

THE SUBSEQUENT CONDUCT OF THE PARTIES

(PART I)

Jean G. Bertrand
Counsel

March 19, 2001

JGB-R-1

NEWFOUNDLAND'S ALLEGED OBJECTIONS



October 6th, 1972.

Dr. M.J. Kirby,
Principal Secretary to the Premier,
Office of the Premier,
Halifax, N.S.

Dear Dr. Kirby,

I would like to take up a matter which I have previously discussed with you informally. This is the matter of the precise determination of the interprovincial boundary between the Nova Scotia and Newfoundland sectors.

In doing so, the Government of Newfoundland is not questioning the general principles which form the basis of the present demarcation. However, we feel that the line should be established according to those scientific principles generally accepted in establishing marine boundaries. The boundary should be established as accurately as possible.

Attached hereto is what we consider a more accurate reflection of the general principles of division to which we have agreed. I hasten to add that this version is meant for explanatory purposes only and is itself inaccurate because of the limitations of the maps used in its preparation. In essence, it merely follows the configuration of the coasts more precisely.

The Government of Newfoundland feels that if a find were made in an area immediately adjacent the present version of the boundary at a point where it is inaccurately established, then a severe strain would be placed on the regional agreement. I think we both feel that the possibility of such problems arising must be minimized where possible.

The Government of Newfoundland feels sure that a

..... 2/



NFLD Doc 57, p.1

NEWFOUNDLAND'S ALLEGED OBJECTIONS



Mr. Doody's **October 6, 1972** letter.



NFLD Doc 57, p.1

I would like to take up a matter which I have previously discussed with you informally. **This is the matter of the precise determination of the interprovincial boundary between the Nova Scotia and Newfoundland sectors.**

In doing so, the Government of Newfoundland is not questioning the general principles which form the basis of the present demarcation. However, we feel that the line should be established according to those scientific principles generally accepted in establishing marine boundaries. The boundary should be established as accurately as possible.

NEWFOUNDLAND'S ALLEGED OBJECTIONS



Mr. Doody's October 6, 1972 letter.



NFLD Doc 57, p.1

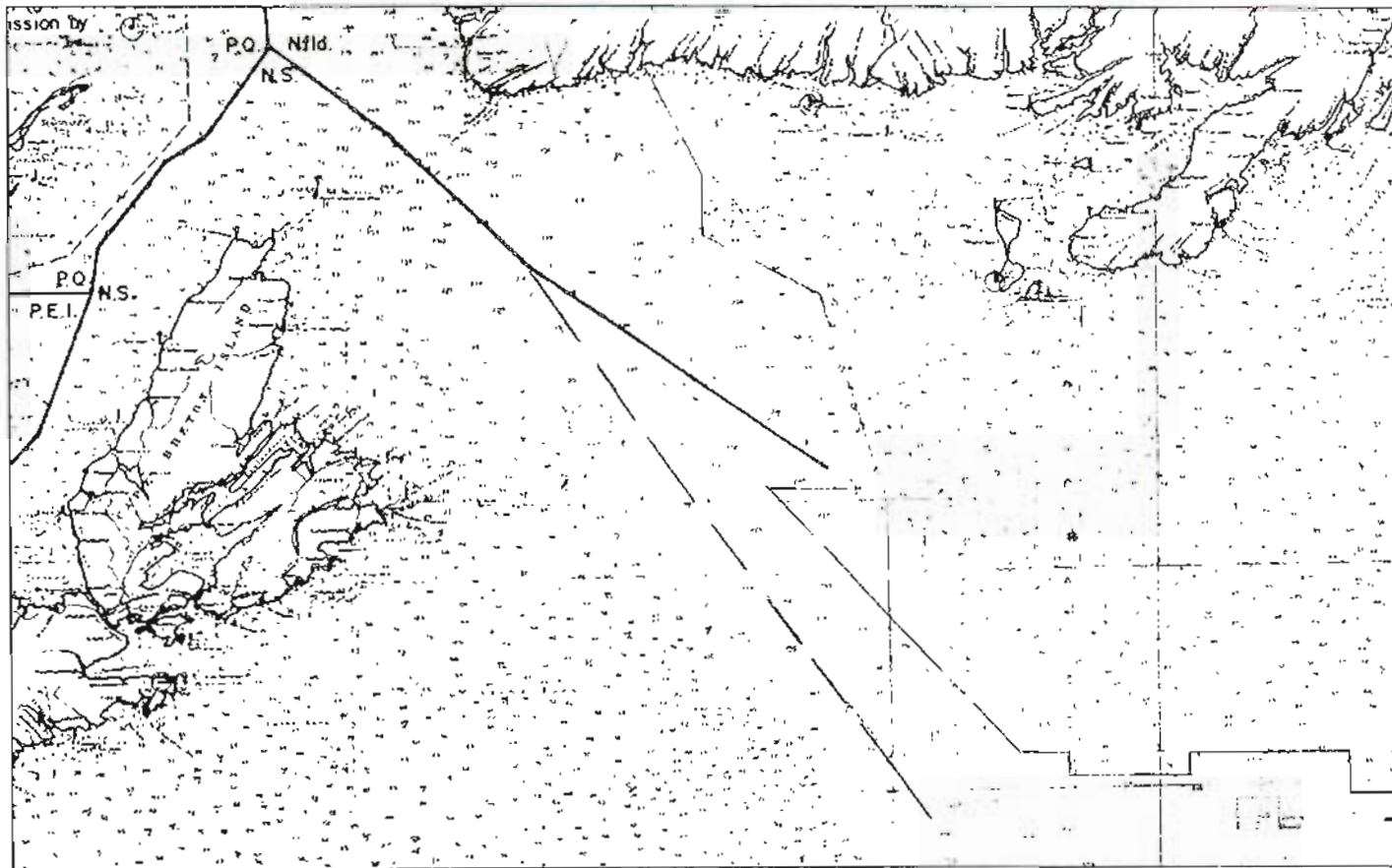
Attached hereto is what we consider a more accurate reflection of the general principles of division to which we have agreed. I hasten to add that this version is meant for explanatory purposes only and is itself inaccurate because of the limitations of the maps used in its preparation. In essence, it merely follows the configuration of the coasts

find were made in an area immediately adjacent the present version of the boundary at a point where it is inaccurately established, then a severe strain would be placed on the regional agreement. I think we both feel that the possibility of such problems arising must be minimized where possible.

THE DOODY MAP: THE WHOLE PICTURE



Sketch Attached to Doody Letter of 1972



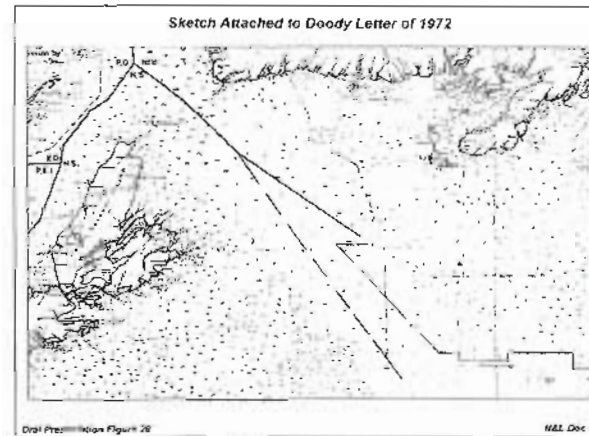
Oral Presentation Figure 28

N&L Doc 57

Source: N&LM, Oral Presentation, Figure 28

JGB-R-5

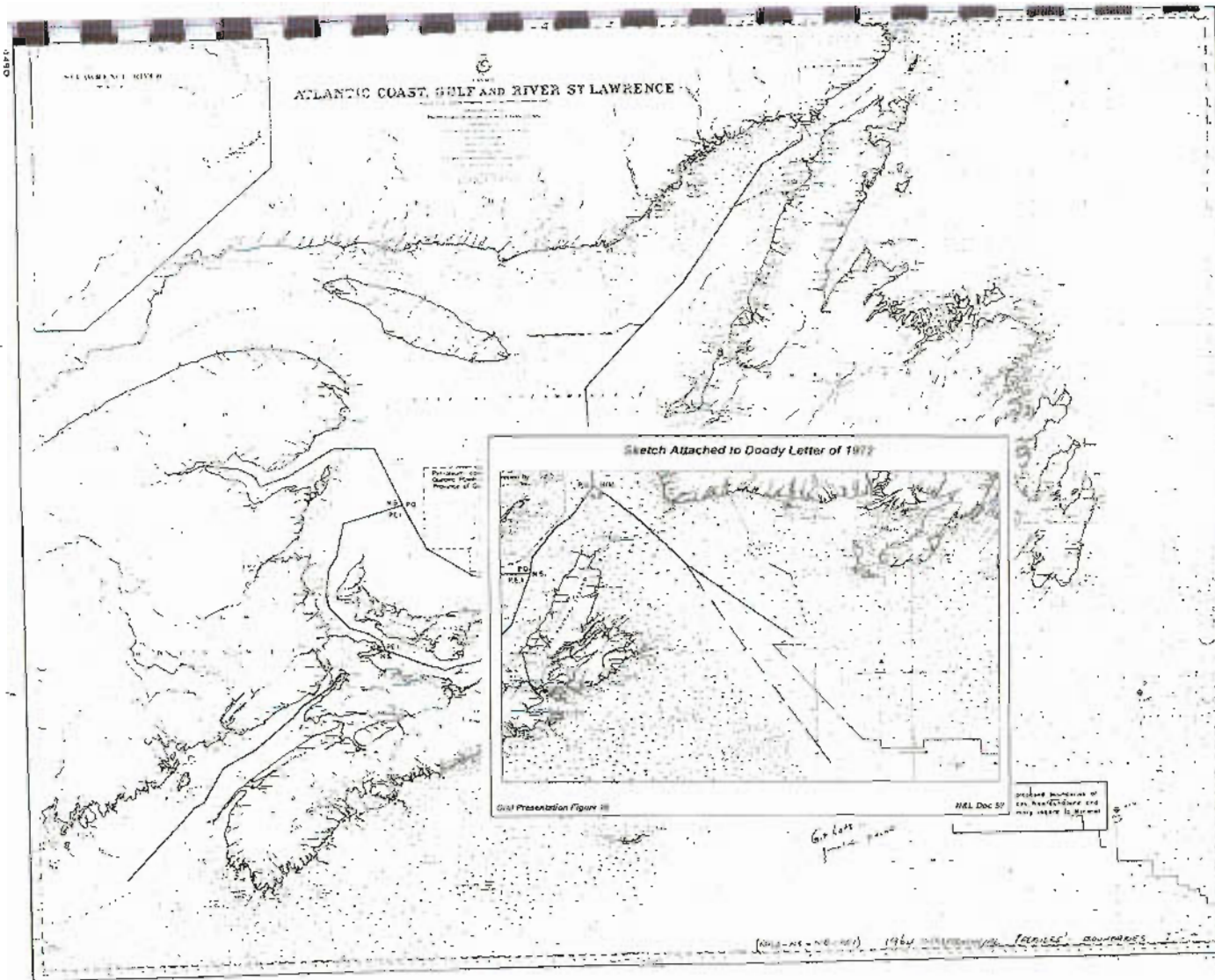
THE DOODY MAP: THE WHOLE PICTURE



Source: N&LM, Oral Presentation, Figure 28

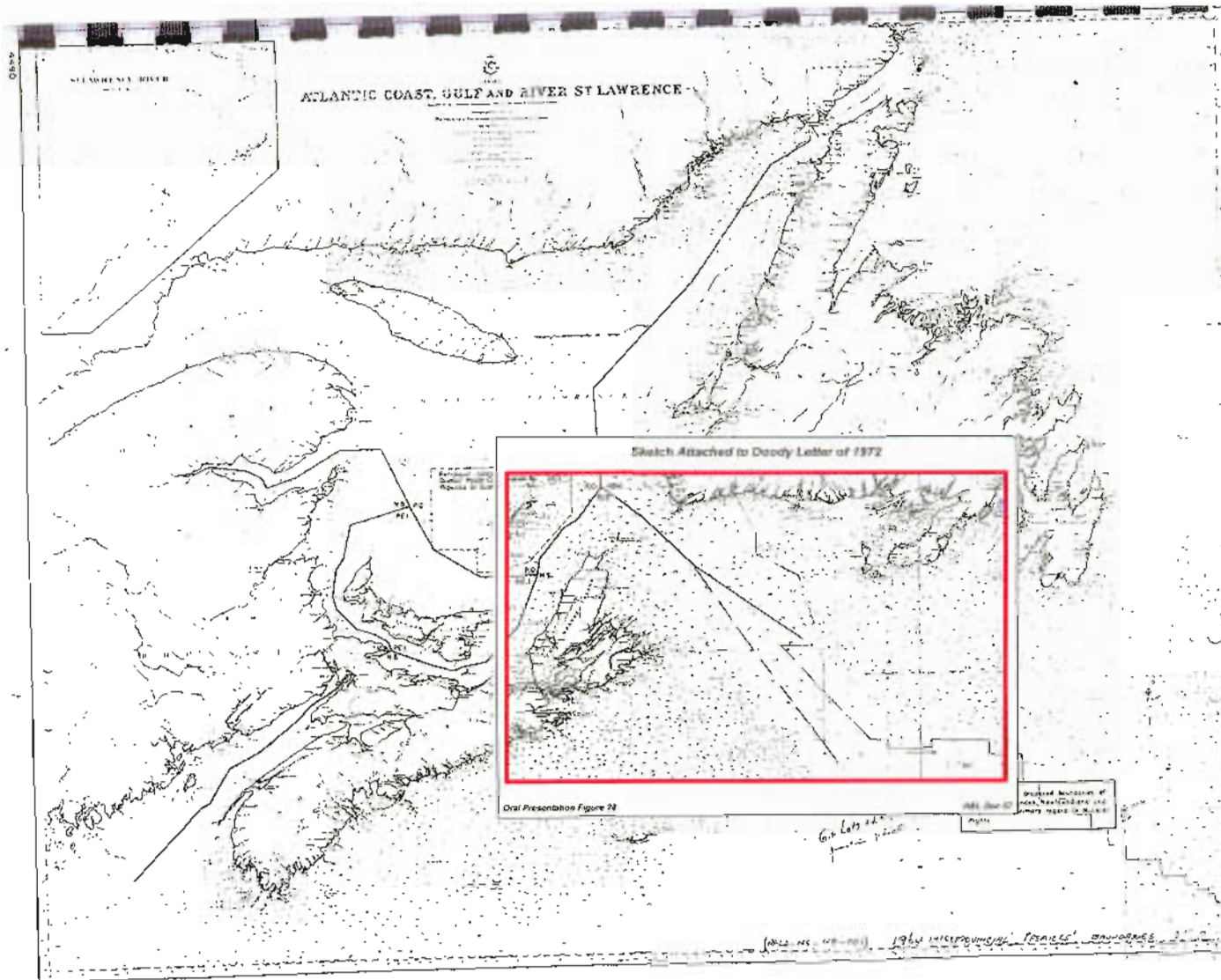
JGB-R-6

THE DOODY MAP: THE WHOLE PICTURE



Source: N&LM, Doc. 57

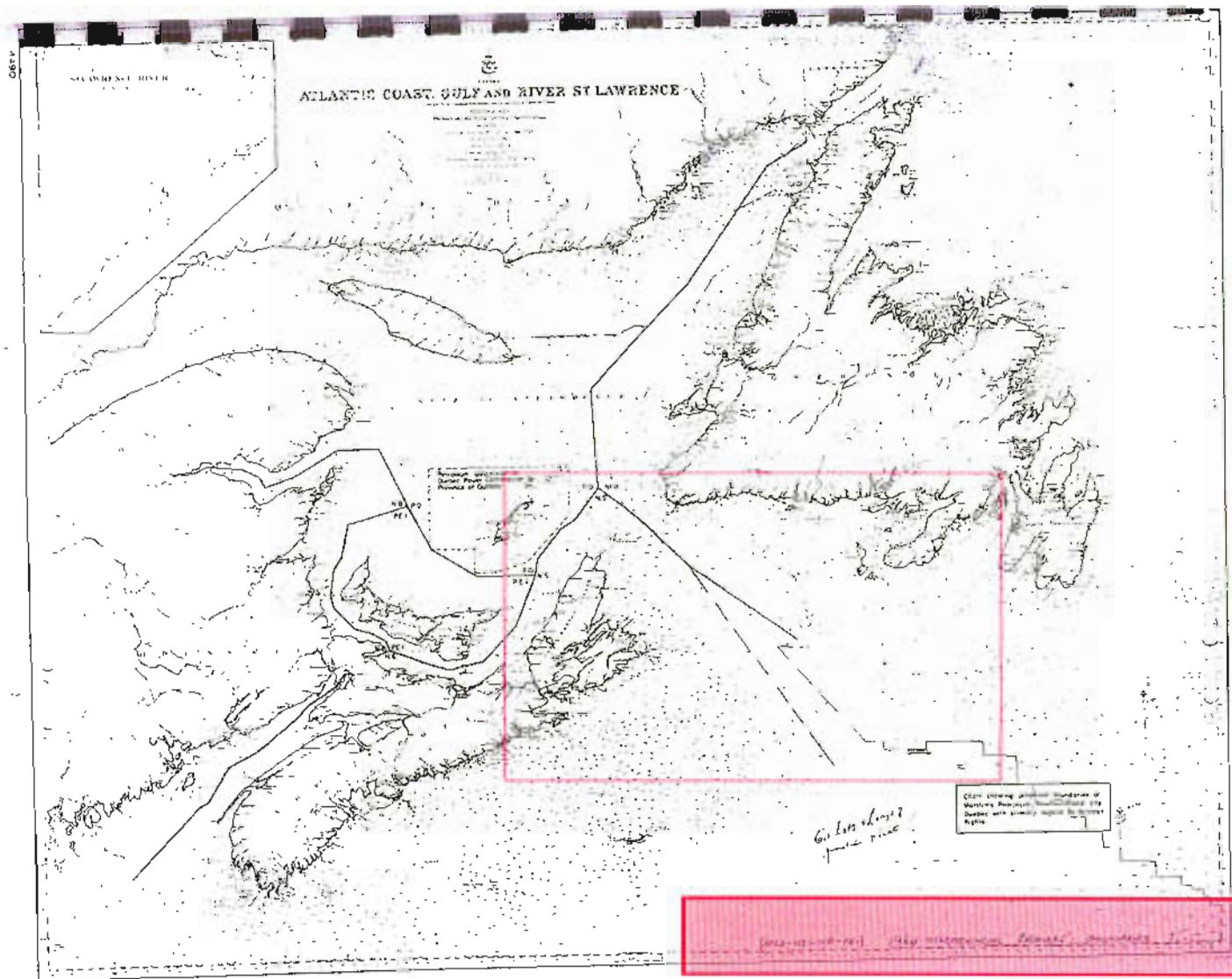
THE DOODY MAP: THE WHOLE PICTURE



Source: N&LM, Doc. 57

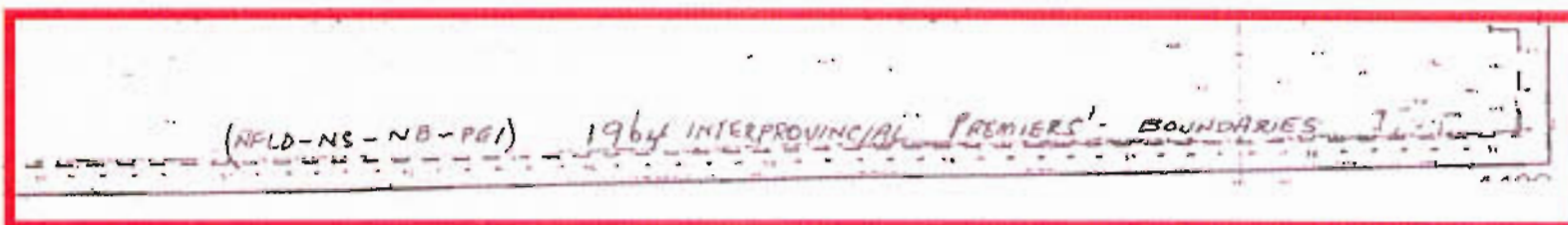
JGB-R-8

THE DOODY MAP: THE WHOLE PICTURE

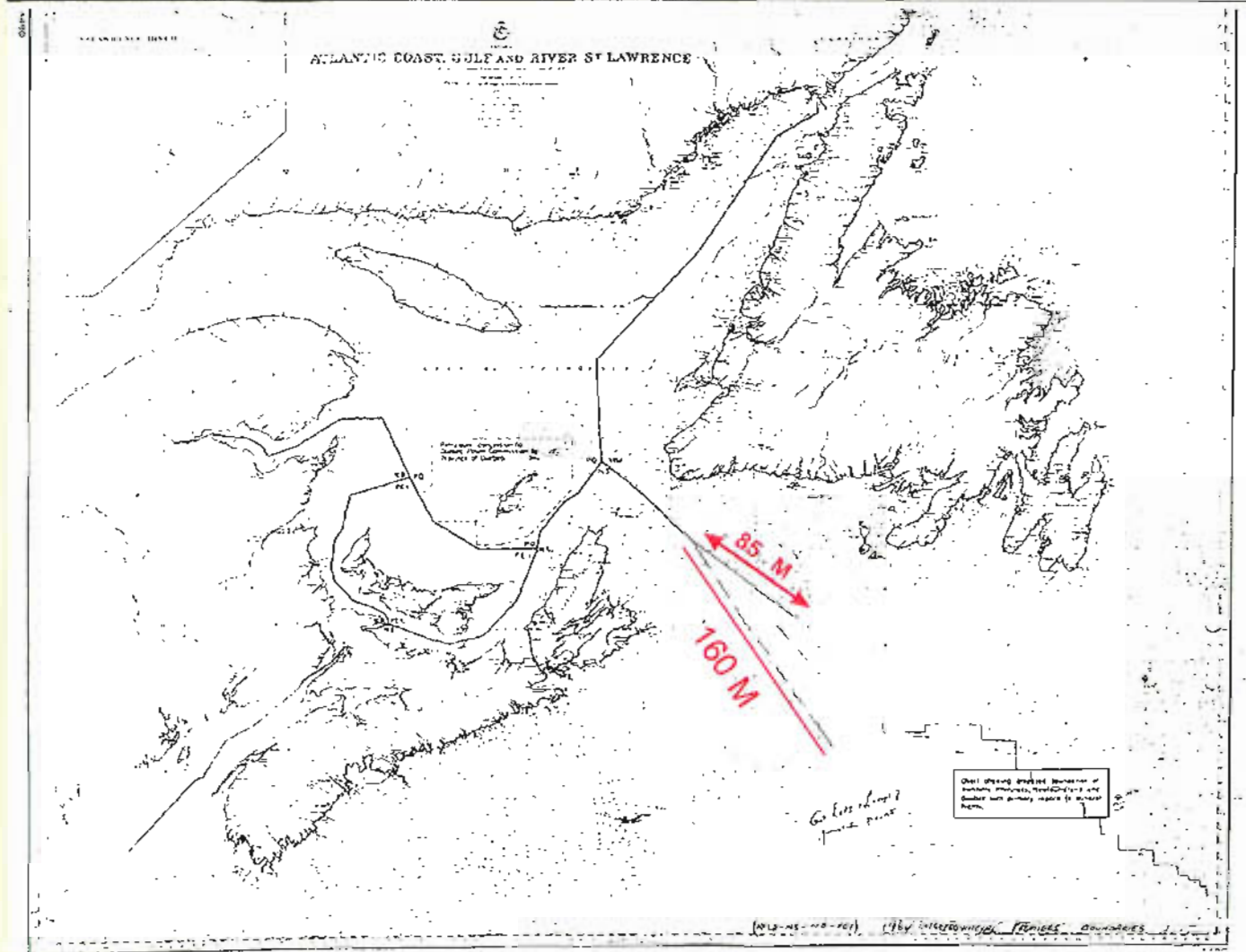


Source: N&LM, Doc. 57

THE DOODY MAP: THE WHOLE PICTURE



BOUNDARIES TO INT'L WATERS ON AN AZIMUTH



Source: N&LM, Doc. 57

NEWFOUNDLAND'S ALLEGED OBJECTIONS



Minutes of April 25-26, 1973 Meeting of Federal-Provincial Officials

Arrangement of April 9 -
Wednesday and Thursday, **April 25 and 26, 1973**

the minutes and pp.



Mr. A.B. Yates, Director, Northern Economic
Development Branch, IAND

Provincial Governments:

Dr. Michael J.L. Kirby, Principal Assistant
to the Premier of Nova Scotia (Chairman of
Committee of Officials of the 5 Eastern
Provinces)

Mr. Graham D. Walker, Legislative Counsel to
the Government of Nova Scotia (Secretary to
the Committee of Officials of the 5 Eastern
Provinces)

The Honourable Leo D. Barry, Minister, Dept.
of Mines and Energy, Newfoundland

Mr. Cabot Martin, Legal Adviser, Newfoundland
Dept. of Mines and Energy

Mr. Jules Briere, Assistant Deputy Minister,
Quebec Dept. of Intergovernmental Affairs

SECRET

Annex 138

JGB-R-13

NEWFOUNDLAND'S ALLEGED OBJECTIONS



Minutes of April 25-26, 1973 Meeting of Federal-Provincial Officials

Martin:

Walker:

Austin:

Crosby:

Austin:

no objection

position to cause difficulties.

Remarked that the fact that companies usually have interests in several offshore areas should simplify the problem.

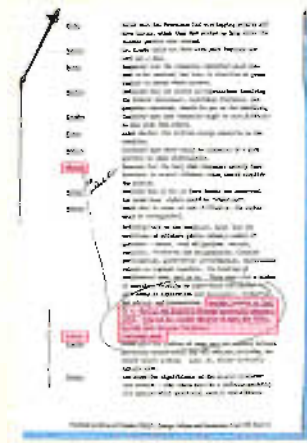
Remarked that as far as Nova Scotia was concerned, its permittees' rights could be "wiped out".

Noted that in cases of real difficulty, the rights could be extinguished.

Referring back to the checklist, noted that the conditions of offshore grants raised a number of questions - tenure, work obligations, rentals, royalties, incentives and disincentives, Canadian participation, governmental participation, requirements related to regional benefits, the handling of confidential data, and so on. There were also a number of questions relating to supervision and control in such areas as exploration and development, production, and storage and transmission. **Another problem to look at is that of the boundary between provincial adjacent areas. Queried Dr. Crosby whether we have the lines decided upon between Provinces.**

Confirmed same.

Noted also the problem of some sort of boundary between provincial inland areas and the offshore, including the



Annex 138

NEWFOUNDLAND'S ALLEGED OBJECTIONS



Minutes of April 25-26, 1973 Meeting of Federal-Provincial Officials



Annex 138

*Prepared by Crook and Thurgood for use
in negotiations with the East Coast Province on May 3,
1973.*

Checklist for Agreement

CRG

1. Establishment of a Board (ARAB, Atlantic Resources Administration Board);

in Council to advise his Minister concerning any matter relating to offshore mineral resource management.

3. Revenue-sharing arrangements:

- (a) formula for federal-provincial division;



Minutes of April 25-26, 1973 Meeting of Federal-Provincial Officials



Annex 138

- 2 -

4. Boundaries arrangements:

- (a) boundaries between provincial and federal areas of offshore administrative authority (mra lines);
- (b) boundaries between offshore areas of interest of adjacent Provinces.

5. Reciprocal federal and provincial delegation of administrative authority as necessary to implement Agreement.

IGB-R-16

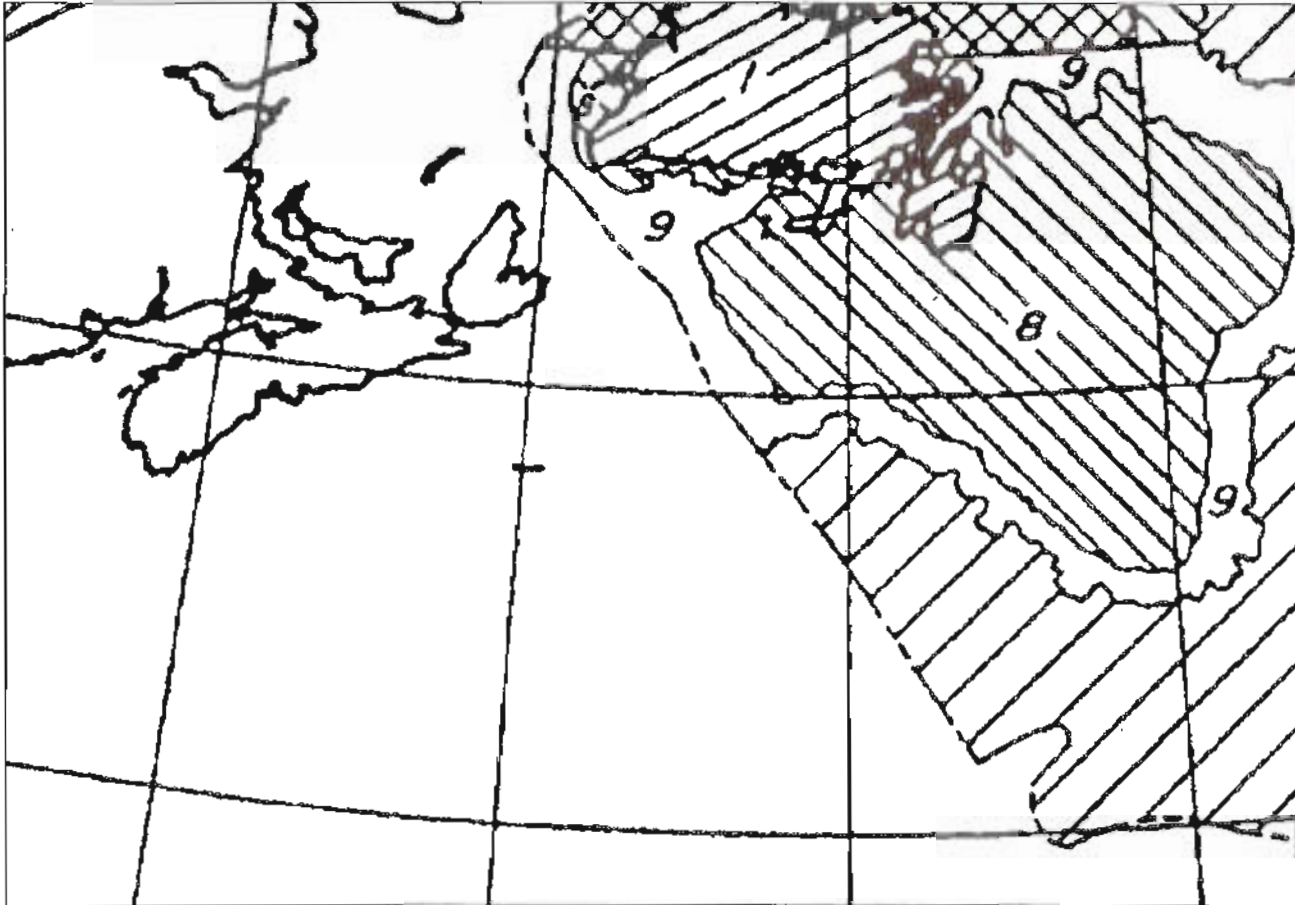


3. Third category : documents emanating from the Federal Government.
 - Several are accounts of negotiation meetings between Federal and Provincial officials.
 - Where the federal officials voice concerns about the meaning and possible impact of Newfoundland's withdrawal from the common front.
 - Where Federal officials raise doubts about Newfoundland's continued acceptance of the boundaries established by the *1964 Agreement*.
 - Others refer to the need, in the context of Federal-Provincial agreements, for the Federal government and the Provinces involved to agree on delimitation lines between provinces in offshore areas.
 - They are only indicative of the Federal government's long held view that it was not bound by the *1964 Agreement*.

1977 N&L PETROLEUM REGULATIONS



1977 N&L Petroleum Regulations, Schedule B Management Zones



Oral Presentation Figure 30

N&L Supplementary Statutes 7

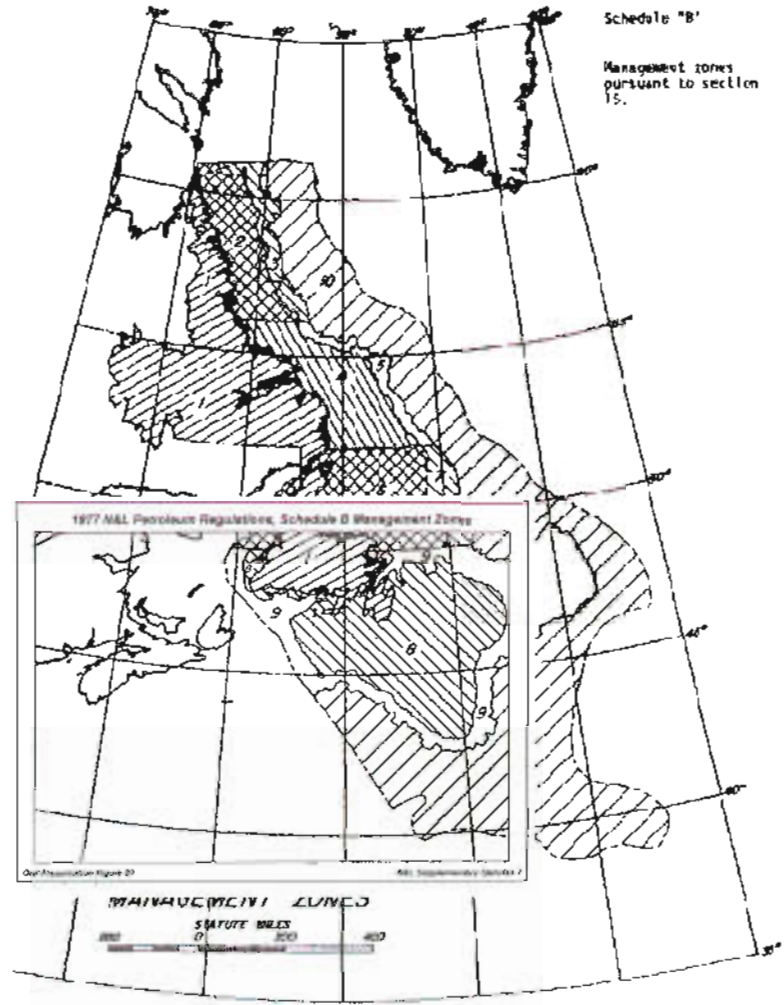
Source: N&L, Oral Presentation, Figure 30

1977 N&L PETROLEUM REGULATIONS



ST. JOHN'S, FRIDAY, NOVEMBER 10, 1978

NFLD. REG. 139/78



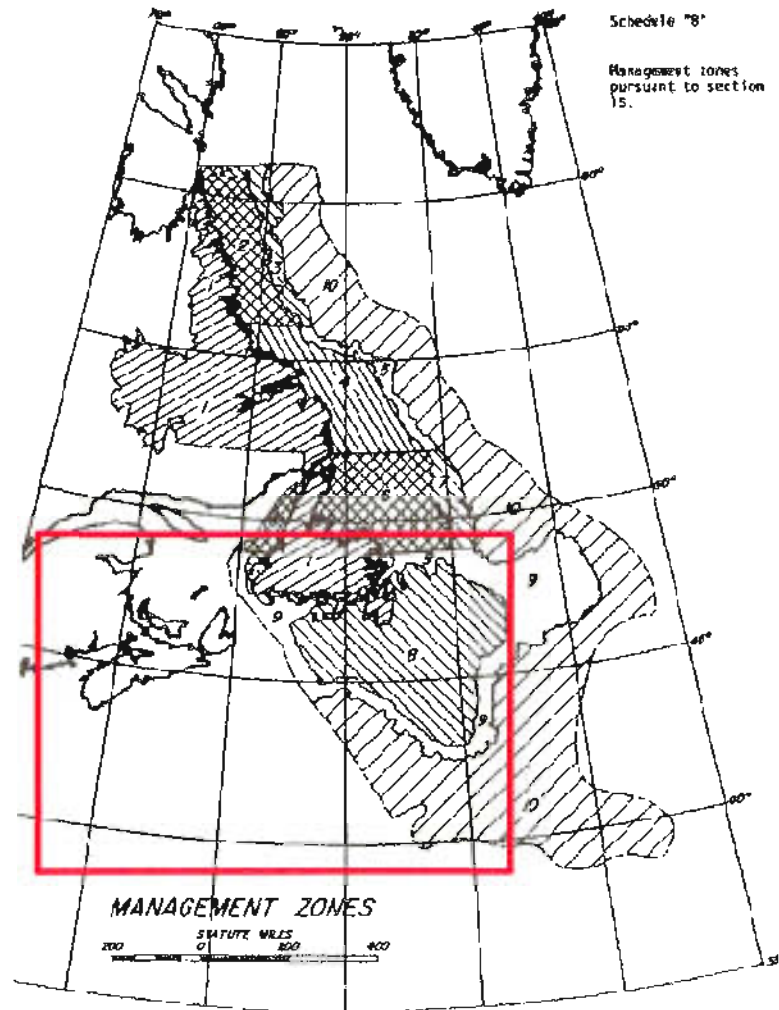
Source: N&L, Oral Presentation, Figure 30

1977 N&L PETROLEUM REGULATIONS



ST. JOHN'S, FRIDAY, NOVEMBER 10, 1978

NFID. REG. (39/78)



Source: N&L, Oral Presentation, Figure 30

NEWFOUNDLAND REGULATIONS



24 JULY 1977, FRIDAY, 10:30 AM, 1977

(2) The method for locating a section shall be as illustrated in the diagram below:

L	K	J	I
E	F	G	H
D	C	B	A

(3) For the purposes of these regulations, the section shall be the basic unit of administration and each section shall be identified by a combination of numbers and characters directly related to the location of the section. For example, section A in block 10, of J division of quadrangle 3, shall be identified as 3J10A.

(4) Upon the approval of the Director, a section may be subdivided into four (4) subsections determined by parallels of the series 40°00'00"N, 40°02'30"N, 40°05'00"N, etc., and by meridians of the series 40°00'00"W, 40°03'45"W, 40°07'15"W, etc., and shall be identified by the characters SE, SW, NW and NE.

(5) The method for locating a subsection shall be as illustrated in the diagram below:

NW	NE
SW	SE

(6) The method of identification of a subsection shall be: for example, 3J10A-SE, 3J10A-SW, etc.

(7) Where the Director approves the use of subsections all provisions of these Regulations with regard to sections apply mutatis mutandis to such subsections, provided that:

(a) whenever an area is limited by a maximum number of sections, the area may contain any combination of sections and subsections resulting in the same total of equivalent sections; and

(b) wherever a financial obligation is expressed on a per section basis, the financial obligation applicable to each subsection shall be one fourth of such financial obligation.

12. Notwithstanding section 8, the boundaries of all quadrangles shall conform with the province's quadrate and offshore boundaries with the other provinces and the Northwest Territories and shall conform with those established by any lawfully established international seabed boundary.

13. Every permittee or lessee shall file with the Director a plan of survey in a form approved by the Minister indicating the location of any well drilled in his permit or lease area.

14. The Director may, at any time, require the permittee or lessee to file a plan of survey in a form approved by the Minister, showing the exact location of any object in his lease, permit or lease area.

Management Zones

15. (1) For the purpose of these Regulations, the area within the jurisdiction of the Legislature of the province is divided into 10 management zones as shown in Schedule B.

- (a) Management Zone I consists of all sections situated on land;
- (b) Management Zone II consists of all sections covered by water of less than 500 metres depth, north of the parallel of 50°N;
- (c) Management Zone III consists of all sections situated in water more than

453

(f) "Director" means the Director of the Minister who is made responsible for the administration of these Regulations;

(g) "discovery" means a discovery according to sections 49 and 50 of these Regulations;

(h) "exploration" means any geological, geophysical, or geochemical survey or the drilling and casing of exploration and extension wells and includes the construction of any facilities in the making of any survey necessary to carry out these activities;

(i) "force majeure" means acts of God, strikes, lock-outs, acts of a public enemy, war, blockades, and disturbances and like causes but shall not include any act or measure of the Government of Canada.

431

to operate within the limits of light in operation and all

in the municipality other than to 8:00 p.m. and such and every six animals

ordinarily by any Council Officer.

Regulations or who acts in or neglects or refuses to do as prescribed in The Highway

of October, A.D., 1977, Chapter, 1977.

are hereby re-

tion 9 of The Petroleum (Newfoundland, 1970, and all amendments thereto in Canada)

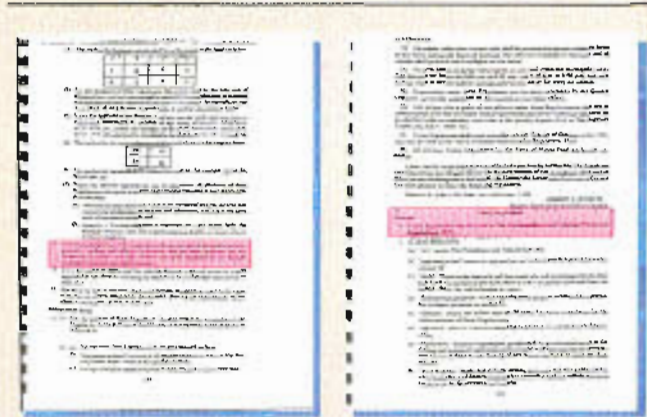
ROBERT J. JENKINS,
of the Executive Council.

and Labrador Petroleum

also by a permittee under

is measured in the bore hole and on land and from the

am submitted by a permit-



N&L Supp. Annex of Statutes, Tab 7



Section 12: Onshore and Offshore Boundaries



N&L Supp. Annex of Statutes, Tab 7

financial obligation applicable to each subsection shall be one fourth of such financial obligation.

12. Notwithstanding section 8, the boundaries of all quadrangles shall conform with the province's onshore and offshore boundaries with the other provinces and the Northwest Territories and shall conform with those established by any lawfully established international seabed boundary.
13. Every permittee or lessee shall file with the Director a plan of survey in a form approved by the Minister indicating the location of any well drilled in his permit or