

**THIS MESSAGE \*REQUESTS\* EVALUATION AND CONSIDERATION BY MEMBERS OF THE TEXAS BAR AND OTHERS AUTHORIZED TO PRACTICE LAW IN TEXAS,**

**... PARTICULARLY THOSE DEDICATED TO ENVIRONMENTAL AND COMMUNITY-RIGHTS**

**AND LINKED TO NGO'S WITH RESOURCES TO SUPPORT ACTION**

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February 2026

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## THE \$1 BILLION GIVEAWAY

### *Challenging Texas's Data Center Industrial Complex*

**The math is simple and damning.** Texas is forgoing over \$1 billion annually in tax revenue through data center abatements while authorizing facilities that could consume up to 399 billion gallons of water by 2030 and emit greenhouse gases equivalent to 5% of Canada's total annual output—from a single facility. The beneficiaries are trillion-dollar corporations. The cost-bearers are rural communities of 10,000–50,000 people who will see their aquifers depleted, their grids strained, their property values diminished, and their tax base hollowed out by 85% abatements negotiated by local officials with no independent counsel, no environmental impact assessment, and no meaningful public participation.

This briefing outlines the litigation architecture for a multi-front legal campaign targeting three defendant classes: (1) the data center operators and developers themselves, (2) the State of Texas for enabling a structurally predatory abatement regime, and (3) local government officials whose approval of these deals may constitute a breach of fiduciary duty to their constituents.

### I. THE SCALE OF THE PROBLEM

**What the public doesn't know yet:** Of the 20+ gigawatts of data center capacity announced across Central and West Texas, only approximately 3.8 GW has confirmed operator contracts. The remainder—including the two largest projects by capacity—is entirely speculative. These communities are being asked to sacrifice water, air quality, grid stability, and tax revenue for facilities that may never reach full operation.

#### **The Committed Projects (Unstoppable but Litigable for Mitigation)**

- **Stargate Flagship, Abilene (1.2 GW)** — Operational. Oracle 15-year lease. OpenAI sole tenant. 85% property tax abatement over 10 years on a \$3.5B project. Projected permanent jobs: 57. Tax revenue forgone: hundreds of millions.
- **Frontier Campus, Shackelford County (1.4 GW)** — Under construction. Off-grid gas microgrid. Vantage/Oracle. First building H2 2026.
- **SB Energy Site, Milam County (1.2 GW)** — Early construction. OpenAI/SoftBank \$1B equity investment.

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**The Speculative Projects (Most Vulnerable to Legal Challenge)**

- **GW Ranch, Pecos County (7.65 GW power)** — No named tenant. Developer says timeline “depends on the customer.” Authorized to emit 33 million tons/year of greenhouse gases. 8,000 acres.
- **Project Matador, near Amarillo (6 GW gas + 4 GW nuclear)** — No named data center tenant. 5,800 acres. 24M tons/year greenhouse gas potential. Nuclear reactors not expected until 2032.
- **Tract Technology Park, Caldwell County (2 GW)** — Land acquired. No public tenant. 1,515 acres between Austin and San Antonio.
- **Infrakey, Lacy Lakeview/Ross near Waco (\$10B)** — No named tenant. Active opposition with 3,000+ petition signatures.

**Key quote:** Gabriel Collins, Rice University Baker Institute: “Not every super-project announced in Texas will be built. Some have slick public relations operations that oversell their technical and financial capacities.” Global Energy Monitor describes the broader buildout as serving “speculative AI demand.”

**II. QUESTION TO THE BAR: IS IT POSSIBLE TO FILE CLASS ACTION SUIT AGAINST DATA CENTER OPERATORS??**

**Theory:** Nuisance, trespass, negligence, and taking without just compensation. Affected class: all residents and property owners within defined impact radii of each facility.

**Damages Categories**

1. **Water depletion and aquifer damage.** HARC estimates existing TX data centers will consume 25 billion gallons in 2025, rising to potentially 399 billion by 2030. A single mega-campus can draw 4.5 million gallons per day—equivalent to a town of 10,000–50,000 people. In water-stressed West Texas, this is an existential threat. Claim: unreasonable interference with groundwater rights under the Texas Water Code and common law.
2. **Grid destabilization and energy cost increases.** ERCOT projects data center electricity consumption to exceed 12,700 MW in 2026, doubling the following year. Residential ratepayers bear the cost of transmission upgrades and emergency load-shedding (recall February 2021). Claim: unjust enrichment and externalized infrastructure costs.

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3. **Air pollution.** GW Ranch alone is authorized for 33 million tons/year of greenhouse gas and 12,000 tons of regulated pollutants including soot, ammonia, carbon monoxide, and VOCs. Project Matador: 24 million tons/year greenhouse gas. Claim: nuisance and Clean Air Act citizen suits.
4. **Property value diminishment.** Noise pollution, light pollution, visual blight, construction traffic, and resource competition directly reduce residential property values. Data Center Watch reports \$64 billion in U.S. data center projects have been blocked or delayed by local opposition citing these concerns. Claim: inverse condemnation and nuisance.
5. **Disproportionate community burden.** 57 permanent jobs at Abilene's 1.2 GW campus (per Bloomberg). Compare that to 85% property tax abatement. The ratio of community sacrifice to community benefit is grotesque. Environmental justice claims under Title VI and state equivalents where demographic disparities exist.

### **III. QUESTION TO THE BAR: IS DUE PROCESS A REASONABLE COMPLAINT AGAINST THE STATE OF TEXAS?**

**Theory:** The State's abatement regime, as applied, constitutes a structural transfer of wealth from rural communities to multinational corporations, without adequate safeguards, environmental review, or proportional benefit requirements. This creates a due process and equal protection claim under the Texas Constitution.

#### **The Numbers**

- Good Jobs First: Texas forgoes \$1+ billion annually in tax revenue through data center incentives.
- Abilene's Stargate deal: 85% property tax abatement on \$3.5B—negotiated with OpenAI/Oracle/SoftBank, entities with combined market capitalization exceeding \$3 trillion.
- No state-level requirement for environmental impact assessment prior to abatement approval.
- No requirement for independent legal or technical counsel for the community before abatement negotiation.

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### **Specific State Failures**

1. **TCEQ permitting speed vs. scale.** Permits for 500 MW gas plants have been issued in under a month. The GW Ranch received its 7.65 GW air permit—the largest ever issued—with no public hearing requirement. TCEQ has no water-use reporting requirement for data centers.
2. **Legislative failure.** While SB 6 (2025) addressed some grid-interconnection issues, no legislation requires data centers to report water usage, conduct community impact assessments, or demonstrate proportional community benefit. The Legislature has actively blocked water-protection bills.
3. **Hood County precedent.** When Hood County attempted a construction moratorium, a state senator threatened legal action against the county. This suggests state-level policy is not merely passive but actively protective of developer interests at the expense of communities.

### **IV. QUESTION TO THE BAR: CAN LOCAL OFFICIALS BE HELD LEGALLY ACCOUNTABLE FOR FAILING IN THEIR FIDUCIARY DUTIES TO THE COMMUNITY AND FOR LYING TO THE COMMUNITY DURING CAMPAIGNS AND FOLLOWING ELECTION, AS DETERMINED BY RECORD??**

**Theory:** Breach of fiduciary duty, failure of due diligence, and ultra vires acts where officials approved abatements without: (a) independent financial analysis, (b) environmental assessment, (c) adequate public notice and participation, or (d) proportionality review.

The asymmetry is the issue. These are communities with annual budgets in the low millions negotiating against entities backed by SoftBank (\$500B+ in assets), Oracle (\$400B+ market cap), and OpenAI (\$300B valuation). Without independent counsel and technical advisors, the negotiations were not arms-length. The resulting deals may be voidable.

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## **V. QUESTION TO THE BAR: WHO SHOULD TAKE THESE CASES?**

**Question for licensed attorneys:** Litigation at the scale suggested above requires organizations with the scale, expertise, and appetite to litigate against trillion-dollar defendants and the State of Texas simultaneously. This is why a united front is ESSENTIAL.

The following legal entities appear to be well-positioned:

### **National Environmental and Public Interest Litigation**

1. **Earthjustice** — Premier nonprofit environmental law organization. Already active in Texas (Seadrift/Formosa \$50M settlement). Currently litigating first-of-its-kind class action against EPA with Southern Environmental Law Center. Capacity for multi-front, multi-year litigation against government and industry simultaneously.
2. **Southern Environmental Law Center (SELC)** — Powerhouse in state-level environmental policy litigation. Co-counsel on the EPA class action. Strong track record on water rights and land use.
3. **Environmental Integrity Project (EIP)** — Specializes in air and water pollution enforcement. Has published the foundational research on Texas industrial polluters. Expert in Clean Water Act and Clean Air Act citizen suits.
4. **Natural Resources Defense Council (NRDC)** — ~\$200M annual revenue. Involved in 11 cases against the current administration. Unmatched capacity for sustained, high-profile environmental litigation.
5. **Lawyers for Good Government / Public Rights Project** — Co-counsel on the EPA class action. Specializes in novel class action theories against government entities.

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### **Texas-Based Litigation Firms**

1. **Air Alliance Houston** — Already pioneering class action litigation against EPA. Deep expertise in Texas environmental permitting and community advocacy.
2. **Texas RioGrande Legal Aid** — Environmental justice in underserved communities. Directly relevant to RGV data center impacts.
3. **Porter Hedges LLP (Houston)** — Full environmental litigation practice including citizen suits, groundwater contamination, and TCEQ permit challenges. Fifth Circuit and Texas Supreme Court experience.
4. **Private class action firms** — The damages here are quantifiable and enormous. Contingency-fee class action firms specializing in environmental torts should find these cases highly attractive. Property value diminishment alone across affected communities could support nine-figure claims.

### **Strategic Coordination Partners**

- **Data Center Watch** — Tracks opposition to data center development across 28 states. Database of activist activity and public officials. Essential for building multi-site class definitions.
- **Houston Advanced Research Center (HARC)** — Independent nonprofit producing the definitive research on data center water consumption in Texas. Expert witnesses.
- **Rice University Baker Institute** — Gabriel Collins and team provide the independent energy analysis. Critical for establishing that many of these projects are speculative and may never deliver promised benefits.

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## **VI. THE PRESSURE MAP: WHO BENEFITS**

Understanding the money flow identifies pressure points and co-defendants:

- **OpenAI** (valued ~\$300B) — Sole compute tenant for all Stargate sites. Committed \$60B/year to Oracle.
- **Oracle** (\$400B+ market cap) — \$300B/5-year contract. Landlord and infrastructure operator for all Oracle-developed Stargate sites. RPOs exceeding \$455B. Corporate debt past \$100B.
- **SoftBank** (\$500B+ assets) — Co-funded Stargate. \$1B investment in SB Energy. Chairman Masayoshi Son chairs the venture.
- **NVIDIA** (\$3T+ market cap) — \$100B pledged to OpenAI. Supplies all GPU hardware. Direct financial interest in every site.
- **Blue Owl Capital / Blackstone** — \$15B+ in debt and equity financing for Abilene alone. Private equity beneficiaries of public subsidies.
- **JPMorgan Chase** — \$2.3B loan to OpenAI/partners for Abilene projects.
- **Governor Greg Abbott** — Has made attracting AI projects a stated personal priority. Sat alongside Alphabet's CEO for the \$40B Panhandle announcement. Political pressure target.

## **VII. QUESTION TO THE BAR: WHAT INJUNCTIVE RELIEF COULD BE DEMANDED? Lay (by non-attorney) research surfaced...**

**For speculative/unpermitted projects:** Immediate moratorium on permitting for facilities exceeding 100 MW within 50 miles of inhabited areas until comprehensive environmental impact assessment, water-use study, and community benefit agreement are completed and independently verified.

**For permitted/under-construction projects:** Court-ordered mitigation requirements including: mandatory water-use reporting, closed-loop cooling systems, on-site power generation with surplus capacity returned to community grid, community benefit agreements with independent oversight, and environmental remediation bonds.

**For operational projects:** Litigation targeting the abatement agreements themselves as unconscionable contracts negotiated without arms-length protections, seeking rescission or reformation to require full property tax payment with community reinvestment provisions.

## **VIII. TIMELINE AND URGENCY**

The window is narrowing. Multiple projects are moving from permitting to construction in Q1–Q2 2026. GW Ranch construction is scheduled to begin this quarter. Each day of delay makes injunctive relief harder to obtain and community damage harder to reverse. The speculative projects—those without named tenants—are the most immediately vulnerable to legal challenge. A half-built data center does less damage than an operational one.

The Texas Tribune, Texas Observer, Texas Monthly, ProPublica, and Inside Climate News have all published major investigative coverage in January–February 2026. Public awareness is at an inflection point. The litigation would have maximum impact—and maximum public support—if filed now.

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*This briefing is intended for the legal community and organizations considering litigation. **It is not legal advice.** All factual claims are sourced from public reporting by the Texas Tribune, Texas Observer, Texas Monthly, CNBC, Data Center Dynamics, Inside Climate News, and official corporate announcements. Data on water usage from HARC. Data on tax abatements from Good Jobs First. Data on opposition from Data Center Watch.*