**INDIAN RIVER COUNTY, FLORIDA**
**M E M O R A N D U M**

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TO: Jason E. Brown; County Administrator

**THROUGH:** Stan Boling, AICP; Community Development Director

**THROUGH:** Sasan Rohani, AICP
Chief, Long-Range Planning

**FROM:** Bill Schutt, AICP
Senior Economic Development Planner, Long Range Planning

**DATE:** February 14, 2017

**SUBJECT:** Suspension of INEOS New Planet BioEnergy LLC's Ad Valorem Tax Exemption

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It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting of February 21, 2017.

## BACKGROUND

On December 20, 2011, the Board of County Commissioners held a public hearing to consider a request from INEOS New Planet BioEnergy LLC for an economic development ad valorem tax exemption (tax abatement). At that hearing, the Board considered INEOS's application together with staff's analysis and input from the Property Appraiser's Office, Chamber of Commerce, and Economic Development Council. Based on the evidence presented, the Board found that INEOS's proposed bioenergy facility project qualified for tax abatement as a new business, found that INEOS's application scored in the highest abatement award category under adopted scoring guidelines, granted a 10 year tax abatement beginning in 2013, adopted a tax exemption ordinance for the INEOS project, and approved a tax exemption agreement with INEOS (see attachments 1, 2, and 3). The exemption applies to approximately 40% of INEOS's total ad valorem tax bill (General Fund, MSTU, and Emergency Services District) and decreases during the 10 year abatement period.

Since the December 20, 2011 hearing, INEOS completed project construction, and hired facility personnel. In January 2013, 2014, 2015, and 2016, INEOS filed its first, second, third, and fourth annual reports with the County as required by the tax exemption agreement. Those reports indicated job and wage levels consistent with INEOS' tax abatement application and information from the Florida Department of Revenue. Based on that information, the Board found that INEOS was in compliance with its ad valorem tax exemption requirements. After Board actions, INEOS then applied to the Property Appraiser's Office for the exemption and the exemption was granted for "property tax years" 2013, 2014, 2015, and 2016.

In late 2016, INEOS closed its facility, placed it on the market for sale, and terminated nearly all jobs. With the closure of the facility and the elimination of jobs, INEOS has notified staff that it will not file an annual report for 2017 and will not be in compliance with tax abatement requirements for 2017.

Under requirements of the tax exemption agreement and the County's Chapter 1100 tax exemption regulations (see attachment 4), INEOS is required to provide a number of new jobs at a high average wage level, file an annual report on or before January 15$^{th}$ of each year beginning in 2013, abide by representations made to the Board, and comply with tax exemption requirements. The annual report filing provides the County with a timely and convenient opportunity to verify compliance with tax exemption requirements prior to the March 1 annual filing deadline for an economic development tax exemption. If at any time the Board determines that INEOS is not in compliance, the Board may revoke, revise, or suspend the tax exemption.

While INEOS does not intend to comply with the tax abatement requirements for the 2017 tax year and has not provided an annual report for 2017, INEOS has provided quarterly 2016 employment reports to County staff. Staff reviewed those reports and verified INEOS's compliance with tax abatement requirements for this past tax year (2016), including representations made in its tax abatement application. At this time, staff is bringing data to the Board to document INEOS' compliance with tax abatement requirements for this past year (2016). Staff is also informing the Board that INEOS will not qualify for the tax abatement exemption for 2017 and is seeking Board action to suspend the abatement exemption for 2017. By suspending the exemption, the Board may keep open the possibility of transferring any remaining years of the plant facility's 10 year tax abatement to a future prospective purchaser/operator of the facility if they meet the original tax abatement requirements.

## ANALYSIS

Consistent with the tax abatement ordinance (see attachment 2), INEOS was approved to receive a ten year tax abatement of its ad valorem taxes for the General Fund, Municipal Services Taxing Units, and the Emergency Services District. That abatement was approved at 100% for years one through three, with a 10% yearly decline each year starting with year four at 90% abatement and ending with year ten at 30% abatement. If INEOS had continued its operations in compliance with the agreement, it would currently be in year five of the tax abatement schedule and would be eligible for 80% abatement for year 2017.

Over the last several years, INEOS obtained approval of economic development incentives, developed a bioenergy production facility at the southwest corner of Oslo Road/74$^{th}$ Avenue (former Ocean Spray site), and hired facility personnel. Employees were first hired starting in late 2011, even before the plant was fully completed. By the end of 2012, INEOS had 56 employees. The number increased in 2013 and in 2014, rising to 64 employees in late 2013 and 68 employees in late 2014. In December of 2015, INEOS reported employment levels in the mid-50s. For 2016, employment levels had fallen to an average of 50 employees for the entire year (over 50 employees were on payroll for the first 10 months, with 41 employees for the 11$^{th}$ month and 29 employees for the 12$^{th}$ month). As shown in the table below, average wages per employee for the year 2016 were $84,520.69. The average annual wage calculation includes employees that worked only part of a quarter. In fact, excluding wages of those employees would increase the average annual wage. The 2016 average annual wage exceeds all previous year annual wages (see attachment #5).

| 2016 INEOS Wage and Employment Levels | | | | |
|---|---|---|---|---|
| **Quarter** | **Total Gross Wages** | **Average # of Employees Listed on Quarterly Report*** | **Total # of Employees Listed on Quarterly Report**** | **Average Wages Per Employee (Total Gross Wages/# of Employees)** |
| 1 | $1,001,850.31 | 52 | 52 | $19,266.35 |
| 2 | $1,090,600.78 | 53 | 56 | $19,475.01 |
| 3 | $1,383,676.62 | 54 | 54 | $25,623.64 |
| 4 | $1,068,251.41 | 41 | 53 | $20,155.69 |
| **Total/Average** | $4,544,379.12 | 50 | 53.75 | $84,520.69 |

**Sum of 12th Day Count for Each Month Divided by 3*
***Total Employees Listed for Quarter*

With respect to project capital investment the project has involved tens of millions of dollars in improvements and equipment, as anticipated. Based upon submitted employment reports and verified items, staff has determined that INEOS has met minimum scoring requirements to maintain the tax abatement for the 2016 tax year. As shown in the table on attachment 5, INEOS' score for the 2016 tax year is 85 points. This is five points less than each previous year's points and four points above the minimum 81 points required to maintain its approved tax abatement (see attachment 6). For 2016, the reduced points are due to the loss of employees in the 4th quarter as INEOS moved to shut down its operations.

As anticipated in the INEOS tax exemption application, the majority of the project's assessed value consists of tangible personal property in the form of plant equipment. According to the Property Appraiser's staff, INEOS' ad valorem tax bill for 2016 was $433,560.28 and the value of the ad valorem tax exemption not included on that bill (savings to INEOS) was $259,676.24. In 2015, the tax bill was $471,929.22 and savings to INEOS was $308,145.81. The 2016 figures reflect a decrease in assessed value associated with depreciation of equipment, land, and assets and also a 10% percent decrease in the allowed tax exemption amount. Staff has confirmed that the 2016 real property and tangible property taxes have been paid.

With respect to the Economic Development Ad Valorem Tax Exemption agreement, that agreement allows for the property to be transferred to a new owner provided proper notice is given to the County. That agreement also contains provisions regarding violations of abatement requirements, providing the County with the ability to:

a. Revoke or revise the exemption, effective as of the date of such action, or
b. Revoke or revise the exemption, effective as of the date of violation of the Commitment.

In addition to revoking or revising the exemption, the Board may simply suspend the exemption in its current year (year five), keeping open to itself the possibility of re-instating the abatement schedule for the facility in subsequent years if a qualifying plant owner/operator restarts the plant and provides jobs at the same number and wage level as INEOS.

Even though INEOS shut down its operations, that process was not completed until late 2016/early 2017. Because INEOS maintained eligible high wage jobs at its facility for 2016 and because INEOS exceeded the minimum scoring requirements for qualification for the year 2016 tax abatement, it is staff's conclusion that INEOS was properly qualified for the tax abatement for 2016. In total, INEOS produced an average of more than 50 new high wage jobs for over five years and installed a multi-million dollar energy plant facility.

Because neither INEOS nor a subsequent buyer owner/operator will be able to meet the tax abatement agreement requirements for 2017, the Board needs to suspend the exemption for 2017. By suspending the exemption, the Board will retain the option of re-starting the exemption in subsequent years for a qualifying owner/operator.

## RECOMMENDATION

Staff recommends that the Board of County Commissioners:

1. Find that INEOS New Planet BioEnergy LLC was in compliance with its Economic Development Ad Valorem Tax Exemption requirements for tax year 2016; and

2. Suspend the plant facility tax abatement exemption for 2017 and retain the option for future Board action to re-start the tax exemption in subsequent years for a qualifying plant owner/operator.

## ATTACHMENTS

1. Approved Minutes from December 20, 2011 Board Meeting
2. INEOS Tax Exemption Ordinance 2011-011
3. INEOS Tax Exemption Agreement
4. Excerpts from Chapter 1100
5. INEOS Compliance with Tax Exemption Representations
6. Scoring Guidelines
7. E-mail correspondence from INEOS