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Practice Update

From Brownfields to Data Centers: Federal Initiatives Advance Data Center Redevelopment Opportunities

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By Jason S. Lichtstein, Michael J. Larson, and Cameron W. Bertron

Brownfield sites — properties whose use or redevelopment is complicated by actual or perceived environmental contamination — may present unique opportunities for property owners, developers, and investors to pair cleanup and redevelopment with major projected future demand for data center capacity across the U.S. Data center development at Brownfield and other environmentally impacted sites can return underused properties or legacy industrial sites to productive use, while serving technological needs and providing community benefits. Brownfield sites are gaining attention as locations for reuse as data centers as developers seek large properties with available access to power, water, infrastructure, and suitable zoning, amid increasing state and local political uncertainties. Key recent federal policy moves seek to encourage and facilitate the redevelopment of contaminated sites for use as data centers.

Federal Acceleration of Data Center Development at Brownfield Sites

Last year, the Trump administration issued Executive Order 14318, entitled *Accelerating Federal Permitting of Data Center Infrastructure* (July 23, 2025) (Executive Order), which, in establishing a favorable framework for data center development,

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sought to usher in what it described as a "golden age for American manufacturing and technology dominance." With the priority of facilitating "the rapid and efficient buildout" of AI data centers and supporting infrastructure, the Executive Order directed the U.S. Environmental Protection Agency (EPA) to identify Brownfield and Superfund sites as locations for qualifying data centers and related infrastructure projects and to develop guidance to expedite their redevelopment. The Executive Order defined a "Data Center Project" as a facility requiring more than 100 megawatts of new load dedicated to specified AI activities and set forth "Qualifying Project" criteria, which must be met to be eligible for certain initiatives. The Executive Order sought, among other directives, that agencies launch an initiative to provide financial support where available for Qualifying Projects, focus on efficient environmental reviews, streamline permitting, and identify the availability of federal lands for Qualifying Projects.

In July 2025, the White House issued America's AI Action Plan (AI Action Plan), which further prioritized data center infrastructure and permitting reform in an effort to "establish American AI … as the gold standard for AI worldwide." Pillar II of the AI Action Plan, entitled *Build American AI Infrastructure*, focused on recommended policy actions to streamline federal permitting for data center development, which included exploring a potential categorical exclusion under the National Environmental Policy Act, nationwide Clean Water Act Section 404 permitting for data centers, and making additional federal lands available for data center construction.

In January 2026, EPA published *Guidance on the Redevelopment of Superfund and Brownfield Sites as AI Data Centers* (EPA Guidance), which translates the Executive Order's direction into a practical redevelopment framework. Importantly, the EPA Guidance "provides introductory information for community stakeholders and potential developers

on how Superfund and Brownfield sites may be redeveloped as data centers." The EPA Guidance confirms that certain Superfund and Brownfield sites "may have features compatible with development" as AI data centers or other facilities related to AI infrastructure or development, including pre-existing infrastructure, industrial zoning, and proximity to power and energy sources.

EPA has also published additional resources, such as its Superfund Redevelopment Mapper, which can help identify Superfund redevelopment opportunities. Key considerations in assessing the potential for redevelopment of Superfund and Brownfield sites as data centers include existing infrastructure, environmental cleanup compatibility, current and available zoning, and community engagement. Former manufacturing and other industrial properties may offer already assembled acreage, existing industrial entitlements, utility corridors, and proximity to transmission and other power infrastructure that can provide key assets and advantages when considering data center redevelopment.

Most recently, in June 2026, EPA announced its Superfund Solutions Initiative (Initiative), which, while not specific to data center development, is a long-term initiative that seeks to accelerate the cleanup of more than 1,000 Superfund sites on the Superfund National Priorities List. A stated goal of the Initiative is to "enhance project management" to help EPA expedite environmental investigations, increase targeted sampling, conduct more timely inspections, accelerate the selection of cleanup approaches, modernize site management practices, and streamline EPA's use of licensed contractors. As part of these efforts, EPA also seeks to enhance cross-agency collaboration to support expedited redevelopment.

Key Considerations in Redeveloping Contaminated Sites

While the federal paradigm emphasizes support of reuse and redevelopment of Brownfield sites as data centers, it is important for prospective purchasers and developers of contaminated sites to carefully evaluate any associated environmental risks and liabilities and the availability of potential statutory liability defenses under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and other laws. These CERCLA defenses include the bona fide prospective purchaser defense and innocent landowner defense.

Obtaining a Phase I Environmental Site Assessment, alone, may not be sufficient to establish that the prospective purchaser undertook all appropriate inquiries or is eligible for certain liability defenses. For example, under the CERCLA bona fide prospective purchaser defense, continuing obligations must still be satisfied following closing, such as taking reasonable steps to manage releases, complying with land-use restrictions and institutional controls, providing cooperation and site access to EPA, complying with EPA information requests, and not interfering with response actions. The innocent landowner defense also requires certain continuing obligations. In addition, state and local environmental laws, regulations, and considerations need to be evaluated and complied with on a project-specific basis.

Beyond considerations associated with contaminated site reuse, data center development itself also presents unique development challenges in relation to data center power delivery and consumption, consumptive water use, backup power generation, potential air emissions and permitting, utilities, zoning, and community engagement. Proactive coordination with governmental and regulatory agencies can be critical to the success of a data center redevelopment effort.

In addition, applicable state and local data center development requirements or restrictions also should be considered when seeking to redevelop a

Brownfield or contaminated site as a data center. For example, state law in Florida (S.B. 484, 2026) authorizes local governments to regulate and prohibit the development of large-scale data centers. Many local governments in Florida have already taken action to limit or preclude the development of large-scale data centers within their jurisdictions.

Conclusion

The case for redevelopment of Brownfield and other environmentally impacted sites as data centers has been strengthened by recent federal initiatives promoting their reuse. Strong redevelopment opportunities will generally combine existing infrastructure capacity, thoughtful reuse of property consistent with a site's environmental regulatory closure strategy, and a defensible environmental liability strategy. Other state and local laws and requirements also need to be assessed on a project-specific basis.

Brownfield sites are being redeveloped into data centers in real time. Our national Brownfield Redevelopment, Environmental and Natural Resources, and Data Centers and Digital Infrastructure teams are available to assist.

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