

# FIGHTING AI DATA CENTERS & UNLAWFUL PROPERTY SEIZURES

A Strategic Master Document: Talking Points,  
Constitutional Arguments, and Action Steps

## PART ONE: THE CORE ARGUMENT: WHY EMINENT DOMAIN FAILS HERE

### The Constitutional Foundation

Eminent domain rests on a single pillar: *the taking must be for public use.*

The Fifth Amendment reads: *“nor shall private property be taken for public use, without just compensation.”*

Even the Supreme Court in *Kelo v. City of New London* (2005), which massively expanded the definition of “public use,” drew an absolute hard line:

*“The government would be forbidden from taking petitioners’ land for the purpose of conferring a private benefit on a particular private party... Nor would the City be allowed to take property under the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit.”*

This is the crack in their foundation. The argument is not just that these data centers fail to benefit the public. It is that they are built to be weaponized against the public.

A taking that serves as the infrastructure of a domestic surveillance state, stripping Americans of Fourth Amendment rights, enabling mass warrantless data collection, and operating without informed consent, is not a “public use.” It is a public harm. That transforms the entire legal premise of every eminent domain action taken in service of this buildout.

## PART TWO: TALKING POINTS

### On Eminent Domain & the “Public Use” Fraud

- Eminent domain exists to serve the people, roads, schools, hospitals, public infrastructure. It was never intended as a mechanism to hand private land to billion-dollar corporations for facilities that profit the few and surveil the many.
- The government cannot take your land to build a tool that will be used against you. That is not “public use.” That is state-sanctioned theft in service of a surveillance apparatus.
- When 62% of Americans say the costs of data centers outweigh the benefits, when only 35% would welcome one in their community, the government cannot credibly claim these facilities serve the public interest. The public has spoken. The government is ignoring it.

- The legal doctrine of **pretextual taking** exists precisely for this moment: when the stated public purpose is a cover story, and the real motive is private gain or, in this case, the expansion of state power over private citizens.

**Definition:** *A pretextual taking is when the government uses eminent domain, the power to seize private property, by claiming it serves a "public use," when the actual purpose is to benefit a private party or advance an agenda that harms the very public it claims to serve. The Supreme Court has ruled that pretextual takings are unconstitutional. When the government seizes land to build AI data centers that are then used to surveil, track, and build behavioral profiles on American citizens, the people from whom the land was taken, THAT is not "public use." That is pretext. And pretext is the Achilles heel of every eminent domain action being used to force this buildout on American communities.*

**Why it matters today:** This is the legal weapon communities have that most of them don't know exists. The surveillance evidence is now on the congressional record. The military designations are documented. The connections between these facilities and domestic intelligence programs are no longer speculative. That means the "pretextual taking" argument is no longer a theory, it is a documented legal challenge waiting to be filed.

- Under Texas law, under Idaho law, and under the constitutional doctrine articulated in Kelo itself, a taking that “confers a private benefit on a particular private party” or where “public use is merely a pretext” is unconstitutional. This is the legal terrain we must occupy.

## **On Surveillance: The Public Harm Argument**

- On March 18, 2026, FBI Director Kash Patel confirmed to Congress that the FBI is purchasing Americans' location histories from data brokers to track citizens. This is the government they want to build these facilities for.
- The Department of Homeland Security now has \$165 billion in annual funding and is actively contracting with private companies for AI-powered surveillance at airports, biometric scanners, and platforms that harvest all 911 call data to build predictive behavioral maps of American communities.
- The Trump administration's own AI policy framework, released March 20, 2026, proposes allowing industry and academia to use federal datasets, containing a lifetime of biographical, employment, and tax data on every American, to train AI systems. These data centers are the engine for that program.
- The line between national security and domestic spying has not blurred. It has been erased. And these data centers are where that erasure becomes physical infrastructure, stamped into the American landscape, powered by your water, your electricity, and your stolen land.
- This is not about competitiveness with China. It is about the consolidation of unprecedented surveillance power over the American people, and the use of eminent domain to force citizens to host it.

## On the Military Designation

- Placing AI data centers on military bases and designating them national security assets is not a classification decision. It is a legal maneuver designed to strip communities of oversight, eliminate environmental review, and make these facilities untouchable by local government.
- Executive Order 14318 allows federal agencies to waive environmental impact review for data centers receiving even partial federal funding. This means your water, your soil, your air, none of it gets protection, by executive fiat.
- The Department of Defense, now officially calling itself the Department of War under Executive Order 14347, is among the agencies managing land and permitting for these facilities. When the entity that calls itself the Department of War is building data centers in American communities, Americans should ask: who is the enemy they are preparing to surveil?
- A 50-year private corporate lease on military land, for a facility that processes the personal data of American citizens, operated by a private corporation with government intelligence contracts, is not “public use.” **It is the infrastructure of a surveillance state dressed in military clothing.**

## On Water, Environment, and Community Impact

- A single large AI data center can consume 5 million gallons of water per day, the equivalent of a town of 10,000 to 50,000 people. In drought-stricken states, this is not an inconvenience. It is an existential threat.
- More than 160 new data centers have been built in the past three years in areas with scarce water resources. In Newton County, Georgia, residents are already reporting discolored, sediment-filled tap water attributed to a nearby Meta facility.
- U.S. AI infrastructure is projected to add 200 to 300 billion gallons of water consumption and 24 to 44 million metric tons of CO<sub>2</sub>-equivalent emissions annually by 2030.
- These are not “public benefits.” These are public harms imposed without consent on communities that have no meaningful recourse, by design.

# PART THREE: CONSTITUTIONAL VIOLATIONS

## First Amendment

The chilling effect of mass surveillance infrastructure on free speech and free association is a First Amendment violation. When citizens know that their communications, movements, and associations are being processed by AI systems with government access, they self-censor. The construction of domestic surveillance infrastructure suppresses constitutionally protected speech, not by direct prohibition, but by creating the architecture of fear.

## Fourth Amendment

The Fourth Amendment prohibits unreasonable searches and seizures. The government’s purchase of Americans’ location data from brokers, the AI processing of biometric data, the acquisition of 911 call center data, and the use of federal datasets containing personal

information to train surveillance AI, all without warrants, all without probable cause, constitute a systematic violation of Fourth Amendment protections. The data centers are the physical infrastructure enabling this violation at scale.

## **Fifth Amendment: The Takings Clause**

**The taking of private property must be for public use. A facility that:**

- Is operated by a private corporation for private profit
- Provides government intelligence agencies with surveillance capabilities directed at citizens
- Has been shown through documented evidence to serve domestic surveillance rather than genuine public benefit
- Was built on land seized through eminent domain justified by false “public use” claims

...fails the Fifth Amendment’s public use requirement. This is the pretextual taking doctrine applied to the largest infrastructure buildout in modern American history.

## **Fifth Amendment: Due Process**

Citizens have a substantive due process right not to have government power exercised against them arbitrarily and without legitimate public purpose. The combination of property seizure, environmental harm, and surveillance infrastructure imposed on communities without meaningful consent or review constitutes a substantive due process violation.

## **Tenth Amendment**

The federal government’s use of executive orders to override state and local zoning laws, environmental review processes, and regulatory authority, combined with the December 2025 executive order directing the Secretary of Commerce to publish a list of state AI laws deemed invalid, represents an unconstitutional usurpation of powers reserved to the states.

## **Fourteenth Amendment: Equal Protection**

Communities bearing the disproportionate environmental and social burdens of this buildout, often rural, lower-income, and politically marginalized, have colorable equal protection claims when the benefits flow exclusively to wealthy corporations and federal agencies while the costs are imposed on those with the least political power.

# **PART FOUR: STEP-BY-STEP ACTION PLAN**

## **STEP 1: KNOW BEFORE THEY MOVE**

**Before any project is announced in your area:**

- Research your county’s zoning laws and identify what land in your area is zoned for industrial or data center use

- Attend county commission meetings regularly, data center proposals often appear on consent agendas with little notice
- Connect with neighboring landowners and build relationships before a crisis hits
- Get your property independently appraised now, so you have a baseline value before any project announcement potentially suppresses or inflates it
- Document your property: photographs, environmental surveys, water quality baseline tests, agricultural use records, and any ecological, historical, or archaeological significance

## **STEP 2: WHEN A PROJECT IS ANNOUNCED**

### **Immediately:**

1. Hire an eminent domain attorney, do not wait. The Institute for Justice (ij.org) takes cases for free when property is threatened by private-benefit takings. Contact them first.
2. Request all public records immediately (see Part Five for specific FOIA guidance)
3. Identify every decision-maker, county commissioners, planning board members, city council members, state legislators, and any federal representatives whose districts are affected
4. Demand a public hearing, most jurisdictions require them; if one has not been scheduled, formally demand it in writing, on the record
5. Organize your neighbors, begin collecting signatures, documenting opposition, and building a public record of community resistance before votes are taken. Reach out to other organizers in other regions/states. Build a nationwide coalition where best practices, challenge, and resources can be shared.

## **STEP 3: CHALLENGE THE PROJECT ON EVERY LEGAL FRONT**

### **Challenge “Public Use”:**

- Demand the government specifically and explicitly articulate how this project serves the public, not corporations, not federal agencies, not intelligence contractors
- Research whether the developer or operator has government intelligence contracts (searchable at [usaspending.gov](https://usaspending.gov))
- Document any evidence that the facility will be used for data processing, AI training on government datasets, or activities connected to federal surveillance programs
- File formal legal objections at every administrative proceeding

### **Challenge “Pretext”:**

- Use the FBI Director’s Congressional testimony (March 18, 2026) as documented evidence that the government is actively building domestic surveillance infrastructure
- Document the connection between data center operators and government AI contracts
- Cite the administration’s AI policy framework and its explicit intent to use federal personal data for AI training
- Argue that a taking whose end use involves surveillance of the citizens from whom the land was taken cannot, by definition, constitute “public use”

## **Challenge Environmental Review:**

If the project received any federal funding or permitting, demand full NEPA review. If the agency claims NEPA was waived under Executive Order 14318, challenge that waiver, argue that a waiver of environmental review for a project of this scale is itself an arbitrary and capricious agency action. Commission independent water usage, air quality, and noise impact studies. File formal comments with every relevant state and federal environmental agency.

## **Challenge Procedural Compliance:**

Review every notice, hearing, and vote for procedural errors, missed deadlines, inadequate notice periods, failure to consider alternatives. Any procedural defect can be grounds for dismissal or delay.

## **STEP 4: SEEK AN INJUNCTION**

### **A property owner can get an injunction, and here is how.**

An injunction is a court order halting an action while a legal challenge proceeds. It does not permanently stop a project, but it can:

- Halt construction that has begun
- Prevent the government from taking possession of property during litigation
- Force the government to complete required reviews before proceeding
- Buy critical time for organizing, legislation, and public pressure

### **To obtain a Temporary Restraining Order (TRO) or Preliminary Injunction, your attorney must demonstrate:**

6. Likelihood of success on the merits, that your legal challenge has a reasonable chance of winning (the pretextual taking argument and the surveillance-as-public-harm argument provide this)
7. Irreparable harm, that if the injunction is not granted, you will suffer harm that cannot be remedied by money alone (loss of your home or land is almost always considered irreparable harm)
8. Balance of hardships, that the harm to you outweighs the harm to the government from the delay
9. Public interest, that granting the injunction serves the public interest (constitutional violations, environmental harm, and undisclosed surveillance use all support this)

**A real-world precedent:** In Stafford County, Virginia, in June 2025, a judge granted an emergency injunction halting timbering near a proposed data center site after neighbors raised alarms and the county alleged zoning violations.

**Act fast. Whether or not you face the imminent threat of a data center on your doorstep, you are encouraged to submit a FOIA request to your local representatives to find out whether conversations have already begun. If contracts are being signed in secret, the deal is being sealed before the public ever hears about it. And once construction begins, courts are far less likely to halt it, the window for injunctive relief is widest before any physical work breaks ground.**

## **STEP 5: BUILD THE POLITICAL AND ELECTORAL RECORD**

- Put every representative on the record, force public votes, demand written positions, make silence itself a political liability
- Support and run candidates who will oppose these projects, council members who voted yes on data center deals in Independence, Missouri were successfully recalled
- Support state moratorium legislation, contact your state legislators and demand data center moratorium bills
- Connect with the Ohio ballot initiative effort, which seeks to amend the state constitution to prohibit data centers over 25 megawatts, and needs 400,000+ signatures by July 1, 2026
- Connect with national organizations, at least 142 activist groups across 24 states are already fighting these projects

## **PART FIVE: PUBLIC RECORDS REQUESTS: COMPLETE GUIDE**

### **Federal FOIA Requests**

The central portal is: [FOIA.gov](https://www.foia.gov)

**A FOIA request must be in writing and reasonably describe the records you seek. Most federal agencies accept requests electronically.**

#### **Department of Defense / Air Force / Army**

**Request the following records:**

- All contracts, leases, memoranda of understanding, or agreements related to data center construction on military bases in your state
- All communications between [named base] and [named developer] regarding data center development
- All records identifying which private companies have been selected for data center construction at [specific base]
- All records relating to the designation of any data center project as a national security asset
- All records identifying surveillance, intelligence, or data processing functions planned for any data center constructed under Executive Order 14318

#### **General Services Administration (GSA)**

**FOIA email: [GSA.FOIA@gsa.gov](mailto:GSA.FOIA@gsa.gov) | Portal: [gsa.gov/foia](https://gsa.gov/foia)**

- All contracts or procurement records for data center construction on federal lands in your state or region
- All records relating to the implementation of Executive Order 14318 in your state
- All records identifying federal lands designated or evaluated for data center development

## **Department of Homeland Security / CISA**

- All contracts with private companies for AI-powered surveillance tools, facial recognition, biometric scanning, or data analytics
- All records relating to data center facilities designated as critical infrastructure
- All records identifying data centers with contracts to provide data processing services to DHS or its components

## **Environmental Protection Agency**

- All records relating to NEPA waivers issued for data center projects under Executive Order 14318
- All environmental impact assessments or categorical exclusion determinations for data center construction in your state

## **Department of Commerce**

- All records relating to the list of state AI laws “deemed invalid” under the December 2025 executive order
- All records relating to financial assistance or incentives provided to data center projects under Executive Order 14318

## **How to Write a FOIA Request**

### **Your request should include:**

10. Your name and contact information
11. A clear description of the records you seek, be specific about subject matter, date range, and the names of any agencies, companies, or individuals involved
12. A statement that you are willing to pay reasonable search fees (or request a fee waiver if you are a journalist or public interest researcher)
13. A request for expedited processing if you can demonstrate urgency to inform the public about federal government activity

### **Fee Waiver Language to Include:**

*“I am a journalist/researcher/public interest advocate primarily engaged in disseminating information to the public regarding federal government activity affecting public health and safety. I request a fee waiver pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).”*

### **Expedited Processing Language:**

*“I request expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) on the grounds that there is an urgency to inform the public about actual or alleged federal government activity, specifically, the use of federal eminent domain and military land designations to construct surveillance infrastructure affecting the constitutional rights of American citizens.”*

## **State Public Records Requests**

**Every state has its own public records law (California’s is the California Public Records Act). Target state-level agencies for:**

- County or state permits issued for data center projects
- Environmental permits, water use permits, and stormwater management approvals

- All communications between state agencies and data center developers
- All records relating to tax incentives, grants, or subsidies offered to data center developers
- All records relating to any state designation of data center projects as “critical infrastructure”
- All communications between state officials and federal agencies regarding data center siting

**Submit state requests to:** the county planning department, state environmental agency, state public utilities commission, governor’s office, and any state agency that issued permits or incentives.

## **Congressional Inquiries**

**Contact your U.S. Representative and both U.S. Senators: in writing, with a formal records request, asking:**

- What oversight is Congress conducting on the designation of AI data centers as military installations?
- What is the specific legal authority for waiving NEPA review for data center projects under EO 14318?
- What surveillance functions are planned for data centers constructed on military bases?
- Has Congress been briefed on government intelligence agency access to data processed by commercially operated data centers on military land?
- Will you support legislation requiring full environmental review and community consent before data center construction on federal land?

***Put them on record. Their responses, or their silence, become part of your public documentation.***

## **PART SIX: ORGANIZATIONAL RESOURCES**

- Institute for Justice, [ij.org](http://ij.org); free legal representation for property rights cases involving government overreach
- [FOIA.gov](http://FOIA.gov); central federal FOIA portal
- [USASpending.gov](http://USASpending.gov); searchable database of all federal contracts; use to identify intelligence/surveillance contracts held by data center operators
- Data Center Watch; tracks opposition organizing nationwide
- Castle Coalition (IJ affiliate); focuses specifically on eminent domain abuse; [castlecoalition.org](http://castlecoalition.org)
- Electronic Frontier Foundation; [eff.org](http://eff.org), Fourth Amendment and surveillance law expertise
- American Civil Liberties Union; [aclu.org](http://aclu.org), constitutional challenges to surveillance infrastructure

# CLOSING ARGUMENT

*The most powerful legal argument available right now is the one that has never been fully tested: that a government taking of private land, used to construct infrastructure that surveils, tracks, and processes data on the very citizens from whom the land was taken, cannot constitute “public use” under the Fifth Amendment. It is, by definition and by evidence, the opposite of public benefit. It is the physical construction of the apparatus of an unconstitutional surveillance state, built on stolen land, exempt from environmental review, hidden behind military fencing, and locked into 50-year private corporate leases.*

*This argument is built on documented evidence, established constitutional doctrine, and a public record that grows stronger every week.*

*The window to fight this is now, before the contracts are signed, before the ground is broken, before the injunction becomes harder to obtain and the political will to act evaporates.*

*Every American with land, every community with water, and every citizen with a Fourth Amendment right has standing in this fight.*

*For questions, or clarification, feel free to reach out to the author of this document, ReINETTE Senum, at [reINETTE@tutamail.com](mailto:reINETTE@tutamail.com).*