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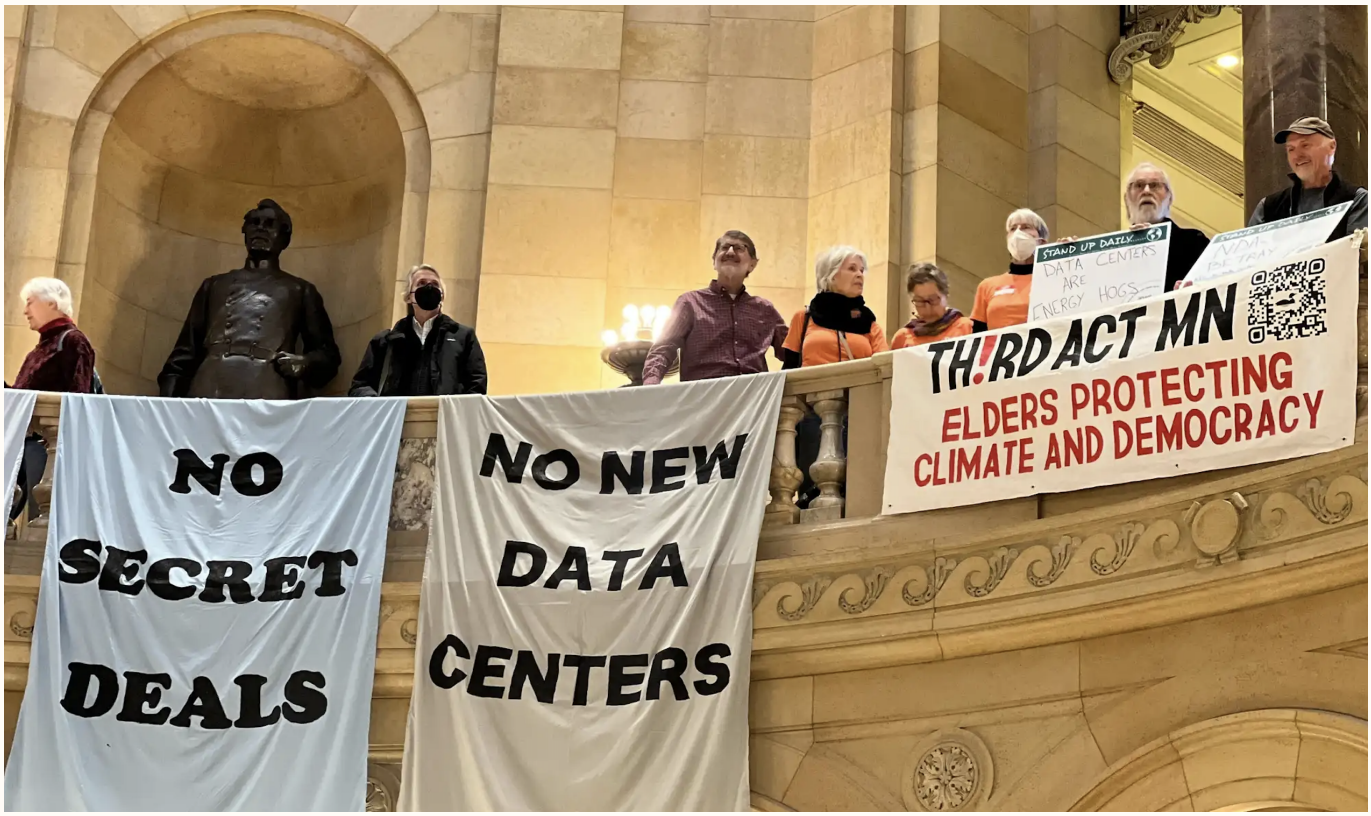
Skyway AUAR Lessons

Executive Summary

This is an independent analysis based solely on publicly available court records, regulatory filings, environmental-review materials, and Environmental Quality Board materials available as of the document date.



The national data-center lesson: review the real project, not the label

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The most important permitting problem in the U.S. data-center boom is not that the country lacks review tools. It is that many hyperscale projects are outgrowing the labels used to approve them.

Across the country, large data-center campuses are being routed through local zoning, state environmental review, utility service planning, water and wastewater approvals, air permitting, wetlands review, and public-records processes that were not built for hundreds of acres of continuous-load industrial infrastructure. The failure mode is now familiar: the public file says "technology center," "business park," "warehouse," "industrial campus," or "economic-development project," while the real project is a power-intensive, water-relevant, generator-backed, utility-dependent hyperscale campus with regional consequences.

That mismatch is where the crackdown is coming from. Communities, utilities, regulators, and courts are not reacting only to data centers as a land use. They are reacting to under-defined data centers: projects whose electricity demand, backup generation, water use, wastewater profile, construction footprint, tax treatment, and public-infrastructure needs become clear only after approvals have momentum.

Project Skyway in Pine Island, Minnesota is a useful scenario inside that national pattern. It is not proof that Minnesota is closed to large data centers, and it is not a final appellate holding that Minnesota's Alternative Urban Areawide Review process is unlawful for data centers. The case is narrower and more transferable: when a public review record no longer matches the functional project being advanced, the review tool itself can become a schedule trap.

The practical rule for hyperscale sponsors and public agencies is simple: the public record does not need every commercial secret, but it must describe the environmental reality.

The national pattern: data-center review is moving from land-use label to infrastructure reality

The next wave of data-center scrutiny is not principally about whether a building houses servers. It is about whether the approval record captures the systems that make the servers possible.

1. Local approvals are being asked to carry regional impacts. Data-center approvals often begin as local land-use decisions, but the consequences are regional: transmission upgrades, generation needs, water planning, wastewater treatment, construction traffic, tax-base effects, and ratepayer exposure. Virginia's Joint Legislative Audit and Review Commission, in its 2024 report on data centers, framed this problem directly: data-center growth creates statewide power-demand, cost, land-use, water, and air-quality questions that are not fully contained within a single locality's zoning vote.

2. Power demand has become an environmental and political fact. The U.S. Department of Energy and Lawrence Berkeley National Laboratory's 2024 United States Data Center Energy Usage Report projected rapid growth in data-center electricity consumption through 2028. That national load growth changes how communities interpret a "technology campus." A 24/7 hyperscale load is not just a customer account. It can require substations, transformers, feeders, transmission upgrades, generation commitments, construction power, and sometimes interim generation. If those pieces are deferred to later utility design, the public record looks incomplete because the project's operating premise has not been bounded.

3. Backup power is no longer a late-stage engineering detail. Diesel generators, gas turbines, fuel storage, testing cycles, emergency-use assumptions, demand-response participation, air emissions, noise, spill controls, and delivery logistics can drive environmental review and community opposition. A project that estimates greenhouse-gas emissions while leaving generator count, output, fuel, and operations to later design invites the obvious question: how was the impact estimate built?

4. Water risk is broader than cooling choice. Air cooling can materially reduce operating-water consumption compared with evaporative cooling, but it does not resolve peak-day demand, source-water capacity, drought resilience, wastewater routing, treatment capacity, construction dewatering, stormwater, floodplain, or wetlands impacts. In water-constrained or infrastructure-constrained communities, annual demand alone is not enough.

5. Public-records and confidentiality rules are now schedule issues. Hyperscale projects often involve NDAs, tenant secrecy, security-sensitive design, and competitive site selection. Those realities are legitimate. But when confidentiality is perceived to cover public-impact facts — use, acreage, load, water, wastewater, backup generation, mitigation, or public

infrastructure — records disputes become permitting disputes. A public agency's document protocol can become as important to schedule as its engineering review.

6. The response is tightening. Local governments are adopting or considering data-center zoning limits, design standards, setbacks, noise rules, generator controls, water-disclosure requirements, and moratoria. State policymakers are examining ratepayer protections, tax-incentive conditions, utility large-load tariffs, and broader oversight. Environmental advocates are focusing on cumulative impacts, air emissions, water supply, public-records compliance, and whether projects were segmented or mislabeled. Utilities are increasingly asking for load certainty, financial security, minimum-demand commitments, and upgrade-cost allocation before promising service.

The national message is not "stop building data centers." It is "stop approving undefined infrastructure campuses under soft labels."

Project Skyway is the scenario, not the whole story

Project Skyway is the Minnesota case that makes the national issue concrete.

The case is Minnesota Center for Environmental Advocacy v. City of Pine Island; Ryan Companies US, Inc., Goodhue County District Court File No. 25-CV-25-2298. The Minnesota Center for Environmental Advocacy filed its complaint on October 16, 2025. The court first denied temporary relief on December 29, 2025 because construction was not expected before July 2026 and irreparable harm had not yet been shown. On May 22, 2026, after additional facts and a Minnesota Government Data Practices Act dispute had developed, the court granted a temporary restraining order, enjoined Ryan Companies from beginning or continuing construction or pre-construction activities within the Project Skyway AUAR study area, required a $2,000 bond, and denied the City/Ryan summary-judgment motion.

Those are interim litigation rulings. They are not a final appellate holding that the AUAR was unlawful. That distinction matters.

The Project Skyway Final AUAR was not silent about data centers. It identified an approximately 482-acre AUAR area in Pine Island and Pine Island Township. It evaluated a mixed light-industrial / technology-center Scenario A and a technology-center Scenario B. Scenario B covered approximately 440 acres of technology-center use, including a 3,000,000-square-foot technology center and 150,000 square feet of office space. The AUAR disclosed meaningful environmental quantities: approximately 313.2 acres of impervious surface, likely disturbance of about 440 acres, Scenario B water demand of 55.7 million gallons per year, 150,000 gallons per day of domestic-strength wastewater, potential 0.47-acre impact to Wetlands C/D, Dry Run Creek floodplain conditions, karst-prone geology, and a range of possible federal, state, and local approvals.

Those disclosures cut against the easy narrative that "nothing was reviewed." The stronger conclusion is that the AUAR disclosed a concept-level technology-center envelope but did not fully bind or explain the project-specific assumptions that matter for a single-client hyperscale campus.

The May 22 order explains why that mattered. The court cited evidence that, before and during AUAR preparation, Ryan Companies and Pine Island had information pointing to a single-client project: a November 2024 nondisclosure agreement involving city administration and Ryan Companies; a similar agreement with a project consultant; a February 2025 "Skyway Community Talking Points" document describing the campus as being built "for a single client, a US founded and headquartered Fortune 200 Company"; and alleged client involvement in draft-AUAR materials. The court did not finally decide liability. But it found that the plaintiff had shown possible success on the merits and that genuine issues of material fact precluded summary judgment.

That is the national risk in miniature. A broad areawide envelope can be appropriate when a project is still an areawide planning scenario. It becomes fragile when opponents can plausibly show the sponsor and local government were no longer planning a generic market-driven envelope, but a specific hyperscale project with specific public-impact attributes.

Minnesota law made the problem sharper. Minnesota Statutes §116D.04 requires environmental review before certain governmental approvals and project starts when environmental review is required. Minnesota Rule 4410.3610 governs AUAR procedure and large-specific-project rules. Minnesota Rules 4410.4300 and 4410.4400 contain mandatory EAW and EIS category thresholds. The Minnesota Environmental Quality Board's data-center FAQ states that, when a proposed data center or related project exceeds another mandatory environmental-review threshold, AUAR may not be the applicable review form. That does not mean every data center needs an EIS. It means the pathway decision must be made against the real project envelope, not a softened label.

How the problem manifests on real data-center projects

The Skyway issue is not unique to AUARs, and it is not unique to Minnesota. The same project-definition problem can appear under state environmental policy acts, local zoning ordinances, site-plan review, special-use permits, utility service agreements, air permits, wetlands permits, water appropriations, development agreements, and tax-incentive approvals.

1. The label is narrower than the infrastructure

A locality may approve a "technology campus," "warehouse," "office/industrial park," or "data processing use" without a public record that shows the full infrastructure program: data halls, mechanical yards, electrical yards, generator yards, substation interface, utility corridors, water

and sewer extensions, road improvements, security perimeter, stormwater basins, and construction staging.

The fix is not semantic. The fix is a functional description. If the project is a hyperscale data-center campus, the record should say so and define the impact envelope: acres, square footage, phasing, load, cooling, backup generation, water, wastewater, construction, off-site infrastructure, and mitigation.

2. The power case is treated as utility detail rather than public impact

Project Skyway had plausible transmission context. The Final AUAR identified an existing electrical transmission line along the south side of 500th Street and noted a separate Xcel Energy project to upgrade an existing 161 kV line and install a new 345 kV Mankato-to-Mississippi River line. That proximity makes service plausible. It does not prove deliverability.

Nationally, the same mistake appears when a project points to nearby transmission, a utility relationship, or a future clean-energy procurement strategy as if those facts answer the impact question. They do not. A credible review should disclose a bounded MW range by phase, the utility-service path, point-of-interconnection or candidate service points, substation and transformer needs, transmission-upgrade dependencies, energization sequence, construction-power needs, and whether any interim or bridge-power strategy is contemplated. Clean-energy procurement claims should be kept separate from physical deliverability. A power purchase agreement can support carbon or cost objectives; it does not prove the project can take service at a required location on a required date.

3. Backup generation is left undefined

Backup and bridge power are not late design footnotes. Generator count, fuel type, operating assumptions, emergency-use profile, testing profile, fuel storage, spill controls, air emissions, noise, and delivery logistics can affect environmental review, air permitting, stormwater risk, public safety, and community trust.

The Project Skyway complaint alleged that the AUAR did not disclose generator number, output, or fuel source while still estimating greenhouse-gas emissions. Whether that allegation ultimately prevails is for the court. As a national siting lesson, the point is obvious: the backup-power envelope should be bounded before approvals harden.

4. Water is reduced to an annual number

Project Skyway's water profile is more nuanced than public controversy often allows. The Final AUAR stated that water cooling was not under consideration and that air cooling was anticipated. It estimated Scenario B demand at 55.7 million gallons per year and wastewater at 150,000 gallons per day of domestic-strength flow. Those facts matter because air cooling can materially reduce water-consumption risk compared with evaporative cooling.

But a national review standard needs more than annual demand. It should separate annual, maximum-month, peak-day, and phase-specific water demand; identify the source and appropriation basis; explain the relationship to current and projected municipal demand; describe drought and contingency operations; and separate domestic wastewater from any possible process streams, cooling blowdown, water-treatment reject, washdown, or construction dewatering. Minnesota DNR guidance states that a water-use appropriation permit is required for withdrawals above 10,000 gallons per day or 1 million gallons per year. That threshold does not automatically make a municipal-service project infeasible. It does mean that source, authority, and capacity should be public-impact facts.

5. Stormwater, wetlands, floodplain, and geology are treated as later design

The AUAR identified Dry Run Creek, northern 100-year floodplain conditions, potential Wetlands C/D impacts of roughly 0.47 acre, and karst-prone geology with sinkholes within one mile. It also evaluated a very large impervious-surface conversion. Those are serious but not necessarily fatal constraints.

The broader lesson is design discipline. A large data-center campus should publish the wetland delineation, avoidance/minimization sequence, floodplain and floodway findings, compensatory-storage assumptions, karst investigation plan, stormwater rate and water-quality controls, and any limits on infiltration caused by karst. Minnesota construction-stormwater coverage is required for construction activity disturbing one acre or more under the Minnesota Pollution Control Agency construction-stormwater program. A project disturbing hundreds of acres should treat stormwater and erosion control as a front-page environmental issue.

6. Construction impacts are understated because operations get the attention

A greenfield hyperscale campus is environmentally material before operations begin. Site preparation, grading, access roads, transformer and generator delivery, utility corridors, laydown, worker parking, truck peaks, lighting, noise, dust, erosion control, and adjacent receptors are part of the impact story. The review record should show how construction actually happens, not merely that construction will occur in phases.

7. Records compliance becomes schedule control

The records issue in Project Skyway was not a public-relations side story. It was one of the reasons the May 22 order looked different from the December 29 order.

In December 2025, the court denied the first TRO because irreparable harm was premature: Ryan Companies represented that no further soil samples would occur until spring and actual construction would not begin until July 2026 at the earliest. The court expressly left open the possibility of future temporary relief based on new or additionally learned facts. That order was a warning, not a merits victory.

By May 2026, the posture had changed. The City had produced records in February 2026, MCEA asserted that hyperlinks in produced emails were inaccessible, and the court found the Minnesota Government Data Practices Act request "very much relevant" to the environmental-procedure lawsuit. Minnesota Statutes §13.03 requires a government entity denying access to requested data to cite the specific statutory section, temporary classification, or federal-law provision supporting the denial. The court found, for TRO purposes, that the City had not shown it complied with that obligation. It also imposed only the $2,000 minimum bond because the TRO was at least partly due to the City's records response.

That is a national governance lesson. When a hyperscale project is moving through public approvals under confidentiality pressure, the public agency should maintain a live project docket, production log, withholding log, hyperlink/attachment protocol, meeting-packet archive, and plain-language explanation of what is confidential and why. NDAs may protect commercial or security-sensitive details. They should not be used, or appear to be used, to hide acreage, use, utility load, water demand, wastewater assumptions, backup generation, construction impacts, or mitigation commitments.

The crackdown is really a demand for decision-grade disclosure

The public-policy response to data centers is often described as a backlash. That is partly true, but it is incomplete. Much of the response is a demand for decision-grade disclosure before approvals become hard to unwind.

Local governments are asking whether data centers belong by right, by special exception, or only in designated districts. They are imposing setbacks, screening, height limits, noise standards, lighting controls, generator conditions, landscaping requirements, and design standards. Some jurisdictions have considered or adopted moratoria to give themselves time to rewrite ordinances.

State officials are asking whether local review is enough when the impacts include regional power supply, transmission, water resources, air emissions, and ratepayer cost. Utility regulators are asking whether large-load customers should bear more of the risk of network upgrades and stranded capacity. Tax policymakers are asking whether data-center incentives should be conditioned on jobs, investment, clean energy, water performance, or public-infrastructure commitments.

Environmental advocates are asking whether projects have been segmented, mislabeled, or routed through the least-disclosing pathway. Residents are asking why they learn about tenant identity, power demand, generator fleets, water needs, or road impacts from leaks, litigation, press reports, or post-approval utility filings rather than from the public review record.

This is where Project Skyway is nationally important. The case shows how quickly a disclosure gap can become a litigation gap, and how quickly a litigation gap can become a schedule gap. California High-Speed Rail Authority project updates and business plans repeatedly treat litigation over environmental clearances, property acquisition, and related disputes as risks to schedule, cost, and financing; they also emphasize working with affected stakeholders before disputes become formal lawsuits and using settlement or alternative dispute resolution where possible. A Minnesota data center is not a rail megaproject. The transferable lesson is that unresolved process defects become schedule defects once capital commitments and construction dates advance.

The playbook: how to approve real hyperscale projects without building a litigation trap

The solution is not to publish proprietary tenant contracts or security-sensitive drawings. The solution is to separate commercial secrecy from public-impact facts and to build the approval record around the real project envelope.

1. Start with the highest known functional specificity

If the project is a hyperscale data-center campus, call it a hyperscale data-center campus, technology campus, or similarly accurate functional description. If it is single-client, multi-client, speculative, phased, or partially committed, say that in bounded terms. Tenant identity can be withheld or qualified where law permits. The use, scale, and impact envelope should not be vague.

A useful public description includes:

- site acreage and developable acreage;
- maximum and phase-specific building square footage;
- number and type of data-center buildings;
- mechanical and electrical yards;
- generator yards and fuel systems;
- substation and utility-interface areas;
- water, sewer, stormwater, and road extensions;
- construction phases and likely start/finish windows;
- adjacent receptors and buffers; and
- alternatives or reduced-build scenarios.

2. Build the threshold matrix before choosing the pathway

Before relying on AUAR, EAW, categorical local review, site-plan approval, or any analogous pathway, practitioners should test the real project against mandatory review categories and

permit triggers. In Minnesota, that means testing the actual envelope against Minn. R. 4410.3610, 4410.4300, and 4410.4400, plus water appropriation, air permitting, wetlands, public waters, wastewater, stormwater, energy infrastructure, and cumulative significance. In other states, the same discipline applies under state environmental policy acts, local ordinances, utility regulation, air programs, wetlands law, water law, and development-agreement procedures.

The matrix should be public enough that readers can see why the pathway was selected. A one-line conclusion that "environmental review is complete" is not enough for a hundreds-of-acres hyperscale campus.

3. Treat power as an environmental chapter

A large-load data center should not leave MW demand, service path, backup generation, bridge power, substations, transmission upgrades, and energization schedule to later utility detail. Transmission nearby is a starting point, not a conclusion.

The public record should distinguish:

- requested load versus studied load;
- initial phase versus full-build demand;
- physical service path versus clean-energy procurement;
- utility upgrades serving the project versus independent grid upgrades;
- temporary construction power versus permanent service;
- backup generation versus bridge generation; and
- customer-funded improvements versus rate-base or shared-network improvements.

4. Treat water, wastewater, and stormwater as separate issues

Air cooling can reduce operating-water risk, but it does not answer wastewater, peak demand, municipal capacity, drought, floodplain, karst, and stormwater questions. Each should be bounded in the public record.

The minimum water package should include annual, peak-day, and phase-specific demand; source-water and appropriation basis; municipal-capacity margin; drought and contingency plan; wastewater character and route; treatment-capacity triggers; construction dewatering; stormwater (source on file) controls; floodplain findings; and wetland avoidance/minimization.

5. Bound backup generation before approvals harden

The generator envelope should be disclosed early enough to inform air, noise, fuel, traffic, spill, and public-safety review. Where final equipment is not selected, the record can use conservative ranges. What should not happen is a final local approval based on an undefined generator fleet.

The record should state generator count range, MW capacity range, fuel type, tank capacity range, testing hours, emergency assumptions, emissions basis, noise basis, delivery assumptions, spill controls, and whether generators could be used for non-emergency grid support or demand response.

6. Convert mitigation from concepts into commitments

Mitigation language should not read like a menu of things that "may" be considered later. It should identify what will be imposed, who imposes it, when it is triggered, what approval makes it enforceable, what monitoring is required, what reporting is public, and what happens if the commitment is missed.

For AUAR users, this is especially important because the mitigation plan is the bridge between areawide review and later project implementation. A vague mitigation plan invites the argument that the public was asked to rely on future discretion rather than enforceable protection.

7. Build a records protocol before controversy

Hyperscale confidentiality is real. So is public-records law. The safest posture is to publish a clear log of what exists, what has been produced, what is withheld, and the legal basis for withholding.

A strong protocol includes:

- a public project docket;
- a document index;
- production dates;
- redaction rules;
- statutory withholding bases;
- hyperlink and attachment capture;
- consultant-file handling;
- meeting-packet archiving;
- NDA status explanation; and
- a plain-language distinction between commercial secrets and public-impact facts.

8. Sequence entitlements around the environmental record

The more approvals advance while the environmental record is under attack, the more likely a court is to view temporary relief as necessary to preserve the status quo. If litigation or serious procedural objections arise before construction, the sponsor and agency should treat the period before mobilization as a cure window.

A denied TRO is not necessarily a merits victory. If temporary relief is denied because construction is not imminent, the sponsor and agency should use the window to remove the mismatch that could support a renewed motion.

9. Give communities the impact file before they have to infer it

Opposition is not eliminated by better disclosure. But under-disclosure changes the character of opposition. It turns neighbors, advocates, utilities, and agencies into investigators. The more the public must infer the real project from NDAs, snippets, news reports, utility filings, or later disclosures, the more likely the process will migrate from planning rooms to courtrooms.

The better model is a public impact file: project definition, load envelope, water package, generator package, construction package, mitigation commitments, records protocol, and response-to-comments matrix.

10. Plan for litigation as a schedule risk, not an afterthought

For large data-center campuses, litigation risk should be managed like power, water, and site-prep risk. The project schedule should include time for public comments, record correction, agency consultation, supplemental review, settlement, remand, or narrowed relief. The most expensive environmental document is often the one that has to be repaired after construction-readiness dates are already public.

What Project Skyway teaches AUAR users specifically

Minnesota's AUAR process remains a useful tool when the scenario is candid, bounded, and enforceable. It can be attractive for large development areas because it reviews a geographic envelope rather than a single fixed project. But that strength becomes a weakness when the envelope is used to soften a known project.

For future AUAR users, the Project Skyway lesson is precise:

Define the project at the highest known functional specificity. If the project is a hyperscale data center, the review record should say so in environmental terms.

Build the mandatory-threshold matrix first. The pathway decision should be made against the real project envelope, including building area, energy infrastructure, air emissions, water, wastewater, wetlands, public waters, stormwater, and cumulative significance.

Do not rely on tenant confidentiality to obscure impact facts. Tenant identity and commercial terms may be protectable. Load, water, wastewater, backup generation, construction impacts, and mitigation are public-impact facts.

Make mitigation enforceable. AUAR mitigation should specify what will be imposed, who imposes it, when it is triggered, what approval makes it enforceable, and how compliance will be verified.

Treat records compliance as critical-path work. Public-records gaps can become irreparable-harm arguments when they prevent opponents from reviewing or using information before construction begins.

Use cure windows. If a court denies early temporary relief because construction is not imminent, the project should not treat that as a green light. It should treat it as time to fix the record.

The bottom line

Project Skyway's TRO was not inevitable. Opposition to a reported Google-linked hyperscale campus in Minnesota was foreseeable, but a construction-start injunction was not the only path. The avoidable risk was allowing the environmental-review record, records posture, and approval sequence to fall out of alignment with the project that opponents could plausibly show was being advanced.

The broader national lesson is bigger than AUAR. Data-center approvals are shifting from a land-use-label world to an infrastructure-reality world. Projects that disclose the real envelope early — power, water, wastewater, backup generation, construction, off-site infrastructure, public records, and enforceable mitigation — can still move. Projects that ask a generic label to carry a hyperscale reality are building a litigation schedule into the approval record.