

INTRADEPARTMENTAL MEMORANDUM

FILE: Berger Enterprises, LLC (0198)

TO: Charles R. Hyatt, Director
Division of Waste Management 

THROUGH: Diana A. Trussell, Manager
Solid Waste Program
Division of Waste Management 

FROM: Rebecca D. Blue, Environmental Scientist
Solid Waste Program
Division of Waste Management 

SUBJECT: Permit Renewal Application Review

DATE: July 8, 2026

Introduction

The North Dakota Department of Environmental Quality (Department) received a permit application for a permit renewal and modification for Berger Enterprises, LLC's (Berger Enterprises) inert waste landfill and waste pile facility.

Berger Enterprises currently owns and operates an inert landfill site in Mekinock, ND located on approximately 160 acres in the southwest ¼ of Section 17, Township 152 North, Range 52 West in Grand Forks County. Currently approximately 20 acres are used for landfill operations, and another 20 acres are used for recycling and composting activities. The permit modification encompasses the expansion of the disposal area to the south of the existing disposal area. The expansion area is approximately 10 acres.

Berger Enterprises is proposing to renew and modify their permit to continue operating the inert waste and waste pile facility. The facility was first permitted in 2000.

Design

Berger Enterprises is located in rural Grand Forks County and is bordered by 21st Avenue NE and 24th Street NE with one residence located within 1,800 feet to the west in Mekinock, ND. The nearest surface water is Kelly Slough in the Kelly Slough National Wildlife Refuge located approximately 2.1 miles southeast of the landfill. Access to the facility is controlled via a gate located approximately ½ mile north of the site that is kept locked upon exiting. Only designated Berger Enterprises' employees will have access to the site.

According to the Web Soil Survey Report provided in the application, the site is comprised of Bearden silt loams, 0 to 2 percent slopes, Ojata silty clay loams, 0 to 2 percent slopes, and

Divide loam, 0 to 2 percent slopes. The Bearden soil series is described as being somewhat poorly drained calcareous silty lacustrine sediment soils with slow permeability and minor inclusions of salinity. Topsoil depth is likely to be 10-14 inches, but this can vary depending on landscape positioning and soil inclusion type. The Ojata soil series is characterized by deep and calcic soils that are poorly drained and found in slightly depressed flats and swales. There is an underlying calcareous B-horizon within 16-inches, which is less than desirable for suitable topsoil. Additionally, there is potential for salt accumulation at the surface which limits suitable rooting material. The Divide soil series is described as being poorly drained calcic, and fine loamy over sandy or sandy skeletal soils. For these types of soil profile descriptions, it is recommended to remove 8-inches of topsoil to avoid the underlying calcareous horizons. The survey reveals the site area to be very limited for landfill (area) use. Currently existing soil stockpiles at the facility consist of 3,000 cubic yards (CY) of suitable plant growth material (SPGM)/topsoil and 5,000 CY of clay-rich material. The proposed 10-acre expansion area is predicted to have 6-inches of SPGM at 8,060 CY, and 4-feet of clay-rich material at 64,500 CY. The landfill has more than an adequate amount of intermediate soil cover for daily operations and closure activities.

At this time, the facility's filling operations are continuing to bring the landfill to its permitted height. The facility has estimated approximately one year of capacity remaining. The proposed footprint expansion of 10 additional acres will provide approximately 10 years of life. The proposed expansion will provide 140,135 CY of additional net design capacity and includes both inert waste and cover materials. Closure projects are planned to be completed in stages once areas of the landfill are brought to grade and the area will no longer be needed as access to current disposal areas.

Operation

Prior to arriving at the landfill, haulers are to communicate with the facility before arriving onsite. Once on-site, haulers are directed to the proper disposal area based on their load. Any inert waste is placed in the inert landfill for disposal and any potential stockpile items (trees, branches, concrete) are placed in their appropriate stockpile locations. Burning of waste, including clean wood, is prohibited at Berger Enterprises as well as scavenging and salvaging.

According to the plan of operations submitted with the application, 90% of waste brought to the facility is from Berger Enterprises' roll-off service or demolition project; the remainder of waste accepted is from general contractors and area homeowners. The facility is permitted to accept bituminous concrete, built-in cabinetry, carpet and padding, ceiling tile, ceramic items, concrete, drain tile, conduit and pipes, ductwork, electrical wiring and components, glass from building windows and doors, insulation, masonry, metal, plastic building parts, plumbing fixtures, roofing materials, rubber, sheathing, siding, stone, uncontaminated soil, sheetrock, wall coverings, wood/vinyl flooring, yard waste including agricultural and compostable produce, and untreated wood including painted/stained/varnished, particle board, fencing, and plywood.

Waste piles on site consist of wood waste, yard waste/compostable materials, concrete/demolition material that will be crushed and reused, scrap tires, and scrap metal and white goods piles for recycling. Wood waste includes not only trees/branches, but also lumber, doors, windows, treated wood, and reusable materials. Periodically, the facility offers clean, non-diseased wood to the public for firewood. Scrap metal and white goods such as automobiles, major appliances, demolition materials, are stockpiled for eventual recycling. Any appliances containing refrigerant must be removed prior to being brought the landfill. Concrete and bituminous material is stockpiled for reuse throughout the property and the area

surrounding the piles is graded to provide run-on and runoff protection. The existing compost piles are maintained at 8-10 feet wide and 4-6 feet tall and kept in a peak-like shape towards the center to shed water. A berm/ditch is maintained around the compost area to divert run-on, and runoff and signs are available instructing residents to keep plastics and other trash out of their yard waste/compostable materials. Yard waste that has been brought to the landfill is stockpiled based on its waste characterization, (grass, leaves) and the landfill personnel will distribute the yard waste to the appropriate windrows. The scrap tire pile will be maintained at less than 1,300 tires and will be shredded prior to burial to reduce their buoyancy. If tires are not shredded, they will be buried below the frost line (roughly 4-feet deep), covered with inert waste and compacted to prevent them from rising to the surface.

The facility does not accept asbestos, agricultural wastes, animal carcasses, hazardous wastes, industrial waste, lead-acid batteries, municipal waste incinerator ash, pesticide containers, polychlorinated biphenyl (PBC) wastes and oils, raw or digested sewage sludges, regulated infectious wastes, special wastes, used oil, and anything else the Department determines toxic or adverse to public health or environmental resources. Additionally, the landfill tries not to accept large loads of trade waste or pallets, if possible, as these materials should be managed by the company generating such waste materials.

The facility's waste generators and haulers have been informed of the waste acceptance rejection procedures as well as sending out formal notifications and reminders on these procedures. All landfill operators working for Berger Enterprises are trained to conduct preliminary load checks, inspect random and suspicious waste loads, and to notify the facility manager and the Department when potentially hazardous or unacceptable wastes are discovered. Along with inspecting loads brought to the facility, operators will verbally question the hauler prior to requesting they sign a form stating, "the load does not contain any prohibited wastes". Any unacceptable wastes identified at the landfill gate or working face of the landfill will be removed and the Department and operator will be notified immediately. Loads entering the landfill are inspected and screened for unusual appearances, offensive odors, high moisture content must undergo further examination before being allowed to continue to the working face. Enclosed containers with obvious hazardous shipping labels, quantities of finely divided or granular material, powders, dust, and dried solid are all items that require further investigation. Additionally, operators are trained to screen for sludges, bright/unusual colors, drums/commercial sized containers, chemical odors, smoke or signs of reactions. Upon identifying unauthorized waste, the hauler and/or generator are notified and sent to the correct disposal facility. Waste screening at the working face is conducted by a trained operator before the hauler leaves the facility. The trucks' entire load is spread across a screening pad and spread sufficiently, if no prohibited wastes are identified, the load will be approved/accepted, and the operator will provide an inspection form to the hauler before the inspected load is incorporated into the working face. If prohibited waste is identified during this final screening process, the entire load will be rejected. It is the responsibility of the hauler to remove, transport and dispose of the material at an appropriate facility. All haulers violating the prohibited waste policy will be notified and will be subject to more frequent inspections at the operator's discretion. If any hazardous waste is identified, the Department will be notified immediately. A waste reject report will be completed for the rejected waste within five days. All loads brought to the site are required to be covered or tied down to prevent windblow debris or spillage, and vector control is conducted to prevent disease transmission.

Landfill operators onsite are responsible for adding daily cover/fill to the working area as well as maintaining working face that is limited to an acreage that is as small as practical. At least twice a year, the inert waste is covered with 6-inches of soil stockpiled onsite and graded to 3-15

percent slopes to facilitate runoff. The facility anticipates at least two to three acres of working area to allow for vehicular traffic and equipment operations. Inert waste is placed at the base of the working face of the inert cells and pushed upwards before being compacted at least 4-5 times with heavy equipment to reduce volume. The approximate size of the working area is 200 feet by 200 feet. Sequential partial closure will be implemented as completed areas are brought up to grade and limit the amount of precipitation infiltration. This process continues until the cell reaches the final permitted waste elevation and can be covered by the approved final cover system. All waste should be compacted at a slope that will promote drainage and prevent ponding of water on the cell.

During windy conditions, portable litter fencing is spread out to capture escaping litter and debris. When the winds exceed 40 miles per hour (mph) all spreading and compaction operations cease; although tipping waste to the toe of the lift may continue. Roadways and the landfill perimeter are picked up on an as needed basis. Fugitive dust is controlled by watering the access roads as needed and noise control is addressed by limiting the hours of operation and by providing muffler systems to haul trucks. Temporary access roads throughout the landfill are maintained by the facility using their own heavy equipment, and gravel and crushed concrete onsite. Berms, ditches and grading have been constructed as necessary to divert surface water from working areas and during large rain events any standing water in the disposal pit is pumped out using portable pumps. Pumps are repaired or replaced on an as needed basis and routine maintenance and troubleshooting follows the manufacturer's recommendations. During snowy weather events, large amounts of snow will be removed from the working face of the cell to avoid waste placement on top of snow. Placement and compaction of the waste will be performed in a timely manner to avoid freezing of waste after initial dumping by the hauler. A contingency plan was included in the submitted application. The contingency plan contains information related to emergency procedures, physical injury, fire or explosion, and spill procedures for non-hazardous waste. During construction periods, operational duties and activities will still occur.

Training is conducted by Berger Enterprises but may also consist of the Department's Landfill Operator Training or similar industry training certifications. The current operators have attended the Department's operator training course in the past and continue to attend training as rules and regulations are modified. New employees are subject to six months of on-the-job training.

The operator conducts monthly inspections of the facility using a checklist provided in the application submission. These inspections are to ensure all necessary actions are taken to maintain a clean, safe, and secure site. When issues arise, daily troubleshooting inspections will occur, and all inspection logs are kept in the operating record along with the plan of operations in the facility's office onsite. The operating record also includes a description and quantity of all incoming wastes, annual reports, personnel training records, summary of reports, inspections and details for corrective actions, records and results of waste inspections and screening logs, and records of all equipment maintenance.

Closure

According to the closure plan submitted with the application, the site will be graded to minimize erosion and optimize positive drainage off and away from the landfill. All slopes will be between 3% - 15%. The final cover for the inert landfill will encompass a 2-foot-thick cover consisting of 12-inches of compacted clay-rich material, 6-inches of uncompacted clay-rich material, and 6-inches of SPGM topsoil. Once final cover has been applied, the area will be seeded with shallow rooted native grasses. The closed landfill is not to be used for cultivated crops, heavy

grazing, buildings, or any other use which might disturb the protective vegetative and soil cover. Any equipment will be salvaged or reused, and the main gate will remain locked and intact to discourage trespassing or unauthorized use.

Postclosure care will be conducted by the facility for at least five years after closure. Postclosure care will consist of annual inspections to ensure the integrity and effectiveness of the final cover and making repairs to the cover to correct the effects of settlement, subsidence, and other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover.

Currently, Berger Enterprises intends to retain control of the site, and no disturbance will occur once final cover is completed unless approval from the Department is obtained. If the property is sold, the deed will document any restrictions.

Compliance History

Issues of noncompliance including the sign missing information, prohibited waste in the disposal pit, prohibited waste in the wood pile, waste in standing water, lack of cover material and lack of cover over the waste were identified in the 2025 inspection report. All issues of noncompliance have been addressed, and the facility has been brought back into compliance.

This information was provided in the permit application.

Solid Waste Management Rules (NDAC Article 33.1-20)

NDAC Section 33.1-20-02.1-05. Record of notice.

The notice of waste disposal for the facility has been recorded with the Grand Forks County Recorder's Office.

NDAC Section 33.1-20-02.1-06. Property rights.

Berger Enterprises currently owns and operates an inert landfill site in Mekinock, ND located on approximately 160 acres in the southwest ¼ of Section 17, Township 152 North, Range 52 West in Grand Forks County.

Currently approximately 20 acres is used for landfill operations, and another 20 acres is used for recycling and composting activities. The permit modification encompasses the expansion of the disposal area to the south of the existing disposal area. The expansion area is approximately 10 acres.

NDAC Section 33.1-20-03.1-01. Preapplication procedures.

A preapplication is not required for an inert waste landfill.

NDAC Section 33.1-20-03.1-02. Permit application procedures.

NDAC Subsections 33.1-20-03.1-02(1) – (3)

A permit renewal and modification application was submitted by Professional Engineer (PE), Ethan Ketelsen, on behalf of Berger Enterprises. The application was signed by the owner and

president of Berger Enterprises, Lavern Berger, and Ethan Ketelsen (PE-27888). A hard copy was submitted to the Department as required.

NDAC Subsection 33.1-20-03.1-02(4)

Berger Enterprises published the required public notice in the Grand Forks Herald, and the affidavit was submitted to the Department.

NDAC Subsection 33.1-20-03.1-02(5)

Notification to the North Dakota Public Service Commission is not required as the facility is not proposing to dispose of coal processing wastes in a mining permit area.

NDAC Subsection 33.1-20-03.1-02(6)

Applications for a solid waste management unit or facility permit must include the following information where applicable:

a. A completed application form, subsection 1;

A completed permit renewal application was submitted to the Department.

b. A description of the anticipated physical and chemical characteristics, estimated amounts, and sources of solid waste to be accepted, including the demonstration required by North Dakota Century Code section 23.1-08-14;

Berger Enterprises accepts wood waste, inert waste, scrap tires, scrap metal and white goods for recycling, yard waste for composting, and concrete and demolition materials. The amounts of each waste type received varies each year. On average the facility receives approximately 1,200 CY of yard waste, 7,400 CY of concrete/demolition materials, 4,700 CY of scrap tires, and 16,400 CY within a calendar year.

The facility receives approximately 90% of its waste from Berger Enterprises' roll-off service or demolition projects, 8% comes from general contractors/businesses, and 2% from area homeowners.

c. The site characterization of section 33.1-20-13-01 and a demonstration that the site fulfills the location standards of section 33.1-20-04.1-01;

Kelly Slough is located approximately 2.1 miles east of the landfill and Lunby Lake is approximately 4.6 miles northeast. An intermittent stream is located approximately 1 mile northwest of the facility, and the largest nearby river is the Turtle River, located approximately 2.3 miles to the north. The Turtle River flows eastward to the Red River. Residences and buildings are more than 200 feet away from the landfill, and the facility has an average of 6% slope across the landfill. The site is not located within one mile of a water source protection area. The nearest active water source protection area is located approximately 11 miles southwest.

Although the site is not within one mile of a domestic or livestock well, a single domestic well is located approximately 1.2 miles west and southwest of the landfill. The well is approximately 80 feet deep and possesses a static water level of 29 feet below ground level (BGL). The well is owned by Ben Rogers (15205313DCD). A Well Driller's Report indicates that silty sand, clayey sand, and sandy silt are present in the area to a depth of 49 feet BGL, and sandy lean clay (CL) mixed with a little gravel, silty sand, and sandy clay are present in the area to depths of 15 feet BGL.

Nine additional monitoring wells are located within two miles of the facility. Two wells are owned by the US Army Corps of Engineers and are located to the south. Both wells are 8 feet deep with a BGL of 14 feet. No static water elevations were provided for these wells. The remaining seven wells are located to the west and southwest and are owned by the Department of the Army Corps of Engineers, Omaha District, or the US Air Force Base – Grand Forks AFB. Five of the wells are 15 feet deep, one well is 13 feet, and the final well has a BGL depth of 49 feet. Static water levels were not available for the seven wells. No information is available for the nine wells regarding static water levels, groundwater flow, flow rates, porosity, coefficient of storage, hydraulic conductivity, and water quality. The US Air Force Base Integrated Natural Resources Management Plan (October 2018) revealed the landfill is located within the Saline Area of the Lake Agassiz Basin. Groundwater within the saline area is defined as being natural salty and present within glacial till and lacustrine sediments (US Air Force, 2018).

Groundwater flows generally east and northeast in relation to the facility. While the landfill is not situated over any known surficial aquifers, a review of the North Dakota Department of Water Resources (NDDWR) map revealed three surficial aquifers in the vicinity of the landfill. The Elk Valley Aquifer is located approximately 10 miles west, southwest, and northwest of the facility. The Grand Forks Aquifer is located approximately 10.5 miles southeast of the landfill, and the Inkster Aquifer is located approximately 15 miles northwest of the landfill. According to the NDDWR North Dakota Risk Assessment MapService website, the landfill and its surrounding areas are not within the 1% (100-year) or the 0.2% (500-year) annual floodplain. The nearest defined flood zone is roughly approximately 1.6 miles northwest near the Turtle River. Additionally, Kelly Slough (2.1 miles away) is located within a defined flood zone.

d. Soil survey and segregation of suitable plant growth material;

According to the Web Soil Survey Report provided in the application, the site is comprised of Bearden silt loams, 0 to 2 percent slopes, Ojata silty clay loams, 0 to 2 percent slopes, and Divide loam, 0 to 2 percent slopes. The Bearden soil series is described as being somewhat poorly drained calcareous silty lacustrine sediment soils with slow permeability and minor inclusions of salinity. Topsoil depth is likely to be 10-14 inches, but this can vary depending on landscape positioning and soil inclusion type. The Ojata soil series is characterized by deep and calcic soils that are poorly drained and found in slightly depressed flats and swales. There is an underlying calcareous B-horizon within 16-inches, which is less than desirable for

suitable topsoil. Additionally, there is potential for salt accumulation at the surface which limits suitable rooting material. The Divide soil series is described as being poorly drained calcic, and fine loamy over sandy or sandy skeletal soils. For these types of soil profile descriptions, it is recommended to remove 8-inches of topsoil to avoid the underlying calcareous horizons. The survey reveals the site area to be very limited for landfill (area) use.

Currently existing soil stockpiles at the facility consist of 3,000 CY of SPGM/topsoil and 5,000 CY of clay-rich material. The proposed 10-acre expansion area is predicted to have 6-inches of SPGM at 8,060 CY, and 4-feet of clay-rich material at 64,500 CY. The landfill has more than an adequate amount of intermediate cover soil for daily operations and closure activities.

e. Demonstrations of capability to fulfill the general facility standards of section 33.1-20-04.1-02;

A permanent sign is stationed at the entrance of the facility, but previous inspection photos as well as the July 2025 inspection have revealed that the facility's sign was out of compliance. A new sign was ordered and installed by November 21, 2025.

When the winds exceed 40 miles per hour (mph), all spreading and compaction operations cease; although tipping waste to the toe of the lift may continue. Roadways and the landfill perimeter are picked up on an as needed basis. Fugitive dust is controlled by watering the access roads as needed and noise control is addressed by limiting the hours of operation and by providing muffler systems to haul trucks. The facility does not permit burning.

Odors are controlled by thorough waste screening and the composting area's odors are controlled by maintaining sufficient oxygen in the pile by turning the windrows on a regular basis (once per month during growing season) and preventing surface water from accumulating.

Training is conducted by Berger Enterprises but may also consist of the Department's Landfill Operator Training or similar industry training certifications. The current operators have attended the Department's operator training course in the past and continue to attend training as rules and regulations are modified. New employees are subject to six months of on-the-job training. The operator conducts monthly inspections of the facility using a checklist provided in the application. These inspections are to ensure all necessary actions are taken to maintain a clean, safe, and secure site. When issues arise, daily troubleshooting inspections will occur, and all inspection logs are kept in the operating record along with the plan of operations in the facility's office onsite. The operating record also includes a description and quantity of all incoming wastes, annual reports, personnel training records, summary of reports, inspections and details for corrective actions, records and results of waste inspections and screening logs, and records of all equipment maintenance.

The facility will not cause a discharge of pollutants into the waters of the state unless such discharge is compliant with the requirements of the North Dakota pollutant discharge elimination system pursuant to Chapter 33.1-16-01.

f. Facility engineering specifications adequate to demonstrate the capability to fulfill performance, design, and construction criteria provided by this article and enumerated in this subdivision;

1) Transfer stations and drop box facilities, section 33.1-20-04.1-06.

The requirements of this section are not applicable as the facility is not proposing a transfer station or a drop box facility.

2) Waste piles, section 33.1-20-04.1-07.

Waste piles on site consist of wood waste, yard waste/compostable materials, concrete/demolition material that will be crushed and reused, scrap tires, and scrap metal and white goods piles for recycling. Wood waste includes not only trees/branches, but also lumber, doors, windows, treated wood, and reusable materials. Periodically, the facility offers clean, non-diseased wood to the public for firewood. Scrap metal and white goods such as automobiles, major appliances, demolition materials, are stockpiled for eventual recycling. Any appliances containing refrigerant must be removed prior to being brought to the landfill. Concrete and bituminous material is stockpiled for reuse throughout the property and the area surrounding the piles is graded to provide run-on and runoff protection.

Yard waste that has been brought to the landfill is stockpiled based on its waste characterization, (grass, leaves) and the landfill personnel will distribute the yard waste to the appropriate windrows. Burning of compost at the facility is prohibited. Leaves collected in the fall may be saved to incorporate with grass the following summer. If leaves are not available, straw will be mixed with grass during the summer months. The existing compost piles are turned monthly to promote decomposition and reduce the chances of odors. The piles are maintained at 8-10 feet wide and 4-6 feet tall and kept in a peak-like shape towards the center to shed water. A berm/ditch is maintained around the compost area to divert run-on, and runoff and signs are available instructing residents to keep plastics and other trash out of their yard waste/compostable materials. During dry periods, water may be added to the compost piles and during the turning process if needed.

The scrap tire pile will be maintained at less than 1,300 tires (4-foot high and 400 square feet) and will be shredded prior to burial to reduce their buoyancy. If tires are not shredded, they will be buried below the frost line (roughly 4-feet deep), covered with inert

waste and compacted to prevent them from rising to the surface. The tires should be completely covered with soil to eliminate a mosquito breeding habitat and the potential for fires. Fire extinguishers are kept in all pieces of equipment used to operate the landfill. A 50-foot fire lane is maintained around the active inert waste piles to ensure emergency access. Fire protection is provided by the Emerado Volunteer Fire Department. Run-on and run-off is controlled via berms and ditches to adequately control surface water from 25-year, 24-hour precipitation events.

3) Resource recovery, section 33.1-20-04.1-08.

The requirements of this section are not applicable as the facility is not proposing any resource recovery activities.

4) Land treatment, section 33.1-20-04.1-09 and chapter 33.1-20-09.

The requirements of this section are not applicable as the facility is not proposing a land treatment facility.

5) Non-CCR surface impoundments, section 33.1-20-04.1-09 and chapter 33.1-20-08.1.

The requirements of this section are not applicable as the facility is not proposing any surface impoundments.

6) Any disposal, section 33.1-20-04.1-09.

Temporary access roads throughout the landfill roads are maintained by the facility using their own heavy equipment, and gravel and crushed concrete onsite. The approximate size of the working area is 200 feet by 200 feet. Sequential partial closure will be implemented as completed areas are brought up to grade and limit the amount of precipitation infiltration. This process continues until the cell reaches the final permitted waste elevation and can be covered by the approved final cover system. Currently existing soil stockpiles at the facility consist of 3,000 CY of SPGM/topsoil and 5,000 CY of clay-rich material. The proposed 10-acre expansion area is predicted to have 6-inches of SPGM at 8,060 CY, and 4-feet of clay-rich material at 64,500 CY. The landfill has more than an adequate amount of intermediate soil cover for daily operations and closure activities. All earthen material will remain onsite unless removal from the site is authorized by the Department

Metal appliances, automobiles, farm machinery, mobile homes, trailers, are stockpiled separately from the disposal area to be recycled eventually. Vectors are controlled through the use of intermediate cover. Additional measures will be taken to control vectors whenever necessary to prevent transmission of disease,

reduce bird hazards to aircraft, and reduce hazards created by rats, flies, snakes, insects, birds, cats, dogs, and skunks.

7) Inert waste landfill, chapter 33.1-20-05.1.

The renewal application provided information related to facility access, plan of operations, waste acceptance and rejection procedures, maintaining limited open area, twice a year intermediate cover application, closure care and postclosure care. Additional information can be found in the **Design section, Operations section and Closure section** of this memo.

8) Municipal waste landfill, chapter 33.1-20-06.1.

The requirements of this section are not applicable as the facility is not proposing a municipal waste landfill.

9) Industrial waste landfill, chapters 33.1-20-07.1 or 33.1-20-10.

The requirements of this section are not applicable as the facility is not proposing an industrial waste landfill.

10) TENORM waste landfill, chapters 33.1-20-07.1 or 33.1-20-10 and 33.1-20-11

The requirements of this section are not applicable as the facility is not proposing a TENORM waste landfill.

11) Special waste landfill, chapter 33.1-20-07.1;

The requirements of this section are not applicable as the facility is not proposing a special waste landfill.

12) CCR unit, chapter 33.1-20-08;

The requirements of this section are not applicable as the facility is not proposing a CCR unit.

13) Municipal solid waste ash landfills, chapter 33.1-20-10;

The requirements of this section are not applicable as the facility is not proposing a municipal solid waste ash landfill.

14) Regulated infectious waste unit, chapter 33.1-20-12;

The requirements of this section are not applicable as the facility is not proposing a regulated infectious waste unit.

g. The plan of operation of section 33.1-20-04.1-03;

According to the plan of operations submitted with the application, 90% of waste brought to the facility is from Berger Enterprises' roll-off service or demolition projects; the remainder of waste accepted is from general contractors and area homeowners. The facility is permitted to accept bituminous concrete, built-in cabinetry, carpet and padding, ceiling tile, ceramic items, concrete, drain tile, conduit and pipes, ductwork, electrical wiring and components, glass from building windows and doors, insulation, masonry, metal, plastic building parts, plumbing fixtures, roofing materials, rubber, sheathing, siding, stone, uncontaminated soil, sheetrock, wall coverings, wood/vinyl flooring, yard waste including agricultural and compostable produce, and untreated wood including painted/stained/varnished, particle board, fencing, and plywood. Waste piles on site consist of wood waste, yard waste/compostable materials, concrete/demolition material that will be crushed and reused, scrap tires, and scrap metal and white goods piles for recycling. Wood waste includes not only trees/branches, but also lumber, doors, windows, treated wood, and reusable materials. Periodically, the facility offers clean, non-diseased wood to the public for firewood. Scrap metal and white goods such as automobiles, major appliances, demolition materials, are stockpiled for eventual recycling. Prior to being brought to the landfill, refrigerant must be removed from any appliances that contain refrigerant. Concrete and bituminous material is stockpiled for reuse throughout the property and the area surrounding the piles is graded to provide run-on and runoff protection. Yard waste that has been brought to the landfill is stockpiled based on its waste characterization, (grass, leaves) and the landfill personnel will distribute the yard waste to the appropriate windrows. The scrap tire pile will be maintained at less than 1,300 tires and will be shredded prior to burial to reduce their buoyancy. If tires are not shredded, they will be buried below the frost line (roughly 4-feet deep), covered with inert waste and compacted to prevent them from rising to the surface.

The facility's waste generators and haulers have been informed of the waste acceptance rejection procedures as well as sending out formal notifications and reminders on these procedures. All landfill operators working for Berger Enterprises are trained to conduct preliminary load checks, inspect random and suspicious waste loads, and to notify the facility manager and the Department when potentially hazardous or unacceptable wastes are discovered. Along with inspecting loads brought to the facility, operators will verbally question the hauler prior to requesting they sign a form stating, "the load does not contain any prohibited wastes". Any unacceptable wastes identified at the landfill gate or working face of the landfill will be removed and the Department and operator will be notified immediately. Loads entering the landfill are inspected and screened for unusual appearances, offensive odors, high moisture content must undergo further examination before being allowed to continue to the working face. Enclosed containers with obvious hazardous shipping labels, quantities of finely divided or granular material, powders, dust, and dried solid are all items that require further investigation. Additionally, operators are trained to screen for sludges, bright/unusual colors, drums/commercial sized containers, chemical odors, smoke or signs

of reactions. Upon identifying unauthorized waste, the hauler and/or generator are notified and sent to the correct disposal facility. Waste screening at the working face is conducted by a trained operator before the hauler leaves the facility. The truck's entire load is spread across a screening pad and spread sufficiently, if no prohibited wastes are identified, the load will be approved/accepted, and the operator will provide an inspection form to the hauler before the inspected load is incorporated into the working face. If prohibited waste is identified during this final screening process, the entire load will be rejected. It is the responsibility of the hauler to remove, transport and dispose of the material at an appropriate facility. All haulers violating the prohibited waste policy will be notified and will be subject to more frequent inspections at the operator's discretion. If any hazardous waste is identified, the Department will be notified immediately. A waste rejection report will be completed for the rejected waste within five days. All loads brought to the site are required to be covered or tied down to prevent windblow debris or spillage, and vector control is conducted to prevent disease transmission.

The contingency plan provided includes emergency telephone numbers for the landfill's owner and operators, Emerado Volunteer Fire Department, ambulance, Grand Forks County Sheriff's Department, and the Department. The facility keeps fire extinguishers, communication devices, and first aid and emergency equipment onsite for use. The plan details the steps to take if physical injury, fire/explosion, and spill procedures for suspected hazardous and non-hazardous waste. Safety procedures related to personal protective equipment (PPE) was also provided.

The approximate size of the working area is 200 feet by 200 feet. Sequential partial closure will be implemented as completed areas are brought up to grade and to limit the amount of precipitation infiltration. The operator conducts monthly inspections of the facility using a checklist provided in the application submission. These inspections are to ensure all necessary actions are taken to maintain a clean, safe, and secure site. When issues arise, daily troubleshooting inspections will occur, and all inspection logs are kept in the operating record along with the plan of operations in the facility's office onsite.

h. Demonstration of the treatment technology of section 33.1-20-01.1-12;

The requirements of this section are not applicable as the facility is not proposing to treat waste.

i. The place where the operating record is or will be kept, section 33.1-20-04.1-04;

The operating record is kept at the facility's office.

j. Demonstration of capability to fulfill the groundwater monitoring, sections 33.1-20-08-06 or 33.1-20-13-02;

The requirements of this section are not applicable as the facility is an inert waste landfill and groundwater monitoring is not required.

k. Construction quality assurance and quality control;

The application provided diagrams and maps related to the proposed expansion to their inert waste disposal pit. Each new inert cell will utilize available onsite soils in accordance with the Department's Guideline 5.

l. Demonstrations of capability to fulfill the closure standards, section 33.1-20.1-04.1-05 and otherwise provided by this article;

According to the closure plan submitted with the application, the site will be graded to minimize erosion and optimize positive drainage off and away from the landfill. All slopes will be between 3% - 15%. The final cover for the inert landfill will encompass a 2-foot-thick cover consisting of 12-inches of compacted clay-rich, 6-inches of uncompacted clay-rich material, and 6-inches of SPGM topsoil. Once final cover has been applied, the area will be seeded with shallow rooted native grasses. The closed landfill is not to be used for cultivated crops, heavy grazing, buildings, or any other use which might disturb the protective vegetative and soil cover. Any equipment will be salvaged or reused, and the main gate will remain locked and intact to discourage trespassing or unauthorized use.

m. Demonstrations of capability to fulfill the postclosure standards, section 33.1-20-04.1-09 and otherwise provided by this article; and

Postclosure care will be conducted by the facility for at least five years after closure. Postclosure care will consist of annual inspections to ensure the integrity and effectiveness of the final cover and making repairs to the cover to correct the effects of settlement, subsidence, and other events, and preventing run-on and runoff from eroding or otherwise damaging the final cover.

Currently, Berger Enterprises intends to retain control of the site, and no disturbance will occur once final cover is completed unless approval from the Department is obtained. If the property is sold, the deed will document any restrictions.

n. A disclosure statement as required by North Dakota Century Code section 23.1-08-17.

A disclosure statement that meets the requirements of this section was submitted to the Department.

Conclusion

Based on the submitted application and items discussed above, Berger Enterprises, LLC has shown that the renewal and modification permit application meets the requirements of the North Dakota Solid Waste Management Rules. It is proposed that the Department grant Berger Enterprises LLC a permit with the conditions listed in the Permit 0198 draft permit. The proposed permit length is for a period of 10 years.

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