The Shoosmith Landfill Crisis - How We Got Here

Jack Shoosmith began operating his privately owned landfill for municipal solid waste ("trash") by permit in Chesterfield county in 1976. At that time, Chesterfield was a very rural county, but beginning to grow. Stories abound about how Shoosmith conducted his business affairs. The implication says the "good old boys' network" was alive and well back then, but there is no proof of any irregularities. Shoosmith operated under the name Virginia Waste Systems (VWS).

In June of 2008, Shoosmith sold his operation to investors who operated the company as VWS-Holdco. The investors formed multiple shell companies in an ownership chain that ultimately tied into Volunteer Enterprises, LLC. The 2 surviving members are Fred G. Nichols and Paul L. McGee. They live in Texas.

In July, 2018, the Chesterfield Board of Supervisors denied an application for expansion of the landfill into an adjacent quarry. That decision was upheld in subsequent court action, and that decision ultimately resulted in the landfill's closure. Shoosmith stopped accepting trash on Dec. 30, 2022. A 2020 agreement with Swift Creek Renewables/Morrow Energy for the capture of landfill biogas (methane) continued, but was not economically sustainable. Once the landfill stopped accepting trash, VA Dept. of Environmental Quality (DEQ) imposed closure requirements on Shoosmith, a process designed to assure a shutdown of operations and protection of the environment over a 30-year period. Shoosmith Construction, an affiliated company, historically performed cell construction and daily cover, and was now performing closure activities.

Leachate is generated at the landfill by the combination of decomposition and rainwater entering the cells. This leachate holds all sorts of toxic substances, products of the wet decomposition that occurs. It has to be chemically treated prior to entering the sewer system. Chesterfield authorized disposal of treated leachate by Shoosmith through the county wastewater system for a small fee. But on July 3, 2024, Chesterfield issued an Administrative Order requiring Shoosmith to stop discharging into the county sewer system because the effluent was not being treated, and had concentrations of pollutants that exceeded permissible amounts and/or system capability to handle. When that happened, Shoosmith's cost to dispose of leachate jumped from \$0.02 per gallon to \$0.22 per gallon on quantities of 40-65,000 gallons per day. Suddenly leachate costs jumped from \$300-\$500,000 per year to \$3M - \$5M per year. At that point, Nichols and McGee realized the operation was not sustainable. They took \$3M earmarked for a pre-treatment plant, plus sold off vacant land, pocketed almost every penny of cash, and entered Chapter 11 bankruptcy. In a matter of weeks, they converted their Chapter 11 filing (reorganization) to Chapter 7 (liquidation), hoping to hang onto the funds they'd recently liquidated, while forcing someone else to bear the costs of closing the landfill forever.

Shoosmith has amassed a long history of environmental violations in their inspections. Operations were compromised by the decisions of Nichols and McGee to bleed off assets and withhold operating capital. At the same time, they allowed equipment and the landfill itself to deteriorate to a point where violations became more severe and frequent. Here are the words of Lynn Tavenner, Trustee for the Chapter 7 Bankruptcy proceedings in federal court:

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While the Trustee, with SCS's [Engineering Consultant's] tutelage, now better appreciates the scientific bases for certain conditions, the serious and substantial issues at the Landfill certainly are not new and were known by the DIP [Debtors In Possession] Insiders and others for years. For example,

a. In February 2024, the DIP Insiders were verbally told by SCS, and thereafter were informed in a written Assessment of Facility Characteristics Correlating to Elevated Temperature Landfill Conditions (the “SCS ETLF Report”) dated April 12, 2024, a copy of which report is attached hereto as Exhibit B that portions of the Landfill were exhibiting classic symptoms of an elevated temperature landfill (“ETLF”) with (i) elevated landfill gas wellhead temperatures exceeding 170 degrees, (ii) poor gas quality (meaning less than 30% methane, high carbon monoxide concentrations, etc.), (iii) accelerated settlement of the Landfill surface, (iv) an unusual increase in effluent Leachate quantities and pressurized liquids emitting from the Landfill, and (v) a high concentration of hydrogen and dimethyl sulfide in the Gases. The SCS Report also contained numerous recommendations to address the Landfill’s ETLF conditions. Such recommendations included: (i) improving the removal of excess liquid from the Landfill by, e.g., replacing poorly performing pumps, installing a geomembrane cap on the side slope areas where persistent Leachate seeps are observed, and accelerating final closure of the Landfill; (ii) increasing the extraction of Gases from high temperature wells by isolating wells with ETLF conditions from the main gas collection, routing poor quality gas to dedicated flares, and increasing applied vacuum to wells in affected areas; and (iii) covering sludge wastes as quickly as possible when they arrived at the Landfill. Instead of heeding the SCS recommendations and making the necessary improvements, the DIP Insiders stripped SBI [Shoosmith Brothers Inc] of all resources such that it had no alternative but to do the opposite of what was recommended by SCS. Indeed, instead of monetizing SBI’s valuable assets and using the proceeds to address the environmental issues at the Landfill (which they had known about since February 2024), the DIP Insiders [Nichols and McGee] caused SBI to sell part of its land commonly referred to as the Quarry for $25 million in April 2024 and then promptly transfer $23.7 million of the sale proceeds to themselves through Volunteer on April 1, 2024, and April 15, 2024.

b. In July 2024, the Individual Insiders requested and obtained $3,000,000 from the Debtors’ collateral account to help pay for a “new leachate treatment facility being constructed at the [L]andfill. This facility will provide for treatment of the approximately 120,000 gallons of effluent generated daily at the [L]andfill. This is a much cheaper option than paying Chesterfield County to treat or truck the waste to treatment facilities many miles away at a much higher disposal price than we currently enjoy.” (quotes from a date email from Larry Mcgee to Billy Koval with Evergreen, copying Fred Nichols). Despite the representations and the release of the funds, no pretreatment facility was ever built. In fact, no pretreatment facility was under construction as the email seems to imply.

c. In early November 2024, the DIP Insiders learned that, in addition to the existing pump and haul costs at the Landfill and the cost of a pretreat facility that was desperately needed at the Landfill, the estimated costs associated with closing and maintaining the Landfill for the next thirty (30) years would be in excess of $76 million. In other words, in November 2024, the DIP Insiders knew that the potential costs associated with the Landfill, excluding costs associated with capping the Landfill, would likely exceed $84 million (i.e., $8-$15 million for a pretreat facility, and approximately $76 million for the continued care and maintenance of the Landfill for the 30-year period required under Virginia law). Despite such knowledge (and their personal liability), the DIP Insiders manipulated reports and continued to strip SBI of assets for their own benefit through Volunteer. Specifically, less than a year before the Petition Date, on or around December 5, 2024, the Individual Insiders caused SBI to sell a 21 acre tract for $15 million, allocate $6.6 million to the bond company to re-collateralize the bonds (and obtain personal releases from the bonds for themselves), and transfer not less than $4.5 million to themselves through Volunteer and/or otherwise. Thus, in addition to looting SBI and transferring multimillions to or for the benefit of themselves within the two years preceding the Petition Date, and leaving SBI with no financial ability to address the massive environmental liabilities associated with the Landfill, the DIP Insiders failed to take any action to address or try to improve the ETLF conditions at the Landfill that they had known about as early as February of 2024.

By 2023, landfill condition had deteriorated so badly that Chesterfield County sought permission from the state of VA to conduct inspections and perform enforcement activities at Shoosmith. Former Midlothian Supervisor Leslie Haley at that time was working for DEQ in the Natural and Historic Resources section, and replied to the county's request, saying that authority for inspections and enforcement would not be delegated to Chesterfield. She cited the Dillon Rule as legal precedent. (See attached letter).

Chesterfield subsequently used this rejection to wash their hands of Shoosmith, insofar as exerting any oversight or reporting any non-compliance. According to Chesterfield Supervisor Jim Ingle in a telephone conversation we had on June 5th, the denial was fortunate because the county did not have any trained or qualified inspectors to perform those tasks. Moreover, had the county undertaken inspections in 2023, the county might be seen today as responsible for the deterioration and lack of oversight that's led to the current state of affairs at Shoosmith. According to Ingle, Chesterfield operated under the assumption that VA DEQ was solely responsible for Shoosmith, and the County could do nothing about it.

Chesterfield county is responsible for stormwater and erosion control throughout the county, and must exert oversight everywhere within its boundaries to ensure applicable environmental standards for stormwater control and erosion management are being met. Fulfilling that obligation could necessitate entering Shoosmith Landfill on occasion to make sure problems did not exist there, and were not causing problems in adjacent areas.

The right and responsibility of the county to enter Shoosmith property has been affirmed by 2 individuals at DEQ on 2 different occasions. One is Priscilla Rohrer in the Harrisonburg office, where she works as the Guidance and Regulation Coordinator. The other is Kathryn Perszyk, Director of the Division of Land Protection and Revitalization. Both have said that localities routinely enter landfills for various reasons. Moreover, in most permitting processes, a locality will issue a permit to a landfill with a clause that expressly provides access by the locality to conduct its required business. Neither of them is aware of any landfill ever denying access to personnel from a locality.

So although Chesterfield has and had no trained inspectors, routine access by county personnel could have easily noticed whether any obvious environmental situations were occurring. Examples of those would be stormwater in drainage ditches that wasn't flowing, stormwater pooling or not draining that looked grossly discolored, erosion channels("rills") that were occurring on landfill property and continuing outside the boundary, gas flares that were not lit, unusual liquid seeps coming out of the ground, damage to structures or pipes, and smells emanating from large pools of discolored liquid. "Red flags" such as those could have prompted Chesterfield management to interface with DEQ management to share concerns and ask for appropriate action.

Instead, Chesterfield was content to ignore Shoosmith, relying on their assumption that enforcement was out of their hands and beyond their control. By the letter of the law, Chesterfield was correct. However, if a situation is developing in front of your eyes, and risk to the environment seems likely, especially when drinking water safety might be compromised, no rational person is going to ignore that. The same way that anyone seeing armed men with masks entering a bank would call police.

While it's easy to invoke the Dillon Rule and claim that the absence of authority eliminates responsibility, a different interpretation of Dillon suggests quite the opposite (see Dillon Rule Environmental Notification).

Responsibility for this calamity rests on several parties equally: The Insiders (as they're referred to in Chapter 7 filings) Nichols and McGee obviously engineered this failure at every turn. Once they realized how much money would be required to sustain the landfill under requirements of closure, considering the amount of leachate being produced every day and the costs to remove it, they decided to convert every available asset to cash, and run away with the money. Using bankruptcy law was a shrewd move on their part. While nothing prevented them from filing Chapter 11 and then converting to Chapter 7, it's possible no other landfill had ever tried using federal law to hide from financial responsibility. As Trustee Tavenner says, bankruptcy is definitely not designed for an enterprise with such significant environmental involvement. The attempt by Nichols and McGee to take the money and run is like watching Butch Cassidy and the Sundance Kid rob banks and trains, then flee to South America.

VA DEQ bears primary responsibility for current conditions because they are tasked by state code with enforcing environmental compliance, and ensuring violations stop. DEQ issued many NOVs (notices of violations). But it's unknown if any fines were ever levied or paid. There was evidently nothing of consequence done that ever altered behaviors, or caused appropriate attention to problems, or sufficient financial support for operations. Without access to all DEQ records, it's difficult to say whether there was a consistent frequency of inspections that might have mitigated some of the decline in the early days. What we do know is that significant problems persisted, and went unresolved for years at Shoosmith. Those problems were known to DEQ and documented. They were assumed by Chesterfield, but ignored conveniently.

Chesterfield can legitimately claim it was shut out of inspections and enforcement. But it cannot justify its indifference. Nor can it justify its silence in the face of looming disaster. Some unspecified amount of communications has been held between Lynn Tavenner, the bankruptcy trustee in this case, and county officials. Tavenner has been acting as the operations manager for Shoosmith. The communication is recorded as early as July 31, 2025, in bankruptcy proceedings when Chesterfield filed an "Application to appear." In June of 2025, Chesterfield retained Hunton, Andrews & Kurth to represent the county in the bankruptcy proceedings as both a creditor and interested party. So there is interest and awareness by the county in these proceedings as of those dates. Given the history of violations at Shoosmith, the history of deceit, mismanagement, and neglect the county was well aware of, and by this time the obvious financial collapse evident from bankruptcy, the county had every reason to believe neglect and ruin were rampant at Shoosmith. Did Chesterfield do anything at all, in any way, to address the situation? NO!

In normal business practice, someone becoming aware of events that could jeopardize continuing operations would inform upper level management. Every department, every function in that enterprise would be alerted to threats or events that could impact operations. In contrast, the few people in Chesterfield County administration that were privy to Shoosmith information chose to stay silent. Or were told to. We assume the County Administrator, Joe Casey, was well informed because of his position. We assume Jeff Mincks was also fully informed of events because he is the County Attorney. It's possible Matt Rembold, Utilities Director, had some knowledge because discussion in the bankruptcy proceedings looked at the possibility of leachate receiving proper pre-treatment, and then being disposed of again in the Chesterfield wastewater system. But outside of those individuals, everyone else claims they had no knowledge of the proceedings. And no one admits having knowledge of the severity of the environmental situation, until approximately mid-May of 2026.

By all appearances, county administration at the highest levels went to great lengths to conceal this from county managers, the Board of Supervisors, and county citizens. To put it bluntly, Joe Casey and Jeff Mincks decided no one should be told about the Shoosmith debacle. Their obvious defense would be "they were advised by counsel to say nothing " (i.e., the Hunton law firm that bills at $1265 per hour for Jason Harbour's service). That's the kind of legal advice the County Attorney's office needs, with its staff of 10 lawyers, and a payroll of almost $2M. That's the type of legal advice tens of thousands of taxpayer dollars gets. The County Attorney is not paid to engage with Chesterfield citizens, and certainly not when it comes to Shoosmith matters. Administrator Joe Casey is in full agreement. He thinks the silence embellishes his legacy, just weeks before his retirement.

It's STUPID to think citizens wouldn't find out, and wouldn't realize the cover-up has been deliberate. And STUPID to think reputations would remain intact. These people are worthless as stewards of public trust! That's how history will remember them.

One thing nobody has mentioned is that some of Shoosmith has been constructed with coal ash, also known as "fly ash." From at least 2011, Dominion was allowed to use Shoosmith as a repository for their coal ash from coal-fired power plants. This material was used by Shoosmith to construct berms. The county says on pg. 8 of the 2025 Shoosmith Health Risk Analysis that "the facility stopped accepting all waste, including ash/sludge," in early 2025. Its use was allowed because the EPA characterizes loose coal ash, not used on a roadway, in quantities exceeding 12,400 tons, as a beneficial use when it's intended as Structural Fill. See the details at https://www.epa.gov/coal-combustion-residuals/frequent-questions-about-beneficial-use-coal-combustion-residuals. There is an apparent link between use of coal ash in landfills and the condition known as ETLF, or Elevated Temperature Landfill. ETLFs generally produce higher amounts of leachate. See the link provided.

For over 10 years, coal ash has been dumped at Shoosmith and covered over with compacted dirt to create the cells into which trash is dumped. Decomposition occurs. If rainwater permeates the decomposing trash and contacts the coal ash, the potential exists for toxic heavy metals such as beryllium, cadmium, mercury, and even uranium (among others) to be leached out. Groundwater sampling and analysis must be done annually and submitted to DEQ. The 2024 tests referenced in the 2025 Shoosmith Health Risk Analysis indicated exceedance levels of beryllium, cobalt, cadmium, and mercury. Notable responses have been to abandon certain monitoring wells and drill others. The others did not show values that are out of acceptance range. Some of the wells cited were assessment wells, some were detection wells, and some locations were underdrain outfalls. Well classification dictates sampling criteria.

Testing will reveal how much pollution there is in the groundwater and streams. Impacts to wildlife and drinking water will be assessed. Mitigation efforts will get underway. And ultimately, all Virginians will pay to clean this up, as best we can. As our taxes rise and the leachate continues to seep over the next 2 generations, remember this: all the problems caused by DEQ's neglect and indifference at Shoosmith could have been minimized to some extent by Chesterfield staying aware and involved. If we had been served well by county management, citizens would have been kept informed from the start. DEQ would have been prodded to act more responsibly. Environmental damage would have been less. And Shoosmith would not loom over the landscape as a monument to state and county failure, and cover up.

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