



THE SECRETARY OF THE INTERIOR  
WASHINGTON

**ORDER NO. 3392**

**Subject:** Local Participation in Commercial Polar Bear Viewing Services in the Arctic National Wildlife Refuge and Other Commercial Visitor Services in Alaska Conservation System Units

**Sec. 1 Purpose.** This Order is intended to address the provision of commercial polar bear viewing services in the Arctic National Wildlife Refuge (ANWR) and the full implementation of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) Sections 1307 and 1308 (16 U.S.C. 3197, 3198).

**Sec. 2 Authorities.** This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, as well as other relevant statutes.

**Sec. 3 Background.** The Department of the Interior (Department of DOI) regularly authorizes the provision of visitor services (e.g., guided tours, or the operation of public use facilities) in conservation system units (CSUs) in Alaska—the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System. Alaska Native corporations and local residents may compete in public solicitations by the Department to provide such services. However, if unchecked, competition from third parties—providers from outside the local community or even from outside Alaska—can effectively frustrate the efforts of Alaska Native corporations and other local residents to compete for and provide these visitor services. This is unsurprising. Sophisticated third-party organizations often benefit from economies of scale, training opportunities available in urban areas, and other advantages not available to small operators from isolated communities in Alaska.

Kaktovik is an example of a community in Alaska where the Alaska Native corporation, the Tribe, and local residents have shared their concerns that they are unable to effectively compete for DOI permits to provide visitor services in adjacent conservation system units. With respect to polar bear viewing in the vicinity of Kaktovik, residents have shared various concerns, including concerns that guides fail to take into account the effects of their operations on the community and regularly trespass on lands owned by the local Native-owned village corporation, Kaktovik Iñupiat Corporation. A similar concern has been raised with respect to guided backpacking trips within Gates of the Arctic National Park, where residents have expressed that such activities authorized by the National Park Service (NPS) historically provide little or no benefit to the Alaska Native and other local residents of Anaktuvuk Pass and that guides regularly trespass on lands owned by the local Native-owned village corporation, Nunamiut Corporation. The residents of Kaktovik, Anaktuvuk Pass, and other remote villages affected by CSUs often express the belief that they have been denied a benefit promised to them by Congress in the ANILCA. Specifically, section 1307 of ANILCA provides for a preference to the “most directly affected” Alaska Native corporation(s), and/or to local residents, when awarding permits to conduct visitor services in Alaska’s national parks, monuments, and wildlife refuges.

In passing section 1307 of ANILCA, Congress recognized that the creation and expansion of national parks, monuments, and wildlife refuges in Alaska would have an impact, including a socio-economic impact, on Alaska Native and local residents. Alaska Native corporations and local residents were

therefore provided with a preference under ANILCA so that they would benefit from opportunities to provide visitor services within the CSUs. Congress did not equivocate in section 1307, which establishes clearly that the Secretary “shall give preference” to Alaska Native corporations and to local residents. We believe it is the view of many Alaskans, including the residents of Kaktovik and Anaktuvuk Pass, that Congress’ promise in Section 1307 has not been fulfilled in the 40 years since its passage. It is the purpose of this Order to ensure the fulfillment of Congress’ objective in section 1307 of ANILCA—that the most directly affected Alaska Native corporation(s) and local residents receive a meaningful preference in the selection of visitor service providers, other than guided sport fishing and hunting, in order to realize those mutual benefits within neighboring CSUs.

**Sec. 4 Policy.** The Department should work to fill the gap between the policy purpose of Section 1307 of ANILCA and the current lack of Alaska Native and/or local involvement in visitor services in some of Alaska’s CSUs. To accomplish this the NPS and the U.S. Fish and Wildlife Service (FWS) should:

- a. examine current practices and, if appropriate, establish and implement new policies that reflect ANILCA Section 1307’s purpose and objectives;
- b. work with Alaska Native corporations and local residents to ensure these entities have a meaningful opportunity to compete for existing visitor services opportunities offered in CSUs;
- c. reconsider the scope of revenue-producing visitor services to be offered in CSUs; and
- d. evaluate and, where necessary amend, commercial visitor service operator selection criteria to accomplish the purposes of ANILCA section 1307.

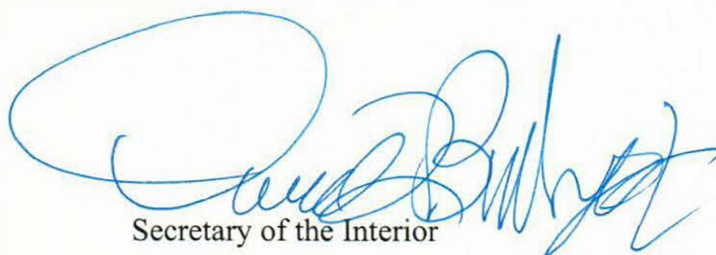
**Sec. 5 Implementation.**

- a. Prior to authorizing any future commercial polar bear viewing-related activities in the Arctic National Wildlife Refuge, and within six months of the date of this Order, the FWS Director shall complete a Polar Bear Commercialization Study to assess the impacts of these activities on the community of Kaktovik, on other affected communities, and on polar bears. The Polar Bear Commercialization Study (Study) shall consider commercial polar bear tourism's impacts on: existing infrastructure and the availability of air transportation to village residents; Iñupiat cultural practices; polar bear habitat and behavior, including habituation to human activities and its effects on the safety of the community in Kaktovik; economic opportunities for the village of Kaktovik and other affected communities; and such other impacts as the FWS Director deems appropriate. In conducting this Study and developing the parameters of a potential permitting program for commercial polar-bear viewing activities, the FWS Director shall solicit and consider information and perspectives from affected tribes, Alaska Native corporations, local residents, and local government officials, and shall ensure that all new and renewed polar bear tourism permits will be issued in accordance with the ANILCA preference for contracting with the local residents and affected Alaska Native corporations.

- b. The Assistant Secretary for Fish and Wildlife and Parks shall, within 60 days of the date of this Order, submit a report to the Deputy Secretary, including:
1. A description of all current visitor service contracts awarded to Alaska Native corporations and local residents through the ANILCA section 1307 preference and all current Federal employee positions for which the ANILCA section 1308 local resident hiring preference was successfully implemented; and
  2. A plan for the NPS and FWS to work with affected Alaska Native corporations and local residents to ensure these entities have a meaningful opportunity to compete for the provision of visitor services in CSUs and to develop any changes to current policies or regulations necessary to increase the number of entities benefiting from the ANILCA Section 1307 preference and the number of local residents benefitting from the ANILCA section 1308 (16 U.S.C. 3198) local hire preference for positions within CSUs.

**Sec. 6 Effect of Order.** This Order is intended to improve the internal management of the Department. This Order and any resulting reports or recommendations are not intended to, and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person. To the extent there is any inconsistency between the provision of this Order and any Federal laws or regulations, the laws or regulations will control.

**Sec. 7 Expiration Date.** This Order is effective immediately. It will remain in effect until its provisions are implemented and completed, or until it is amended, superseded, or revoked.



Secretary of the Interior

Date: January 15, 2021