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MEMORANDUM

TO: Board of County Commissioners

FROM: Michael C. Owens, Senior Assistant County Attorney

DATE: January 13, 2021

RE: **Greenhouse Gas Litigation: Agenda Item #59 on the January 12, 2021 County Commission Agenda**

Michael C. Owens

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Michael C. Owens
Date: 2021.01.13
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Yesterday the Board of County Commissioners authorized this Office to join in a Petition for Review of a United States Environmental Protection Agency ("EPA") rule expected to weaken the standard for greenhouse gas emissions from new, modified, or reconstructed coal-fired power plants. Today, the EPA instead released a final rule that would allow greenhouse gas emissions from every facility that is not a power plant and delayed any rule specifically affecting coal-fired power plants.

This rule was not finalized with sufficient notice or comment regarding deregulation of other facilities and would allow every category of stationary sources of air pollution, other than power plants, to be unregulated regarding greenhouse gas pollution they emit. Now that the rule has been released, the deadline for joining the Petition for Review has been set at January 19th.

The EPA itself assessed the 2018-2019 contributions to greenhouse gas emissions from power plants to be 26.9% of the United States national total, with coal-fired power plants emitting 60% of the carbon dioxide, one of the greenhouse gases, emitted by all power plants. Other industrial facilities contributed 22% of greenhouse gases nationally.

The effect of the final rule would effectively allow even more greenhouse gas emissions than the initially proposed rule, and the environmental harm posed by today's final rule is substantially the same in its effect on Broward County's efforts to address climate change (and climate change generally). Because of the short time frame for joining the Petition for Review, this Office proposes to join the Petition for Review on January 19th unless we receive an objection from any Commissioner by January 18th. We will also put an item on the Commission Agenda for January 26th for ratification of our action and any discussion. This Office will withdraw from the litigation if the Board declines to ratify our action, regardless of whether an objection is received prior to January 18th.

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Please contact me at (954) 357-7614 or mowens@broward.org if you have questions, need further information, or have an objection to Broward County joining the Petition for Review of EPA's final rule.

MCO\gf

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