



Small Acreage Landowner Guide to Nearby Large Industrial and Hyperscale Data Center Developments

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HARC



Data centers are facilities that house networked computers and storage, including for data stored in “the cloud” and artificial intelligence. Data center development is rapidly increasing, and developers are increasingly looking to rural locations. This guide provides resources for small landowners to reduce impacts of new developments on community health and safety and protect your property. This document is not intended to inform the sale of land for development.

Minimizing Key Impacts

Water: Hyperscale data centers can be large water users, although cooling technologies have advanced to the point that the total on-site water demand could equate to a handful of typical commercial customers. Understand your shared water resources to find out if your water supply could be affected.

- ▶ Groundwater in Texas is usually owned by the landowner and regulated by a Groundwater Conservation District (GCD) if one exists. Find out if you have a GCD and access its website to find out how to provide comments: <https://tagd.half.com/>.
- ▶ Surface water is state-owned and allocated via water rights. Submit water rights complaints to oce@tceq.texas.gov.
- ▶ Most data centers access treated or wholesale water supplies through a local municipal utility or district.
- ▶ Data centers can use alternative water supplies. Encourage local developers (directly or through local leaders) to use nonpotable water for cooling, use water lean strategies, or offset their water use through local water replenishment projects.

Traffic and Roads: Construction traffic can damage rural roads, and construction workers may need large parking lots.

- ▶ Push for road use agreements, bonding requirements, and restoration commitments directly or via the local government before construction begins.

Noise: Data centers can be noisy due to HVAC systems, backup generators, and other equipment.

- ▶ Request noise impact studies, including low frequencies, and push for decibel limits and other mitigation in permits.

Light: Security lighting on large facilities can affect neighboring properties and dark skies.

- ▶ Address this in comment periods and push for mitigation, if possible, including through fully shielded fixtures that direct light downward toward the project.

Power Lines and Electric Substations: Hyperscale data centers are large energy users and may require new power infrastructure. New transmission lines may cross your land.

- Texas follows the right of eminent domain for utilities, but you are entitled to fair compensation and can negotiate easement terms. Consult a Texas attorney familiar with eminent domain to assist with challenges and/or negotiation.
- Participate in Electric Reliability Council of Texas (ERCOT) transmission planning to help shape routes or push for alternatives.

Stormwater and Drainage: Construction can change drainage patterns that could cause flooding or erosion on your land. The flood water could also contain contaminants. Large projects are required to develop a Stormwater Pollution Prevention Plan (SWP3), post a Construction Site Notice, and submit a Notice of Intent (NOI) to Texas Commission on Environmental Quality (TCEQ). Cities or Counties may have additional requirements.

- Submit comments on pending permits online at the TCEQ website:
<https://www.tceq.texas.gov/agency/decisions/e-comments.html>.

Utility Bill Changes: The utility may seek to change rates in the future to recover costs of new infrastructure. Monitor your electricity and water bills to establish a baseline now. If rates rise after a large development, you will want this evidence to establish a timeline if you file a complaint or join a rate case proceeding.

- Try to address issues directly with your utility provider. If your utility is a municipal or utility district provider, submit complaints directly to them. If you have an investor-owned utility and cannot address the issue directly with them, contact the Office of Public Utility Counsel (OPUC):
<https://opuc.texas.gov/contact/> and/or submit complaints to the Public Utility Commission of Texas (PUCT):
 - Electricity: <https://www.puc.texas.gov/Complaints/Index>
 - Water: <https://www.puc.texas.gov/Complaints/Index?utiliType=W&culture=en-US>



Local, State, and Other Legal Pathways

Local Issues:

- **Attend and Comment at Public Hearings:** Zoning changes, special use permits, and variance requests should require public hearings. You have the right to speak, and written comments become part of the official record, which is important for possible legal action.
- **Inquire with Your Water Utility:** The majority of data centers obtain the water needed for on-site usage from the local water utility. Reach out to your utility's leadership and/or public information officer and learn about how much water the developer has requested. Monitor the meetings of the utility's governing body and attend any meetings that might be related to the development.
- **Contact Your Local Elected Officials:** County commissioners and city council members may be able to provide additional information and respond to constituent pressure to establish protections, such as those for traffic, roads, noise, lights, water, or energy. A data center in your county would provide local property taxes that can be used to benefit the area. Reach out to your local officials about how the new funding gets used.
- **File Written Objections:** Submit formal written opposition in local planning processes.
 - For non-housing zoning changes: if owners of at least 20% of the area of the lots or land within 200 feet of the proposed change protest it, the local governing body would need a $\frac{3}{4}$ supermajority to override (Texas Local Government Code §211.006).
- **GCDs:** If your GCD regulates the development's water use, attend hearings and comment.
 - Find your GCD and information about their regulations to determine their hearing and comment process: <https://tagd.halff.com/>.
 - Depending on the GCD, it is possible for these regulators to include special permit conditions that require things like drilling monitoring wells, using brackish groundwater instead of fresh, and/or contributing to a mitigation fund.
- **Tax Breaks:** School district tax breaks require public meeting. City and county tax breaks may be discussed in open meetings.
- **Nondisclosure agreements:** NDAs limit public access to information. Ask your local elected officials to commit to not signing them.



State Regulated Issues:

- **TCEQ:** TCEQ has a public comment process for environmental permits (air, water, waste).
 - Submit water rights complaints to TCEQ's Office of Compliance and Enforcement oce@tceq.texas.gov.
 - Major air permits (e.g., for power plants or storage tanks) will include public notice and the opportunity for a public meeting and contested case hearing. Air Alliance Houston's AirMail tool can help you track major permit notices in your county: <https://aah-airmail.org/>.
 - Submit comments on pending permits on the TCEQ website: <https://www.tceq.texas.gov/agency/decisions/cc/comments.html>.
 - If your interests are affected and TCEQ can address them via permit, you can request a contested case hearing in writing.
 - For more information on participating in the environmental permitting process, visit the TCEQ website: <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/overview-public-participation-in-environmental-permitting>.
 - Subscribe to the notice list for your county or for a specific project: <https://ctaep.tceq.texas.gov/PNE/>.
- **PUCT:** If new transmission infrastructure is planned, you should receive a letter in the mail if you may be impacted.
 - You can submit written comments or a request to intervene. Find out more on the PUCT website: <https://www.puc.texas.gov/consumer-help/electricity/transmission-line/#power-line-c>.
- **ERCOT:** In an effort to work through and prioritize requests for large load interconnects, ERCOT has created a process to approve a group or "batch" of data centers altogether instead of individually. Follow this process as data centers are evaluated for access to the ERCOT grid.

Legal Options:

- **Permit Challenges:** An attorney can help you file challenges to permits if proper procedure was not followed or impacts were not adequately studied.
- **Negotiation:** Developers might prefer to settle your concerns directly. A lawyer can help you negotiate noise walls, landscaping buffers, drainage commitments, or compensation agreements before construction.
- **Eminent Domain Protection:** An attorney can help challenge eminent domain and, if any part of your land may be taken for utility easements, help negotiate the compensation amount. Get an independent appraisal prior to accepting compensation.
- **Open Meetings Violation:** Some city or county actions involving data center may not meet all of the requirements of the Texas Open Meetings Act.



Protect Your Property

Consult an Attorney: Consult a Texas real estate/property rights attorney familiar with eminent domain and agricultural land. Legal aid organizations and some Texas law schools provide limited free legal support.

- Center for Heirs' Property holds free consultations: <https://www.heirsproperty.org/legal/>

Get an Appraisal: You will need to know your land value to demonstrate damages, should they occur. Get an appraisal to document your current land value. The tax appraisal value can be used but may be lower than the true appraised value.

Get a Survey: Confirm your exact boundaries, easements, and any encroachments.

Review Your Deed: Check for any existing easements or deed restrictions that could be used defensively or that the developer might try to exploit.

Document Everything: Establish a baseline before construction begins through photos, videos, water well logs, soil tests, and/or crop yields.

Review Agricultural Exemptions: If you have an agriculture or wildlife exemption, a nearby development will not automatically remove it, but changes in surrounding land use can complicate renewals.

Talk to Neighbors: Form or join a neighborhood or landowner group to learn and potentially take action together.

First Steps

To find out about developments early:

- Look into whether your County has an economic development corporation or similar body that may be involved in incentives. Check for public meetings you can attend.
- Contact your county extension agent (Texas A&M AgriLife or Prairie View A&M Extension). They may know about planned developments and can connect you with resources.
- Sign up for TCEQ public notice alerts for your area.

When a development is known:

- Pull the development's permit applications from the county/city clerk. These should be public records.
- Consult local Legal Aid or a private property rights attorney for a free or low-cost initial consultation.

The window to act is usually before permits are approved. Once a facility is built and operating, your options narrow.

Priority Information to Gather

- What zoning/land use approvals are being sought (city council, county commissioners, planning board)
- Whether any tax incentives or abatements are being requested (and any related public hearings)
- If environmental permits are involved (air quality, water/stormwater, etc. permits locally or with TCEQ)
- Whether the development requires utility infrastructure expansion that affects your land

Other Guides That May Be Helpful

- **Texas Environmental Public Participation Guide:** <https://airalliancehouston.org/wp-content/uploads/2024/01/UT-EnviroPublicParticipationGuide.pdf>
- **Texas Data Center Policy Guide:** <https://www.citizen.org/wp-content/uploads/tx-data-center-policy-guide.pdf>

