

Nifty Fifty United States: Energy Deals Coast to Coast

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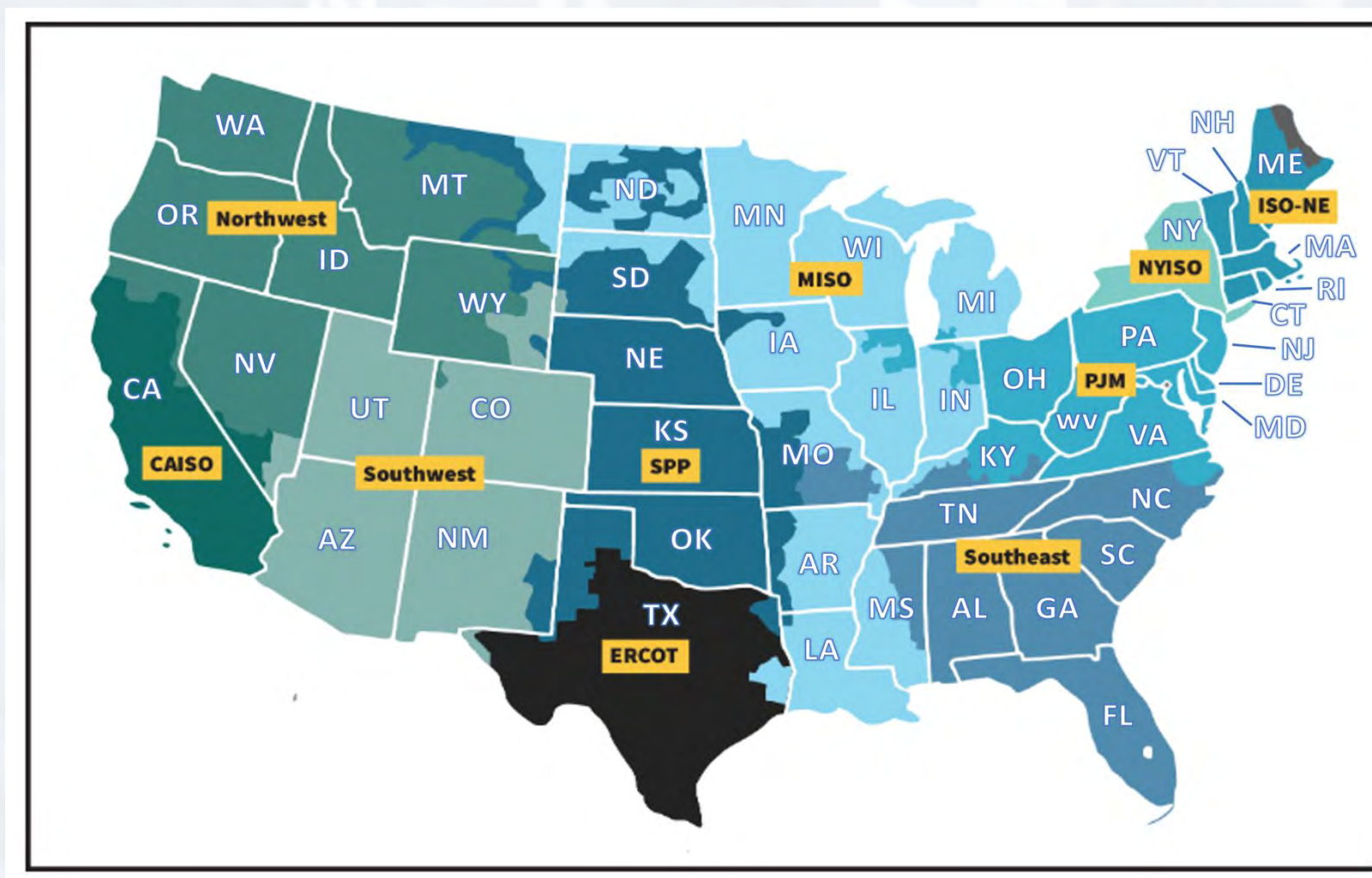


2024 Title Tenets Webinar Series

Introduction of the US Markets



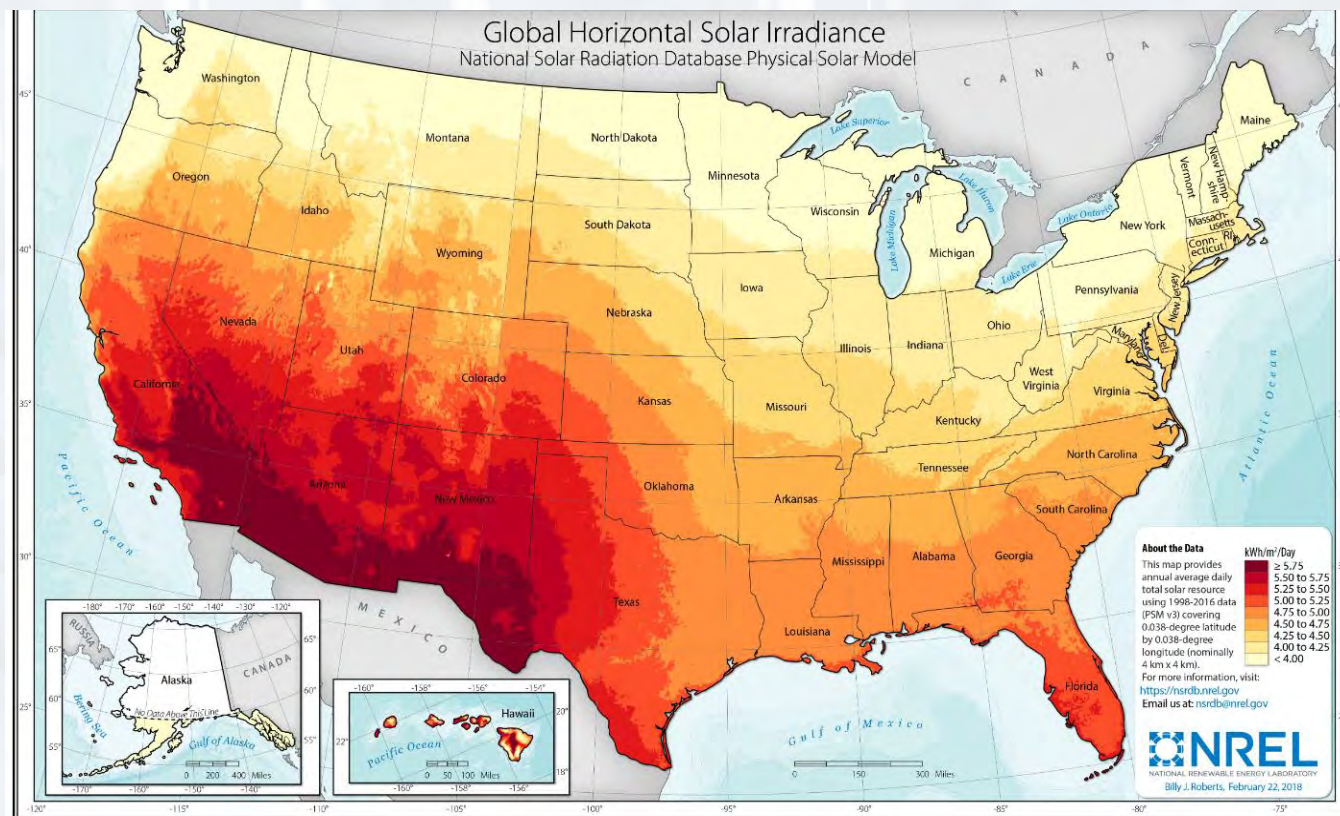
Power Markets



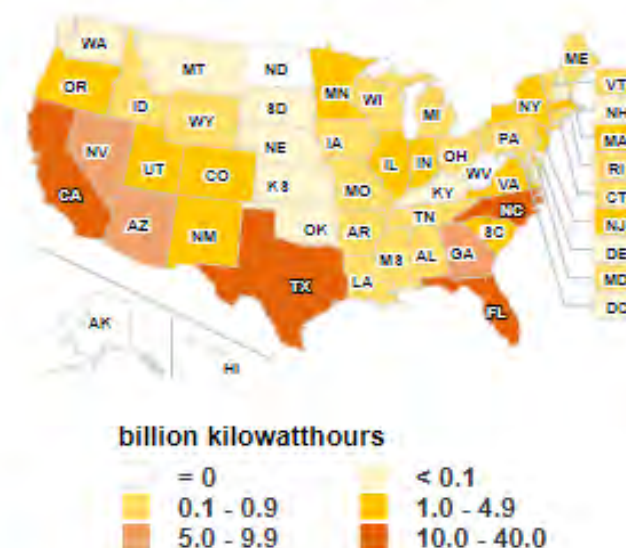
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Solar Markets

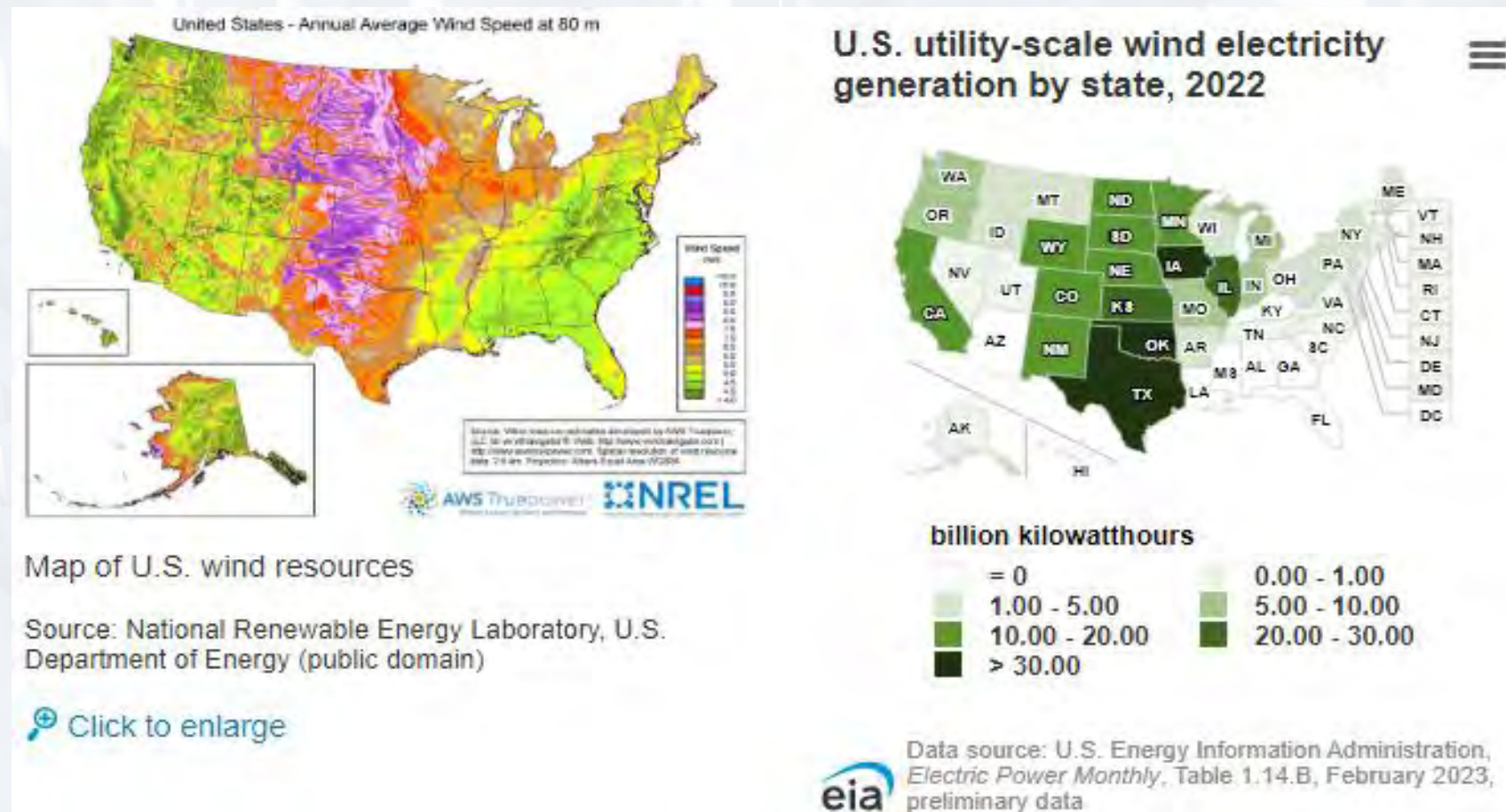


Utility-scale solar electricity generation by state, 2022



Data source: U.S. Energy Information Administration
Electric Power Monthly, February 2023, preliminary data
eia

Wind Markets



Regulations



Who Issues Policies?

- Most States this is determined by the parties in the transaction.
 - Who is paying for the Policy tends to dictate
- State Statutes Require that the Title Insurance be issued within the state
 - Arkansas, Arizona, Connecticut, Maine, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, Texas, Utah, Vermont



Filed Rates vs. Negotiable Rates

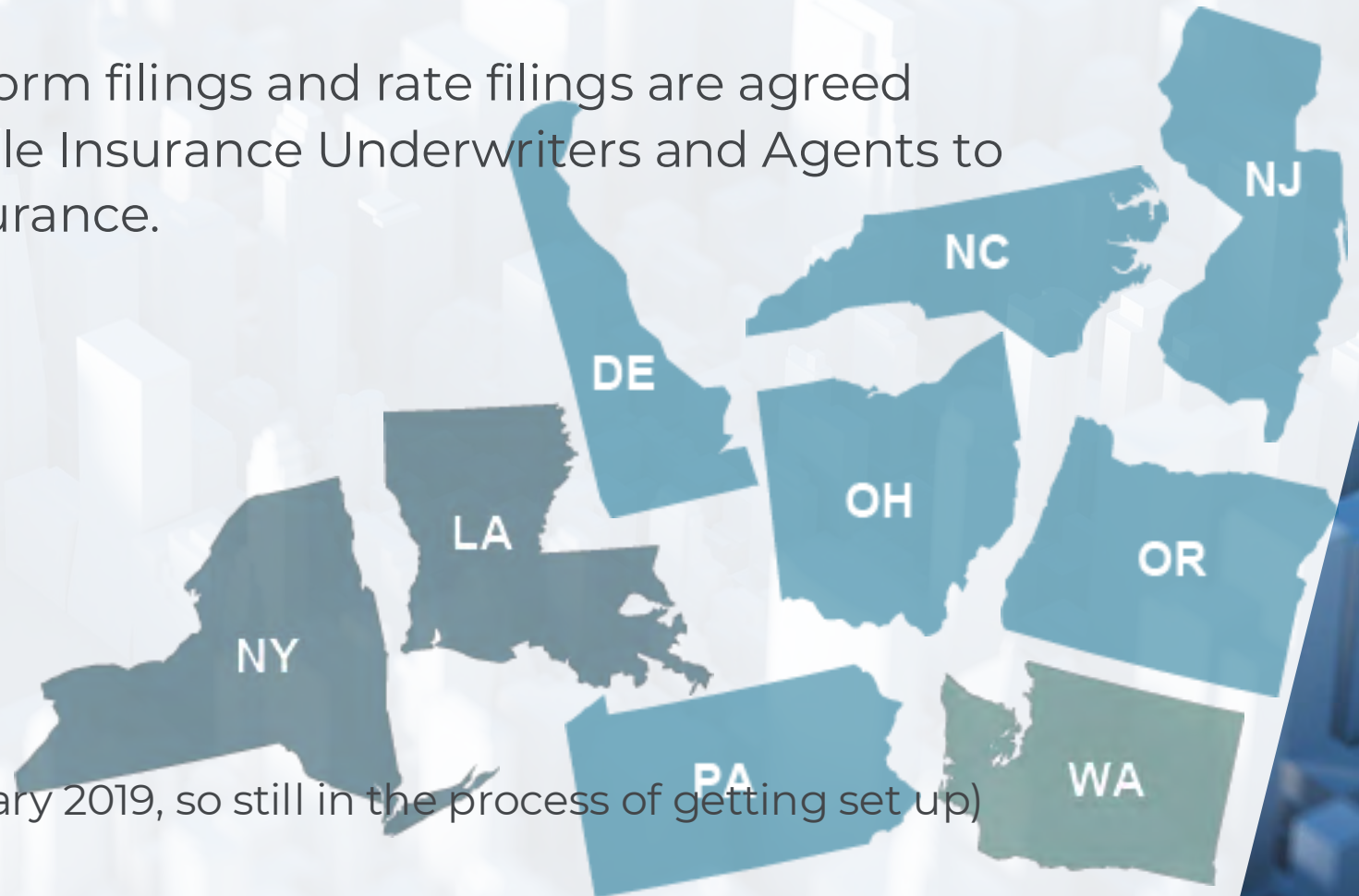
- Most states have filed rates
 - File and Use vs Use and File
 - Determined by the Underwriter
- When is it Negotiable?
 - Based on the filing – some states can be higher than filed rates based on the transaction (i.e. risk) while others cannot exceed the filed rates
- What if there is no filing?
 - IL, IA



Rating Bureau States

Organization through which the form filings and rate filings are agreed upon by the members who are Title Insurance Underwriters and Agents to present to the Department of Insurance.

- Delaware
- Louisiana
- New Jersey
- New York
- North Carolina
- Ohio
- Oregon
- Pennsylvania
- *Washington (incorporated in February 2019, so still in the process of getting set up)



Promulgated Rates

- State-regulated title insurance rates.
- Set by state law and cannot be modified by title agents or attorneys

*Florida

*New Mexico

*Texas (Rates and Forms)



Requirements



Search Parameters

- Search Parameters are NOT a “one size fits all”
- What type of records are available?
 - Plant States
- How are the Records Organized?
- Who can perform the Search?
 - Attorney States
- Mother Nature: Hurricanes, Tornadoes, Fires, Floods

Back to Patent or something less?

- What State (or County) are we in and What are we looking for?
- Date of Patent or Statehood
- Geological History
- Statutes or Case Law that helps us
 - Accommodation Doctrine
 - Dormant Mineral Statute
 - Marketable Title Acts

*In the end... it comes down to risk tolerance and business decisions

Business Decisions vs. Underwriting and Risk Tolerance

- Volume Considerations
- Varies by State
 - Can we accept something less than back to patent?
- Varies by Counties

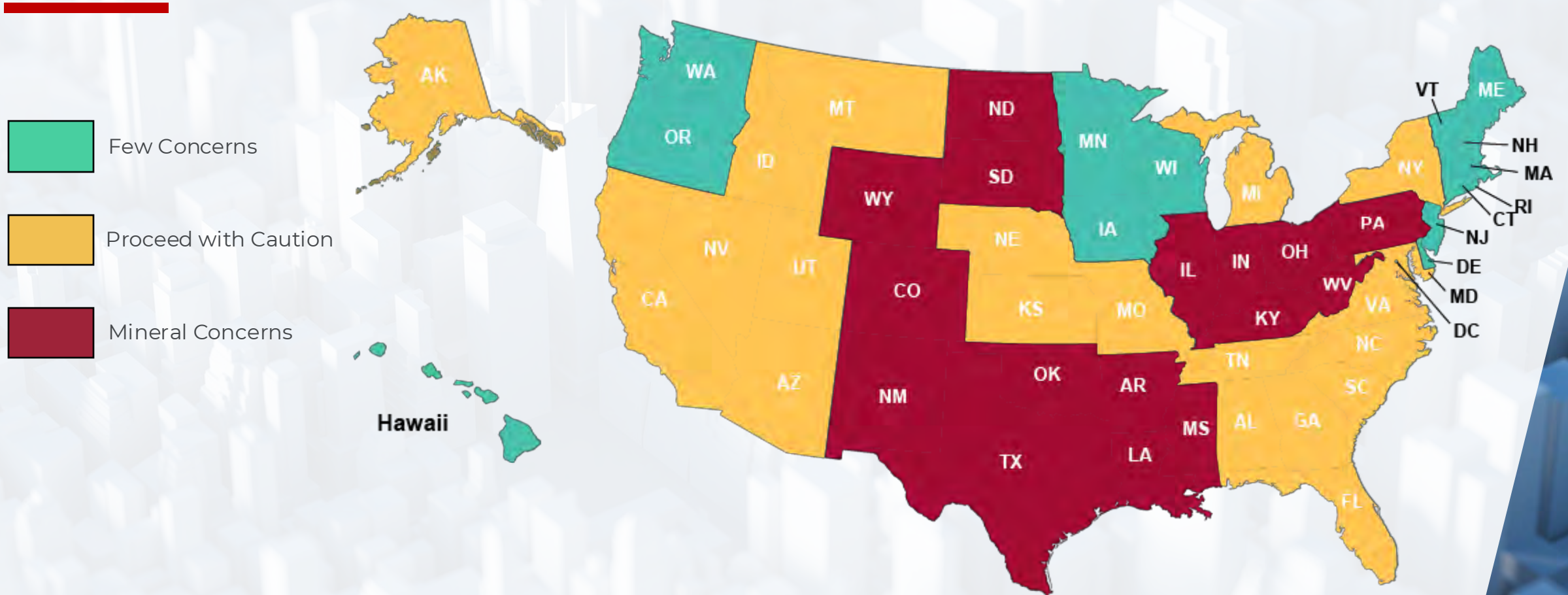
*It all comes down to what are we looking for...

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Minerals are a Big Deal

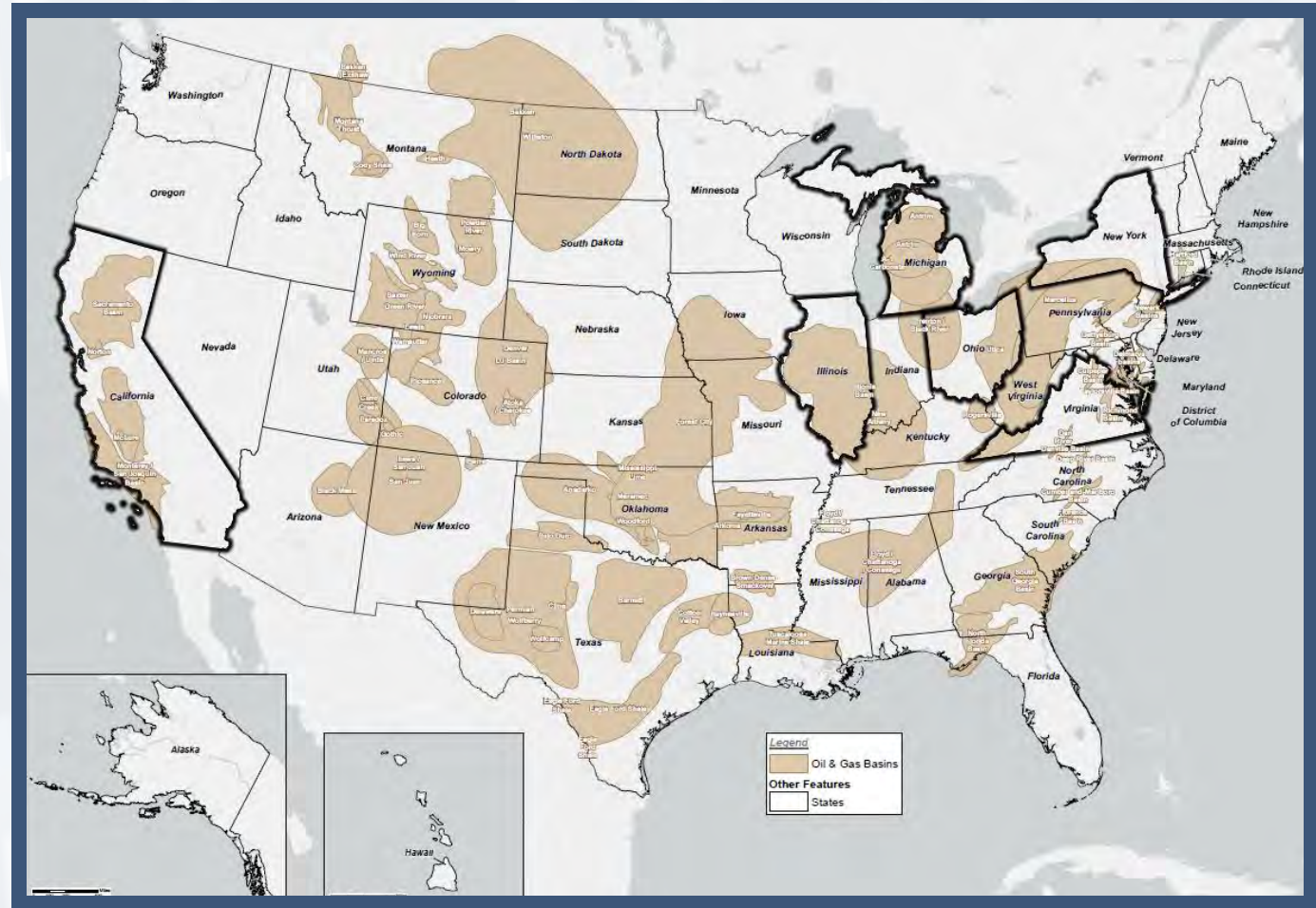


Where are we concerned about minerals?



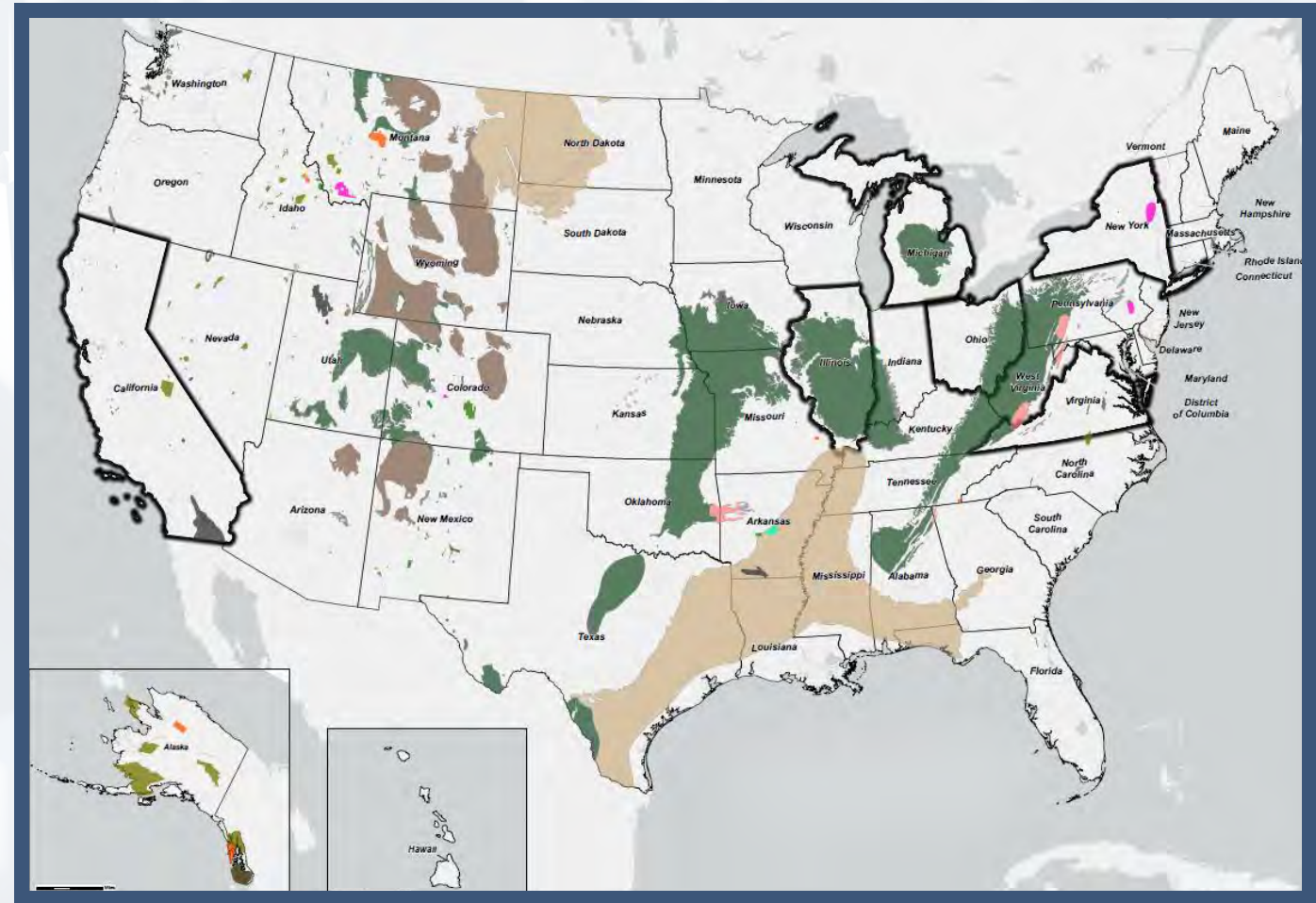
Oil & Gas Basins

- Active vs. Historic
- Who owns the subsurface right?
- Who owns the leasehold rights?
- Value of the subsurface rights
- Nuance between shallow and deep production
- Technology Implications



Coal & Mining Regions

- Active vs Historic
- Depth and Thickness
- Economic Viability
- Type of Mining?
- Future Exploration Implications



Underwriting Mineral Risks (Requirements)

The Title Commitment

- The Mineral Resource Report (MRR)
 - A picture is worth several million words
 - Adding a brief summary
- The Mineral Ownership Report (MOR)
 - Identifying the present ownership vs the record ownership
 - Percentage ownership per tract ... not the overall project
 - Leasehold interests

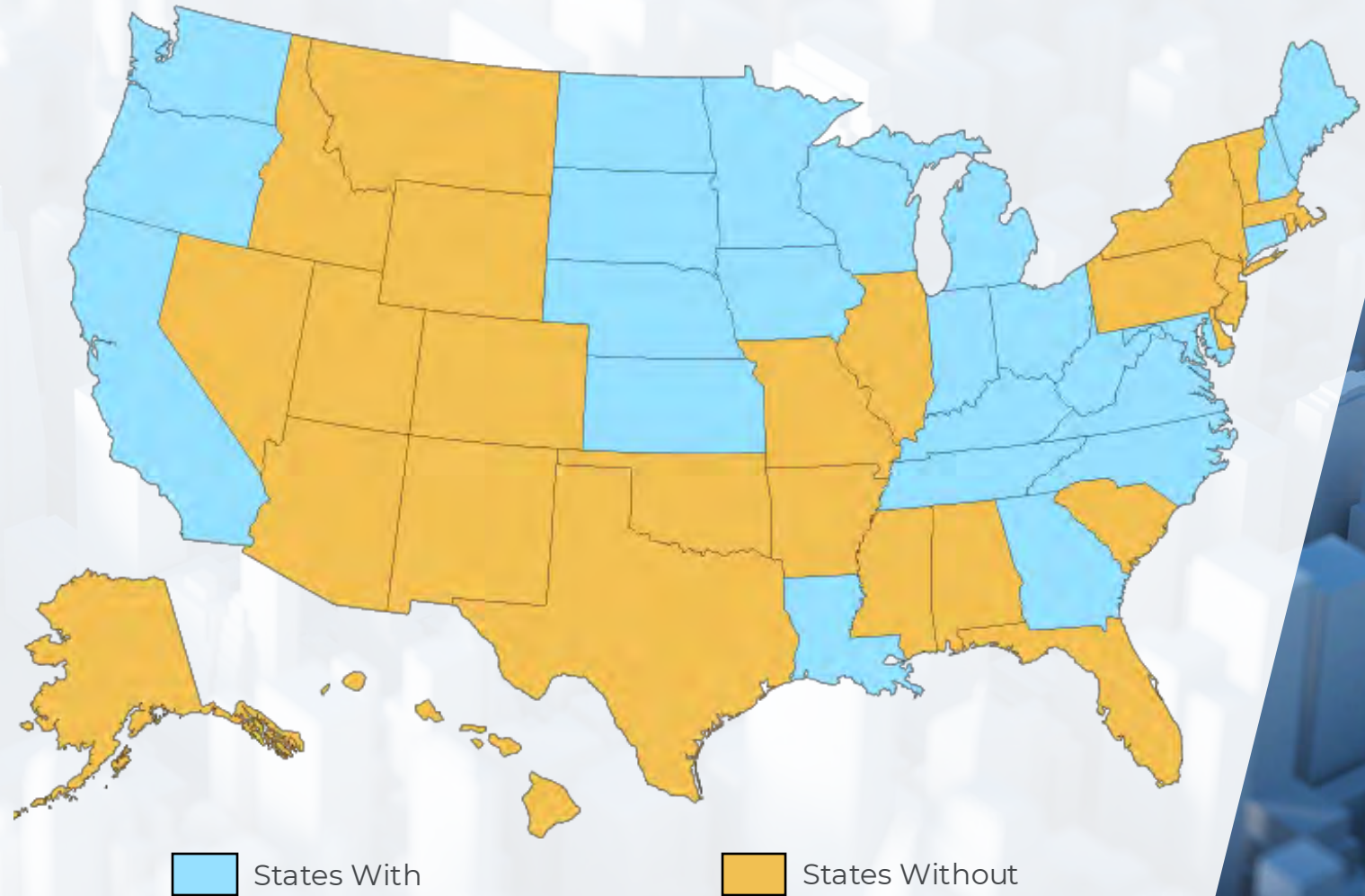
Accommodation Doctrine?

- Legal principle that places limits on a mineral owner's right to use the surface
- Mineral estate is considered the “dominant” estate
- General Rule = the owner of the mineral estate can use the surface
- Texas = Origin



Dormant Mineral Statutes Available?

- Dormant Minerals “defined”
 - Minerals that have not been developed or ownership transferred within a certain time period defined by state statute
- The purpose is to promote the development or exploration of unused mineral resources
- But maybe it’s not a Dormant Mineral Statute?
 - Florida’s Marketable Title Act



Thank you. Questions?

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