

would be “misused and misinterpreted” if she rendered the decision.³⁹⁰ She said the recusal was her decision, made without pressure from anyone at DOI.³⁹¹ Deer remembered advising Michael Anderson of her recusal orally but not in writing.³⁹² It is unclear exactly when she may have done this. Anderson remembered learning of the recusal from Chapman in June and that Deer’s political contribution to gaiashkibos was the reason cited. As late as June 30, when another draft of the denial letter was prepared, however, Sibbison still thought that Deer might sign the final decision letter.³⁹³

5. The Issuance of the Decision Letter

The final version of the denial letter was signed by Michael Anderson and sent to the applicants on July 14, 1995.³⁹⁴ The letter denied the application on the ground that the proposed casino would be “detrimental” to the surrounding community under IGRA Section 20, but added that even if the factors described in the letter were insufficient to support that finding, “the Secretary would still rely on these factors, including the opposition of the local communities, state elected officials and nearby Indian tribes, to decline to exercise his discretionary authority,

³⁹⁰OIC Interview of Ada Deer, Aug. 20, 1998, at 5.

³⁹¹Two witnesses from applicant tribes recounted hearing her say, without further explanation of the circumstances, that she refused to sign the letter.

³⁹²Witnesses reported there was no formal obligation imposed upon DOI employees to commit a decision to recuse themselves to writing or to set forth the timing and basis for the recusal. Meisner noted that delegating authority to a subordinate is not unusual at DOI.

³⁹³Although evidence exists of a plan by opponents to the application to force Deer to recuse herself, there is no evidence that the plan was ever implemented. Deer and other IGMS staffers state that they were unaware of such a plan.

³⁹⁴Anderson and Skibine were at meetings outside of Washington on other BIA business on Monday, Tuesday and Wednesday, July 10 through July 12, and were editing the draft denial letter by fax and phone conversations.