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INDIANS GIVEN A PARTING BOOST—CLINTON AIDES GRANT 3 GROUPS RIGHTS TO CASINOS

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By Sean P. Murphy

In the final days before leaving office, two Clinton administration officials quietly reversed the findings of Interior Department staff historians to recognize three groups as Indian tribes, thus giving them the right to open casinos, a privilege often worth hundreds of millions of dollars.

Then the two officials stepped directly from their high-level administration posts into lucrative positions representing gaming tribes.

Those decisions, plus two other last-minute rulings in support of tribes already operating casinos, gave one final boost to the Indian gaming industry, which in the 1990s allied itself with the Clinton administration by generously contributing campaign funds.

Among the beneficiaries were Florida's Seminole tribe, which gained approval for electronic gambling machines after contributing about \$300,000 in soft money to the Democratic Party. Another was Massachusetts' Nipmuc tribe, which wants to open another casino along the New York-Boston axis, this one on Connecticut's border with Massachusetts.

Until now, the extent of the Clinton administration's departing nod to the Indian gaming industry had gone largely unnoticed.

But records examined by The Boston Globe and interviews show that the two appointees, Bureau of Indian Affairs head Kevin Gover and his deputy, Michael J. Anderson, made crucial decisions on behalf of tribes on their last days in office, then took jobs with firms promoting Indian gaming. Gover and Anderson were cochairmen of Native Americans for Clinton/Gore.

As head of the Bureau of Indian Affairs, Gover had final responsibility for conferring federal recognition of tribes. The number of groups seeking recognition has soared since 1988, when tribes won the right to supersede local objections to building casinos, opening up untold riches to those located near gambling-starved population centers.

The approval process, which turns on whether groups have maintained a continuous historical identity as tribes, is so heated, given the high stakes involved, that Gover declared last summer that the bureau could no longer handle the pressure and a separate agency should be established to review tribal claims.

Nonetheless, he continued making decisions up until the end of his term. And in some cases - usually those involving tribes from which he had sought business - he passed decision-making authority to Anderson, his longtime friend and deputy.

In fact, the Globe has learned, on Jan. 3, Gover's last day in office, he rejected findings by government researchers that the Chinook tribe of Washington state did not qualify for recognition, and thus was precluded from opening a casino on a highway between Seattle and Portland, Ore.

Gover personally rewrote the staff's findings, inserting his own conclusions to affirm the tribe's authenticity while editing out years of work by government historians, anthropologists, and genealogists.

Gover, a Pawnee Indian, was named to head the Bureau of Indian Affairs in 1997 after organizing Indian voters well enough to give Clinton winning margins in New Mexico and Montana in the 1992 and 1996 elections. Gover also solicited contributions from gaming tribes for the Clinton campaign, the Democratic Party, and Democratic candidates, and attended one of Clinton's famous White House fund-raising coffees.

After leaving the Clinton administration in January, he joined Steptoe & Johnson, a Washington lobbying powerhouse, where he plans to build an Indian gaming practice at the firm. Just days after making his last-minute decisions benefitting the Chinook and others, he sent a letter on Steptoe & Johnson stationery soliciting business from hundreds of tribes, including the Chinook.

In an interview, Gover declined to talk about specific decisions, but said that while in office he was guided by considerations of policy, not politics or personal advancement. He acknowledged the competition among big firms to hire him and other Indian lawyers who served as political appointees in the Clinton administration.

"This group has moved easily and quickly into private practice, and, yes, there are legitimate questions to ask about the revolving door," he said. "But it's unfair to single out this group. The old revolving door has been around for centuries."

Nonetheless, in recent years, most government officials have been required to take a one-year "cooling off" period before appearing before their former agencies. Because Indian tribes are considered sovereign governments, however, they cannot be prohibited from hiring former officials during such a cooling-off period.

Gover left office 17 days before Clinton's term ended. Anderson took over for the brief interim.

On Jan. 19, the day before President Bush was inaugurated, Anderson recognized the Nipmuc as a tribe, although that decision has not become official because the Bush administration instituted a moratorium on publication of last-minute decisions in the official Federal Register, pending its own review.

The Nipmuc, based near populous urban areas, have the potential to open a casino on the scale of Foxwoods and Mohegan Sun, which rank among the largest and most profitable in the world. They are represented by two of the most powerful Indian gaming law firms, Robins Kaplan Miller & Ceresi and Dorsey & Whitney, both of which have political action committees that give heavily to Democrats.

As in the Chinook application, the Interior Department's professional staff had concluded the Nipmuc failed to demonstrate the tribe's existence as a distinct community in continuous operation since first contact with Europeans.

Anderson also gave last-minute recognition to the Duwamish tribe of Seattle, also on the last day of Clinton's term. The Interior Department staff had recommended against final recognition of the Duwamish, but Anderson reversed those findings, according to documents and sources.

Anderson, reached last week, declined to comment on the Nipmuc or Duwamish cases, or any other of his official actions.

From 1978, when the process for recognition was established, until last year, no recommendation of the department's Branch of Acknowledgement and Research had ever been overturned by a political appointee.

But Gover and Anderson have each done it several times. Last year, Gover reversed the professional staff's negative preliminary determinations for both the Eastern Pequot and the Paucatuck Eastern Pequot groups, each of whom have received millions of dollars from private investors to advance plans to open large casinos in Connecticut.

Gover wrote in an internal memo last year that he based his reversal on what he termed "a very reasonable inference" that the groups had operated continuously as political communities even though there existed "evidentiary gaps in the historical records." Connecticut Attorney General Richard Blumenthal challenged those findings in a lawsuit that alleges Gover changed the rules on his own.

Last year, some people associated with tribes that gained extra consideration from the Bureau of Indian Affairs contributed heavily to Hillary Rodham Clinton's Senate campaign in New York.

James A. Cunha Jr., chief of the Paucatuck Eastern Pequot, contributed \$1,000 to Clinton's campaign three months after his group got preliminary recognition status. He also contributed \$1,000 to Senator Joseph Lieberman, the Connecticut Democrat who was the vice presidential

nominee in 2000.

The chief backer of the Golden Hill Paugussett, another group seeking recognition to build a casino in Connecticut, gave especially generously to Hillary Clinton and the Democrats. In 1999, the Bureau of Indian Affairs took the unprecedented step of reopening the Golden Hill case after it had been turned down for recognition in a final determination. Gover, who had earlier done work for the Paugussett, recused himself, assigning the case to Anderson.

Thomas Wilmot, a Rochester, N.Y., developer, was the major backer of the Golden Hill proposal, spending \$4 million in an effort to get the tribe recognized. Meanwhile, he contributed more than \$100,000 in recent years to the Democratic National Party and Democratic candidates, and raised about \$50,000 for Senator Clinton at a cocktail party at his home.

The Golden Hill case remains pending.

Anderson, upon leaving office, joined the firm of Monteau, Peebles and Crowell, which specializes in Indian gaming representation. He is joined there by Loretta Tuell, another former political appointee who was Anderson's top assistant at the Bureau of Indian Affairs.

The firm was founded by Harold Monteau, who was appointed by Clinton in 1994 to head the National Indian Gaming Commission, the agency responsible for regulating Indian gaming. Monteau was forced to resign in 1997 by several congressional critics who accused him of being more of a supporter than a regulator of the industry. It was also disclosed that Monteau accepted a gift from an Indian gaming trade group.

On Jan. 19, Anderson released a ruling that video "slot" machines used by tribes in Florida are legal, despite the state's claim that they are prohibited by Florida law.

The Seminole and Miccosukee tribes earn an estimated \$300 million a year operating about 10,000 such devices in six casinos - with two new major hotel-casinos under construction in Tampa and Hollywood, Fla. The tribes argue the machines are the equivalent of state-approved lottery machines and thus cannot be banned; under federal law, states cannot prevent Indian nations from engaging in gambling activities allowed to others.

Assistant Florida Attorney General John Glogau disagrees.

"Walk in and watch the people play," he said. "It's just like Las Vegas: people sitting on stools for hours pumping money into the machines, every four to six seconds, as fast as the machines can take it."

Glogau said Anderson's ruling will be challenged by the state. In the meantime, the ruling pleases the tribes and their investors, including the Cordish development company of Baltimore, which contributes heavily to Democrats. As a tribe, the Seminoles donated \$350,000 in campaign contributions for the 2000 election, 81 percent to Democrats.

Another tribe to benefit from a last-minute ruling was the Menominee of Wisconsin, which has plans to build the largest casino in the Midwest.

Five days before leaving office, Gover ruled that the tribe did not have to conduct an environmental impact study on a facility that would include 4,000 slot machines, a hotel, golf course, and water park, located about an hour's drive from both Chicago and Milwaukee.

At the time of his ruling, the tribe was being solicited by Steptoe & Johnson to become a client. Gover said he did not know at the time that Steptoe & Johnson had approached the tribe, and would have recused himself if he had known.

Joel Gross, a lawyer for the rival Forest County Potawatomi tribe, said traffic and pollution impacts were ignored by Gover in a "mad dash" to endorse the project before leaving office, according to a lawsuit filed in January.