

Oak Flat, Arizona and the Specific Purpose of Public Land Order 1229: Protection from Mining



INTRODUCTION

In 1955, 760 acres in central Arizona known as the Oak Flat Campground were withdrawn by executive order from all forms of appropriation under the public-land laws, including mining. In so doing, the U.S. Forest Service (USFS) reserved Oak Flat as a campground and recreation area. The protections of this land withdrawal are just as valid today—perhaps more so—than they were fifty years ago. However, pressure from a large foreign-owned mining company seeks to achieve precisely what this executive order clearly sought to prevent: the destruction of the Oak Flat area from mining. This may be accomplished by a legislative land swap ironically called the *Southeast Arizona Land Exchange and Conservation Act of 2005*.

The 1950s

- The Eisenhower Administration issued Public Land Order 1229 (PLO 1229)¹ despite the fact that Oak Flat was situated in the middle of a very active mining district at the time. In fact, an internal 1952 USFS memo written immediately prior to the execution of PLO 1229 reveals that Oak Flat was to be protected even though this very mining-recreation conflict was specifically contemplated. Following specific instructions from the Eisenhower Administration to “formally withdraw recreation areas,” the Forest Supervisor for the Crook National Forest indicated that such withdrawals “should be generally limited to those areas where there is a reasonable possibility of conflict with mining activities.”²
- In 1953 the USFS Regional Office sent a list of recreational areas to the USFS Chief for recommended formal withdrawal. This list included the “Oak Flat Picnic and Camp Ground,”³ and two years later Oak Flat was formally withdrawn through PLO 1229.⁴

¹ See Exhibit A.

² Exhibit B.

³ See Exhibit C.

⁴ Although originally slated to protect 1,200 acres, the protections of PLO 1229 was reduced to 760 acres.

The 1970s

- To facilitate the processing of future land adjustments, in 1971 the Assistant Secretary of the Interior modified PLO 1229 so that “only appropriation under the mining law be precluded.”⁵
- In 1972 the American Smelting and Mining Company asked the USFS if there was a possibility to lift the restrictions of PLO 1229. Regional Forester W. Hurst rejected this request, noting that

the picnic area is still being utilized by large numbers of persons. The need for the withdrawal is just as valid today as it was when imposed. We cannot, therefore, recommend its lifting. Additionally, there is no authority under which we can authorize exploration in the area so long as the withdrawal remains in effect . . . I am convinced . . . that we should not move in the direction of opening the area in question to mining exploration.⁶

- Later in 1972 the Forest Supervisor for the Tonto National Forest, as well as the Assistant Regional Forester for Region 3, agreed that the USFS “has no authority to authorize mineral activity on withdrawn areas” and that in particular PLO 1229 “should not be lifted . . . because of uncertainty as to the effect on the Oak Flat Picnic and Camp Ground.”⁷

The 1980s – 1990s

- During the 1980s the Reagan Administration commenced a policy seeking to open additional public lands to energy and mineral development and to stimulate review of those lands withdrawn or “off-limits” to energy and mineral entry or development. Subsequently, the Bureau of Land Management (BLM) issued an invitation to the public to nominate areas of high mineral interest and use those nominations to identify “Areas of Critical Mineral Potential” (ACMP) as an overlay of existing land use designation in selected areas for priority withdrawal review. The case files for nominated withdrawn areas that became ACMPs were examined to determine whether revocations were warranted.⁸
- Accordingly, mining interests (this time ASARCO, Inc.) again pushed aggressively to open Oak Flat, and the BLM reviewed the case file for PLO 1229 noting that the “high grade mineralization in this area occurs at a depth that would not require surface occupancy other than for the staking of mining claims and a few possible exploration holes.”⁹ Despite the BLM’s apparent endorsement of

⁵ Exhibit D.

⁶ Exhibit E.

⁷ Exhibit F.

⁸ See Exhibit G.

⁹ Exhibit H.

lifting the mining restriction at Oak Flat and an accelerated review of PLO 1229¹⁰ the mining prohibition at Oak Flat remained intact.

- The 1990s saw further efforts by Magma Copper Company (predecessor to the current Oak Flat mining proponent) to conduct exploration under the withdrawn area of Oak Flat,¹¹ but these inquiries also failed to lift PLO 1229's restrictions.

CONCLUSION

Oak Flat was withdrawn in the 1950s for picnickers and campers traveling between Phoenix and Globe, Arizona, and it proved to be an important refuge to decades-worth of recreating Arizonans. Today thousands continue to enjoy this remarkable oasis each year. Oak Flat is a nationally-famous rock climbing site¹² and canyoneering enthusiasts frequent the nearby narrows of Devils Canyon—one of the region's few riparian zones. The Audubon Society ranks Oak Flat as one of its top three birding locations in the Arizona, and jeeping enthusiasts use the area as do local hunting and Boy Scout groups. Native communities continue to use the area for traditional purposes such as gathering pine nuts.

Mining interests have attempted to lift PLO 1229 for over thirty years, but federal decision-makers consistently regarded Oak Flat as too valuable to destroy for mining purposes. The Friends of Queen Creek know that this area remains a vital resource to Phoenicians and other Arizonans seeking relief from the urban sprawl and fast-pace of modern life. Oak Flat should remain protected from the very threat contemplated when the Eisenhower Administration executed PLO 1229 in 1955—devastation from mining.

¹⁰ *Id.*

¹¹ *See* Exhibit I.

¹² The world's largest climbing competition—attracting thousands of Americans nationwide and visitors from eleven countries—has been held at Oak Flat for over fifteen years running.