

**Norton Corporation
Preliminary Decision by the 14(c) Committee**

Name of Applicant: Jimmy Nicolai (Deceased) and joint-applicants: Peter Nicolai, Hannah Boatwright and Mary Nicolai.

Location, Site 1: A subsistence campsite (Site #1) located on the Northern bank of the Caribou River, Section 34, Township 29 South, Range 18 East, Fairbanks Meridian. See diagram of site on attached "Exhibit A".

Review of Evidence Related to the Application:

This is a written report by the Norton Corporation 14(c) Committee on the ANCSA 14(c)(1) application of Jimmy Nicolai, % Peter Nicolai, P.O. Box 123, Norton, Alaska 12345. The application and other evidence were reviewed on December 1, 2000 and a determination was made according to provisions within the *Norton Corporation Procedures Manual for ANCSA Section 14(c)(1) and (2) Reconveyances*, which was adopted on April 11, 1999. The 14(c) Committee reviewed the application for compliance with occupancy requirements within Sections A(2) and A(3) of the Norton 14(c) policy, which states:

Section A(2)

"Date and Period of Possession." A tract of land claimed under ANCSA 14(c)(1) or (2) must have been, on and before December 18, 1971, in the actual and exclusive possession of the person making the claim. Such possession must have been regular and continuous, including regular seasonal use for traditional purposes, for each type of claim described within this section for the period before December 18, 1971, subject to the recognized exceptions for non-use, which are stated in Paragraph 9. Any land use which commenced after December 18, 1971 shall not be the basis for any valid claim under this policy."

Section A(3)

"Subsistence Campsite." An applicant must show that each of the following facts was true as of December 18, 1971, to be eligible for an ANCSA 14(c)(1) land conveyance under subsistence campsite guidelines detailed below:

- (a) the applicant possessed and actually occupied the claimed tract of land on a regular basis, including regular seasonal use, as a campsite and base for engaging in subsistence activities during the year ending December 18, 1971 and during at least one additional prior year;
- (b) the applicant has claimed only the land actually and reasonably used as a campsite and base of operations and has not included any adjacent or nearby lands which may have been used for subsistence related activities such as gardening, fishing, hunting, trapping, berry picking, wood gathering and other activities associated with a traditional subsistence way of life;
- (c) the applicant maintained, occupied and claimed to own a man-made structure located on the claimed tract and the structures and other evidence of occupancy on the property are consistent with the use of the land as a subsistence campsite;
- (d) the applicant has traditionally engaged in subsistence activities and was engaged in such activities on a yearly or seasonal basis during the year ending December 18, 1971."

The 14(c) Committee examined the following written evidence during the review process before an initial determination was made on the application:

- The March 1, 2000, ANCSA 14(c)(1) application for the late Mr. Nicolai and two (2) hand drawn sketches of subsistence campsites. The first campsite (Site #1) is located on the Northern bank of the Caribou River. The second campsite (Site #2) is located on Beaver Slough. The 14(c) Committee reviewed evidence relating to the Caribou River campsite.
- Information contained within the August 20, 2000, *14(c)(1) Field Inspection Report for the Caribou River Subsistence (Site #1)* relating to discussions with Mr. Nicolai, Peter Nicolai, Hannah Boatwright and Mary Nicolai (attached). During the interview, the late Mr. Nicolai indicated that as many as twenty (20) families had gardens located along Caribou River.
- The *Norton Elder Views Report on Traditional Land Use*, which contains historical and land use information provided by Norton elders on March 31, 2000 (attached).

Finding of Facts:

During the review process the 14(c) Committee determined the following findings of fact:

1. The Caribou River area was once used extensively for traditional subsistence campsites, however, the Norton community stopped using the area in the late 1960's.
2. The evidence presented by the applicant does not establish that the site was in his exclusive possession and being used on a regular and continuous basis, including regular seasonal use for traditional purposes, as of December 18, 1971.
3. Neither the applicant nor any predecessor in interest maintained, occupied, or claimed to own a man-made structure located on the garden campsite.

Preliminary Decision by the 14(c) Committee:

The 14(c) Committee concludes that the applicant or predecessors did not satisfy the requirements of ANCSA 14(c)(1) and Sections B(1) and B(4) of the Norton 14(c)(1) policy. Accordingly, the 14(c) Committee recommends that Norton Corporation Board of Directors deny the application.

The recommendation to deny the claim was made by a majority vote after the 14(c) Committee determined there was sufficient information and evidence provided to reach a valid decision on the application.

Additional Policy Considerations:

1. The 14(c) Committee concluded that many individuals did not apply for subsistence camp sites after reading the Norton 14(c)(1) policy and realizing the Caribou River area had to have been used on a regular basis in 1971.
2. It was concluded that if the 14(c) Committee approved traditional subsistence claims that were not specifically being used in 1971, it would be unfair to individuals who did not submit a 14(c)(1) application because of the 1971 occupancy date. It was determined that a uniform procedure was necessary and the 14(c) Committee must follow the Norton 14(c)(1) policy and make a recommendation to deny all applications where individuals were not occupying the land in 1971.
3. Although the 14(c) Committee sympathizes with applicants claiming land they may have traditionally used in the past, it was determined that historical use of land was only protected under the Norton 14(c) policy if an area was specifically used as of December 18, 1971.

Request for a Reconsideration Hearing:

A joint-applicant may request a reconsideration hearing before the 14(c) Committee if there is disagree with the preliminary decision. Additional written information or evidence may also be submitted without requesting a reconsideration hearing. The attached *Request for a Reconsideration Hearing before the 14(c) Committee* form must be used to request a reconsideration hearing or to submit new evidence. The form must be executed before a notary public or postmaster and be received by the Norton Corporation within sixty (60) days from the date a representative signs the return receipt for the registered mail enclosing this decision.

If a request for a hearing is made within the sixty (60) day period, the 14(c) Committee will conduct a hearing within ninety (90) days of receiving the request. If a hearing is requested, a representative must be present. Failure to attend the hearing will result in denial of reconsideration. The representative may testify, call witnesses and present evidence at the hearing in support of the claim. The 14(c) Committee may request additional information during the hearing. A final written decision will be issued within ninety (90) days of the reconsideration hearing or from the date additional evidence requested by the 14(c) Committee is received by the corporation.

The preliminary decision is final if a request for a hearing or additional written evidence is not received within the required sixty (60) day period.

Attached is a copy of the *Norton Corporation Procedures Manual for ANCSA Section 14(c)(1) and (2) Reconveyances*. Procedures relating to the reconsideration hearing process are detailed on Pages 9 through 11 of the policy.

Walter Frankland, Chairman
14(c) Committee

Date

Final 2007 SOQ Sample Norton 14(c)(1) Decision 1-2-07