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**Issues Unique to Drafting Solar Generating Facility
Ground Leases on Arizona State Trust Land**

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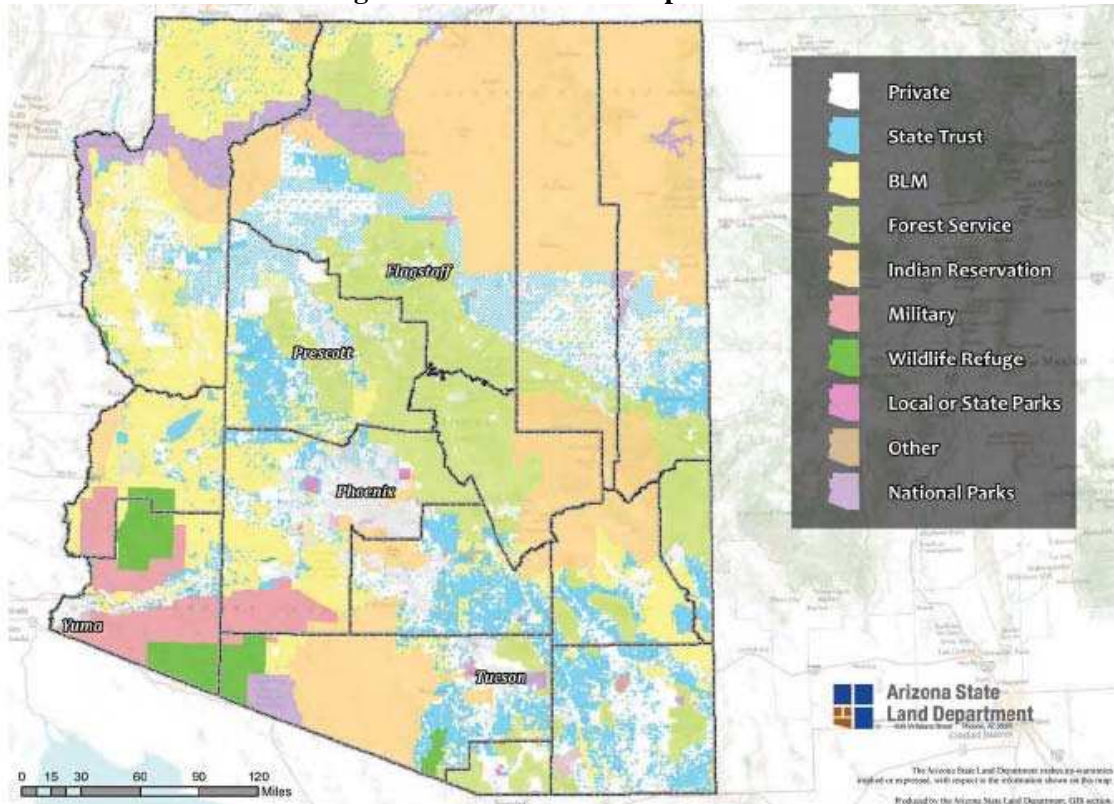
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Categories of Land Ownership in Arizona



The above map has been duplicated from the Arizona State Land Department Annual Report 2010-2011, which contains the color version, and can be found at <http://www.land.state.az.us/report.htm>.

Arizona State Trust Lands



The highlighted areas of the above map are the Arizona State trust lands.

ISSUES UNIQUE TO DRAFTING SOLAR GENERATING FACILITY GROUND LEASES ON ARIZONA STATE TRUST LAND

The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of either the Office of the Arizona Attorney General or the Arizona State Land Department. This information is not intended to be exhaustive nor does it cover all legal issues that may arise in the finalization of a ground lease of Arizona State trust land. The application of legal principles to specific fact situations often requires a case-by-case review by counsel. Finally, legal analysis and ground lease drafting must be continually updated to take into consideration changes in laws and court rulings.

STATE TRUST LAND BACKGROUND

Following is a brief summary which provides background as to how State trust lands were created.

- **Location of State Trust Lands.**

The Territory of Arizona was established on February 24, 1863, by an Act of Congress. This Act granted sections 16 and 36 of each township for the benefit of the Common Schools. Endowment of public lands for educational purposes was a practice established by the Northwest Ordinance in 1787. The State Enabling Act, 36 U.S. Stat. 557, passed on June 20, 1910, (the “Enabling Act”), allowed the territory of Arizona to prepare for statehood. In addition to the previously designated sections of land, the Enabling Act assigned sections 2 and 32 of each township to be held in trust for the Common Schools. The needs of other public institutions were considered by Congress, and through the Enabling Act, more than two million additional acres were originally allocated for their use. Today, the State of Arizona contains approximately 9,250,000 acres of State trust land. (See [Appendix A](#) for a copy of relevant provisions of the Enabling Act.)

Original Land Endowment Pattern

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Land Endowment by Township
Township = 36 Sections
Each Section = 1 Square Mile

The original school section pattern currently exists only in a few locations. About three-quarters of the school section acreage was relocated through selections and exchanges that have consolidated the Trust lands into large blocks in Pinal, Pima, Graham, Greenlee, and Cochise counties in central and southeastern Arizona; north and northwest of Phoenix in Maricopa and Yavapai counties; and in the checkerboard railroad grant zone across Mohave, Yavapai, Coconino, Navajo, and Apache counties. See Arizona State trust lands map on preceding page.

- **State Trust Land Directives Pursuant to the Enabling Act.**

The primary and overriding law providing directives for the management of Arizona State trust land is set forth in the Enabling Act. As articulated in *Forest Guardians v. Wells*, 201 Ariz. 255, 257, ¶ 2, 34 P.3d 364, 366 (2001):

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