

Leasing for Wind Energy

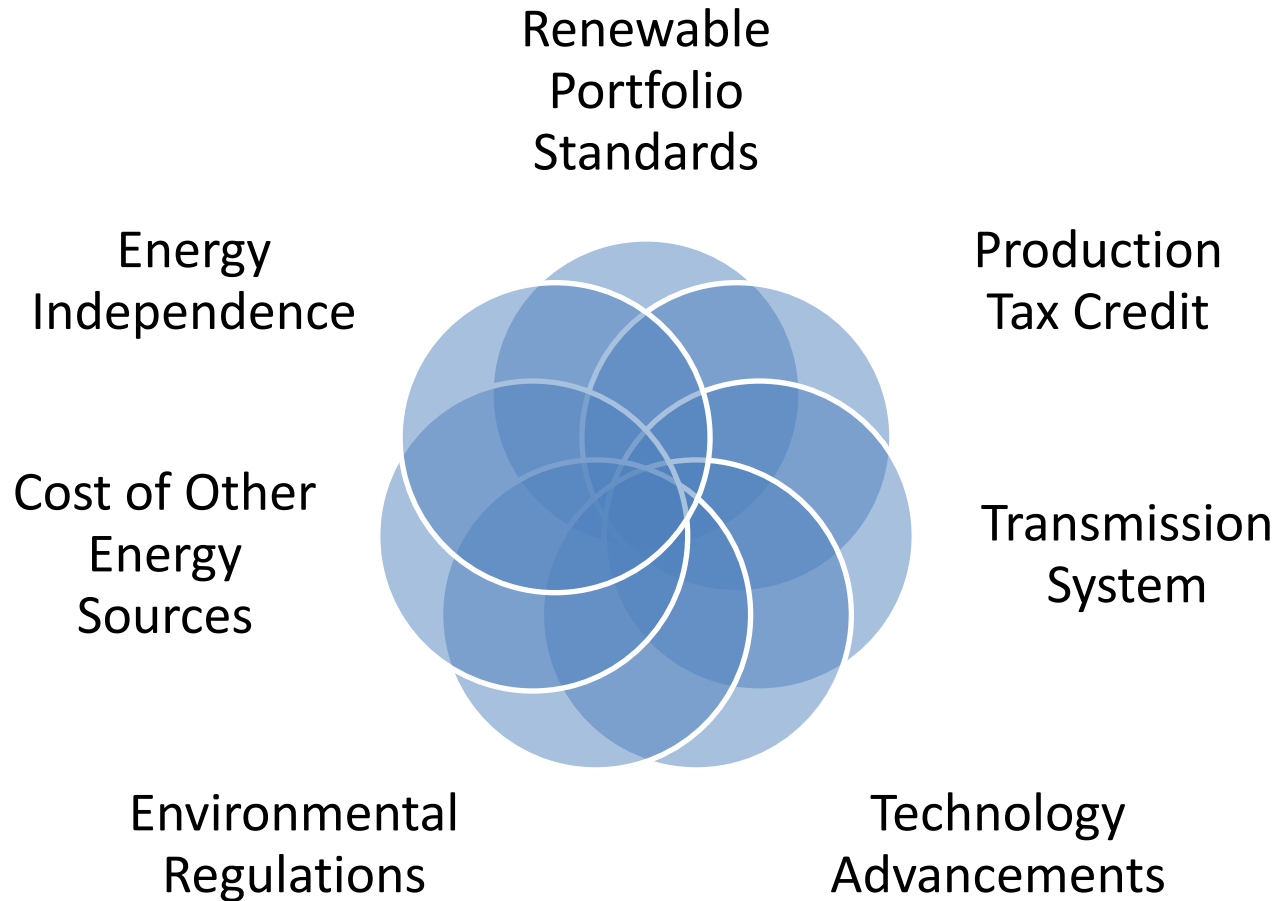
Farmland Leases: Tales, Types, and Trends
Federal Reserve Bank of Chicago
November 27, 2012

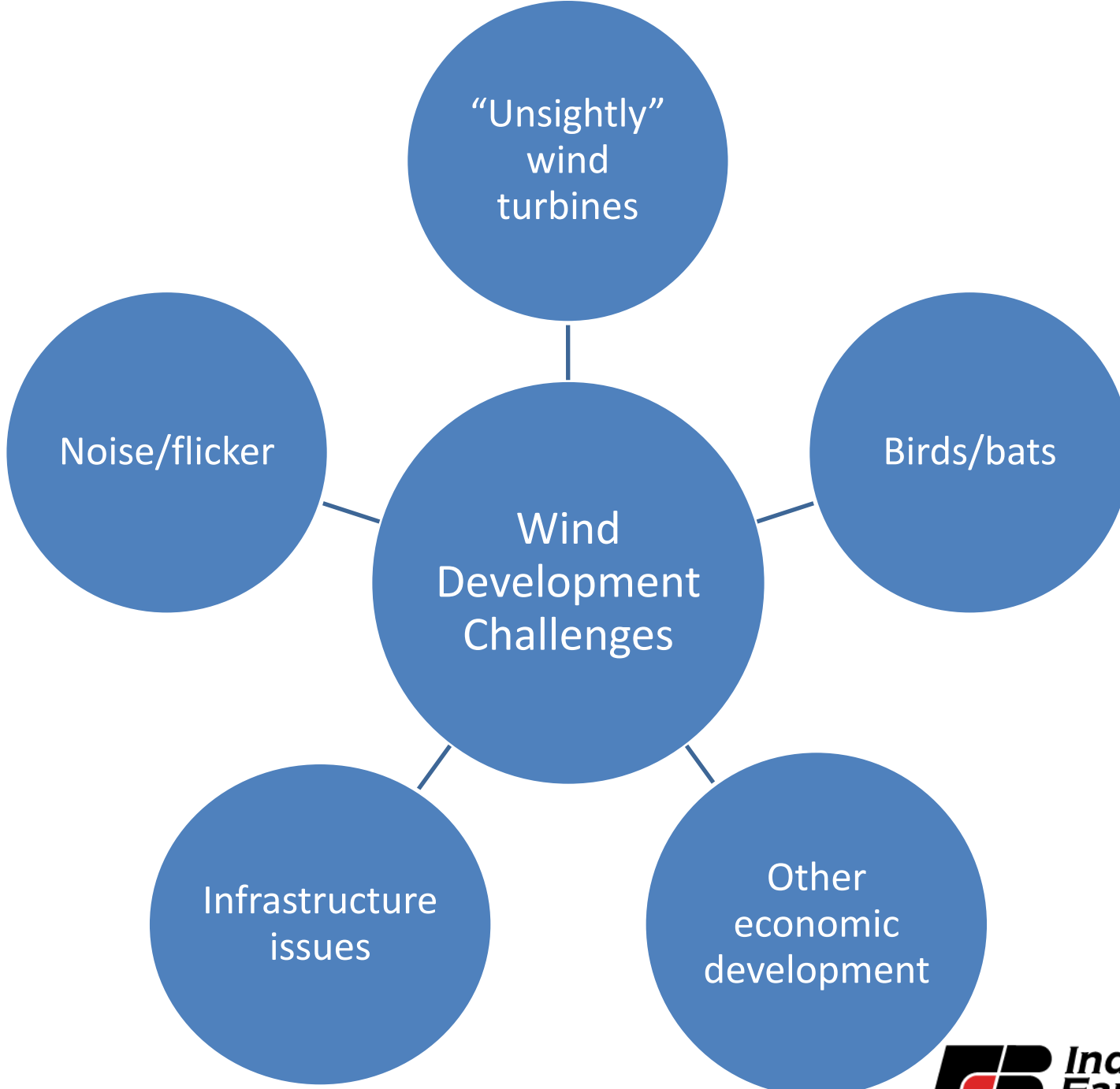
Justin Schneider
Staff Attorney
Indiana Farm Bureau, Inc.

Disclaimer

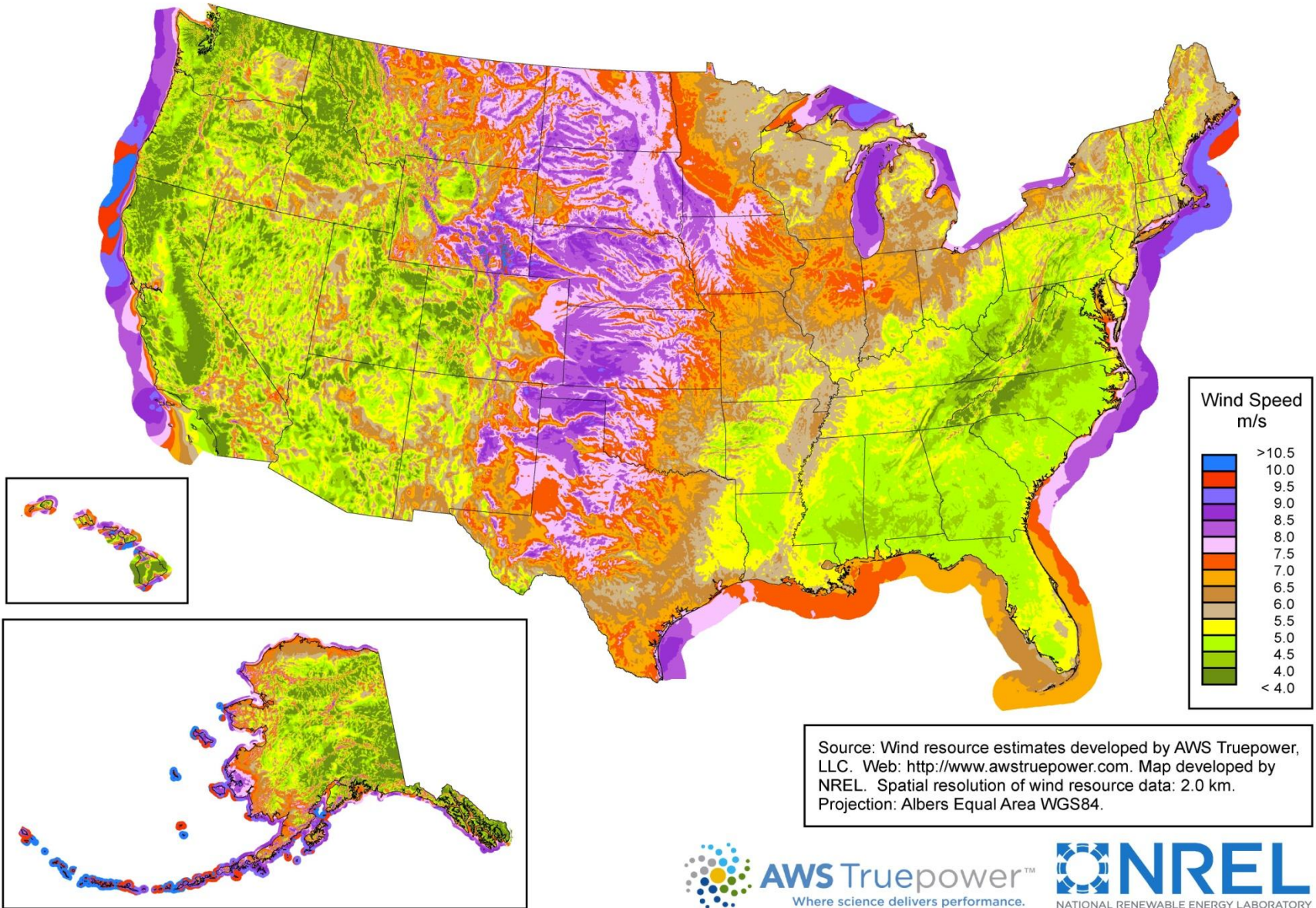
- The information provided in this program is not legal advice and is for informational purposes only. Please seek the advice of your own counsel.

Drivers for Wind Power Development





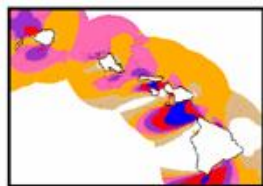
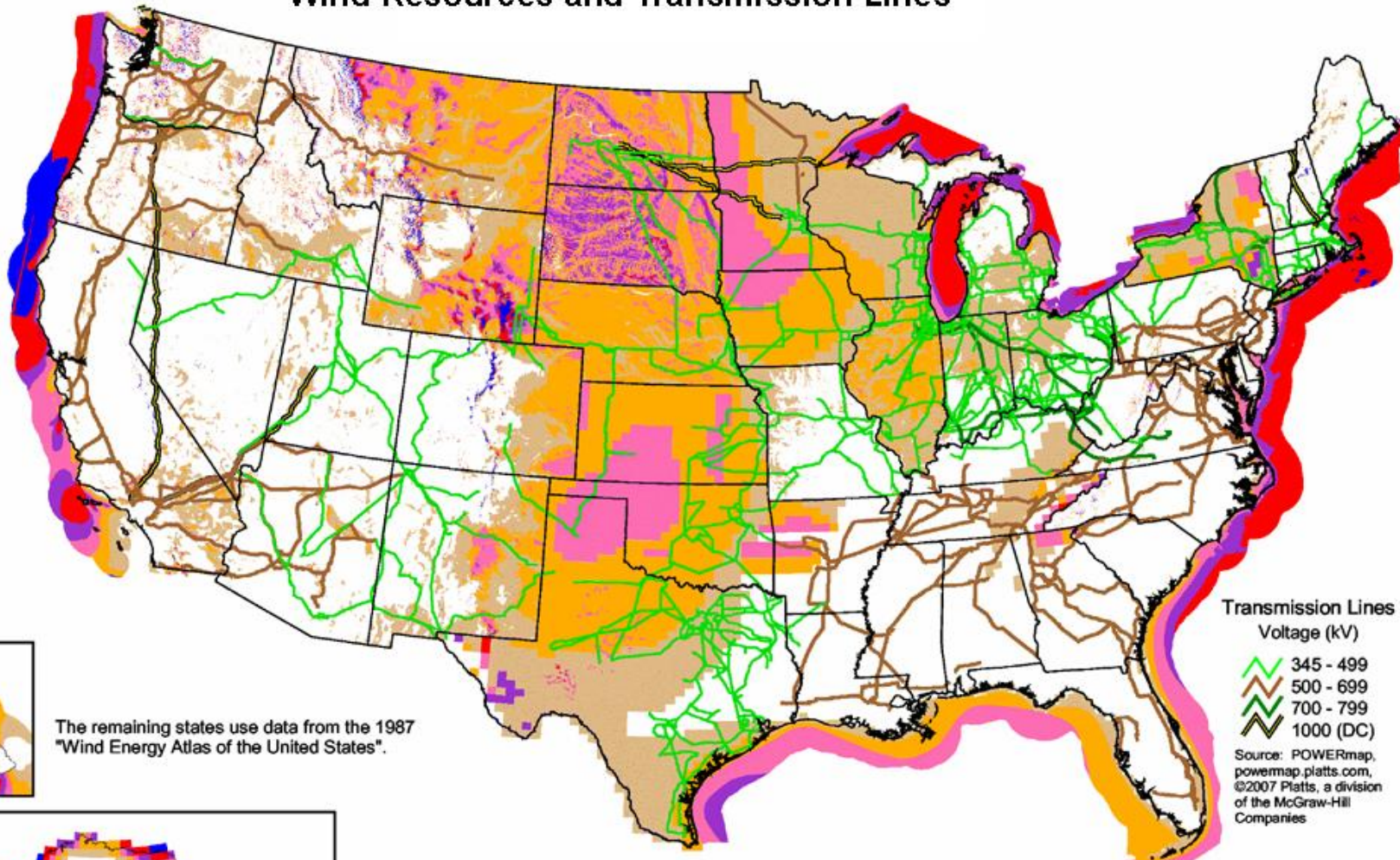
United States - Land-Based and Offshore Annual Average Wind Speed at 80 m



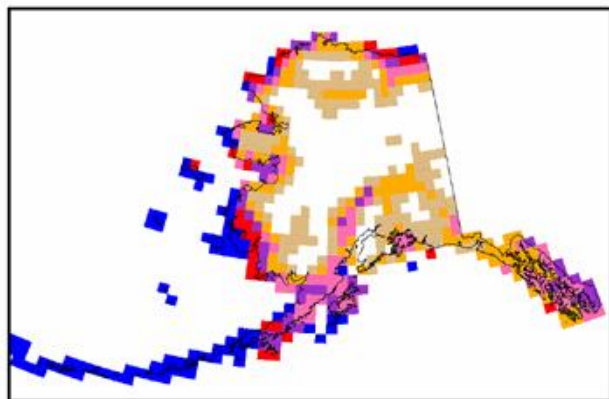
NREL Updated Maps:

- Arizona (2003)
- California (2002)
- Colorado (2004)
- Connecticut (2001)
- Delaware (2002)
- Hawaii (2004)
- Idaho (2002)
- Illinois (2001)
- Indiana (2004)
- Maine (2001)
- Maryland (2002)
- Massachusetts (2001)
- Michigan (2004)
- Missouri (2005)
- Montana (2002)
- Nebraska (2005)
- Nevada (2003)
- New Jersey (2002)
- New Hampshire (2001)
- New Mexico (2003)
- North Carolina (2002)
- North Dakota (2000)
- Ohio (2004)
- Oregon (2002)
- Pennsylvania (2002)
- Rhode Island (2001)
- South Dakota (2001)
- Texas mesas (2000)
- Utah (2003)
- Vermont (2001)
- Virginia (2002)
- Washington (2002)
- West Virginia (2002)
- Wyoming (2002)

Wind Resources and Transmission Lines



The remaining states use data from the 1987 "Wind Energy Atlas of the United States".



Transmission Lines
Voltage (kV)

- 345 - 499
- 500 - 699
- 700 - 799
- 1000 (DC)

Source: POWERmap, powemap.platts.com, ©2007 Platts, a division of the McGraw-Hill Companies

Wind Power Classification

Wind Power Class	Resource Potential	Wind Power Density at 50 m W/m ²	Wind Speed ^a at 50 m m/s	Wind Speed ^a at 50 m mph
	2 Marginal	200 - 300	5.6 - 6.4	12.5 - 14.3
	3 Fair	300 - 400	6.4 - 7.0	14.3 - 15.7
	4 Good	400 - 500	7.0 - 7.5	15.7 - 16.8
	5 Excellent	500 - 600	7.5 - 8.0	16.8 - 17.9
	6 Outstanding	600 - 800	8.0 - 8.8	17.9 - 19.7
	7 Superb	800 - 1600	8.8 - 11.1	19.7 - 24.8

^a Wind speeds are based on a Weibull k value of 2.0

U.S. Department of Energy
National Renewable Energy Laboratory



Wind Energy Facts

- 51,630 MW Total US Capacity-June 2012
- 10,400,000 MW US Onshore Wind Resource Potential
- 6,816 MW Installed Capacity 2011

Top 5 States with Wind Power Capacity

Installed, through Q1 2012:

1. Texas	10,929 MW
2. California	4,570 MW
3. Iowa	4,436 MW
4. Oregon	3,153 MW
5. Illinois	3,055 MW

The Leasing Agent?



What You May Be Asked to Sign

Option Agreement for Lease

Lease Agreement

Option Agreement for Easement

Land Lease and Easement Agreement

Cooperation Agreement

IMPORTANT POINTS

- Shorter is not better
- Legal counsel needed

Easement

An interest in land owned by someone else that entitles the party to a specific, limited use of the property

Parties have relatively equal access

Lease

A contract for exclusive possession of land for a period of time for specified compensation

Ownership maintained but control limited

Types of Easements

Private easements

- Benefit the parties of the agreement
- Voluntary

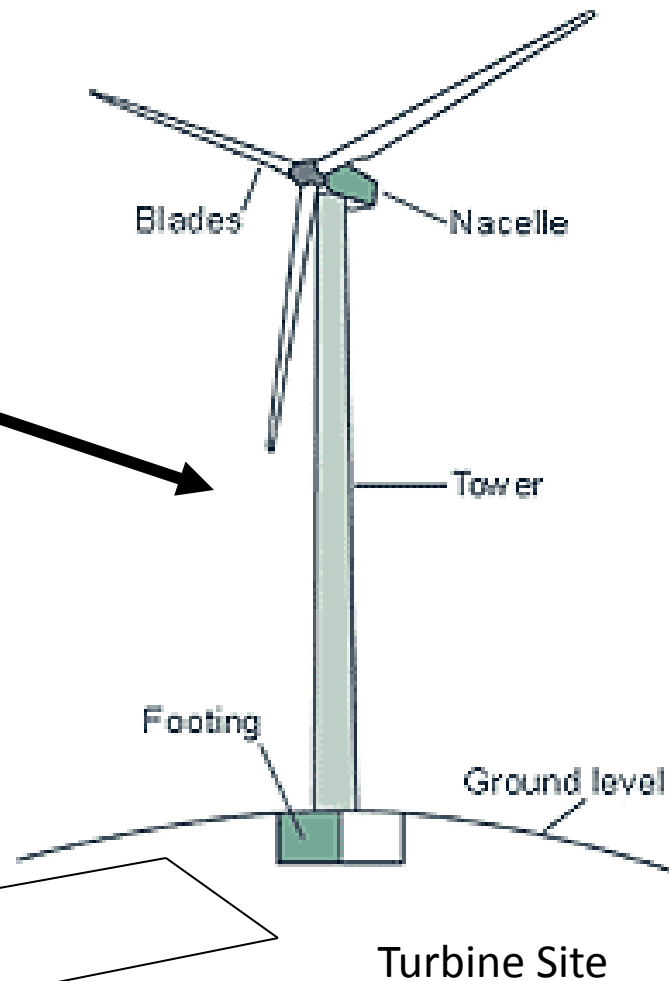
Utility easements (Public)

- Have power of eminent domain
- Wind projects generally not “utilities”

Use of Leases and Easements

- Lease
 - Limited Time Frame
 - Exclusive Use

- Easement
 - Specific Purpose
 - Concurrent Use



Access Road

Contract Conditions

- Scope/Terms of use
- Location/Footprint
- Depth/Height
- Damage mitigation
- Duration
- Fencing/Livestock
- Indemnity/Hold harmless
- Termination/Decommissioning
- Recording/Release
- Aerial Applications



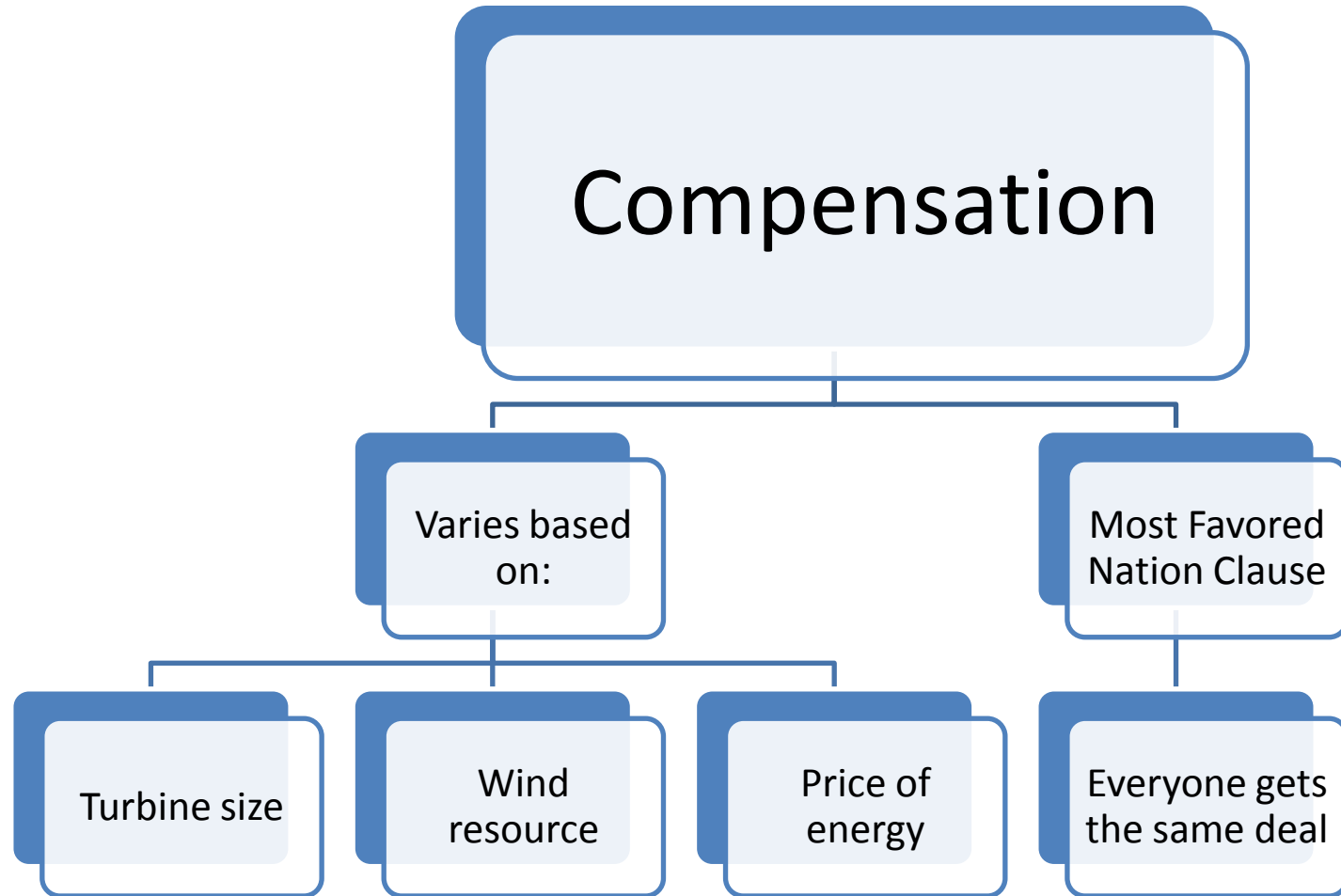
Monetary Considerations

- Easements vs. Leases
 - Some different considerations
 - More flexibility for easement
 - Both based on knowledge and negotiating ability of landowner

Compensation

- Land value
- Burden on the land
- Duration
- Associated damages (Tenant vs Landlord)
- Future sale of property
- Sentimental value
- Value of use
- Property tax impacts

Compensation



Compensation Packages

Fixed Payments

- Set and stable source of income
- Use an escalator

Royalty

- More risk but more reward?

Combination

- Best of both worlds?



\$18,500

\$2500

Thank You

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