

None of the witnesses interviewed recalled any discussion about the option of returning the application to the area office (or directly to the tribes) as an alternative to an outright denial.³⁹⁸ It appears that other applications had been treated in that manner when Manuel was IGMS director, but some witnesses noted that it would have served little purpose this time since the defects in the Hudson application – in particular, the opposition of the local community – were neither a technical omission nor readily curable. Others, including Sibbison and Duffy, said sending it back to the Area Office would not have served the other purpose especially important to Duffy, that of sending a message to Congress that Interior would not “jam” casinos into communities against their wishes.

Where gaming applications had been approved in the past, witnesses said the Department’s detailed written basis was provided to the governor along with a formal letter from the Secretary seeking his concurrence. The letters were signed by the Secretary out of courtesy, but the decision was made by the Assistant Secretary.

7. The Policy Reason Given for the Hudson Decision Was Neither a Long-Standing, Nor a Consistently Applied, Interior Policy

Interior Department witnesses stated that the policy articulated in the Hudson decision is that great weight will be accorded to the opposition of local communities in deciding whether to take land into trust for off-reservation gaming. The policy has frequently been referred to by DOI

³⁹⁸In Grand Jury testimony, Skibine said he thought he may have discussed his thought that since it was going to be denied based on secretarial discretion, it was pointless to return to the MAO or tribes. Because it served no purpose to tell the Area Office that local opposition was the problem, he thought it was better to just inform the tribes at that point.