

ATTACHMENT #1 | TO STATE ENVIRONMENTAL COMMISSION FORM #3

Re: Appeal of Solid Waste Management Facility Permit **SW1900REV00**, MediWaste Disposal LLC

1850 East Basin Avenue, Pahrump, Nye County, Nevada (APN 035-191-52).

Permit effective August 26, 2026. Notice of Permit Issuance August 31, 2026.

The fields on Form #3 do not accommodate the full response. Attachment 1 completes Item 4 and Attachment 2 completes Item 5. The Statement of Grounds filed with this form sets out each ground in full, with verbatim quotations and record citations.

ATTACHMENT 1 (Form #3, Item 4) Provisions allegedly violated, and the provisions conferring jurisdiction.

Jurisdiction of the State Environmental Commission

NAC 445B.890; NAC 445B.875 to 445B.899; NAC 444.980; NRS 445B.340. The decision appealed from is the issuance of Solid Waste Management Facility Permit SW1900REV00, effective August 26, 2026, signed and published August 31, 2026. Appellant submitted written comments during the public comment period, appears in the Division's Responses to Public Comments published August 31, 2026, resides above Hydrographic Area 162, and is a person aggrieved by the final decision within the meaning of NAC 444.6425(1)(b).

Box 1. Final decision in violation of a constitutional or statutory provision

NRS 444.553. Permit to operate; identification of owner and operator. The permit names MediWaste Disposal LLC as owner of the permitted land; the recorded deed conveys that land to Basin Ave Properties LLC and MediWaste holds a fifteen year lease.

NAC 444.584. Definition of "incinerator." The Division's own staff engineer and its signed Technical Review both find the permitted units meet this definition. No document in the record contends any element is unsatisfied.

NAC 444.672(3). Incinerators used for the burning of pathological waste must ensure temperatures of 1,400 degrees Fahrenheit for not less than 0.3 second. The permit authorizes pathological waste and contains no temperature or residence time condition of any kind.

NAC 444.672(4)(b) and (4)(c). Incinerator residue must be disposed of at an approved land disposal site; emergency disposal provisions. No receiving facility has been identified and the permit contains no emergency disposal provision.

NAC 444.594 (nuisance) and **NAC 444.668** (no solid waste processing system may cause health hazards, public nuisances, or otherwise cause or contribute to the impairment of the environment). The Division conducted no independent nuisance analysis, adopting instead a county approval granted for a materially different facility, and imposed no monitoring by which impairment could be detected.

NAC 444.608 (definition of "putrescible") and **NAC 444.660 to 444.666** (storage). The permit authorizes human body parts, organs and tissues at Condition C.2.d and prohibits putrescible waste at Condition C.3.b. The absence of putrescible waste is the Division's own stated reason why no refrigeration is required for waste held on site up to fifteen days.

NAC 445B.086, NAC 445B.106 and NAC 445B.2207(1)(a) and (2). Each was invoked by the Division's own staff engineer as applicable to these units, and each was adopted by this Commission under NRS 445B.210. NAC 445B.2207(1)(a) provides that burning in any incinerator other than the multiple chamber type is prohibited.

NRS 445B.110. Definition of "air contaminant" as any substance discharged into the atmosphere except water vapor and water droplets. The application asserts that no fugitive emissions are possible and that the exhaust is benign and inert; the Division calculated a fugitive emission rate for the same material.

Box 2. Final decision made upon unlawful procedure

NAC 444.641(2) and (3). The evaluation for compliance must precede the notice of intent, and the notice must describe the procedure for obtaining copies of the documents. The permit was noticed with its Attachment to SEC Form #3 | Appeal of Permit SW1900REV00, MediWaste Disposal LLC Page 2 sampling schedule blank, and documents on which its technical basis rests were not in the record made available to the public.

NAC 444.6415. Public hearing. The hearing was conducted without the record, and representations were made to the public about the permit that the issued instrument does not contain.

NAC 444.6419. Response to comments. *(Appellant does not contend the Division failed to respond. The Division issued a consolidated response on August 31, 2026. This provision is cited because the response itself contains statements inconsistent with the permit and the Fact Sheet.)*

NAC 444.6425(1) and (2). Issuance or denial; modification or conditions based on comments. The application incorporated into the permit was changed after the close of comment from the version the public reviewed to a version never published.

Box 3. Final decision affected by another error of law

NAC 444.584 and NAC 444.672. The Division found the units meet the statutory definition of an incinerator and then permitted them under a regulation governing methods that are not incineration, without identifying any provision under which a definitional match carries no consequence.

NAC 444.676. System to process waste: other methods. Approval is conditioned on complete plans, specifications and design data. The only engineer stamped, dimensioned plan set in the application is a 2013 improvement plan prepared for a propane distribution business; every other drawing is marked "Drawing not to scale"; and no piping and instrumentation diagram exists in any filing.

NAC 444.8632. 40 CFR Part 261 Subpart C as adopted by reference. The Ash Sampling and Analysis Plan records that the toxicity characteristic includes volatile organics, semivolatile organics and pesticides, states that the plan is concerned only with metals, and then concludes that the ash is not a RCRA hazardous waste.

40 CFR 60.50c(f), 40 CFR 60.51c and 40 CFR Part 60 Subpart Ec, as applied to this equipment by U.S. EPA in the determination underlying Applicability Determination 1500085, 84 Fed. Reg. 9783 (Mar. 18, 2019). These are cited because the Division relied on federal non-applicability to reach a conclusion under NRS/NAC Chapter 444.

Box 4. Final decision clearly erroneous in view of the reliable, probative and substantial evidence on the whole record

NAC 444.641(2), NAC 444.668 and NAC 444.676. The emission and residue basis rests on stack tests from a different machine at a different facility, in which every dioxin and furan value is a non detect entered as zero, and in which the only direct measurement of destruction efficiency returned 72.8 to 84.7 percent against the 99.5 percent the permit's control basis assumes.

NAC 444.6851. Closure cost estimate by a third person. The largest line item was supplied by an entity the applicant's own consultant places under common ownership with the technology vendor, and the stated cost basis appears nowhere in the estimate.

NAC 444.6855 and NAC 444.685 to 444.6859. Financial assurance. The application states both that financial assurance has been arranged through a certificate of liability insurance and that it will be procured later.

Box 5. Final decision arbitrary, capricious, or characterized by abuse of discretion

NAC 444.641(2) and NAC 444.6425(2). The Division's staff engineer concluded in writing that NAC 444.672 applies, reversed himself two months later on the air regulations without any recorded analysis, Attachment to SEC Form #3 | Appeal of Permit SW1900REV00, MediWaste Disposal LLC Page 3 never withdrew the conclusion as to NAC 444.672, and the reversal is recorded in terms of whether applying the regulation would require the applicant to change its design or operating parameters.

NAC 444.643. Modification for cause.

NRS 445B.210. The authority under which this Commission adopted NAC 445B.086, 445B.106, 445B.168 and 445B.2207, and under which it has amended NAC 445B.2207 in 1977, 1990, 1991, 2004 and 2015. The Division set that regulation aside on the view that it "looks out of date." Attachment to SEC Form #3 | Appeal of Permit SW1900REV00, MediWaste Disposal LLC Page 4