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Dear Colleague

URGENT OPERATIONALISATION OF THE WASTE MANAGEMENT BUREAU

I refer to my letter dated 30 May 2017, in which I notified you of my intention to consider the withdrawal of the approval for the Integrated Industry Waste Tyre Management Plan of the Recycling and Economic Development Initiative of South Africa (REDISA Plan) that was published in terms of Regulation 11(4) of the Waste Tyre Regulations, 2009 under Government Notice No. 988 in the Government Gazette No. 35927 on 30 November 2012.

As mentioned in said letter, the Department commissioned an independent evaluation and assessment of the status of the implementation and administration of the REDISA Plan and REDISA's alignment to the funding model under the new regulatory framework. REDISA was found, in broad terms, to have failed to achieve its objectives and that there is a lack of proper governance and/or accountability, as deduced from the documents available at http://sawic.environment.gov.za/?menu=345.

Subsequent to my letter, I applied for, and was granted, an order from the High Court of South Africa (Western Cape Division, Cape Town) for the provisional winding up of REDISA on 1 June 2017. A liquidator has been appointed and has taken immediate control of the business of REDISA, including the administration and implementation of the approved Plan. This is an interim order with the return date being 25 July 2017, on which date REDISA will have to show cause to the court as to why a final winding up order should not be granted. REDISA will furthermore be required to show cause as to why the liquidator should not be directed to distribute its entire net value to the Waste Management Bureau, a juristic person established in terms of section 34A of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008). A copy of the court order is attached as **Annexure A** hereto.

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The order obtained as per paragraph 4 above, was prompted by a presentation given by REDISA to the Department on 23 May 2017. This presentation alerted the Department to the fact that the REDISA Board of Directors had made the decision to *inter alia* commence industry wind-down as from 1 June 2017 should insufficient funding be allocated. The presentation moreover indicated that even if funding in the amount of R210 million was provided in July 2017, the said amount would only postpone the inevitable wind-down until 1 October 2017. In this latest presentation to the Department, REDISA indicated that their cash balance in May 2017 was only an amount of R150 million, and that since their revenue has stopped, it is currently operating off its remediation reserve and is incurring a monthly "burn rate" of R36.6 million. This contradicted previous assertions made by REDISA, in which cash reserves were much higher. In addition to this, on 31 May 2017 it came to my attention that REDISA had informed Plan participants that it would cease with collections of waste tyres and would commence with winding-down of operations. As you will appreciate, I had to act urgently to deal with this situation in order to ensure that money and assets would not be disposed of by REDISA, taking into account my reservations as to the manner in which REDISA has been operating. I was also concerned about job losses which would be occasioned by REDISA's threatened wind down of operations. The court order has resulted in the liquidator taking over the business operations of REDISA and the implementation and operation of the Plan. The liquidator was able to issue a notice to all stakeholders that it would be business as usual.

It must be noted that the lack of funding is an emergency entirely of REDISA's own making due to its failure to align the Plan to the new funding model and to submit a proper business plan to the Department. Instead, REDISA has embarked on a suite of expensive litigation (using public funds) to preserve its powers to collect the waste tyre management fee and to have carte blanche in its utilisation of the funds so acquired. We suspect that REDISA will once again revert to urgent and expensive litigation to challenge the provisional winding up order. Should they be successful, we will once more be faced with all the challenges and concerns highlighted in the independent evaluation mentioned above.

The Department held a meeting with Processors, Transporters and Collectors on 5 June 2017. The purpose of the meeting was to provide a platform for the Department to share information with these stakeholders, specifically on the winding up process I have initiated. An opportunity was also provided for the attendees to share their concerns. At the conclusion of the meeting my team had the support of all those in attendance and I am therefore satisfied that the winding up process is in the best interests of the State, the environment and relevant employers and employees involved therein outside of the narrow business interests of REDISA and its associates.

As mentioned above, the National Environmental Management: Waste Amendment Act, Act No. 26 of 2014 (Waste Act), in terms of which the Waste Management Bureau was established as a juristic person within the Department, came into effect on 02 June 2014. Further amendments to the Waste Act have been identified, drafted and subsequently approved by Cabinet and was tabled at Parliament. The amendments largely provide for the Bureau to be established as a public entity, with a Board and related governance arrangements.

In terms of Section 34A(3) of the Waste Act in the event of the absence of a functional Bureau or a Chief Executive Officer, the powers and duties of the Bureau revert to the Director-General of the Department must exercise those powers and performs those duties until the Bureau is functional or a Chief Executive Officer is appointed.

As you would appreciate, it has become crucial for the Waste Management Bureau to be operationalised, whilst the amendments to the Waste Act are still being considered by Parliament. A business case has been compiled using the treasury framework and is attached as **Annexure B**.

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It is important for the Waste Management Bureau to be able to "step-in" should REDISA be successful in setting aside the provisional liquidation order and continue with the winding up operations as the Directors of REDISA sees fit.

To enable this process certain key staff appointments will have to be made. The attached business case sets out the proposed pay scales for the staff and Chief Executive Officer of the Waste Management Bureau. It is recommended that staff appointments be made by the Department that will then be seconded to the Waste Management Bureau and that the Director-General in exercising her powers in terms of Section 34A(3) of the Waste Act delegates these staff members in order to manage the day-to-day operations of the Waste Management Bureau. Relevant Financial Delegations will be conferred on the appointed staff of the Bureau.

Functional information technology and systems will be a vital element of the operations of the Bureau, Considerable work has already been done to procure an information management system for the efficient monitoring of industry waste management plans of various waste streams. All participants in the REDISA Plan were requested to register with the Bureau, this information will be used to contract with participants in the Plan should the Bureau be required to fulfil the operations of the REDISA plan.

I trust that process set out above in order to operationalise the Waste Management Bureau will meet your approval.

Yours sincerely

DR B E E MOLEWA, MP
MINISTER OF ENVIRONMENTAL AFFAIRS

DATE: 09/06/2017