



**Department of
Environment & Labour**

PO Box 697
Halifax, Nova Scotia
B3J 2T8

Our File Number:
10700-40
40100-30-86

Office of the Minister

Original dated January 4, 2005

Mr. Thomas Brogan Sr., President
Thomas Brogan and Sons Construction Limited
792 Main Street
Sydney Mines, NS B1V 2L4

Dear Mr. Brogan:

Re: Environmental Assessment - Point Aconi Phase 3 Surface Coal Mine

The environmental assessment of the Point Aconi Phase 3 Surface Coal Mine has been completed.

This letter is to advise that, pursuant to Section 13 (1)(a) of the *Environmental Assessment Regulations*, I have determined the registration information is insufficient to allow me to make a decision and that I require additional information.

At both the draft submission stage and the registration stage NSDNR identified requirements for a detailed description of flora and fauna (terrestrial, wetland, and aquatic) which currently exists on the site. NSDNR indicates that no data is presented to support your position that no significant habitat exists on the site. These concerns have also been raised by Environment Canada and the Nova Scotia Department of Tourism and Culture. Biological surveys must be conducted by a qualified individual. The results and analysis of these surveys must be submitted as an addendum to the registration document. The scope of biological surveys should be determined in consultation with NSDNR's Wildlife Division.

The registration document discusses proposed reclamation activities to occur concurrently with resource extraction. Given the level of concerns raised with reclamation of surface mines in the region I require a detailed reclamation plan for the proposed mine site that includes not only reclamation steps to be undertaken at decommissioning but also plans to monitor reclamation progression after decommissioning, reporting requirements, and future land use plans for the site. The reclamation plan must be submitted as an addendum to the registration document.

Public concerns were raised during the environmental assessment review process yet there is no evidence in the registration document of any steps taken to consult with the public regarding the proposed undertaking. Additional information is required on steps taken to consult with the public and any measures to address concerns raised by the public as appropriate.

Details regarding the rerouting of surface water and details of sedimentation control, particularly as it relates to discharges to the Atlantic Ocean, should be provided as an addendum to the registration document.

Thomas Brogan and Sons Construction Limited shall not commence the undertaking or any part thereof until the undertaking has been approved under Part IV and Part V of the *Environment Act*.

If you have any questions regarding this decision, please contact the Acting Manager, Environmental Assessment, Ms. Julie Towers at (902) 424-4936.

Sincerely yours,

original signed by

Kerry Morash
Minister