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**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Michael C. Owens, Senior Assistant County Attorney 

**DATE:** February 5, 2019

**RE:** ***Kanter Real Estate v. Florida Department of Environmental Protection***  
**CAO File: 70056-0024**

On March 14, 2017, the Board directed this Office to seek intervention in an administrative case known as *Kanter Real Estate v. Florida Department of Environmental Protection* ("FDEP"). Kanter challenged FDEP's proposed denial of an exploratory oil well permit at a location in unincorporated Broward County (Water Conservation Area 3). Broward County and the City of Miramar were permitted to intervene and participate.

After an administrative hearing, a state administrative law judge issued a Recommended Order in favor of issuance of a permit on October 10, 2017. After review, FDEP issued a Final Order denying a permit on November 27, 2017, and Kanter filed a timely appeal. Today, the First District Court of Appeal issued its Opinion reversing the FDEP and directing it to issue an exploratory oil well permit to Kanter. During the appeal, Kanter had also filed a separate takings claim against the FDEP, alleging that denial of the permit would result in a reduction in the fair market value of its property of \$75,025,403.

Pending any further appeal, this Office expects an FDEP permit to be issued, an action that would likely moot the current takings claim. As noted in prior updates, the project has not yet addressed Broward County's land use, zoning, and environmental requirements.

Deputy County Attorney Maite Azcoitia and I are the Office's lead resources on this matter. Please feel free to contact Maite (extension 7605) or me (extension 7614) with any questions or concerns regarding this matter.

MCO/gf

c: Andrew J. Meyers, County Attorney  
Bertha Henry, County Administrator  
Bob Melton, County Auditor  
Henry Sniezek, Director, Environmental Protection and Growth Management Dept.