

Arizona State Land Department

Assessment of Department's agricultural leasing process, groundwater reporting mechanisms, and Fondomonte's leases

Department's agricultural leasing process does not fully align with recommended practices; its agricultural leases including with Fondomonte are below market rates and do not require reporting of or payment for groundwater use; and it failed to adjust rental rates for 17 years resulting in more than \$3 million less in potential revenue in calendar year 2023

Special Audit

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Report 24-101

A Report to the Arizona Legislature

Lindsey A. Perry
Auditor General





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February 22, 2024

Members of the Arizona Legislature

The Honorable Katie Hobbs, Governor

Ms. Robyn Sahid
Cabinet Executive Officer and Executive Deputy Commissioner
Arizona State Land Department

Transmitted herewith is the Auditor General's report, *A Special Audit of the Arizona State Land Department—Assessment of Department's agricultural leasing process, groundwater reporting mechanisms, and Fondomonte's leases*. This report is in response to a November 21, 2022, resolution of the Joint Legislative Audit Committee and was conducted under the authority vested in the Auditor General by Arizona Revised Statutes §41-1279.03. I am also transmitting within this report a copy of the Report Highlights to provide a quick summary for your convenience.

As outlined in its response, the Arizona State Land Department agrees with all the findings and plans to implement all the recommendations. My Office will follow up with the Arizona State Land Department in 6 months to assess its progress in implementing the recommendations. I express my appreciation to Cabinet Executive Officer and Executive Deputy Commissioner Sahid and Department staff for their cooperation and assistance throughout the audit.

My staff and I will be pleased to discuss or clarify items in the report.

Sincerely,

Lindsey A. Perry

Lindsey A. Perry, CPA, CFE
Auditor General

Arizona State Land Department Assessment of Department's agricultural leasing processes, groundwater reporting mechanisms, and Fondomonte's leases

Department's agricultural leasing process does not fully align with recommended practices; its agricultural leases including with Fondomonte are below market rates and do not require reporting of or payment for groundwater use; and it failed to adjust rental rates for 17 years resulting in more than \$3 million less in potential revenue in calendar year 2023

Special audit purpose

To address whether the Department's process for determining agricultural rental rates is aligned with peer states and best practices; appropriate reporting mechanisms for groundwater pumping especially by foreign leases; whether the contracts between Fondomonte Arizona, LLC (Fondomonte) and the Department provide lease costs for land and water below market rates; and whether the contracts between Fondomonte and the Department adequately address the issue of protecting water levels in the basin.

Key findings

- Department leases agricultural State trust land to generate revenue for trust beneficiaries, such as K-12 public schools. The Department has entered into 5 leases for agricultural State trust land in 2 groundwater basins in La Paz County with Fondomonte, a subsidiary of a company headquartered in Saudi Arabia
- Department processes for setting agricultural rental rates include some components of recommended practices we reviewed, such as valuing land. However, its processes do not fully align with all recommended practices, such as providing discounts based on the actual costs of lessee improvements. Additionally, Department processes are consistent with some peer states, but peer state practices vary.
- Department policy for establishing agricultural rental rates for farmable State trust land requires a mass appraisal to determine the land's market rental rate and to set farmable rental rates 50 percent below the market rental rate.
- Department failed to conduct a mass appraisal at least once every 10 years as required by statute, did not adjust rental rates over a 17-year period, and incorrectly charged some lessees, resulting in more than \$3.4 million less in potential revenue for trust beneficiaries in calendar year 2023.
- Our review of peer state and recommended practices did not identify relevant groundwater-pumping-reporting mechanisms, and the Department does not require foreign or domestic agricultural lessees to report groundwater use to it.
- Department agricultural leases, including with Fondomonte, provide lease costs for land below market rates, do not require payment for water use, and do not include provisions to protect water basin levels.

Key recommendations

The Department should:

- Conduct a mass appraisal of agricultural State trust land that complies with statutory requirements and update its agricultural rental rates accordingly.
- Consider and identify ways to align its agricultural leasing processes to recommended practices.



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INTRODUCTION

The Arizona Auditor General has completed a special audit of the Arizona State Land Department's (Department) agricultural leasing process, pursuant to a November 21, 2022, resolution of the Joint Legislative Audit Committee. As outlined in the resolution, this report addresses:

- Whether the Department's process for determining agricultural rental rates is aligned with peer states and best practices.
- Appropriate reporting mechanisms for groundwater pumping, especially by foreign leases.
- Whether the contracts between Fondomonte Arizona, LLC (Fondomonte) and the Department provide lease costs for land and water below market rates (see pages 3 and 4 for more information on Fondomonte and its leases with the Department).
- Whether the contracts between Fondomonte and the Department adequately address the issue of protecting water levels in the basin.

Department is authorized to lease State trust land for various purposes, including agriculture, which generates revenue for trust beneficiaries

The Department was established in 1915 to manage and control 10.9 million acres of State trust land that was established by the Arizona-New Mexico Enabling Act of 1910 to financially support the public services provided by the trust beneficiaries (see textbox). According to the Department, as of calendar year 2023, it manages 9.2 million acres of State trust land. The State Land Commissioner, established by Arizona Revised Statutes (A.R.S.) §37-131, is the Department's executive officer.¹

A.R.S. §37-132 emphasizes that the Department's administration of State trust land be in the trust's best interest. According to the Department's fiscal year 2023 annual report, the Department generated \$444 million in revenue for trust beneficiaries. Specifically, the Department reported \$359 million in revenue from the sale of land and long-term leases and \$85 million from other sources, such as interest and short-term leases.

State trust land beneficiaries

- Arizona Department of Corrections, Rehabilitation and Reentry
- Arizona Department of Juvenile Corrections
- Arizona Pioneers' Home
- Arizona School for the Deaf and Blind
- Arizona State Hospital
- Arizona State University
- K-12 public schools
- Northern Arizona University
- State Legislative, Executive, and Judicial Buildings
- The University of Arizona

Source: Auditor General staff review of the Department's website.

¹ As of December 2023, the Department had a cabinet executive officer and executive deputy commissioner, who was appointed by the Governor on September 25, 2023.

A.R.S. §37-281 authorizes the Department to lease State trust land for agricultural, commercial, or homesite purposes.^{2,3} For the purposes of this special audit, we focused on the Department's leasing of agricultural State trust land. According to Arizona Administrative Code (AAC) R12-5-702, the term of an agricultural lease is not more than 10 years. Rule sets a minimum rent for an agricultural lease at \$10 per year and prohibits rental rates lower than \$1 per acre per year.⁴ The Department and the State Land Commissioner have the following specific responsibilities for leasing agricultural State trust land:

- A.R.S. §37-132 authorizes the State Land Commissioner to classify and appraise State trust land and improvements on State trust land for various purposes, including leasing. According to A.R.S. §37-282.01, the appraisal process includes a mass appraisal and requires the State Land Commissioner to reappraise mass appraisals for State trust land that have not been adjusted at least every 10 years and authorizes the State Land Commissioner to adjust the mass appraisal at any time if the State Land Commissioner determines that significant changes in market conditions or technology have occurred, or other conditions have changed that would materially affect the valuation of State trust land (see Chapter 1, pages 5 and 6, for more information about mass appraisals). According to A.R.S. §37-132, the State Land Commissioner may also impose conditions and covenants deemed to be in the trust land beneficiaries' best interest.
- A.R.S. §37-285(A) requires the Department to charge a rental rate not less than the appraised rental value of the leased land and allows the Department to adjust the rental rate each year of the lease.

As of October 1, 2023, the Department had 337 active agricultural lease agreements with 237 lessees, encompassing nearly 152,940 acres of State trust land (see Appendix A, pages a-1 through a-17, for more information on active agricultural lessees). The Department reported that it allocates rental payments from agricultural leases to trust beneficiaries as part of the trust's expendable fund. According to the Department's fiscal year 2023 annual report, approximately \$4.3 million of the \$444 million in revenues the Department generated came from agricultural rental payments.

Department provides agricultural lessees access to groundwater on State trust land

State laws regulate the use of groundwater in some areas of the State, including Active Management Areas (AMAs) and Irrigation Non-Expansion Areas (INAs), and the Arizona Department of Water Resources (ADWR) has various statutory responsibilities related to groundwater regulation.^{5,6} Although the Department is not responsible for groundwater regulation, according to its standard agricultural lease, lessees have access to pump and use groundwater on State trust land for any purposes consistent with the lease and in compliance with State laws regulating groundwater. As such, agricultural lessees of State trust land located within an AMA or INA are required to report groundwater use to ADWR in accordance with ADWR's AMA management plans and INA statutes.

² According to A.R.S. §37-101, agricultural lands are those that can be used principally for raising crops, fruits, grains, and similar farm products, as well as for the controlled propagation, growth, and harvest of algae; commercial lands are those that can be used principally for business, institutional, religious, charitable, governmental, or recreational purposes, or any general purpose other than agricultural, grazing, mining, oil, homesite, or rights-of-way; and homesite lands are those suitable for residential purposes.

³ The Department does not have statutory authority related to leasing private property.

⁴ AAC R12-5-702(D).

⁵ A.R.S. §45-101 defines groundwater as water under the surface of the earth regardless of the geologic structure in which it is standing or moving. Groundwater does not include water flowing in underground streams with ascertainable bends and banks.

⁶ A.R.S. §45-402 defines an AMA as a geographical area that has been designated as requiring active management of groundwater and defines an INA as a geographical area that has been designated as having insufficient groundwater to provide a reasonably safe supply for irrigation at the current rate of withdrawal.

Department leased agricultural State trust land in 2 groundwater basins to Fondomonte, and some leases have been canceled or will not be renewed

Department had entered into 5 agricultural leases with Fondomonte—As of October 1, 2023, the Department had entered into 5 agricultural leases with Fondomonte, a limited liability company headquartered in Arizona that is a subsidiary of a food and beverage company headquartered in Saudi Arabia.^{7,8} The 5 Department leases with Fondomonte encompassed 6,608 acres of State trust land located in La Paz County, making Fondomonte the second largest lessee of Department agricultural State trust land by total acres leased (see Figure 1, page 4).⁹ The Department and Fondomonte first entered into 1 lease in February 2014 and then 4 leases in March 2015.¹⁰ In calendar year 2021, the Department and Fondomonte renewed the lease that was first entered into in February 2014.

Fondomonte’s agricultural land leases are located in 2 separate groundwater basins—Four of the Department’s agricultural leases with Fondomonte comprise 3,520 acres in the Butler Valley Basin and 1 agricultural lease of 3,088 acres is in the Ranegras Plain Basin (see Figure 1, page 4). Butler Valley Basin and Ranegras Plain Basin are not classified as AMAs or INAs, and lessees within these groundwater basins do not have external groundwater-reporting requirements to other agencies. However, A.R.S. §45-553 classifies Butler Valley Basin as a transportation basin, which means the groundwater may be transported to provide water to an initial AMA.¹¹ According to a 2023 ADWR supply and demand report for the Butler Valley Basin, the agricultural sector accounted for 99 percent of groundwater demand in the basin between 1990 and 2022 and primarily produces alfalfa.

Department identified lease violations and, as of November 2023, canceled or will not renew 4 of 5 leases with Fondomonte—In November 2016, the Department sent Fondomonte a notice of default for its 4 Butler Valley Basin leases because inspections it conducted in September and October 2016 identified 14 lease violations, including the placement of unauthorized wells, nonpermitted irrigation systems, improper fuel storage, and improper waste disposal. The Department notified Fondomonte it would cancel the leases unless Fondomonte agreed to terms correcting the leases’ violations within 30 days. Fondomonte agreed to revised terms in December 2016. Approximately 7 years later, during an August 2023 inspection, the Department found Fondomonte had failed to comply with a term related to the 2016 default notice for 1 of the leases. In October 2023, the Department canceled 1 lease due to the violation and notified Fondomonte it did not intend to renew the remaining 3 agricultural leases in the Butler Valley Basin. According to the notice, the Department determined that renewing the Butler Valley Basin leases, which all expire in February 2024, would not be in the State’s best interest.

⁷ The Department uses a standard agricultural lease, including for its agricultural leases with Fondomonte.

⁸ Fondomonte is a limited liability company headquartered in Arizona registered with the Arizona Corporation Commission. Fondomonte is a subsidiary company of Almarai, a dairy, food, and beverage manufacturer and distributor headquartered in Saudi Arabia, according to the Almarai 2022 annual report. As of October 2023, Fondomonte was listed in good standing with the Arizona Corporation Commission.

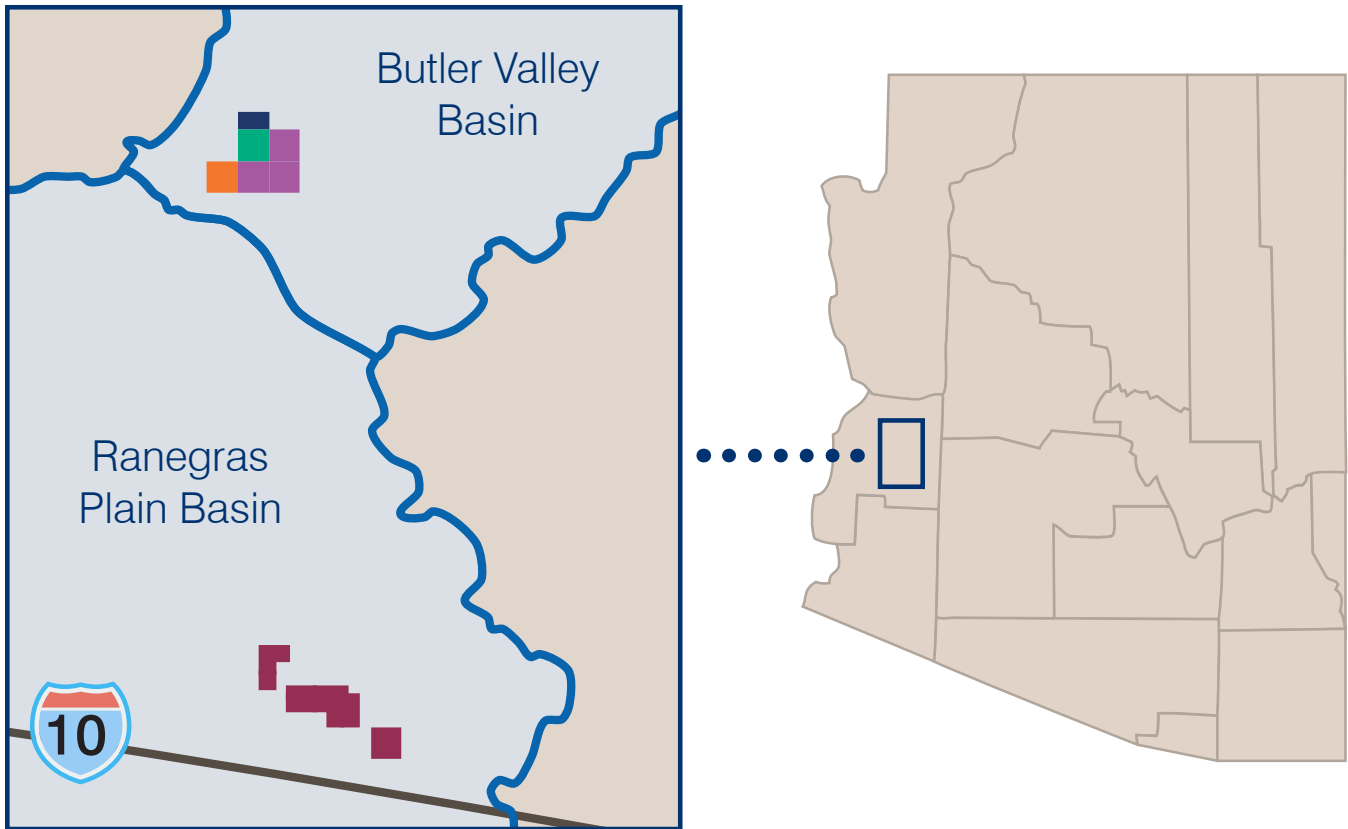
⁹ The largest Department agricultural lessee leases approximately 3,800 acres more than Fondomonte.

¹⁰ All 5 leases were assigned to Fondomonte by previous Department lessees for the remainder of the lease terms. Specifically, 1 lease in the Ranegras Plain Basin was assigned to Fondomonte by Vicksburg Ranch for the remaining lease term of February 2014 to February 2021. Four leases in the Butler Valley Basin were assigned to Fondomonte by FSI Butler Valley LLC for the remaining term of March 2015 to February 2024. A.R.S. §37-286 authorizes lessees of State trust land who are not in default of their lease to assign their lease to another party with the Department’s written consent. A lease assignment is when a lessee transfers its interests and obligations under a lease to a third party for the remainder of the lease term.

¹¹ According to A.R.S. §§45-411 and 45-411.03, the 5 initial AMAs are the Tucson AMA, Phoenix AMA, Prescott AMA, Pinal AMA, and Santa Cruz AMA. In addition to the 5 initial AMAs, according to A.R.S. §45-412, the ADWR director can designate subsequent AMAs. Additionally, according to A.R.S. §45-415(A), a groundwater basin not included within an initial AMA may be designated an AMA on petition by 10 percent of registered voters residing within the boundaries of the proposed AMA and a subsequent election. As of December 1, 2022, the Douglas Basin in Cochise County was designated as a subsequent AMA.

Figure 1

Department had entered into 5 agricultural leases with Fondomonte in 2 groundwater basins in La Paz County and reported various lease statuses as of November 2023



Lease #	Crops ¹	Total acreage	Effective date	Expiration date	Lease status ²
01-40306	Alfalfa, corn, and Bermuda grass	3,088.43	2/24/14 ³	2/14/2031	Good standing
01-97431	Alfalfa and corn	1,920.00	3/6/15	2/14/2024	Not renewable
01-94820	Alfalfa	640.00	3/6/15	2/14/2024	Not renewable
01-98258	Alfalfa	640.00	3/6/15	2/14/2024	Canceled
01-95645	Alfalfa	320.00	3/6/15	2/14/2024	Not renewable
Total acres leased		6,608.43			

¹ Crop information was reported to the Department by the lessee.

² Lease status according to Department documents as of November 2023.

³ Lease 01-40306 was renewed in calendar year 2021.

Source: Auditor General staff review of the Department’s leases with Fondomonte, Fondomonte’s agricultural questionnaires, and Geographic Information System maps from the Department and ADWR.



Department's process for determining agricultural rental rates does not fully align with all recommended practices but includes some components and, although peer state practices vary, is consistent with some peer states

LEGISLATIVE REQUEST: To address whether the Department's process for determining agricultural rental rates is aligned with peer states and best practices.

CONCLUSION: The Department sets rental rates for farmable State trust land at 50 percent below market rates to account for lessees' land management and ownership of improvements. The Department's process for determining agricultural rental rates does not fully align with all recommended practices we reviewed but includes some components, such as valuing land and providing discounts for lessee improvements. Further, some Department practices for determining agricultural rental rates are consistent with some peer states, but peer states use a variety of practices for establishing agricultural state trust land rental rates. For example, similar to some peer states, Arizona bases rental rates on land value, but other states use historical information and crop production to determine rental rates. Finally, similar to 3 peer states, Arizona reduces rental rates to account for land improvements, but unlike 2 of these states, Arizona provides a flat-rate discount to rental rates, and the 2 states reported reducing rental rates based on the value of the improvements.

Department sets rental rates for farmable trust land at 50 percent below market rental rates to account for lessees' land management and ownership of improvements

According to A.R.S. §37-285(A), an agricultural lease must provide an annual rental rate of no less than the appraised rental value of the land.¹² The Department has 2 types of agricultural rental rates based on whether the leased acres are farmable, meaning the lessee has irrigation water available to grow a commercial crop, or unfarmable, meaning nonagricultural use acres such as roads and ditches.¹³ The Department requires lessees to annually report the number of farmable and unfarmable acres to calculate the lessee's annual rent. The Department charges \$5 per unfarmable acre. To set the agricultural rental rates for farmable acres, the Department:¹⁴

- **Uses a mass appraisal to estimate market rental rates per farmable acre**—The Department uses a mass appraisal to estimate the typical rental rates per acre charged by lessors in the private market (market rental rates) for each of the 23 Department-established farm areas throughout the State (see textbox for

¹² Statute does not define appraised rental value.

¹³ Farmable acres also include acres that are fallow, which generally refers to cultivated land that is allowed to lie idle during the growing season.

¹⁴ According to Department documentation, its process for setting agricultural rental rates was established in 1980.

a definition of mass appraisal and farm area, and Appendix B, pages b-1 through b-4, for a map of the Department's farm areas and farm area descriptions). According to Department policy, its mass appraisal should consider market transaction data and the influence of the physical characteristics of each farm area as part of estimating market rental rates.¹⁵ A.R.S. §37-282.01 requires the State Land Commissioner to adjust a mass appraisal at any time if the State Land Commissioner determines that significant changes in market conditions or technology have occurred.¹⁶ This statute also requires the State Land Commissioner to reappraise any mass appraisal that has not been adjusted in a 10-year period. The Department's most recent mass appraisal was conducted in 2005 (see Chapter 2, pages 10 through 13, for issues we identified related to the Department's compliance with statutory requirements for mass appraisals).

- **Mass appraisal**—An appraisal that the State Land Commissioner proposes to use to set rental rates or fees for multiple applications for a specific use of State trust lands, such as agriculture; by lease, permit, or right-of-way grant; and conducted at least once every 10 years.
- **Farm area**—An area of the State in which agricultural State trust land shares similar physical characteristics that impact the productivity of agricultural activity, such as soils, water, and climate, among other factors.

Source: Auditor General staff review of A.R.S. §37-282.01, Department policy, and Department's 2005 mass appraisal.

- **Sets its rental rate per farmable acre at 50 percent below market rental rates to account for lessees' land management and ownership of improvements**—According to Department policy, agricultural rental rates for farmable acres are set at 50 percent below the market rental rates established by its mass appraisal.^{17,18} For example, if the mass appraisal estimated a market rate of \$40 per farmable acre in a farm area, the Department would set its rental rate in that farm area at \$20 per farmable acre. The Department reported its rental rates are set at 50 percent below the market rate because it does not provide land management services to lessees that private lessors typically provide, including land clearing and leveling or well installation. Additionally, according to A.R.S. §37-321 and the Arizona Constitution, Article X, §10, lessees of State trust land own the improvements they make on the land that are approved by the Department. Further, according to a 2008 third-party study commissioned by the Department, the Department's lease terms require lessees to assume more responsibility for constructing, maintaining, and otherwise paying for improvements than those typically found in the private market.¹⁹ The Department reported that it considers the adjusted market rental rates to be the appraised rental value of agricultural State trust land.

As of December 2023, the Department reported it was reassessing its agricultural leasing processes, including the 50 percent adjustment, to identify areas for improvement.

¹⁵ Department policy outlines characteristics such as soil quality, availability and cost of irrigation, and presence of high-value specialty crops.

¹⁶ A.R.S. §37-282.01 further specifies the mass appraisal may also be adjusted if the State Land Commissioner determines other changed conditions have occurred that would materially affect the valuation of land uses subject to the mass appraisal.

¹⁷ The Department-established market rental rate discount is not established in statute or rule.

¹⁸ Department policy requires the State Land Commissioner to set agricultural rental rates annually.

¹⁹ The Department obtained 2 independent studies of its practice of setting rental rates 50 percent below market rates. Specifically, a 2008 study found it would be reasonable for the Department to consider retaining its practice of setting rates 50 percent below market rates. A separate 2019 study found the Department's practice of setting rates 50 percent below market rates could be maintained in most farm areas without sacrificing revenue to the trust while still being equitable to tenant farmers, but that the 50 percent rental discount could be reasonably decreased to less than 50 percent in 2 farm areas.

Department's process for determining agricultural rental rates does not fully align with all recommended practices we reviewed but includes some components, such as valuing land and providing discounts for lessee improvements

We compared the Department's practices for setting agricultural rental rates to agricultural leasing practices developed by 2 universities' extension offices, a legal journal, an agricultural law research center, and a nonprofit that establishes guidelines for federal government appraisals.²⁰ The Department's process for determining agricultural rental rates does not fully align with all recommended practices we reviewed but includes some components. For example, the Department:

- **Values land using an appraisal to establish rental rates in mass rather than appraising specific land to be leased**—According to recommended practices, land should be valued to establish fair and equitable rental rates, and the recommended practices we reviewed outlined several methods for valuing specific land for leasing purposes.²¹ For example, recommended practices from The Appraisal Foundation indicate that appraisals can be used to determine the market value of specific land. Additionally, the University of Vermont Extension School and Michigan State University Extension identified using comparable lease data and agricultural data produced by the federal government as methods to value specific land to be leased. Although the Department uses a mass appraisal to estimate the value of agricultural State trust land, its process estimates market rental rates for 23 geographic areas of the State rather than valuing individual specific land to be leased.
- **Considers some characteristics that may impact value when valuing the land**—According to The Appraisal Foundation and the University of Vermont Extension School, the process to determine land market value should include physical characteristics of the land, such as where the land is located, the acreage of the land, the quality of the soil, and whether the land has been prepared for agricultural purposes. According to The Appraisal Foundation, features that increase the value of the land and should be considered in an appraisal include water availability and improvements to the land. Consistent with these recommendations, the Department's mass appraisal considers characteristics such as soil quality, availability of irrigation, and presence of high-value specialty crops. However, the Department's mass appraisal does not consider whether improvements were made to specific segments of leased land within a farm area.
- **Provides discounts to account for lessee improvements but does not provide these discounts based on lessees' incurred improvement costs**—According to the University of Vermont Extension school, Michigan State University Extension, and the Drake Journal of Agricultural Law, when a lessee incurs costs for improvements on leased land, such as drilling a well, it is appropriate to provide reimbursement to the lessee, such as through a discount to the rental rate.²² For example, according to the University of Vermont Extension, the lessor can discount the rental rate over the lease term to account for

²⁰ We reviewed recommended practices from Michigan State University Extension, University of Vermont Extension School, Drake Journal of Agricultural Law, National Agricultural Law Center, and The Appraisal Foundation. The Appraisal Foundation is a nonprofit authorized by the United States Congress to set appraisal standards for federal agencies. See Appendix E, page e-1, for more information about the recommended practices we reviewed.

²¹ Cannella, M., & Waterman, B. (2014). *How to determine the right farm rental rate*. University of Vermont Extension. Retrieved 8/7/2023 from <https://www.uvm.edu/newfarmer/land/RentalGuide.pdf>; Kelley, L. (2009). *Irrigation aspects of land lease agreements*. Michigan State University Extension. Retrieved 8/3/2023 from <https://www.canr.msu.edu/uploads/235/67987/lyndon/LandRent.pdf>; The Appraisal Foundation. (2016). *Uniform appraisal standards for federal land acquisitions*. Washington, DC. Retrieved 11/15/2023 from <https://www.justice.gov/enrd/page/file/1537351/download>.

²² Cox, E. (2011). A lease-based approach to sustainable farming, part II: Farm tenancy trends and the outlook for sustainability on rented land. *Drake Journal of Agricultural Law*, 16(1), 5-30. Retrieved 12/7/2023 from <https://aglawjournal.wp.drake.edu/wp-content/uploads/sites/66/2016/09/agVol16No1-Cox.pdf>; Kelley, 2009; Cannella & Waterman, 2014.

the lessee's investment in the improvement.²³ The Department provides a 50 percent flat-rate discount to market rental rates for all leases because it does not own nor make improvements to the land, such as land clearing and leveling or well installation. As such, the Department's flat-rate discount does not consider individual agricultural lessees' incurred improvement costs.

- **Uses cash rent, which can provide more stable revenue returns than crop-based rent**—According to Michigan State University Extension and the National Agricultural Law Center, fixed cash rents, where the lessee pays a predetermined rent amount, offer the landowner more predictable and stable revenue returns compared to rent based on crops.²⁴ Specifically, for rent based on crops, where the tenant pays the landowner a portion of the crops or the crop profits, returns are less stable and vary based on the quantity of crop produced and the price of the crop. The Department charges lessees an annual cash rent based on the farm area the lease is located in. However, the Department's cash rents charged for each lease are not predetermined and can vary annually based on the number of leased acres that the lessee reports are farmable.

Some Department practices for determining agricultural rental rates are consistent with some peer states, but peer states use a variety of practices for determining these rates

We reviewed state trust land agencies' processes for establishing rental rates for agricultural leases on state trust land for the 6 other states in the Colorado River Basin: California, Colorado, Nevada, New Mexico, Utah, and Wyoming (see Appendix C, pages c-1 through c-5, for more information on each state's process).²⁵ Nevada's state trust land agency reported that, as of January 2024, it does not have any agricultural leases. Although the remaining 5 states have a variety of practices for determining state trust land agricultural rental rates, the Department's practices are consistent with some of these states' practices. For example:

- **Similar to some states, Arizona bases rental rates on land value, but other states use historical information and crop production to determine rental rates**—As previously discussed, Arizona uses a mass appraisal process that estimates the rental value of the land to determine rental rates for 23 Department-established farm areas. Similarly, Wyoming and California can use an appraisal to determine rental rates by calculating the market sale value of the specific land and charging lessees a percentage of this value.²⁶ For example, Wyoming reported that it bases some rental rates on 4 percent of the market sale value of the land while California reported that it bases some rental rates on 9 percent of this value.²⁷ Further, Utah reported that it reviews market rental values to determine its rental rates.

However, New Mexico reported that it inspects the land to be leased and refers to historical leasing information to set its rental rates. Further, Colorado uses crop production to determine its rental rates. Wyoming and California can also use crop production for determining rental rates. For example, Wyoming reported that it inspects some leased lands' average crop production to determine the rental rate, and

²³ According to recommended practices, discounts for the cost of the improvement can be offered for permanent improvements because the landowner retains ownership of the improvements after the lease term. However, per A.R.S. §37-321 and Arizona Constitution, Article X, §10, lessees of State trust land own the improvements they make on the land that are approved by the Department.

²⁴ LaPorte, J., MacKellar, B., & Pennington, D. (2023). *Farmland rent considerations*. Michigan State University Extension. Retrieved 1/4/2024 from https://www.canr.msu.edu/farm_management/uploads/files/Farmland%20Rent%20Considerations%20Factsheetv3.pdf; National Agricultural Law Center (n.d.). *Agricultural leases: An overview*. Retrieved 12/7/2023 from <https://nationalaglawcenter.org/overview/agleases/>.

²⁵ We also reviewed the U.S. Bureau of Land Management's process for establishing rental rates for agricultural leases. According to U.S. Bureau of Land Management offices in Arizona, as of January 2024, they do not lease land for agricultural purposes.

²⁶ Wyoming and California reported using various processes to establish agricultural rental rates on state trust land, including basing rates on the value of the land or basing rates on crop production. For example, Wyoming bases its agricultural rental rates on the value of the land for irrigated cropland and charges based on crop production for nonirrigated cropland. According to the U.S. Department of Agriculture, irrigated cropland normally receives or has the potential to receive water by artificial means to supplement natural rainfall, and nonirrigated cropland only receives water by natural rainfall.

²⁷ These percentages are established in Wyoming's state trust land agency's guidance documents and in California's Code of Regulations.

California reported that it can determine the rental rate based on a percentage of the lessee's annual revenue from selling crops produced on leased land.

- **Similar to 3 states, Arizona reduces rental rates to account for land improvements, but unlike 2 of these states, Arizona provides a flat-rate discount to rental rates, and these 2 states reduce rental rates based on improvements' value**—As previously discussed, Arizona reduces the market rental rates established by the mass appraisal by 50 percent to account for lessee land management and ownership of improvements. Similarly, Colorado provides a \$40 per acre discount to applicable leases with lessee-owned improvements.²⁸ Additionally, Utah and Wyoming reported that they reduce rental rates based on improvements to the leased land.²⁹ However, unlike Arizona's and Colorado's practices of providing a single percentage/fee reduction for all leases, Utah and Wyoming reported they base lease reductions on the value of the improvements added to the land, such as the cost of adding wells and irrigation systems.³⁰

Recommendation

1. The Department should continue to review its agricultural leasing processes, including its 50 percent discount, and consider and identify ways to align its processes to recommended practices, such as providing discounts based on the cost of the improvement.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendation.

²⁸ Colorado's procedures state that the \$40 per acre discount is applicable to leases of irrigated land where the Colorado state trust land agency owns the water. Further, these procedures do not establish limits on the \$40 per acre discount. In calendar year 2023, the minimum rate a Colorado lessee that received the \$40 per acre discount could have been charged was approximately \$89 per acre.

²⁹ Utah's state trust land agency reported that discounts for improvements are provided on a case-by-case basis.

³⁰ As discussed in footnote 26, Wyoming's agricultural rental rates vary depending on whether the leased land is irrigated or nonirrigated. For nonirrigated crop land, Wyoming reported providing a 20 percent rent reduction to all lessees to account for lessee improvement contributions.



Department failed to conduct mass appraisals or adjust rental rates over 17-year period and incorrectly charged some lessees, resulting in more than \$3.4 million less in potential revenue for trust beneficiaries in calendar year 2023

BACKGROUND: While performing our work to understand the Department's lease-rate-setting processes for Chapter 1, we also assessed whether the Department complied with statutory and policy requirements related to setting agricultural rental rates. Chapter 2 outlines Department noncompliance with statutory and policy requirements in several areas for determining and charging agricultural rental rates.

Department failed to conduct mass appraisals and adjust rental rates over a 17-year period, did not charge some lessees the appropriate rental rates, and lacked information necessary to accurately calculate some lessees' annual rent

Our review of the Department's practices for setting and charging agricultural rental rates found it inconsistently followed statutory and Department policy requirements. Specifically, the Department:

- **Did not conduct a mass appraisal at least every 10 years, as required by statute, and had not updated agricultural rental rates over a 17-year period**—As reported in Chapter 1, pages 5 and 6, the Department bases its agricultural rental rates on a mass appraisal. A.R.S. §37-282.01(G) requires the State Land Commissioner to reappraise any mass appraisal that has not been adjusted in a 10-year period. However, although the Department completed a mass appraisal in 2005, it failed to reappraise this mass appraisal 10 years later in 2015. Department staff could not identify a reason why the Department did not reappraise its mass appraisal in 2015.

Further, in March 2019, the Department obtained a study of 2018 agricultural market rental rates (2018 market study) that it reported it considers a mass appraisal. Even though the Department considers the 2018 market study a mass appraisal, it does not meet the statutory requirements of a mass appraisal. For example, contrary to A.R.S. §37-282.01(A), the Department could not demonstrate that the State Land Commissioner provided stakeholders with written notice and the opportunity to comment before undertaking the 2018 market study.

Additionally, the Department's 2018 market study estimated that market rental rates had increased from those estimated by the Department's 2005 mass appraisal in 21 of 23 Department farm areas, including increases of more than 200 percent in 5 farm areas (see Chapter 1, pages 5 and 6, and Appendix B, pages b-1 through b-4, for more information on the Department's farm areas).³¹ However, as of November 2023, the Department had not adjusted its agricultural rental rates since 2006. Department staff could not identify

³¹ The Department's 2018 market study estimated that in 2 of 23 Department farm areas, market rental rates had decreased by 4 to 5 percent from those estimated by the Department's 2005 mass appraisal.

a reason why the former State Land Commissioner did not update agricultural rental rates based on the 2018 market study.³²

- **Charged incorrect rental rates for 2 of 22 leases we reviewed and failed to charge 1 lessee for subleasing**—Our review of a sample of 22 of the Department’s 337 active agricultural leases as of October 2023 found that the Department incorrectly assigned 3 leases to farm areas inconsistent with their geographic location.^{33,34,35} Two of the 3 leases were assigned to a farm area that had a lower rental rate than the farm area in which they were located.³⁶ The Department may have assigned these leases to the incorrect farm areas because the Department lacks policies and procedures for assigning leases to farm areas. Additionally, the Department’s farm areas map lacks detailed and specific boundaries; does not include the boundaries for 2 of its 23 farm areas, including the farm area the 2 undercharged leases should have been assigned to; and was last updated in 2016 (see Appendix B, pages b-1 through b-4, for the Department-provided farm areas map and farm area descriptions). Further, the Department does not have a process to review and update its farm areas.³⁷

Further, the Department reported that, consistent with A.R.S. §37-283, agricultural lessees that sublease land are subject to an additional charge equal to 25 percent of the annual rent.³⁸ For 1 of the 22 leases that we reviewed, the lessee reported to the Department that it was subleasing the land during calendar years 2021 through 2023, but the Department did not consistently apply the 25 percent subleasing charge.³⁹ Specifically, the Department included the 25 percent subleasing charge in the lessee’s annual rent for calendar year 2023 but did not do so for calendar years 2021 and 2022. Although the Department’s agricultural leases require lessees to obtain prior approval from the Department to sublease land, and it requires lessees to report whether they are subleasing land on an annual basis, it lacks policies and procedures for charging lessees when they sublease agricultural land, including steps for its staff to ensure that the 25 percent subleasing charge is applied. The Department’s lack of policies and procedures may have contributed to the Department not applying the 25 percent subleasing charge to this lessee during 2 years.

- **Did not receive all required information about farmable and unfarmable acres from lessees necessary for it to calculate rent for 12 of 22 leases we reviewed**—The Department calculates annual rent for its agricultural leases using the farmable and unfarmable acreage lessees report on an agricultural questionnaire that, according to the Department’s agricultural leases, lessees are required to complete annually (see Chapter 1, page 5, for more information on farmable and unfarmable acres). From calendar years 2021 through 2023, the Department did not receive at least 1 of the required annual agricultural questionnaires for 12 of 22 leases we reviewed and thus may not have had the most up-to-date information

³² We reviewed Department email communications related to agricultural rental rates and the 2018 market study and did not identify documentation that would explain why the former State Land Commissioner did not update agricultural rental rates based on the 2018 market study. Additionally, we contacted the former State Land Commissioner to request an interview, and the former State Land Commissioner reported not remembering details related to updating agricultural rental rates and did not respond to a second request for an interview.

³³ As of October 1, 2023, the Department had 337 active agricultural leases. We judgmentally selected and reviewed all 5 agricultural leases between Fondomonte and the Department and 2 agricultural leases in transportation basins with similar acreage to Fondomonte’s leases because the special audit scope required us to evaluate Fondomonte’s leases. We also reviewed a random sample of 15 of the Department’s remaining 330 agricultural leases.

³⁴ As discussed in Chapter 1 (see pages 5 and 6) and according to Department policy, its rental rates are based on the farm area in which the leased land is located.

³⁵ The 3 lessees associated with these leases were Barnes Farm, LLC, Cocopah Nurseries of Arizona, Inc., and Silver Canyon Nurseries Inc.

³⁶ The remaining lessee did not report using any farmable acres. The Department did not overcharge or undercharge the lessee as the Department has a set rate of \$5 per acre for unfarmable land.

³⁷ We will further review the Department’s land classification, including farm areas, as part of the Department’s sunset review, which is statutorily required to be completed by October 1, 2025.

³⁸ A.R.S. §37-283 specifically outlines a 25 percent charge for subleasing by grazing lessees. However, the Department reported that it applies the same subleasing charge to agricultural lessees.

³⁹ The lessee was “Patricia A. Sprawls, Gregory E. Sprawls, and Conner R. Sprawls.”

about the farmable and unfarmable acres lessees were leasing.⁴⁰ For example, the Department did not receive any agricultural questionnaires during this time period for 2 of these 12 leases.⁴¹ The Department reported that historically when it did not receive an annual agricultural questionnaire from a lessee, it used the most recently reported farmable and unfarmable acres to calculate the lessee's annual rent.⁴² Although the Department has policies requiring it to annually send each of its lessees an agricultural questionnaire, its policy lacks procedures or requirements for Department staff to follow up with lessees who do not respond or take other actions to ensure lessees comply with the requirement to submit an annual questionnaire, which likely contributed to this issue.⁴³

Department's failure to conduct mass appraisals, update rental rates, and correctly charge lessees resulted in \$3.4 million in potential lost revenue for trust beneficiaries in 2023 and Department not collecting nearly \$34,000 in rental payments

The Department not conducting a mass appraisal since 2005 and not updating rental rates in a 17-year period despite identifying significant changes in market conditions resulted in outdated agricultural rental rates that lost potential revenue for trust beneficiaries. Further, because the Department charged incorrect rental rates to some lessees and did not apply a subleasing charge to a lessee, the Department lost rental monies that it should have otherwise collected. For example:

- The Department charged approximately \$4.4 million in rent to its 337 active agricultural leases in calendar year 2023. However, if the Department had updated its agricultural rental rates based on the 2018 market study, which would have increased rates in most of the Department's farm areas, it would have potentially collected approximately \$7.8 million during this year, nearly \$3.4 million more in revenue (see Table 1).

Table 1

Department would have received approximately \$3.4 million in additional rent from its 337 agricultural leases for calendar year 2023 had it increased its agricultural rental rates consistent with the 2018 market study¹

Actual rent charged in 2023	Potential rent if charged at discounted 2018 market rates ²	Potential uncollected rent revenue in 2023
\$4,406,394	\$7,798,518	\$3,392,124

¹ As previously discussed (see page 10), the Department's 2018 market study estimated that market agricultural rental rates had increased from those estimated by the Department's 2005 mass appraisal in 21 of 23 Department farm areas and had decreased in 2 of 23 Department farm areas.

² We estimated the 2018 discounted market study rates based on the Department's policy of discounting market rental rates by 50 percent.

Source: Auditor General staff review of Department agricultural lease data, Department's rate-setting policy, and 2018 market study.

⁴⁰ The 12 lessees were Bales & Bales II; Barnes Farm, LLC; Brian Dunn Farms; Christopher C. Hamilton; Cocopah Nurseries of Arizona, Inc.; Coronado Farms LLP; Doug Mellon Farms Inc.; The Estate of Walter Doyle Sexton and Eileen Sexton; Monette Farms Arizona, LLC; Pistoresi Agricultural Service, Inc.; Silver Canyon Nurseries Inc.; and The Larry and Lori Hancock Trust.

⁴¹ The 2 lessees were Doug Mellon Farms Inc. and Pistoresi Agricultural Service, Inc.

⁴² As of calendar year 2024, the Department reported it was changing its process for calculating annual rent when it does not receive an annual agricultural questionnaire from a lessee.

⁴³ The Department's agricultural leases outline steps that the Department can take if it determines that lessees are not meeting lease conditions, including but not limited to lease cancellation.

- The Department assigning 2 lessees to incorrect farm areas resulted in the Department failing to collect \$29,600 in rental monies from the 2 lessees in calendar years 2021 through 2023 that it should have otherwise collected if the lessees were assigned to the appropriate farm area.
- The Department not charging 1 lessee for subleasing land during 2 years resulted in the Department not collecting approximately \$4,240 in subleasing charges.

Finally, the Department not receiving information about farmable and unfarmable acres from its lessees hampers its ability to accurately calculate lessees' rent. As a result, the Department may have undercharged or overcharged 12 lessees that did not report farmable and unfarmable acres to it.

Recommendations

The Department should:

2. Conduct a mass appraisal of agricultural State trust land that complies with statutory requirements and update its agricultural rental rates accordingly.
3. Ensure its agricultural leases are assigned to and charged rental rates for correct farm areas by:
 - a. Redeveloping its farm areas map and associated documentation to ensure that it has clear, specific, and accurate boundaries for all Department farm areas, such as by using Geographic Information Systems to clearly delineate the farm areas.
 - b. Developing and implementing policies and procedures for assigning agricultural leases to farm areas.
 - c. After redeveloping its farm area maps, review lease documentation to ensure that all Department agricultural lessees are assigned to the appropriate farm area, and correct any erroneously assigned lessees, as applicable.
4. Develop and implement policies and procedures that outline steps that Department staff must take when lessees fail to submit annual agricultural questionnaires required by the Department's agricultural leases, such as reaching out to lessees to request the questionnaire or take action consistent with its agricultural lease terms if lessees refuse to respond to Department requests and/or provide questionnaires.
5. Develop and implement policies and procedures to apply the subleasing charge to agricultural lessees that sublease land.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendation



Our review of peer state and recommended practices did not identify relevant groundwater-pumping-reporting mechanisms, but Department requires groundwater reporting from some nonagricultural lessees

LEGISLATIVE REQUEST: An analysis of appropriate reporting mechanisms for groundwater pumping, especially by foreign leases.

CONCLUSION: Our review of peer state and recommended practices did not identify mechanisms for agricultural state trust land lessees to report groundwater pumping to state trust land agencies, regardless of whether the lessee is foreign or domestic. However, according to recommended practices, groundwater reporting is an important tool in long-term planning and management of land and water supplies, and not monitoring groundwater may lead to depletion of groundwater reserves. The Department requires some nonagricultural lessees to annually self-report groundwater usage to it for billing purposes, but it does not do so for agricultural leases.

Our review of 6 peer states' practices did not identify a state trust land agency that requires agricultural lessees, foreign or domestic, to report groundwater pumping to the state trust land agency.^{44,45,46} Additionally, we reviewed information from nonprofits, academic journals, international organizations, and the federal government and did not identify any recommended groundwater-pumping-reporting mechanisms for agricultural state trust land leases, regardless of whether the lessee is foreign or domestic.^{47,48}

However, according to recommended practices, groundwater reporting is an important tool in long-term planning and management of land and water supplies, and not monitoring groundwater may lead to depletion of groundwater reserves. According to the U.S. Geological Survey, depletion of groundwater reserves can have negative effects on the environment and groundwater users, such as reduction of water in streams and lakes

⁴⁴ The peer states that we reviewed were the 6 other states located in the Colorado River Basin: California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

⁴⁵ For the 6 states we reviewed, similar to Arizona, the water regulatory agencies in each state are responsible for overseeing any applicable groundwater reporting.

⁴⁶ Although Utah's state trust land agency reported it charges lessees for water use when it owns the rights to the water, Utah's state trust land agency reported it obtains information about lessees' water use from Utah's water regulatory agency but does not require lessees to report water usage to it (see Appendix C, page c-4, for more information). Further, California's state trust land agency also reported that as of January 2024, it had 2 agricultural leases and its agricultural lessees were not authorized to use groundwater.

⁴⁷ We reviewed recommended practices from the Lincoln Institute for Land Policy, Annual Review of Environment and Resources, Organization for Economic Cooperation and Development, International Groundwater Resources Assessment Centre, the U.S. Environmental Protection Agency, and U.S. Geological Survey.

⁴⁸ As discussed in Chapter 1 (see page 8), according to U.S. Bureau of Land Management offices in Arizona, as of January 2024, they do not lease land for agricultural purposes.

and sinking land.⁴⁹ An additional consequence, lowering of the water table, requires deepening or drilling wells and increased costs for groundwater users.

Arizona statute requires various persons to report to ADWR for some groundwater pumping in AMAs and INAs, such as groundwater pumped for irrigation use in an INA, but neither statute nor rule require any Department lessees to report groundwater pumping to the Department.^{50,51} Although not required by statute, the Department has developed processes for some nonagricultural lessees to self-report groundwater usage to it, such as lessees that lease state trust land for commercial, domestic, and mining and industrial purposes. According to the Department, it requires these nonagricultural lessees to report this information on an annual basis for billing purposes because groundwater is a natural product of the land, which allows the Department to charge for the usage of groundwater obtained from State trust land. However, the Department does not similarly require its agricultural lessees to report groundwater pumping to it.

⁴⁹ Bartolino, J. R. & Cunningham, W. L. (2003). *Ground-water depletion across the nation: U.S. Geological Survey fact sheet 103-03*. Reston, VA: U.S. Geological Survey. Retrieved 12/14/2023 from [https://pubs.usgs.gov/fs/fs-103-03/JBartolinoFS\(2.13.04\).pdf](https://pubs.usgs.gov/fs/fs-103-03/JBartolinoFS(2.13.04).pdf).

⁵⁰ For AMAs, A.R.S. §45-632 requires various persons to report to ADWR, such as persons who own or lease a right to withdraw, receive, or use groundwater in an AMA and a person who withdraws groundwater for transportation to an AMA. For INAs, A.R.S. §45-437 requires each person in an INA withdrawing groundwater from a nonexempt well to report to ADWR, unless specific factors apply.

⁵¹ Statute does not require the Department to track whether its lessees are foreign, and it reported that it does not track this information. We identified that 3 of 237 Department agricultural lessees as of October 2023 were foreign or owned by foreign entities (see Appendix A, pages a-1 through a-17, for more information about Department agricultural lessees).



Department's agricultural leases, including those with Fondomonte, provide lease costs for land below market rates and do not require payment for water use

LEGISLATIVE REQUEST: To address whether the contract between Fondomonte and the Department provides lease costs for land and water below market rates.

CONCLUSION: The Department's agricultural leases, including those with Fondomonte, provide lease costs for land below market rates and do not include lease costs for water use. As discussed in Chapter 1 (see pages 5 and 6), to establish agricultural rental rates for farmable land, the Department's policy requires it to determine the market rental rate of State trust land through a mass appraisal and then set its agricultural rental rates at 50 percent below the market rental rate. As such, all Department agricultural leases would provide lease costs for farmable land below market rental rates, including Fondomonte's leases. Further, the Department did not update its agricultural rates for farmable land based on a 2018 market study, and as of September 2023, it was charging agricultural lessees, including Fondomonte, rates established in 2006 based on a 2005 mass appraisal. For calendar year 2023, the Department charged agricultural lessees in farm areas 3 and 6, including Fondomonte, rates that were approximately 46 to 48 percent below the market rental rate for farmable land estimated by the 2005 mass appraisal. Additionally, as of calendar year 2023, the Department charged agricultural lessees in farm areas 3 and 6, including Fondomonte, approximately 80 to 83 percent below the market rental rate estimated by the 2018 market study. The Department does not charge agricultural lessees, including Fondomonte, for water use.

Department entered into 5 agricultural lease agreements with Fondomonte

As discussed in the Introduction (see pages 3 and 4), as of October 1, 2023, the Department had entered into 5 agricultural leases with Fondomonte. Specifically, the Department leased 6,608 acres of State trust land within 2 groundwater basins in La Paz County, Ranegras Plain Basin, and Butler Valley Basin. Fondomonte's agricultural leases were located in Department farm areas 3 and 6 (see Appendix B, pages b-1 through b-4, for more information about Department farm areas).

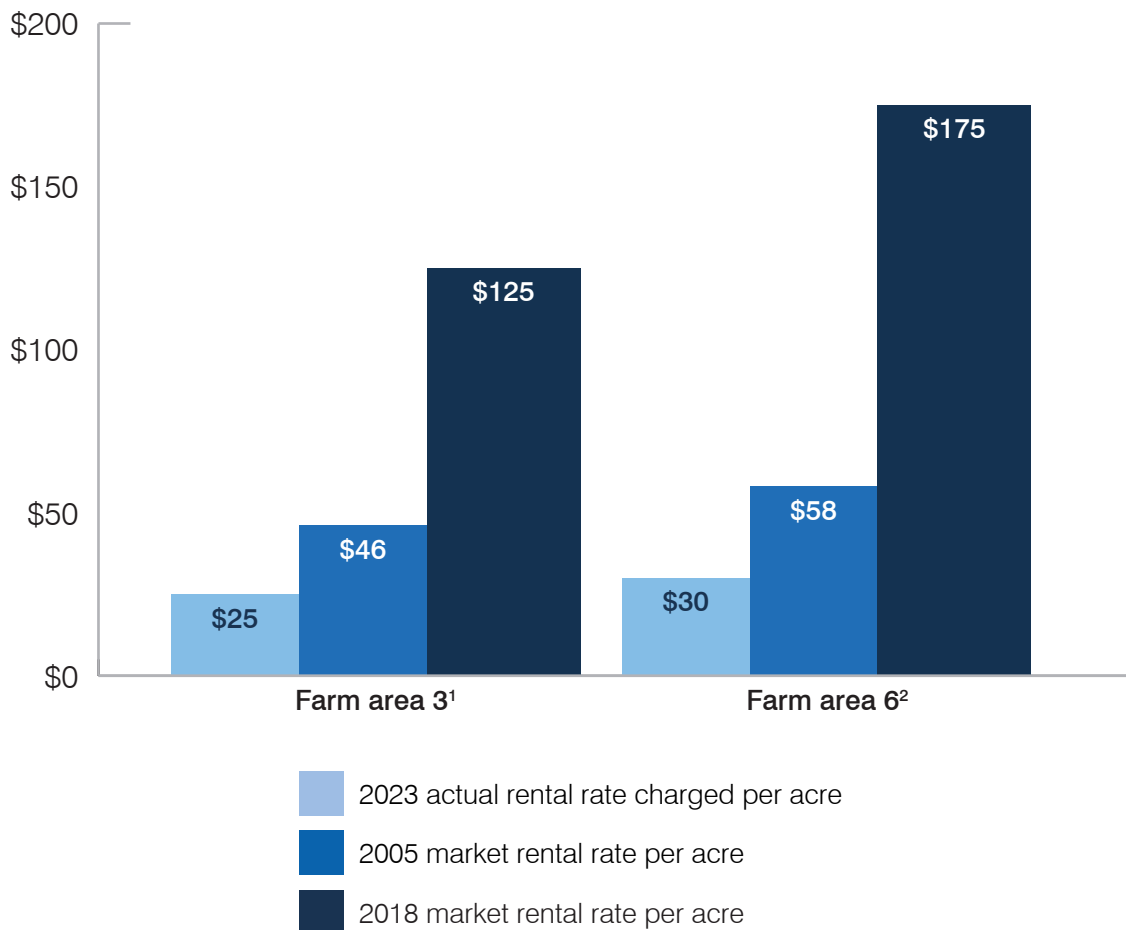
Department's agricultural leases, including those with Fondomonte, provide lease costs for land below market rates

As discussed in Chapter 1 (see pages 5 and 6), to establish agricultural rental rates for farmable land, the Department's policy requires it to determine the market rental rate of State trust land through a mass appraisal and then set its agricultural rental rates at 50 percent below the market rental rate.⁵² As such, all Department agricultural leases would provide lease costs for farmable land below market rental rates, including Fondomonte's leases. Further, as previously reported (see Chapter 2, page 10), the Department conducted

⁵² Water availability is a factor considered in the mass appraisal for establishing the market rental rate for Department-established farm areas.

a mass appraisal in 2005 and a study of 2018 market rental rates in calendar year 2019 (2018 market study). However, it did not update its agricultural rates for farmable land based on the 2018 market study and, as of September 2023, was charging agricultural lessees, including Fondomonte, rates established in 2006 based on the 2005 mass appraisal. Consistent with its policy, for calendar year 2023, the Department charged agricultural lessees in farm areas 3 and 6, including Fondomonte, rates that were approximately 46 to 48 percent below the market rental rate for farmable land estimated by the 2005 mass appraisal. However, as of calendar year 2023, the Department charged agricultural lessees in farm areas 3 and 6, including Fondomonte, approximately 80 to 83 percent below the market rental rate estimated by the 2018 market study (see Figure 2 for more information and Appendix D, pages d-1 and d-2, for rental rates for all farm areas).

Figure 2
Department charged lessees in farm areas 3 and 6, including Fondomonte, a per farmable acre rental rate below the per farmable acre market rental rates in the 2005 mass appraisal and 2018 market study



¹ Fondomonte held 4 of 8 total leases in farm area 3.

² Fondomonte held 1 of 3 total leases in farm area 6.

Source: Auditor General staff review of the Department’s agricultural leases with Fondomonte, agricultural lease rent data, 2005 mass appraisal, and 2018 market study.

Between calendar years 2020 and 2023, the Department charged Fondomonte approximately \$634,000 in rent for its agricultural leases.⁵³ Table 2 presents the rental monies the Department would have received from Fondomonte if it charged market rates established by its 2005 mass appraisal and 2018 market study, or 50 percent of the market rates established in its 2018 market study.

Table 2
Department could have received additional rental monies from Fondomonte in calendar years 2020 through 2023 if it had increased per farmable acre rental rates¹

Lease #	Actual rent charged in 2020 through 2023	Rent if charged at 2005 market rates	Rent if charged at discounted 2018 market rates ²	Rent if charged at 2018 market rates
1-40306	\$330,019	\$630,459	\$946,994	\$1,885,869
1-94820	57,600	104,640	141,600	281,600
1-95645	20,800	35,920	47,800	92,800
1-97431	172,800	313,920	424,800	844,800
1-98258	52,800	94,800	127,800	252,800
Total rent	\$634,019	\$1,179,739	\$1,688,994	\$3,357,869

¹ This table presents total potential rental amounts for farmable and unfarmable acres.

² The discounted rate is 50 percent below the market rate.

Source: Auditor General staff review of the Department's rent and billing statements sent to Fondomonte, 2005 mass appraisal, and 2018 market study.

Department does not charge agricultural lessees, including Fondomonte, for water use, similar to 5 of 6 states we reviewed

Although the Department charges lessees for water use on some nonagricultural leases, the Department reported that it does not charge agricultural lessees for water use because water availability is a factor considered in the mass appraisal for establishing the market rental rate for Department-established farm areas.⁵⁴ Further, according to the Department, although it has the authority to charge agricultural lessees for groundwater, it has not done so because its market studies have found that comparable rentals in the private sector did not include separate charges for groundwater use. In September 2015, the Department estimated that the water used by Fondomonte on its 4 Butler Valley Basin leases in a year was valued at approximately \$1.2 to 2.5 million.⁵⁵

As discussed in Chapter 1 (see pages 8 and 9), we reviewed 6 states' processes for leasing agricultural state trust land, and similar to the Department, 5 of 6 states reported they do not charge agricultural lessees for

⁵³ This is the total rental monies charged for farmable and unfarmable acres.

⁵⁴ Our review of the Department's 2005 mass appraisal found the appraiser included descriptions of water availability and/or quality for some Department farm areas; however, it did not include this information for all Department farm areas.

⁵⁵ According to Department documentation, the Department used a conservative estimate of Fondomonte's annual water use on its 4 leases in the Butler Valley Basin to calculate the low-end value of the water and doubled that estimate based on Department projections to arrive at the high-end value of the water.

groundwater.⁵⁶ One state, Utah, reported charging for groundwater use on agricultural leases when the state owned the rights to the water (see Appendix C, page c-4, for more information about Utah’s agricultural leasing process).⁵⁷

⁵⁶ As discussed in Chapter 1 (see page 8), according to U.S. Bureau of Land Management offices in Arizona, as of January 2024, they do not lease land for agricultural purposes.

⁵⁷ Other states may have different regulatory structures for water ownership than Arizona. For example, according to the Utah Division of Water Rights, water rights are classified as real property in the state of Utah and are bought and sold like real estate. According to Utah statute, water right applications for groundwater have been required since at least 1991.



Department’s agricultural leases, including with Fondomonte, do not include provisions to protect water basin levels, and although they require agricultural lessees to use water in the most efficient manner possible, Department does not monitor or ensure efficient water use

LEGISLATIVE REQUEST: To address whether the contract between Fondomonte and the Department adequately addresses the issue of protecting water levels in the basin.

CONCLUSION: The Department reported its agricultural lease contracts with Fondomonte do not address the issue of protecting water levels in the Ranegras Plain and Butler Valley basins. The Department’s agricultural leases with Fondomonte require Fondomonte to use water in the most efficient manner possible; however, we found the Department did not have a documented process to monitor or ensure its lessees are using water efficiently. Further, in calendar years 2015 and 2016, Department staff at the time recommended regularly monitoring Fondomonte’s water use, but the Department did not implement recommended measures.

Department agricultural leases, including those with Fondomonte, do not address the issue of protecting water levels in the basins

As previously reported in the Introduction (see pages 3 and 4), as of October 1, 2023, the Department and Fondomonte had entered into 5 agricultural leases in the Ranegras Plain and Butler Valley basins, located in farm areas 6 and 3, respectively.^{58,59,60} The Department reported that its leases with Fondomonte do not address the issue of protecting water levels in these basins, and our review of the leases confirmed this. Specifically, as previously reported in the Introduction (see page 3), the Department uses a standard agricultural lease, including for its agricultural leases with Fondomonte. Although the Department’s agricultural leases require lessees, including Fondomonte, to use water in the most efficient manner possible, groundwater monitoring or reporting is not explicitly required, and the Department does not have a documented process to determine, measure, or enforce compliance with this requirement. Fondomonte reported to the Department that it used water-efficient irrigation systems to satisfy the lease provision, such as subsurface drip, linear, and

⁵⁸ Butler Valley Basin and Ranegras Plain Basin are not classified as AMAs or INAs as described in the Introduction (see page 3).

⁵⁹ In November 2023, ADWR published a supply and demand report for the Butler Valley Basin that includes estimated annual water usage between 1990 and 2022. According to the report, the agricultural sector accounts for 99 percent of water demand in the basin, and the sector primarily produces alfalfa. Additionally, the report identified that the groundwater usage by the agricultural sector has increased between 1990 and 2022, including an increase in annual usage of approximately 8,000 acre-feet in 2017. The agricultural sector’s average annual groundwater consumption from 2017 to 2022 was approximately 17,000 acre-feet. The supply and demand report for the Butler Valley Basin and an accompanying interactive dashboard is publicly available, and as of December 2023, it can be accessed from ADWR’s website at <https://www.azwater.gov/supply-demand>.

⁶⁰ According to ADWR, it plans to publish a supply and demand report of Ranegras Plain Basin by December 1, 2024.

center pivot irrigation. The Department's agricultural leases, including those with Fondomonte, do not include any other provisions related to protecting water basin levels.⁶¹

Former Department staff recommended monitoring Fondomonte's water use, but Department did not implement recommendations

In a 2015 internal Department memorandum addressed to the State Land Commissioner, Department staff at the time expressed concerns regarding the Butler Valley Basin groundwater supply. Department staff indicated the importance of obtaining accurate information on Butler Valley Basin water use given its status as a transportation basin.⁶² Specifically, following the installation of new wells and an increase that doubled the farmable acres to approximately 3,400 farmable acres on Fondomonte's Butler Valley Basin leases, Department staff recommended the Department seek Fondomonte's cooperation to install meters on its wells and report annual water usage to the Department. The Department reported that the 2015 memorandum recommendations were not pursued at the direction of the State Land Commissioner at the time.

Further, as previously reported in the Introduction (see page 3), in November 2016, the Department sent Fondomonte a notice of default for its 4 agricultural leases in the Butler Valley Basin. One of the corrective terms in the default notice required Fondomonte to monitor and report water usage on the leases to the Department monthly. In December 2016, the Department and Fondomonte agreed to new terms to correct the defaults on the Butler Valley Basin leases, but none of the new terms included monitoring or reporting water use. The Department could not provide an explanation as to why the water-related monitoring and reporting was removed from the corrective terms.

Recommendation

6. The Department should develop and implement policies and procedures for determining, measuring, and enforcing compliance with its lease term that lessees use water in the most efficient manner possible.

Department response: As outlined in its [response](#), the Department agrees with the finding and will implement the recommendation

⁶¹ The Department reported that it is conducting a water quality and availability study of the Butler Valley Basin with an anticipated completion date of March 2024.

⁶² Groundwater may be transferred out of transportation basins for use in initial AMAs. As discussed in the Introduction (see page 3), the 5 initial AMAs are the Tucson AMA, Phoenix AMA, Prescott AMA, Pinal AMA, and Santa Cruz AMA. In addition to the 5 initial AMAs, according to A.R.S. §45-412, the ADWR director can designate subsequent AMAs. Additionally, according to A.R.S. §45-415(A), a groundwater basin not included within an initial AMA may be designated an AMA on petition by 10 percent of registered voters residing within the boundaries of the proposed AMA and a subsequent election. As of December 1, 2022, the Douglas Basin in Cochise County was designated as a subsequent AMA.



SUMMARY OF RECOMMENDATIONS

Auditor General makes 6 recommendations to the Department

The Department should:

1. Continue to review its agricultural leasing processes, including its 50 percent discount, and consider and identify ways to align its processes to recommended practices, such as providing discounts based on the cost of the improvement (see Chapter 1, pages 5 through 9, for more information).
2. Conduct a mass appraisal of agricultural State trust land that complies with statutory requirements and update its agricultural rental rates accordingly (see Chapter 2, pages 10 through 13, for more information).
3. Ensure its agricultural leases are assigned to and charged rental rates for correct farm areas by:
 - a. Redeveloping its farm areas map and associated documentation to ensure that it has clear, specific, and accurate boundaries for all Department farm areas, such as by using Geographic Information Systems to clearly delineate the farm areas.
 - b. Developing and implementing policies and procedures for assigning agricultural leases to farm areas.
 - c. After redeveloping its farm area maps, review lease documentation to ensure that all Department agricultural lessees are assigned to the appropriate farm area, and correct any erroneously assigned lessees, as applicable (see Chapter 2, pages 10 through 13, for more information).
4. Develop and implement policies and procedures that outline steps that Department staff must take when lessees fail to submit annual agricultural questionnaires required by the Department's agricultural leases, such as reaching out to lessees to request the questionnaire or take action consistent with its agricultural lease terms if lessees refuse to respond to Department requests and/or provide questionnaires (see Chapter 2, pages 10 through 13, for more information).
5. Develop and implement policies and procedures to apply the subleasing charge to agricultural lessees that sublease land (see Chapter 2, pages 10 through 13, for more information).
6. Develop and implement policies and procedures for determining, measuring, and enforcing compliance with its lease term that lessees use water in the most efficient manner possible (see Chapter 5, pages 20 and 21, for more information).



Agricultural leases

As discussed in the Introduction (see page 2), the Department has the authority to lease State trust land for agricultural purposes. As of October 2023, the Department had 337 active agricultural leases with 237 lessees, comprising nearly 152,940 acres of State trust land.⁶³ Table 3, pages a-1 through a-17, provides Department-reported information for these 337 leases, including each lease’s farm area, farmable and unfarmable acres, whether the lease is in an AMA or INA, and whether the lease uses groundwater (see Appendix B, pages b-1 through b-4, for a map and descriptions of the Department’s farm areas).⁶⁴

Table 3
Department-reported active agricultural leases, as of October 2023
 (Unaudited)

Account name (A-Z)	Farm area ¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
A Tumbling T Ranches, Inc.	08A	215.00	305.00	520.00	Yes	-
AG Tech LLC	04A	360.00	120.00	480.00	No	-
AG Tech LLC	04A	239.45	80.00	319.45	No	-
Agua Caliente Farms, Inc.	05	1,000.00	576.00	1,576.00	No	-
Alfarm Management LLC	08A	1,770.00	437.54	2,207.54	Yes	-
Algerita Land and Cattle Co, LLC	18	0.00	476.58	476.58	Yes	AMA
Alvin S. Ratliff	18	480.00	160.00	640.00	Yes	-
Ammons Family Trust	22A	149.81	3.50	153.31	No	-
Anthony Dugan	15	472.50	166.07	638.57	No	AMA
Anthony Dugan	15	374.40	68.52	442.92	No	AMA
Antonio M. Haro	15	144.00	16.00	160.00	No	AMA

⁶³ A lessee can have more than 1 lease.

⁶⁴ According to the Department, the leases that use groundwater are the leases that are not in an irrigation district and that do not receive water from the Colorado River. According to the Department, water in an irrigation district may come from both groundwater and surface water sources. Additionally, the Department reported that groundwater use by lessees may be from wells that are located on non-State trust land.

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Arie H. Dejong Family Trust	15	160.00	0.00	160.00	No	AMA
Arizona Game and Fish Commission	17A	1.10	8.90	10.00	Yes	-
Arizona Organic Beans, L.L.L.P.	15	573.00	67.00	640.00	No	AMA
Arizona Organic Beans, L.L.L.P.	15	479.20	160.80	640.00	No	AMA
Arizona Valley Farm LLC	06	36.60	3.40	40.00	Yes	-
Arnoldo B. Burruel	15	188.00	12.00	200.00	No	AMA
Asarco LLC ²	17A	0.00	3.80	3.80	Yes	-
Auza & Son Farms II Partnership	17	280.00	44.13	324.13	Yes	AMA
Auza & Son Farms II Partnership	15	320.00	0.00	320.00	No	AMA
Avra Farms Company	17	150.00	410.00	560.00	Yes	AMA
B C Systems, Inc.	22A	250.90	254.48	505.38	No	-
B&K Arizona Dairy, LLC	08	7.00	193.00	200.00	Yes	-
B.V.D., LLC	04A	122.30	220.20	342.50	No	-
Bales & Bales II	08A	0.00	285.00	285.00	Yes	AMA
Bales & Bales II	08A	0.00	640.00	640.00	Yes	AMA
Barnes Farm, LLC	15	114.00	6.00	120.00	No	AMA
Barnes Harvesting LLC	15	561.50	81.45	642.95	No	AMA
Barnett Family Trust	17	0.00	204.37	204.37	No	AMA
Basila Family Trust, dated 2/11/2002	18	12.94	0.00	12.94	Yes	AMA
Big Chino Land Company, Inc.	01	10.00	95.03	105.03	Yes	-
Billy F. Massey Et Al	18	95.00	25.00	120.00	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Billy F. Massey Et Al	18	30.00	10.00	40.00	Yes	-
Billy R. Turner	04B	55.62	31.21	86.83	No	-
BKW Farms Inc	17	1,800.00	1,990.72	3,790.72	Yes	AMA
BKW Farms Inc	17	100.00	483.01	583.01	Yes	AMA
Bool Properties Limited Partnership	15	140.00	2.58	142.58	No	AMA
Bool Properties Limited Partnership	15	148.50	11.50	160.00	Yes	AMA
Bowie Pecans, Inc.	17A	151.00	49.00	200.00	Yes	-
BR Properties of AZ LLC	01	60.00	93.21	153.21	Yes	-
Brandon Salmons Et Al	17	280.00	40.00	320.00	No	AMA
Brent R. Haas	18	244.00	76.00	320.00	Yes	-
Brian Dunn Farms	22A	101.00	78.28	179.28	No	-
Brian Rhodes	15	284.31	37.56	321.87	No	AMA
Brian Rhodes	15	149.95	490.05	640.00	No	AMA
Brian Rhodes	15	72.00	8.00	80.00	No	AMA
Bridle Bit Ranch LLC	17	112.09	230.21	342.30	Yes	AMA
Brown Farming Company Limited Partnership	17	126.00	74.00	200.00	Yes	AMA
Bryan K. Hafen	01	80.00	79.07	159.07	Yes	-
BT Dirt Holdings LLC	15	265.25	42.04	307.29	Yes	AMA
Buckelew Farms II	03	408.13	951.87	1,360.00	Yes	-
Bud Meyers	14	3.80	4.13	7.93	Yes	AMA
Burruel & Burruel Farm Partnership	17	190.00	336.71	526.71	Yes	AMA
Byner Cattle Company	09	382.00	218.00	600.00	Yes	-
Byner Cattle Company	09	206.00	114.00	320.00	Yes	-
Byner Cattle Company	09	821.00	139.00	960.00	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Byner Cattle Company	09	4,883.00	3,644.89	8,527.89	Yes	-
CBC Land Holdings LLC	22B	142.00	18.00	160.00	No	-
Cha Cha, L.L.C. Et Al	04B	500.00	29.96	529.96	No	-
Cha Cha, L.L.C. Et Al	04B	33.77	4.71	38.48	No	-
Chicago Heritage Farms LLC	17A	30.00	24.01	54.01	Yes	AMA
Chris Tosh	09	0.00	80.00	80.00	Yes	AMA
Christopher C. Hamilton	21	19.00	274.92	293.92	Yes	-
City of St. Johns	01	6.00	6.00	12.00	Yes	-
CLE Farms, LLC	15	560.44	112.34	672.78	No	AMA
CLE Farms, LLC	15	114.00	16.00	130.00	Yes	AMA
Clifford Winton Jr	04B	36.00	0.94	36.94	No	-
Cocopah Indian Tribe	04A	0.00	140.00	140.00	No	-
Cocopah Nurseries of Arizona, Inc	05A	0.00	320.00	320.00	Yes	-
Cocopah Nurseries of Arizona, Inc	04A	0.00	320.00	320.00	Yes	-
Cocopah Nurseries of Arizona, Inc	05	615.00	917.17	1,532.17	Yes	-
Cocopah Nurseries of Arizona, Inc	05	0.00	960.00	960.00	Yes	-
Cocopah Nurseries of Arizona, Inc	05	70.00	2,490.00	2,560.00	Yes	-
Cocopah Nurseries of Arizona, Inc	05	0.00	802.12	802.12	Yes	-
Cornerstone Farms LLC	07	848.00	677.08	1,525.08	Yes	-
Coronado Farms LLP	18	121.26	38.74	160.00	Yes	-
Coronado Farms LLP	18	120.01	39.99	160.00	Yes	-
Coronado Farms LLP	18	204.80	50.58	255.38	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Coronado Farms LLP	18	120.69	37.89	158.58	Yes	-
Coronado Farms LLP	18	120.60	39.40	160.00	Yes	-
Coronado Farms LLP	18	119.96	38.26	158.22	Yes	-
Coronado Farms, LLP dba Riverview, LLP	18	119.07	522.27	641.34	Yes	-
Corp of the Presiding Bishop	01	5.00	35.00	40.00	Yes	-
Coxco LLC	22G	323.00	26.14	349.14	No	-
C-Spear LLC	17A	3.00	7.00	10.00	Yes	-
Cullision Farms	22A	37.10	2.79	39.89	No	-
Cullision Farms	04	177.57	17.90	195.47	No	-
Cuming Trust	22B	144.80	15.20	160.00	No	-
CV Harquahala LLC	09	139.00	181.00	320.00	No	INA
CV Harquahala LLC	09	0.00	40.00	40.00	No	INA
CV Harquahala LLC	09	0.00	415.08	415.08	No	INA
CV Harquahala LLC	09	0.00	690.00	690.00	No	INA
CV Harquahala LLC	09	186.00	454.00	640.00	No	INA
Damon Carl (DC) Cogburn Et Al	15	0.00	596.79	596.79	Yes	AMA
Daniel & Elaine Shedd Family Trust	15	250.00	70.00	320.00	No	AMA
Daniel & Elaine Shedd Family Trust	15	120.00	516.96	636.96	No	AMA
Daniel & Elaine Shedd Family Trust	15	200.00	80.00	280.00	No	AMA
Daniel and Ronda Schmidt	18	122.00	32.43	154.43	Yes	-
Daniel Gutierrez	05A	220.00	60.00	280.00	Yes	-
Dateland Farms LLC	07	0.00	959.32	959.32	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
David and Shelly Householder	15	538.20	86.32	624.52	No	AMA
David Vose	07	300.00	252.19	552.19	Yes	-
Daybreak State LLC	15	0.00	158.80	158.80	Yes	AMA
Daybreak State LLC	15	0.00	2.28	2.28	Yes	AMA
Daybreak State LLC	15	138.00	21.12	159.12	No	AMA
Dean Reimer	04B	88.98	29.78	118.76	No	-
Dean Reimer	04B	184.88	53.22	238.10	No	-
Dees Family Farm, L.L.C.	04B	165.00	20.07	185.07	No	-
Desert Ranch Enterprises LLC	09	120.00	47.32	167.32	Yes	AMA
Desert Ridge Farms LLC	04A	120.00	40.00	160.00	Yes	-
Diamond N Investments LLC	04A	0.00	126.98	126.98	No	-
Diamond N Investments LLC	04A	12.00	27.66	39.66	No	-
Diamond N Investments LLC	04A	0.00	148.68	148.68	No	-
Don A. England Jr.	15	117.10	35.86	152.96	No	AMA
Don England Sr Et Al	15	788.90	331.92	1,120.82	No	AMA
Donnie Joe Barnes et al	15	1,206.00	494.00	1,700.00	No	AMA
Double K. Orchard LLC	18	145.00	15.00	160.00	Yes	-
Doug Mellon Farms Inc.	22A	3.77	0.00	3.77	Yes	-
Dustin C. Feyder and Lisa D. Feyder	09	0.00	240.00	240.00	Yes	AMA
Edward C Pratt Family Trust B	15	555.32	84.68	640.00	No	AMA
EGJ De Jong Trust	15	114.00	46.48	160.48	Yes	AMA
El Nino Farms LLC	05A	121.23	0.00	121.23	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
El Nino Farms LLC	05A	165.00	0.00	165.00	Yes	-
El Nino Farms LLC	05A	309.31	0.00	309.31	Yes	-
El Nino Farms LLC	05A	80.00	0.00	80.00	Yes	-
El Nino Farms LLC	05A	640.00	0.00	640.00	Yes	-
Ellorise Harp Trust Dtd January 1 2015	04B	99.10	19.72	118.82	No	-
Ellorise Harp Trust Dtd January 1 2015	04B	205.62	32.96	238.58	No	-
Euell Barnes	15	174.00	43.42	217.42	No	AMA
Evan Burk Et Al	18	40.00	160.00	200.00	Yes	-
Evergeen Turf	15	392.00	8.00	400.00	Yes	AMA
Farmers Investment Co	18	210.00	100.20	310.20	Yes	-
Fondomonte Arizona, LLC ²	06	2,682.50	405.93	3,088.43	Yes	-
Fondomonte Arizona, LLC ²	03	560.00	80.00	640.00	Yes	-
Fondomonte Arizona, LLC ²	03	180.00	140.00	320.00	Yes	-
Fondomonte Arizona, LLC ²	03	1,680.00	240.00	1,920.00	Yes	-
Fondomonte Arizona, LLC ²	03	500.00	140.00	640.00	Yes	-
Four Star Pistachio LLC	17A	193.29	126.69	319.98	Yes	-
Frank J Rose	15	200.00	305.80	505.80	No	AMA
FTW LLC	08A	1,710.00	1,793.82	3,503.82	Yes	-
G Farms	15	387.00	53.00	440.00	Yes	AMA
G Farms	15	241.00	73.72	314.72	Yes	AMA
Gable and Hardison Farming	15	481.70	224.94	706.64	No	AMA

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Gable and Hardison Farming	15	491.03	354.38	845.41	No	AMA
Gable and Hardison Farming	15	390.02	86.22	476.24	No	AMA
GH Dairy, a California General Partnership	04A	1,560.00	3,001.09	4,561.09	Yes	-
Gila Monster Farms Partnership LLC	22A	369.40	196.33	565.73	No	-
GKJ Farms LLC	05	0.00	347.51	347.51	Yes	-
Griffin Ranches Inc	22A	144.00	16.00	160.00	No	-
Griffin Ranches Inc	22A	39.40	15.72	55.12	No	-
Guberto Castillo	05	200.00	349.09	549.09	Yes	-
Guberto Castillo	08A	0.00	680.28	680.28	Yes	-
Hamilton Farms, LLC	15	658.00	522.71	1,180.71	No	AMA
Hamstra Family Living Trust	07	223.50	176.50	400.00	Yes	-
Hank Auza Farms Inc	22A	24.30	5.70	30.00	No	-
HARBINGER GROUP LLC	04B	97.58	10.41	107.99	Yes	-
HARBINGER GROUP LLC	04B	140.10	17.01	157.11	No	-
Harriett F. Hedrick	17A	1.00	5.40	6.40	Yes	-
Harrison Family Revocable Trust	04	38.02	0.00	38.02	No	-
Hein Hettinga	07	290.00	128.54	418.54	Yes	-
Houston N Gilbert	22E	11.65	4.73	16.38	Yes	AMA
Hyder Valley Farms, LLC	5	522.00	198.00	720.00	No	-
Island Boyz, LLC & Martin Children Family Trust	04B	179.80	74.82	254.62	No	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
J W Kieckhefer Foundation	01	0.00	95.00	95.00	Yes	-
J&G Thompson Family LTD PTNSP	01	4.00	28.96	32.96	Yes	-
Jack L Dixon	15	300.00	180.00	480.00	No	AMA
Jake Wayne Pearson and Natasha Nicole Pearson	18	0.00	300.00	300.00	Yes	-
James Douglas Dunlap	18	59.00	19.50	78.50	Yes	-
James Douglas Dunlap	18	30.00	10.95	40.95	Yes	-
James Douglas Dunlap	18	61.00	19.00	80.00	Yes	-
James L Williams	04B	45.00	48.84	93.84	No	-
James Mark Accomazzo Marital Deduction TR	09	568.90	71.10	640.00	No	INA
Jeff and Tatiana Scott	18	0.00	640.00	640.00	Yes	-
Jerry J. Rava II Trust	22A	332.40	72.82	405.22	No	-
John and Lorna Nevitt Farms	15	268.70	56.58	325.28	No	AMA
John Donley	15	253.00	75.09	328.09	No	-
John Kai Jr.	17	160.66	245.26	405.92	Yes	AMA
John Kai	17	40.00	20.00	60.00	No	AMA
John Peach Jr Farms LLC	22A	68.90	11.10	80.00	No	-
John T. & Mary J. Ott Trust	04	212.20	244.22	456.42	No	-
JP Holdings LP	15	120.00	40.11	160.11	Yes	AMA
K H Easterday Trust	04B	151.00	9.19	160.19	No	-
K H Easterday Trust	04B	183.70	49.85	233.55	No	-
K Lazy J Farm LLC	01	220.00	244.31	464.31	Yes	-
Kai Farms Redrock LLC	15	950.00	93.63	1,043.63	Yes	AMA

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Kai Farms Redrock LLC	15	1,050.00	273.36	1,323.36	Yes	AMA
Keffeler, Inc.	22	402.30	57.76	460.06	No	-
KelbyWHuges & Alyson A Hughes	01	30.00	466.17	496.17	Yes	-
Kenneth H Johnson	18	242.00	78.00	320.00	Yes	-
Kimberley V Knight	01	0.00	103.36	103.36	Yes	-
Koepnick Family Farms	15	486.56	128.10	614.66	No	AMA
Koepnick Family Farms	15	381.50	391.84	773.34	No	AMA
Koepnick Family Farms	15	52.28	36.97	89.25	No	AMA
Koepnick Family Farms	15	148.85	55.24	204.09	No	AMA
La Farms	17	308.00	68.25	376.25	Yes	AMA
Ladd Farms	17	144.10	53.56	197.66	Yes	AMA
Langley Lewis Holdings, LLC	14	6.00	84.67	90.67	Yes	AMA
Larry D. Rivers	18	302.00	58.00	360.00	Yes	-
Lee A. Consaul Co Inc	22B	570.47	69.31	639.78	No	-
Legacy Farms LLC	15	149.70	10.30	160.00	No	AMA
Legacy Farms LLC	15	265.00	166.16	431.16	No	AMA
Loren C. Pratt Family L.L.L.P.	22A	66.30	55.23	121.53	No	-
Loren C. Pratt Family L.L.L.P.	22A	121.68	74.51	196.19	No	-
Lou Ella Harp	04B	89.00	7.17	96.17	No	-
Lydia Lee	22A	16.80	2.96	19.76	No	-
M&G Farms	15	120.00	34.75	154.75	Yes	AMA
M&G Farms	15	242.00	78.00	320.00	Yes	AMA
Majo Farms Inc	17	380.90	79.10	460.00	No	AMA
Maricopa Farming LLC	15	115.00	45.00	160.00	No	AMA

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Maricopa Farming LLC	15	144.00	163.88	307.88	No	AMA
Maricopa Farming LLC	15	42.00	130.12	172.12	No	AMA
Maricopa Farming LLC	15	0.00	160.00	160.00	No	AMA
Mark D Smith Enterprises Inc	15	140.90	19.10	160.00	No	AMA
Mark Dobson	15	50.08	139.92	190.00	No	AMA
Massey Enterprises LLC	18	152.00	100.50	252.50	Yes	-
Mesa Date Enterprises LLC	04A	100.00	5.00	105.00	No	-
Michael J. Thompson	18	245.90	74.10	320.00	Yes	-
Moga Agri Industries Holdings LLC	18	0.00	579.66	579.66	Yes	-
Moga Agri Industries Holdings LLC	18	0.00	480.00	480.00	Yes	-
Monette Farms Arizona, LLC ²	09	1,188.59	690.16	1,878.75	Yes	-
Monette Farms Arizona, LLC ²	09	276.43	38.99	315.42	Yes	-
Morning Doves LLC	17	540.00	140.00	680.00	Yes	AMA
Nakasawa Brothers Et Al	22A	20.00	0.00	20.00	No	-
Nature Conservancy	17A	7.00	33.00	40.00	Yes	-
Nels T & Martha Rogers	04A	31.40	105.70	137.10	No	-
Nevitt Farms LLLP	14	50.00	60.48	110.48	Yes	AMA
NP Arizona Real Estate 1 LLC	18	260.00	60.00	320.00	Yes	-
NP Arizona Real Estate 1 LLC	18	0.00	80.00	80.00	Yes	-
NPL Medjool, LLC	04A	360.00	120.00	480.00	Yes	-
NPL Medjool, LLC	04A	120.00	40.00	160.00	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
NPL Medjool, LLC	04A	40.00	0.00	40.00	Yes	-
NPL Medjool, LLC	04A	30.00	10.00	40.00	Yes	-
NPL Medjool, LLC	04A	90.00	30.00	120.00	Yes	-
NTR, L.L.C.	04A	0.00	10.00	10.00	No	-
ODB Farms LLC	09	572.94	67.30	640.24	No	INA
Oropeza Investments LLC	04A	40.00	80.00	120.00	Yes	-
Painted Rock Farms LLC	08A	26.23	113.77	140.00	Yes	-
Palmerita Ranch LLC	03	0.00	3,712.01	3,712.01	Yes	-
Palmerita Ranch LLC	03	320.00	0.00	320.00	Yes	-
Patricia A. Sprawls, Gregory E. Sprawls and Conner R. Sprawls	22G	123.30	92.42	215.72	No	-
Patrick Clay White	15	70.00	140.00	210.00	No	AMA
Perez Organic Farms, LLC	04B	168.27	91.70	259.97	No	-
Pete Auza	22A	36.53	3.47	40.00	No	-
Pima County	17A	0.00	410.09	410.09	Yes	AMA
Pista Land Company, LLC	18	146.80	287.80	434.60	Yes	-
Pistoresi Agricultural Service, Inc	07	0.00	269.76	269.76	Yes	-
Pistoresi Agricultural Service, Inc	07	0.00	240.00	240.00	Yes	-
Power & Palmer, Inc.	04B	0.00	2.21	2.21	No	-
Power & Palmer, Inc.	04B	172.40	0.18	172.58	No	-
Precision Farming	15	920.26	144.77	1,065.03	No	AMA
Precision Farming	15	531.59	99.52	631.11	No	AMA
Premium Farms LLC	04	0.00	799.58	799.58	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Premium Farms LLC	04	0.00	1,811.16	1,811.16	Yes	-
Premium Farms LLC	8	0.00	1,725.04	1,725.04	No	-
Preston Ross Munn	22A	69.87	8.55	78.42	No	-
Purcell Jojoba	05A	400.00	218.86	618.86	Yes	-
R.W. Turner & Sons Pump & Windmill Corp.	01	147.00	223.00	370.00	Yes	AMA
Rancho Sacatal Inc	18	0.00	320.00	320.00	Yes	-
Red River Cattle LLP	15	138.50	6.64	145.14	No	AMA
Red River Farms	22G	236.09	77.00	313.09	No	-
Red River Farms	22G	194.90	79.32	274.22	No	-
Red Rock Cattle Company Inc	15	298.00	14.30	312.30	No	AMA
Reems Ranch, LLC	15	587.00	47.71	634.71	No	AMA
Reems Ranch, LLC	15	300.00	22.77	322.77	Yes	AMA
Reidhead Custom Farming, Inc.	01	160.00	20.00	180.00	Yes	-
Relentless Yield Trust	05	0.00	801.92	801.92	Yes	-
Rex & Ruth Maughan	01	21.39	0.00	21.39	Yes	-
Rex & Ruth Maughan	01	20.00	0.00	20.00	Yes	-
Richard Lee Wilson	04B	70.37	3.00	73.37	No	-
River Bottom Farms Inc	22G	271.20	36.15	307.35	No	-
River Brush Farms	15	125.00	194.73	319.73	Yes	AMA
Riverview LLP dba Coronado Farms LLP	18	120.00	40.00	160.00	Yes	AMA
Riverview LLP dba Coronado Farms LLP	18	39.00	266.00	305.00	Yes	AMA
Rnick Family Limited Partnership	22A	90.34	59.97	150.31	No	-
Robert D. Nickerson	22A	189.60	104.42	294.02	No	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Rogers Heaven Sent Ranch LLC	17A	0.00	20.00	20.00	Yes	-
Royal Medjool Date Gardens LLC	04A	100.00	5.00	105.00	No	-
Ruben C. Hernandez Living Trust	07	2.00	33.00	35.00	Yes	-
Saddle Mountain Ranch	09	430.00	49.40	479.40	Yes	AMA
San Luis Port LLC	04A	180.00	140.00	320.00	No	-
Sarah Unruh	18	0.00	80.00	80.00	Yes	-
Scotty Koehn	18	240.00	80.50	320.50	Yes	-
Scotty Koehn	18	190.00	130.00	320.00	Yes	-
Scotty Koehn	18	0.00	62.34	62.34	Yes	-
Scotty Koehn	18	115.00	45.07	160.07	Yes	-
SD Farms	15	550.00	413.00	963.00	No	AMA
Shaen Magan	04A	844.95	2,235.00	3,079.95	Yes	-
Shelton Farms	08A	0.00	1,590.00	1,590.00	Yes	-
Shuck Drilling Arizona LLC	04A	0.00	75.00	75.00	Yes	-
Sierra Negra Farms	09	917.80	191.51	1,109.31	Yes	AMA
Sierra South Land & Farming Company	17	574.99	135.01	710.00	Yes	AMA
Silver Canyon Nurseries Inc	15	296.16	24.75	320.91	No	AMA
Silver Canyon Nurseries Inc	05	0.00	1,074.27	1,074.27	Yes	-
Somerton Ranch Limited Partnership	22A	4.64	0.00	4.64	No	-
Spot Road Dateland LLC	07	442.90	37.10	480.00	Yes	-
Spot Road Dateland LLC	07	781.30	91.20	872.50	Yes	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
T&K Red River Dairy LLLP	15	526.00	114.00	640.00	No	AMA
T&K Red River Dairy LLLP	15	51.30	20.23	71.53	Yes	AMA
The Bateman Irrevocable Trust	01	0.00	2.50	2.50	Yes	AMA
The Estate of Walter Doyle Sexton and Eileen Sexton	18	27.00	49.25	76.25	Yes	-
The Exchange Group, LLC	09	0.00	6.00	6.00	Yes	INA
The Larry and Lori Hancock Trust	06	650.53	100.32	750.85	Yes	-
Thomas H. Blohm Living Trust	22	126.90	13.07	139.97	No	-
Thomas M. Dugan Jr.	15	553.50	86.50	640.00	No	AMA
Thomas M. Dugan Jr.	15	185.90	23.24	209.14	No	AMA
Timothy S. Dugan	15	220.00	45.00	265.00	No	AMA
Timothy S. Dugan	15	474.00	145.54	619.54	No	AMA
TKD-08, L.L.C.	15	228.50	28.86	257.36	No	AMA
Tohono Oodham Farming Authority	15	334.00	104.43	438.43	No	AMA
Trevor Nowlin	15	285.00	35.00	320.00	No	AMA
Trey Nowlin	15	553.00	37.00	590.00	No	-
Triple D Farms, LLC	18	240.00	80.00	320.00	Yes	-
Troy Skousen Farms LLC	15	277.60	58.82	336.42	No	AMA
Trust #8011	17	140.00	237.16	377.16	Yes	AMA
U Cross Ranch LLC	01	15.00	15.00	30.00	Yes	-
U.S. Farming Solutions, LLC	03	80.00	306.23	386.23	No	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Vidler Water Company Inc	09	0.00	2,004.61	2,004.61	Yes	INA
Vince M. Ferreira	01	0.00	320.00	320.00	Yes	-
Whitetail Creek Orchards LLC	18	477.00	163.00	640.00	Yes	-
Whitetail Creek Orchards LLC	18	124.00	36.00	160.00	Yes	-
William Dr. P. Davis	18	122.00	162.84	284.84	Yes	-
Wilson Island Farms, Inc	04B	80.67	0.50	81.17	No	-
Winjum Farms, LLC	04A	240.00	80.00	320.00	Yes	-
Winjum Farms, LLC	04A	240.00	80.00	320.00	Yes	-
Winjum Farms, LLC	04A	120.00	200.00	320.00	Yes	-
Winjum Farms, LLC	04A	120.00	40.00	160.00	Yes	-
Wofford Farms, an Arizona general partnership	15	287.00	530.48	817.48	No	AMA
Wyle Bill Sollers and Lori Sue Sollers	18	0.00	160.00	160.00	Yes	-
Yumi Date Company Land Holdings LLC	04A	160.00	0.00	160.00	Yes	-
Yumi Date Company Land Holdings LLC	04A	230.00	10.00	240.00	Yes	-
Yumi Date Company Land Holdings LLC	04A	152.00	8.00	160.00	Yes	-
Yumi Date Company Land Holdings LLC	04A	80.00	0.00	80.00	No	-
Yumi Date Company Land Holdings LLC	04A	80.00	0.00	80.00	No	-
Yumi Date Company Land Holdings LLC	04A	320.00	0.00	320.00	No	-
Yumi Date Company Land Holdings LLC	04A	150.00	10.00	160.00	No	-

Table 3 continued

Account name (A-Z)	Farm area¹	Farmable acres	Unfarmable acres	Total acreage	Groundwater user	Located within AMA or INA
Yumi Date Company Land Holdings LLC	04A	160.00	0.00	160.00	No	-
Zinke Investments LLC	15	500.00	20.00	520.00	No	AMA
Total acres leased				152,936.08		

¹ See Appendix B, pages b-1 through b-4, for more information about the Department's farm areas.

² We identified 3 lessees as foreign or owned by foreign entities, including Asarco LLC; Fondomonte Arizona, LLC; and Monette Farms Arizona, LLC.

Source: Auditor General staff review of the Department's agricultural lease data as of October 1, 2023; Department-provided lease information, including groundwater user information; and websites for the Arizona Corporation Commission and lessees identified as foreign or owned by foreign entities.



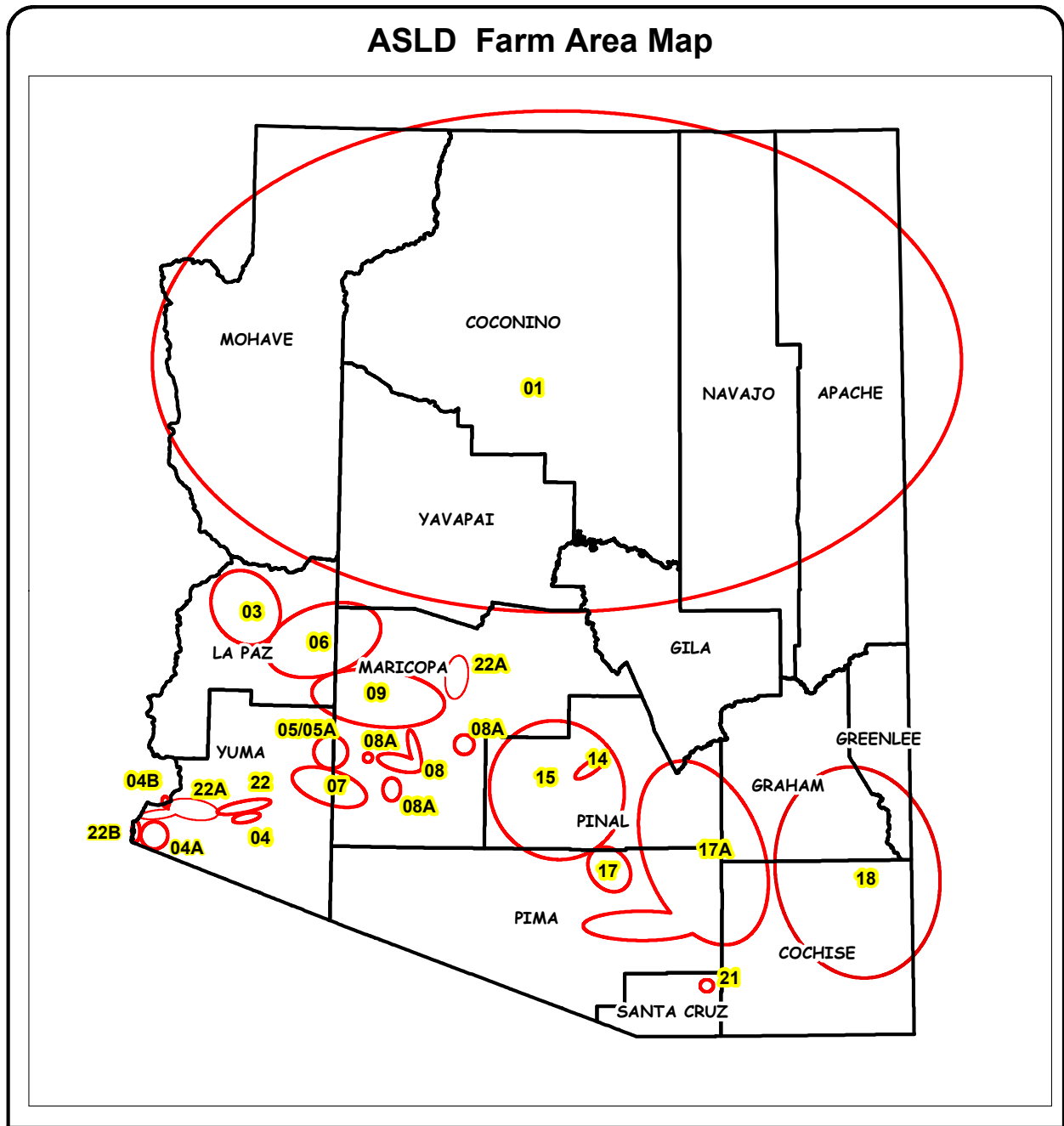
Department-provided farm areas map and farm area descriptions

As discussed in Chapter 1, pages 5 and 6, the Department has divided the State into 23 farm areas for the purpose of establishing lease rates for agricultural leases of State trust land. According to Department policy, a farm area is an area of the State in which agricultural State trust land shares similar physical characteristics that impact the productivity of agricultural activity, such as soil quality, availability of water, and climate, among other characteristics. This appendix presents the Department-provided farm areas map and farm area descriptions as of December 2023.

As discussed in Chapter 2, page 11, the Department-provided farm areas map does not include 2 of the Department's 23 farm areas. As shown in Table 4, pages b-3 and b-4, according to the Department-provided farm area descriptions, these 2 farm areas encompass the Phoenix metropolitan area and land along the Colorado River in La Paz County. As shown in Figure 3, page b-2, most of the Department's farm areas are in central and southern Arizona, with 1 farm area located in northern Arizona.

Figure 3

Department has divided Arizona into 23 farm areas, 2 of which are not identified on the Department-provided map, for the purpose of establishing agricultural lease rates¹



¹ Department farm areas are not numbered in sequential order. The Department's farm areas are: 1, 3, 4, 4A, 4B, 5, 5A, 6, 7, 8, 8A, 9, 14, 15, 17, 17A, 18, 21, 22, 22A, 22B, 22E, 22G. Department farm areas 22E and 22G, which encompass the Phoenix Metropolitan area and land along the Colorado River in La Paz County, respectively, are not identified on the Department-provided map.

Source: Department-provided farm areas map.

Table 4**Department has developed descriptions for each of its 23 farm areas**

Farm area	Location	Department-provided description
1	Northern Arizona	Farm area 1 is situated in Apache, Navajo, Coconino, Yavapai, and Mohave Counties. This area lies north of the Apache-Sitgreaves, Coconino and Prescott National Forests; Mohave County on the Arizona Strip along the Virgin River and Beaver Dam Wash.
3	La Paz County	Farm area 3 is located northwest of the Harcuvar Mountains and north of Interstate 10.
4	Yuma Wells	Farm area 4 stretches along Interstate 10 between Tacna (on the east) and Avenue 25E (on the west) and along the Gila River south of the Laguna Mountains and west of the Gila Mountains.
4A	Yuma Mesa	Farm area 4A is located on the Yuma Mesa southeast of Yuma along the western and northern boundaries of the Barry M. Goldwater Air Force Range.
4B	Yuma Island	Farm area 4B contains 23 leases located on the north side of the Colorado River at Yuma. This Farm area is partly State of Arizona Trust land situated in the State of California.
5	Hyder, Agua Caliente	Farm area 5 or the Hyder Valley straddles the Maricopa/Yuma County line.
5A	Jojoba	Farm area 5A contains leases devoted to the cultivation of jojoba within Farm area 5 (Hyder, Agua Caliente) situated in the Hyder Valley and at McVay southwest of Bouse and northwest of Vicksburg in central La Paz County.
6	Wenden, Vicksburg	Farm area 6 is in La Paz County southeast of the Harcuvar Mountains.
7	Sentinel, Aztec, Dateland	Farm area 7 lies along Interstate 10 between Sentinel and Dateland in Maricopa and Yuma Counties. It also includes leases 01-94634 (Brams Trust) and 01-101167 (Auza Ranches, LLC) west of Horn along the Hoodoo Wash.
8	Gila Bend, Painted Rock	Farm area 8 is situated along the Gila River below Gillespie Dam and above Painted Rock Dam.
8A	Gila Bend, Painted Rock	Farm area 8A is located in Rainbow Valley and south of Theba, and Painted Rock Dam.
9	Harquahala, Aguila	Farm area 9 encompasses 20,000 acres situated in Maricopa County north of Gillespie Dam on the Gila River along the Hassayampa River, along Centennial Wash, northwest just into La Paz County, and along Centennial Wash in northwestern Maricopa County and eastern La Paz County.

Table 4 continued

Farm area	Location	Department-provided description
14	Florence, Coolidge	Farm area 14 is within the San Carlos Irrigation District, near Florence and Coolidge.
15	Central Arizona	Farm area 15 contains leases south of the San Carlos Irrigation south to northern Pima County. These leases receive Central Arizona Project water.
17	Pima, Pinal, Miscellaneous	Farm area 17 is composed of leases in Pima and Pinal Counties not within an irrigation district.
17A	Southern Pastures	Farm area 17A consists of leases utilized for irrigated pastures in Cochise, Pima, Pinal, Maricopa, Graham, and Yuma Counties.
18	Graham, Greenlee, and Cochise	Farm area 18 includes leases located in Cochise, Graham, and Greenlee Counties.
21	Southeastern Orchards and Vineyards	Farm area 21 contains 2 vineyards in Santa Cruz County near Elgin and 1 orchard lease in Cochise County located in the Sulphur Springs Valley lying between Pearce and Kansas Settlement.
22	Irrigation Districts & Excess Water	Farm area 22 includes leases within the Wellton-Mohawk Irrigation District east of Avenue 24E.
22A	Irrigation Districts, Other	Farm area 22A encompasses vegetable acreage in the Yuma area north of Gadsen, including leases in the Yuma Valley and North Gila Irrigation Districts. Five leases in the Wellton-Mohawk Irrigation District, situated between the Y on the west and Avenue 24E on the east, are included due to a vegetable crop regime.
22B	Irrigation Districts, Other	Farm area 22B is situated in the south Yuma Valley, south of Gadsen.
22E	Irrigation Districts, Other	Farm area 22E encompasses leases in the Phoenix Metropolitan area (Surprise, Buckeye, and Gilbert).
22G	Irrigation Districts, Other	Farm area 22G lies along the Colorado River between Ehrenberg on the north and Cibola on the south.

Source: Auditor General staff compilation of Department-provided farm area descriptions.



Summary of peer states’ practices for leasing agricultural state trust land

As discussed in Chapter 1 (see pages 8 and 9), we reviewed state trust land agencies’ processes for establishing rental rates for agricultural leases on state trust land for the 6 other states in the Colorado River Basin: California, Colorado, Nevada, New Mexico, Utah, and Wyoming. This appendix presents a table and descriptions with information on these 6 states’ agricultural state trust land leasing practices (see Table 5, pages c-1 and c-2).⁶⁵

Table 5
Other states’ practices for leasing state trust land for agricultural purposes vary compared to Arizona’s¹

	Arizona ²	California	Colorado	New Mexico	Utah	Wyoming
Approximate total acres of state trust land	9.2 million	0.5 million	2.8 million	9 million	3.3 million	3.5 million
Approximate total acres of state trust land leased for agricultural purposes	153,000	100	52,100	Not reported ³	6,100	312,700 ⁴
Approximate number of agricultural crop land leases on state trust land	337	2	134	Not reported ³	39	305 ⁴
Approximate revenue collected from agricultural crop land leases in fiscal year 2023	\$4,339,836	\$82,596	\$3,790,200	Not reported ³	\$94,126	\$954,117 ⁴
Rental rate based on value of land or crops?	Land	Land or crops ⁵	Crops	Land	Land	Land or crops ⁶

⁶⁵ In other states, state trust land may also be known as school land.

Table 5 continued

	Arizona ²	California	Colorado	New Mexico	Utah	Wyoming
Frequency for reassessing agricultural rental rates	10 years	5 years ^{7,8}	3 years	No standard timeframe	5 years ⁷	Annually or every 10 years ⁹
Additional charges for groundwater usage on agricultural leases?	No	No	No	No	Yes ¹⁰	No
Restrictions related to agricultural leasing with foreign individuals or entities?	No	No	No	No	Yes	Yes

¹ Nevada reported that, as of January 2024, it did not have any agricultural leases on state trust land.

² See Chapter 1 (pages 5 and 6) for more information on Arizona's practices for leasing State trust land for agricultural purposes.

³ As of January 2024, New Mexico's state trust land agency had not responded to our request for this information.

⁴ According to the Wyoming state trust land agency, this information may include some leases that are used for both grazing and agricultural purposes.

⁵ California Code of Regulations, 2 CCR § 2003(a), authorizes the California state trust land agency to use various methods for determining the rental rate for state trust land, such as 9 percent of the appraised value of the leased land or comparisons to rents for other similar land, and allows for these methods to be combined. According to California's state trust land agency, it generally bases agricultural rental rates on either a percentage of the appraised sale value of the land or a percentage of the lessee's earnings from crop production on the land.

⁶ The Wyoming state trust land agency reported that it bases rental rates on a percentage of the appraised sale value of the land for irrigated leases and estimated crop production for nonirrigated leases.

⁷ In this state, the state trust land agency reported that the rental rate charged is reassessed on a lease-by-lease basis.

⁸ California's state trust land agency reported that lease terms often include the ability for it to reevaluate the leases' rental rates every 5 years.

⁹ The Wyoming state trust land agency reported that it reassesses rental rates for nonirrigated leases annually and reassesses rental rates on irrigated leases on a lease by lease basis upon lease renewal. The Wyoming state trust land agency reported that it has a maximum lease term of 10 years.

¹⁰ Utah's state trust land agency reported that when it owns the rights to the water on the leased state trust land, it charges agricultural lessees for their groundwater use.

Source: Auditor review of state statute, administrative rule, procedures and guidance documents, and information provided by the Department and other state trust land agencies in California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

California—According to California's state trust land agency, as of June 2023, California had approximately 459,000 acres of state trust land. The California state trust land agency is authorized to lease state trust land for agricultural purposes and, as of December 2023, it reported doing so. According to California's state trust land agency, it generally bases agricultural rental rates on either a percentage of the appraised sale value of the land or a percentage of the lessee's earnings from crop production on the land.⁶⁶ However, it reported that it can

⁶⁶ California Code of Regulations, 2 CCR § 2003(a), authorizes the California state trust land agency to use various methods for determining the rental rate for state trust land, such as 9 percent of the appraised value of the leased land or comparisons to rents for other similar land, and allows for these methods to be combined.

also consider various qualities of the lease and land, such as the crops' growth cycle, history with the lessee, and the value of improvements on the land.⁶⁷ As of January 2024, California's state trust land agency reported that it had 2 agricultural leases and its agricultural lessees were not authorized to use groundwater. As such, it does not charge agricultural lessees for groundwater use.

According to California's state trust land agency, it reevaluates a lease's rental rate whenever there is a new lease application, which includes initial leases, lease renewals, and lease adjustments. It also reported that lease terms often include the ability for it to reevaluate the leases' rental rates every 5 years.⁶⁸

Additionally, California's state trust land agency reported that it does not have any specific restrictions or requirements related to leasing agricultural state trust land to foreign entities.

Colorado—According to Colorado's state trust land agency, as of December 2023, Colorado had approximately 2.8 million acres of state trust land. The Colorado state trust land agency is authorized to lease state trust land for agricultural purposes and, as of January 2024, it reported doing so. Colorado's state trust land agency establishes agricultural rental rates using a crop-share formula based on federal crop data, which is adjusted based on specific lease factors.⁶⁹ For example, on agricultural leases for which Colorado's state trust land agency owns the improvements and/or water rights, it charges a higher percentage share of the crop value than on leases where it does not own the improvements and water rights. Colorado's state trust land agency provides a \$40 per acre discount to the agricultural rental rate for applicable leases when the lessee owns improvements on the land, such as wells or irrigation systems.⁷⁰ Colorado's state trust land agency reported that it does not charge agricultural lessees for groundwater use. Colorado's state trust land agency reported that it adjusts its agricultural rental rates every 3 years.

Additionally, Colorado's state trust land agency reported that it does not have any specific restrictions or requirements related to leasing agricultural state trust land to foreign entities.

Nevada—According to the Nevada's state trust land agency, as of June 2023, Nevada had approximately 3,000 acres of state trust land. Nevada's state trust land agency is authorized to lease state trust land for agricultural purposes. However, it reported that, as of January 2024, it did not do so.

New Mexico—According to New Mexico's state trust land agency, as of December 2023, New Mexico had approximately 9 million acres of state trust land. The New Mexico state trust land agency is authorized to lease state trust land for agricultural purposes and, as of December 2023, it reported doing so. New Mexico's state trust land agency reported that it establishes agricultural rental rates based on historical information. Specifically, it reported that it uses a historical map of New Mexico's crop production potential for various geographic areas along with procedures that establish maximum rental rates for these areas.⁷¹ According to these procedures, these geographic areas were established based on the physical characteristics of the land, including climate and access to water resources. New Mexico's state trust land agency also reported that it performs field inspections to determine percentage reductions to the established maximum rates based on qualities of the land to be leased, such as soil quality and availability and quality of water for irrigation.⁷² New Mexico's state trust land agency reported that it does not charge agricultural lessees for groundwater use.

⁶⁷ California's state trust land agency reported that its agricultural lessees own their improvements and that it does not offer standard reductions to rental rates for improvements. According to the California state trust land agency, when a lease ends, lessees are required to fully restore the leased land to its original condition and remove improvements.

⁶⁸ California's state trust land agency reported that its maximum lease term is 25 years but, when possible, it sets its lease term to 10 years.

⁶⁹ Colorado's crop-share formula multiplies U.S. Department of Agriculture data on average crop yield and price and charges lessees a percentage of this value.

⁷⁰ Colorado's procedures state that the \$40 per acre discount is applicable to irrigated leases where the Colorado state trust land agency owns the water. Further, these procedures do not establish limits on the \$40 per acre discount. In calendar year 2023, the minimum rate a Colorado lessee that received the \$40 per acre discount could have been charged was approximately \$89 per acre.

⁷¹ New Mexico's state trust land agency's procedures establish a state-wide maximum of \$3.80 per acre for nonirrigated crop land. The New Mexico state trust land agency reported that there is no process for updating maximum rates established in its procedures.

⁷² According to New Mexico's state trust land agency, it does not provide any adjustment to a lessee's rent for improvements.

New Mexico's state trust land agency further reported that it has a maximum lease term of 5 years and does not have a standard time frame to adjust agricultural rental rates.⁷³

Additionally, New Mexico's state trust land agency reported that it does not have any specific restrictions or requirements related to leasing agricultural state trust land to foreign entities.

Utah—According to Utah's state trust land agency, as of November 2023, Utah had approximately 3.3 million acres of state trust land. The Utah state trust land agency is authorized to lease state trust land for agricultural purposes and, as of December 2023, it reported doing so. Utah's state trust land agency reported that it establishes agricultural rental rates by performing a review of market rental values. It also reported that it may provide a lease rate reduction when lessees construct improvements, but it had no standard process or rate for this reduction.⁷⁴ Specifically, it reported that rental rates may be reduced to assist in covering the lessee's costs for the improvement. Utah's state trust land agency reported it reevaluates each lease's rental rate every 5 years.

Utah's state trust land agency further reported that when it owns the rights to the water on the leased state trust land, it charges agricultural lessees for their groundwater use based on the water's market value and the volume of groundwater used by the lessee.⁷⁵ According to the Utah Division of Water Rights, water rights are classified as real property in the state of Utah and are bought and sold like real estate. Further, according to Utah Code, water right applications for groundwater have been required since at least 1991. Utah's state trust land agency reported that, to determine the volume of water used by lessees, it reviews groundwater usage information from Utah's water regulatory agency.

Additionally, according to Utah Code, state trust land cannot be leased to some restricted foreign entities.⁷⁶

Wyoming—According to Wyoming's state trust land agency, as of January 2024, Wyoming had approximately 3.5 million acres of state trust land. The Wyoming state trust land agency is authorized to lease state trust land for agricultural purposes, and as of December 2023, it reported doing so. Wyoming's state trust land agency reported that it has various processes for establishing agricultural rental rates based on whether the land is irrigated or nonirrigated crop land.⁷⁷ Specifically:

- For irrigated crop land, it reported charging lessees 4 percent of the appraised sale value of the land, with a reduction for the value of lessee improvements on the land, such as wells or irrigation systems. It further reported that it reviews rental rates for its irrigated crop land leases against market rates upon renewal and that it would reappraise the land if it determined that the rental rate required adjustment.⁷⁸
- For nonirrigated crop land, Wyoming's state trust land agency reported that it establishes rental rates based on the leased lands' estimated average crop production, with a 20 percent reduction to all lessees

⁷³ New Mexico's state trust land agency reported that it performs its field inspection process and makes any necessary adjustments to lease rental rates when land is first leased or when there has been a significant change to the quality of the leased land.

⁷⁴ According to Utah's state trust land agency, agricultural lessees of state trust land in Utah do not own improvements they make on the leased land.

⁷⁵ Other states may have different regulatory structures for water ownership from Arizona's.

⁷⁶ Restricted foreign entities are identified in Utah Code § 63L-13-101, which relies on the definitions of foreign entities established in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 1260H, 134 Stat. 3388, 3965-3966 (National Defense Authorization Act) for public reporting of Chinese military companies operating in the United States. The National Defense Authorization Act does not place restrictions on leasing agricultural land.

⁷⁷ According to the U.S. Department of Agriculture, irrigated cropland normally receives or has the potential to receive water by artificial means to supplement natural rainfall, and nonirrigated cropland receives water only by natural rainfall.

⁷⁸ Wyoming's state trust land agency reported that it has a maximum agricultural lease term of 10 years.

to account for lessee improvements.⁷⁹ It further reported that it establishes agricultural rental rates for nonirrigated crop land annually.

Wyoming's state trust land agency reported that it does not charge agricultural lessees for groundwater use. Additionally, to lease state trust land in Wyoming, an individual must be a U.S. citizen or declare an intention to become a U.S. citizen.

⁷⁹ According to Wyoming's state trust land agency, it conducts field inspections to determine the leased land's estimated average crop production. Additionally, it reported that it does not provide a discount for years where the lessee allows the land to lay fallow if the lessee intends to produce crops in the future. However, if a lessee intends to stop producing crops and return the leased land to native vegetation, the Wyoming state trust land agency reported it would evaluate whether it would be necessary to reduce rent.



Comparison of per farmable acre rental rates charged in 2023 to estimated rates had the Department adjusted rates based on the 2018 market study

As discussed in Chapter 2 (see pages 10 and 11), in calendar year 2023, the Department charged lessees rental rates for farmable acres that it established in calendar year 2006 based on its 2005 mass appraisal, according to the farm area to which the lease was assigned. In addition to the 2005 mass appraisal, the Department obtained a study that estimated 2018 per farmable acre market rental rates (2018 market study). As shown in Table 6, pages d-1 and d-2, if the Department had adjusted its agricultural rental rates based on the 2018 market study and its policy of discounting market rates by 50 percent, its per farmable acre agricultural rental rates would have increased in 21 farm areas and decreased in 2 farm areas.

Table 6
2023 actual rental rates per farmable acre for Department’s 23 farm areas compared to discounted 2018 market rental rates per acre had the Department adjusted rates based on 2018 market study¹

Farm area	2023 actual rental rate per acre	Discounted 2018 market rental rate per acre ²	Difference between 2023 actual rate and discounted 2018 market rate
1	\$17.00	\$20.00	18%
3	25.00	62.50	150%
4	60.00	100.00	67%
4A	40.00	90.00	125%
4B	60.00	100.00	67%
5	35.00	90.00	157%
5A	19.00	37.50	97%
6	30.00	87.50	192%
7	38.00	87.50	130%
8	44.00	90.00	105%
8A	30.00	90.00	200%
9	27.00	75.00	178%
14	50.00	75.00	50%

Table 6 continued

Farm area	2023 actual rental rate per acre	Discounted 2018 market rental rate per acre²	Difference between 2023 actual rate and discounted 2018 market rate
15	40.00	87.50	119%
17	30.00	75.00	150%
17A	19.00	25.00	32%
18	25.00	62.50	150%
21	30.00	50.00	67%
22	120.00	100.00	-17%
22A	300.00	325.00	8%
22B	275.00	225.00	-18%
22E	65.00	100.00	54%
22G	65.00	100.00	54%

¹ In addition to the per farmable acre rental rate, the Department charges a \$5 per unfarmable acre rate.

² We estimated the 2018 discounted market rental rate based on the Department's policy of discounting market rental rates by 50 percent.

Source: Auditor General staff review of the Department's rate-setting policy, rental rates, 2005 mass appraisal, and 2018 market study.



Scope and methodology

The Arizona Auditor General has conducted this special audit of the Department's agricultural leasing process pursuant to a November 21, 2022, resolution of the Joint Legislative Audit Committee.

We used various methods to address the audit's objectives, including reviewing applicable State statutes and rules; reviewing the Department's website, policies, procedures, and various Department-provided documents; and interviewing Department staff. In addition, we used the following specific methods to meet the audit's objectives:

- To obtain information about other state practices for agricultural state trust land leasing, rent setting, and groundwater reporting requirements for Chapter 1, Chapter 3, Chapter 4, and Appendix C, we selected the 6 other states located in the Colorado River Basin—California, Colorado, New Mexico, Nevada, Utah, and Wyoming—and reviewed applicable state statutes and rules, and contacted and reviewed information from state trust land agencies for each of these states.^{80,81}
- To obtain information for Chapter 1, we reviewed the Department's 2005 mass appraisal and 2018 market study; third-party analyses of the Department's agricultural rental rate practices; and Department policies for setting agricultural rental rates. Additionally, we reviewed recommended practices for leasing and valuing agricultural land from Michigan State University Extension, the University of Vermont Extension School, the Drake Journal of Agricultural Law, the National Agricultural Law Center, and The Appraisal Foundation, a nonprofit that establishes guidelines for federal government appraisals.⁸²
- To obtain information for Chapter 2, we reviewed the Department's 2005 mass appraisal and 2018 market study, Department email communications related to agricultural rental rates and the 2018 market study, and Department-prepared agricultural lease and agricultural rental rate data.⁸³ Additionally, we reviewed Department-provided lease documentation for calendar years 2021 through 2023, including agricultural

⁸⁰ To calculate a minimum rental rate for Colorado lessees that receive a \$40 per acre discount for improvements in Chapter 1 and Appendix C, we used information from the Colorado state trust land agency website.

⁸¹ We also contacted U.S. Bureau of Land Management offices in Arizona.

⁸² Recommended practices we reviewed included National Agricultural Law Center. (n.d.). *Agricultural leases: An overview*. Retrieved 12/7/2023 from <https://www.uvm.edu/newfarmer/land/RentalGuide.pdf>; Cannella, M., & Waterman, B. (2014). *How to determine the right farm rental rate*. University of Vermont Extension. Retrieved 8/7/2023 from <https://clctrust.org/wp-content/uploads/2022/01/UVM-How-to-Determine-the-Right-Farm-Rental-Rate.pdf>; Kelley, L. (2009). *Irrigation aspects of land lease agreements*. Michigan State University Extension. Retrieved 8/3/2023 from <https://www.canr.msu.edu/uploads/235/67987/lyndon/LandRent.pdf>; The Appraisal Foundation. (2016). *Uniform appraisal standards for federal land acquisitions*. Washington, DC. Retrieved 11/15/2023 from <https://www.justice.gov/enrd/page/file/1537351/download>; Cox, E. (2011). A lease-based approach to sustainable farming, part II: Farm tenancy trends and the outlook for sustainability on rented land. *Drake Journal of Agricultural Law*, 16(1), 5-30. Retrieved 12/7/2023 from <https://aglawjournal.wp.drake.edu/wp-content/uploads/sites/66/2016/09/agVol16No1-Cox.pdf>; LaPorte, J., MacKellar, B., & Pennington, D. (2023). *Farmland rent considerations*. Michigan State University Extension. Retrieved 1/4/2024 from https://www.canr.msu.edu/farm_management/uploads/files/Farmland%20Rent%20Considerations%20Factsheetv3.pdf.

⁸³ We also contacted the former State Land Commissioner to request an interview, and the former State Land Commissioner reported not remembering details related to updating agricultural rental rates and did not respond to a second request for an interview.

questionnaires, rent statements, and billing statements for a sample of 22 of 337 active Department agricultural leases as of October 1, 2023.⁸⁴

- To obtain information for Chapter 3, we reviewed recommended practices from the Lincoln Institute for Land Policy, Annual Review of Environment and Resources, Organization for Economic Cooperation and Development, International Groundwater Resources Assessment Centre, the U.S. Environmental Protection Agency, and U.S. Geological Survey.⁸⁵
- To obtain information for Chapters 4 and 5, we reviewed the Department's 5 agricultural leases with Fondomonte, associated lease documentation, and Department communications related to these leases. Additionally, we reviewed ADWR's December 2023 supply and demand report of the Butler Valley Basin and Department documentation related to its contracted Butler Valley Basin water supply study.⁸⁶
- To obtain information for Appendix A, we reviewed Department-prepared agricultural lease data as of October 1, 2023. Additionally, to identify lessees that are foreign or owned by foreign entities, we compared the Department's list of agricultural lessees as of October 2023 to the United States Department of Agriculture's Agricultural Foreign Investment Disclosure Act list of foreign agricultural landowners and reviewed the Arizona Corporation Commission's and lessees' websites.⁸⁷ To obtain information for Appendix B, we reviewed the Department-provided map of its farm areas and farm area descriptions. To obtain information for Appendix D, we reviewed the Department's rate-setting policy, rental rates, 2005 mass appraisal, and 2018 market study.
- To obtain information for the Introduction, we reviewed the Department's fiscal year 2023 annual report, Department lease documentation, the Arizona-New Mexico Enabling Act of 1910, and the State Constitution.⁸⁸

⁸⁴ As of October 1, 2023, the Department had 337 active agricultural leases. We judgmentally selected and reviewed all 5 agricultural leases between Fondomonte and the Department and 2 agricultural leases in transportation basins with similar acreage to Fondomonte's leases because the special audit scope required us to evaluate Fondomonte's leases. We also reviewed a random sample of 15 of the Department's remaining 330 agricultural leases.

⁸⁵ Recommended practices we reviewed included Bartolino, J. R. & Cunningham, W. L. (2003). *Ground-water depletion across the nation: U.S. Geological Survey fact sheet 103-03*. Reston, VA: U.S. Geological Survey. Retrieved 12/14/2023 from [https://pubs.usgs.gov/fs/fs-103-03/JBartolinoFS\(2.13.04\).pdf](https://pubs.usgs.gov/fs/fs-103-03/JBartolinoFS(2.13.04).pdf); Environmental Protection Agency. (1998). *Water conservation plan guidelines: Appendix A*. Washington, DC. Retrieved 12/7/2023 from <https://www.epa.gov/sites/default/files/2017-03/documents/appendix-a-water-conservation-measures.pdf>; Environmental Protection Agency. (2013). *Water audits and water loss control for public water systems*. Washington, DC. Retrieved 8/11/2023 from <https://www.epa.gov/sites/default/files/2015-04/documents/epa816f13002.pdf>; Environmental Protection Agency. (2016). *Best practices to consider when evaluating water conservation and efficiency as an alternative for water supply expansion*. Washington, DC. Retrieved 12/7/2023 from <https://www.epa.gov/sustainable-water-infrastructure/best-practices-water-conservation-and-efficiency-alternative-water>; International Groundwater Resources Assessment Centre. (2008). *Guideline on: Groundwater monitoring for general reference purposes*. Utrecht, Netherlands. Retrieved 12/11/2023 from <https://www.un-igrac.org/sites/default/files/resources/files/WG1-7-Guideline-v12-03-08.pdf>; Lall, U., Josset, L., & Russo, T. (2020). A snapshot of the world's groundwater challenges. *Annual Review of Environment and Resources*, 45, 171-194. Retrieved 12/7/2023 from <https://www.annualreviews.org/doi/abs/10.1146/annurev-environ-102017-025800>; Organization for Economic Co-operation and Development. (2016). *OECD council recommendation on water*. Retrieved 1/5/2024 from <https://www.oecd.org/environment/resources/Council-Recommendation-on-water.pdf>; Organization for Economic Co-operation and Development. (2021). *Toolkit for water policies and governance: Converging towards the OECD council recommendation on water*. Retrieved 12/7/2023 from https://www.oecd-ilibrary.org/environment/toolkit-for-water-policies-and-governance_ed1a7936-en; Rugland, E. (2022). *Integrating land use and water management: Planning and practice*. Cambridge, MA: Lincoln Institute of Land Policy. Retrieved 12/11/2023 from <https://www.lincolninst.edu/publications/policy-focus-reports/integrating-land-use-water-management>; Taylor, C. J., & Alley, W. M. (2001). *Ground-water-level monitoring and the importance of long-term water-level data: U.S. Geological Survey circular 1217*. Reston, VA: U.S. Geological Survey. Retrieved 12/14/2023 from <https://pubs.usgs.gov/circ/circ1217/>.

⁸⁶ ADWR. (2023). *2023 Supply and demand assessment: Butler Valley Basin*. Phoenix, AZ. Retrieved 12/4/2023 from https://www.azwater.gov/sites/default/files/2023-12/2023_ButlerValleyBasin.pdf.

⁸⁷ We identified that 3 of 237 Department agricultural lessees as of October 2023 were foreign or owned by foreign entities. Statute does not require the Department to track whether its lessees are foreign, and it reported that it does not track this information. As such, there may be other Department agricultural lessees that are foreign or owned by foreign entities that we did not identify in Appendix A.

⁸⁸ To obtain additional information for the Introduction, we compared the 2 Department lessees that assigned leases to Fondomonte, Vicksburg Ranch and FSI Butler Valley LLC, to the United States Department of Agriculture's Agricultural Foreign Investment Disclosure Act list of foreign agricultural landowners, and these 2 entities were not on the list of foreign agricultural landowners.

We selected our audit samples to provide sufficient evidence to support our findings, conclusions, and recommendations. Unless otherwise noted, the results of our testing using these samples were not intended to be projected to the entire population.

We express our appreciation to the Cabinet Executive Officer and Deputy Executive State Land Commissioner and Department staff for their cooperation and assistance throughout the audit.

DEPARTMENT RESPONSE

Katie Hobbs
Governor



Robyn Sahid
Cabinet Executive Officer
Executive Deputy Commissioner

Arizona State Land Department

1110 West Washington Street, Phoenix, AZ 85007
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February 12, 2024

Lindsey A. Perry
Auditor General
2910 N. 44th Street, Suite 410
Phoenix, Arizona 85018

Dear Ms. Perry,

Thank you for providing us with a final report draft of the Arizona State Land Department – Agricultural Leasing Process Special Audit. We appreciate the opportunity to respond. Attached, please find our final response to the audit findings.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robyn Sahid'.

Robyn Sahid
Executive Deputy Commissioner

Chapter 1: Department's process for determining agricultural rental rates does not fully align with all recommended practices but includes some components and, although peer state practices vary, is consistent with some peer states

Recommendation 1: The Department should continue to review its agricultural leasing processes, including its 50 percent discount, and consider and identify ways to align its processes to recommended practices, such as providing discounts based on the cost of the improvement.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD has reviewed the comparative analysis of other states and recommended practices from academic sources, as reported by the Auditor General's office, and interprets the comparative results as being highly variable. Variability in valuations for crop production vs. land value and reductions (adjustments) for improvements make it challenging to "align" with standards adopted by other western states. However, ASLD agrees with the report and recommendation that it is inaccurate to apply a "flat" 50% discount (adjustment) across all leases, as opposed to accounting individually for investment by each lessee, which practice would bring ASLD into parity with other states that account for improvements using this methodology. ASLD intends to identify a more equitable way of adjusting for improvements.

Chapter 2: Department failed to conduct mass appraisals or adjust rental rates over 17-year period and incorrectly charged some lessees, resulting in more than \$3.4 million less in potential revenue for trust beneficiaries in calendar year 2023

Recommendation 2: The Department should conduct a mass appraisal of agricultural State trust land that complies with statutory requirements and update its agricultural rental rates accordingly.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD recognizes the Auditor General's findings that the agency has not adjusted its agriculture rental rates since 2005; and that while a market rent study was completed in 2018, for unknown or unverifiable reasons, it was not implemented. ASLD will secure necessary resources to complete a revised market appraisal for agriculture use on State Trust land (STL), consistent with constitutional and statutory requirements for appraisal.

Recommendation 3: The Department should ensure its agricultural leases are assigned to and charged rental rates for correct farm areas by:

Recommendation 3a: Redeveloping its farm areas map and associated documentation to ensure that it has clear, specific, and accurate boundaries for all Department farm areas, such as by using Geographic Information Systems to clearly delineate the farm areas.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD intends to secure necessary resources to ensure that the STL farm areas map has specific, spatially identified and applied boundaries.

Recommendation 3b: Developing and implementing policies and procedures for assigning agricultural leases to farm areas.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD recognizes the Auditor General's office finding related to unclear or unspecific STL farm area boundaries. While ASLD provides guidance for application of the farm area boundaries, they are descriptive in nature (Table 4). Ensuring GIS or spatial delineation provides for precise assignments. ASLD will ensure that its farm areas map is precisely delineated, and consistently applied. ASLD intends to develop policies and procedures that support clear customer and staff guidance for assigning future agriculture leases and renewals within any revised STL farm area boundaries.

Recommendation 3c: After redeveloping its farm area maps, review lease documentation to ensure that all Department agricultural lessees are assigned to the appropriate farm area, and correct any erroneously assigned lessees, as applicable.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD intends to secure resources to conduct its own internal audit of its agriculture leases to ensure appropriate farm area assignments for its agriculture leases, and subsequent billings. ASLD appreciates the Auditor General's office efforts to conduct a sample review of 22 leases, noting that 3/22 had misappropriated farm areas.

Recommendation 4: The Department should develop and implement policies and procedures that outline steps that Department staff must take when lessees fail to submit annual agricultural questionnaires required by the Department's agricultural leases, such as reaching out to lessees to request the questionnaire or take action consistent with its agricultural lease terms if lessees refuse to respond to Department requests and/or provide questionnaires.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD agrees with the Auditor General that it generally lacks standard work in managing annual questionnaire and billing expectations for the customer and staff. ASLD's "agriculture section" retains a single employee, and there has been turnover in the position in the past 5 years. Creating clearer standard work and policies will be a priority of the agency in the next few years across all sections and divisions in order to improve the customers' interface with the agency, reduce complaints resulting from applied inconsistencies and ambiguity, and improve staff morale.

Recommendation 5: The Department should develop and implement policies and procedures to apply the subleasing charge to agricultural lessees that sublease land.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: ASLD will ensure that its standard work and policies and procedures include specific agriculture sublease surcharge provisions and that they are applied appropriately going forward.

Chapter 5: Department's agricultural leases, including with Fondomonte, do not include provisions to protect water basin levels, and although they require agricultural lessees to use water in the most efficient manner possible, Department does not monitor or ensure efficient water use

Recommendation 6: The Department should develop and implement policies and procedures for determining, measuring, and enforcing compliance with its lease term that lessees use water in the most efficient manner possible.

Department response: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

Response explanation: Similar to several of the other issues and recommendations included herein – ASLD recognizes that the agency has several provisional lease requirements that lack oversight standards and processes for monitoring and ensuring compliance. ASLD will work to secure resources to ensure that it develops clear, transparent guidelines and expectations for customers, that those guidelines can be implemented and enforced, and that lease administration (lease provision oversight) and enforcement will be included as part of ASLD's standard work and policies and procedures.

