, Brooks County</p> <p><b>TYPE OF OPERATION:</b> Underground injection control well</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cynthia McKaughan, Enforcement Division, Enforcement Team 7, MC 128; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. George E. Tanner, President, Mestena Uranium, L.L.C., 500 N. Shoreline, Suite 700, Corpus Christi, Texas 78471  Mr. William Paul Goranson, Vice President, Mestena Uranium, L.L.C., 500 N. Shoreline, Suite 700, Corpus Christi, Texas 78471  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 30, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WASTE</b></p> <p>1) Failure to secure acceptable financial assurance prior to drilling an underground injection control well. Specifically, the Respondent did not have financial assurance when it began drilling operations on or around December 6, 2006 [30 TEX. ADMIN. CODE § 37.7021(c)].</p>	<p><b>Total Assessed:</b> \$2,000</p> <p><b>Total Deferred:</b> \$400  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,600</p> <p><b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent obtained an acceptable financial assurance mechanism on June 11, 2007.</p>

Additional ID No(s): WDW366



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

<b>DATES</b>	Assigned	4-Jun-2007	Screening	25-Jun-2007	EPA Due	
	PCW	25-Jun-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Mestena Uranium, L.L.C.
Reg. Ent. Ref. No.	RN102360039
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	33920	No. of Violations	1	
Docket No.	2007-1010-UIC-E	Order Type	1660	
Media Program(s)	Underground Injection Control	Enf. Coordinator	Cynthia McKaughan	
Multi-Media		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** -10% Enhancement Subtotals 2, 3, & 7

Notes: There were no previous NOV's for the same or similar violations. The Respondent receives a ten percent reduction for its classification as a high performer.

**Culpability** No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 10% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: On June 11, 2007, the Respondent obtained an acceptable financial assurance mechanism.

**Total EB Amounts**  0% Enhancement\* Subtotal 6   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 20% Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 25-Jun-2007

Docket No. 2007-1010-UIC-E

PCW

Respondent Mestena Uranium, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 33920

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102360039

Media [Statute] Underground Injection Control

Enf. Coordinator Cynthia McKaughan

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

There were no previous NOVs for the same or similar violations. The Respondent receives a ten percent reduction for its classification as a high performer.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

**Screening Date** 25-Jun-2007 **Docket No.** 2007-1010-UIC-E **PCW**  
**Respondent** Mestena Uranium, L.L.C. *Policy Revision 2 (September 2002)*  
**Case ID No.** 33920 *PCW Revision May 25, 2007*  
**Reg. Ent. Reference No.** RN102360039  
**Media [Statute]** Underground Injection Control  
**Enf. Coordinator** Cynthia McKaughan  
**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
<b>Matrix Notes</b> <input type="text" value="100 percent of the rule requirement was not met."/>				
<b>Adjustment</b>				<input type="text" value="\$7,500"/>

Violation Events

**Number of Violation Events**  **Number of violation days**   
*mark only one with an x*  

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

**Respondent** Mestena Uranium, L.L.C.  
**Case ID No.** 33920  
**Reg. Ent. Reference No.** RN102360039  
**Media** Underground Injection Control  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of providing financial assurance for the facility. The Date Required is at least 60 days prior to commencement of drilling operations for new underground injection control wells. The Final Date is the date Respondent came into compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$4,000	7-Oct-2006	11-Jun-2007	1.0	\$200	\$4,000	\$4,200
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of providing financial assurance for the facility. The Date Required is at least 60 days prior to commencement of drilling operations for new underground injection control wells. The Final Date is the date Respondent came into compliance.

Approx. Cost of Compliance **\$4,000**

**TOTAL** **\$4,200**

# Compliance History

Customer/Respondent/Owner-Operator:	CN601237654 Mestena Uranium, L.L.C.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102380039 MESTENA URANIUM	Classification: HIGH	Site Rating: 0.00
ID Number(s):	UNDERGROUND INJECTION CONTROL	PERMIT	UR03060PAA2
	UNDERGROUND INJECTION CONTROL	PERMIT	UR03060PAA3
	UNDERGROUND INJECTION CONTROL	PERMIT	UR03060
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW365
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW366
	ON SITE SEWAGE FACILITY	PERMIT	024-0014
Location:	755 CR 315, ENCINO, TX, 78523	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	June 21, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 21, 2002 to June 21, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cynthia McKaughan Phone: (512) 239-0735

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	03/10/2004	(264940)
2	05/06/2005	(380017)
3	11/08/2005	(434756)
4	01/20/2006	(439132)
5	04/20/2006	(461579)
6	10/06/2006	(513940)
7	10/27/2006	(517045)
8	12/22/2006	(532512)
9	03/12/2007	(541439)
10	05/30/2007	(562438)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MESTENA URANIUM, L.L.C.  
RN102360039**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1010-UIC-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mestena Uranium, L.L.C. ("Mestena Uranium") under the authority of TEX. WATER CODE chs. 7 and 27. The Executive Director of the TCEQ, through the Enforcement Division, and Mestena Uranium appear before the Commission and together stipulate that:

1. Mestena Uranium owns and operates an underground injection control well at 755 County Road 315 in Encino, Brooks County, Texas (the "Facility").
2. Mestena Uranium is utilizing, has begun drilling, or is converting injection wells as that term is defined in TEX. WATER CODE § 27.002(11).
3. The Commission and Mestena Uranium agree that the Commission has jurisdiction to enter this Agreed Order, and that Mestena Uranium is subject to the Commission's jurisdiction.
4. Mestena Uranium received notice of the violations alleged in Section II ("Allegations") on or about June 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mestena Uranium of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Dollars (\$2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mestena Uranium has paid One Thousand Six Hundred Dollars (\$1,600) of the administrative penalty and



Four Hundred Dollars (\$400) is deferred contingent upon Mestena Uranium's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mestena Uranium fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mestena Uranium to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mestena Uranium have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mestena Uranium obtained an acceptable financial assurance mechanism on June 11, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mestena Uranium has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Mestena Uranium is alleged to have failed to secure acceptable financial assurance prior to drilling an underground injection control well, as documented on May 30, 2007, in violation of 30 TEX. ADMIN. CODE § 37.7021(c), as documented during a record review conducted on May 30, 2007. Specifically, Mestena Uranium did not have financial assurance when it began drilling operations on or around December 6, 2006.

## III. DENIALS

Mestena Uranium generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mestena Uranium pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mestena Uranium's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mestena Uranium, L.L.C., Docket No. 2007-1010-UIC-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Mestena Uranium. Mestena Uranium is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mestena Uranium in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE §70.10(b), the effective date is the date of hand-delivery of the Order to Mestena Uranium, or three days after the date on which the Commission mails notice of the Order to Mestena Uranium, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

10/27/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

August 3, 2007  
Date

William Paul Goranson  
Name (Printed or typed)  
Authorized Representative of  
Mestena Uranium, L.L.C.

Vice President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

