

April 20, 2010

Michael O'Malley  
Administrative Hearing Officer  
101 East Capitol Ave, Suite 205  
Little Rock, Arkansas 72201

RE: Arkansas Pollution Control and Ecology Commission Third Party Rulemaking Regulation  
No. 2- UMETCO Mineral

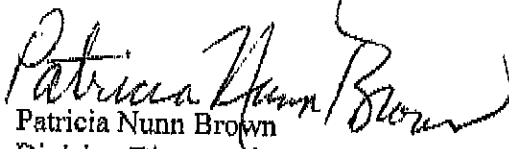
Dear Judge O'Malley:

Per Act 143 of 2007, I have reviewed the proposed changes to the Arkansas Pollution Control and Ecology Commission Third Party Rulemaking Regulation No. 2, UMETCO Mineral and the economic impact statement. Arkansas Code § 25-15-302(d)(1) of Act 143 requires me to determine if you have "taken sufficient measures to balance the objectives of the proposed rules with the interests of the impacted small businesses".

It is my determination that in drafting the proposed changes to the Arkansas Pollution Control and Ecology Commission Regulation No. 2, UMETCO Mineral you have taken sufficient steps to protect the interests of the impacted small businesses.

Please feel free to contact me with any questions regarding this matter. I can be reached at (501) 682-2559 or [pbrown@arkansasedc.com](mailto:pbrown@arkansasedc.com).

Sincerely,

  
Patricia Nunn Brown  
Division Director  
Small and Minority Business Division

PB/cm



QUATTLEBAUM, GROOMS, TULL & BURROW PLLC

## MEMORANDUM

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TO: Arkansas Economic Development Commission

FROM: Al Eckert

DATE: March 30, 2010

SUBJECT: Economic Impact Statement

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UMETCO Minerals Corporation ("UMETCO") is currently reclaiming the 375 acre non-operating vanadium ore mine located on Highway 270, Southeast of Hot Springs, Garland County, Arkansas. Wilson Creek flows generally southward along the east boundary of the former mine site. As part of the reclamation project, the water treatment-facility identified as the East Wilson Pond receives flow from Wilson Creek for treatment, and pursuant to a Clean Water Act discharge permit issued by the Arkansas Department of Environmental Quality to UMETCO, treated waters are released back into Wilson Creek south of the East Wilson Pond at a point identified as Outfall 001. The Use Attainability Analysis developed by UMETCO for Wilson Creek indicates that the current chloride, sulfate and TDS concentrations support aquatic life in Wilson Creek, and the proposed changes to the site-specific Arkansas Water Quality Standards for Wilson Creek will not result in an adverse impact on the water quality of this stream.

UMETCO has determined by on-site inspection of UMETCO's Outfall 001 and Wilson Creek that the proposed amendment to Regulation No. 2 does not affect small businesses in the area of Wilson Creek. The surrounding watershed for Wilson Creek encompasses 1.28 square miles and the uses of Wilson Creek are limited by physical factors such as lack of consistent flow. Small businesses located within this area do not rely on Wilson Creek for water usage, and therefore the proposed criteria change does not impose a regulatory burden on small businesses such as fees, reporting requirements or obtaining regulatory permits. Since small businesses in the area of Wilson Creek are not adversely affected by this amendment to Regulation No. 2, there are no means available to determine whether the rule can be less costly for small businesses pursuant to Executive Order 05-04.

Please contact me if you have any questions or comments.

Al Eckert  
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*Attorneys for UMETCO Minerals Corporation*