

REPORT OF THE AUDITOR GENERAL

To the House of Assembly



Canada - Newfoundland and Labrador
Offshore Petroleum Board



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26 February 2008

The Honourable Roger Fitzgerald, M.H.A.
Speaker
House of Assembly

Dear Sir:

In accordance with Section 12(1) of the *Auditor General Act*, I submit herewith, for transmission to the House of Assembly, a special report regarding my intended review of the Canada - Newfoundland and Labrador Offshore Petroleum Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John L. Noseworthy".

JOHN L. NOSEWORTHY, CA
Auditor General

Enclosure

**SPECIAL REPORT OF THE AUDITOR GENERAL
TO THE HOUSE OF ASSEMBLY
26 February 2008**

pursuant to Section 12(1) of the *Auditor General Act*

This Report is submitted to the House of Assembly under the authority of Section 12(1) of the *Auditor General Act* (the *Act*) relating to the refusal of the Canada - Newfoundland and Labrador Offshore Petroleum Board (CNLOPB) to provide my Office with unrestricted access to information necessary to conduct a review of CNLOPB operations.

Section 12(1) of the *Act* states that, “*The auditor general shall as he or she considers necessary but at least annually report to the House of Assembly on... (b) whether, in carrying out the work of the office, the auditor general received all the information including reports and explanations the auditor general required.*”

The requirement to provide my Office with unrestricted access to such information comes from section 17 of the *Act* which states that, “*Except as provided by another Act that expressly refers to this section, every department of government, every agency of the Crown and every Crown controlled corporation shall furnish the auditor general with information regarding its power, duties, activities, organization, financial transactions and methods of business as the auditor general requires, and the auditor general shall be given access to all books, accounts, financial records, reports, electronic data processing records, explanations, files and all other papers, things or property belonging to or in use by the department, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the auditor general under this Act.*”

The CNLOPB was created in 1985 to administer the relevant provisions of the Canada-Newfoundland Atlantic Accord Implementation Acts as enacted by the Parliament of Canada and the Legislature of Newfoundland and Labrador. The CNLOPB is comprised of 7 members, 3 of whom are appointed by the Federal Government and 3 of whom are appointed by the Provincial Government. The Chairperson is jointly appointed by both the Federal and Provincial Governments. The CNLOPB is funded equally by both Governments. The Provincial contribution for the year ended 31 March 2007 was approximately \$4.3 million and contributions since 1985 totalled approximately \$51.1 million.

In January 2008 I decided to conduct a review of CNLOPB operations. The following outlines the correspondence related to the intended review:

- On 21 January 2008, I wrote the Chairman and Chief Executive Officer of the CNLOPB to advise of the intended review.
- On 30 January 2008, the Chairman and Chief Executive Officer wrote indicating that “*...it is our opinion that the Board is not within the jurisdiction of the provincial Auditor General Act... any review must be coordinated with the Office of the Auditor General of Canada.*”

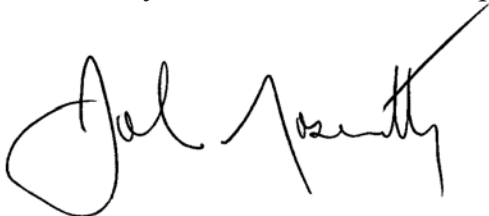
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pursuant to Section 12(1) of the *Auditor General Act*

- On 8 February 2008, I wrote the Chairman and Chief Executive Officer indicating disappointment with the CNLOPB position. I stated my view that the CNLOPB was within the jurisdiction of the provincial *Auditor General Act* and did not see any need, at this time, to seek a joint arrangement with the Auditor General of Canada. I asked the CNLOPB to reconsider its position and allow the review to proceed as intended and indicated that, if not, my only recourse was to report the matter to the House of Assembly.
- On 14 February 2008, the Chairman and Chief Executive Officer wrote again indicating that “...any audit should be conducted jointly by the Auditors General of the Province and the Government of Canada.”

It is my opinion that the Office has the authority to conduct the intended review. Under section 2(1) of the *Act*, an agency of the Crown for purposes of the *Act* includes a board which is responsible to the Crown in the proper discharge of its duties. Given the responsibilities of the CNLOPB to the Provincial Government, the funding provided to the CNLOPB by the Provincial Government, and the powers vested in the Provincial Minister with respect to the direction and decision-making of the CNLOPB, clearly the CNLOPB meets the definition of an agency of the Crown for purposes of this *Act*. As a result, my Office does have authority to conduct the intended review. Regardless of whether a joint review can be arranged with the Auditor General of Canada, it still remains that the CNLOPB has not provided the access required under the *Act*.

Therefore, under the provisions of the *Act*, when a department of Government, agency of the Crown or Crown controlled corporation refuses to provide information necessary for the performance of my duties under the *Act*, my responsibility as Auditor General is to report the matter to the House of Assembly. Accordingly, I am informing the House of Assembly of the refusal of the CNLOPB to provide unrestricted access to information necessary for me to conduct my intended review of its operations.



JOHN L. NOSEWORTHY, CA
Auditor General