

# As overflows continue, D.C. plan for sewage tunnels getting messy

## Turf battles, firings occur over best way to control flow into city waterways

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The Washington Times

Sunday, June 2, 2013

More than a billion gallons of stormwater and sewage flow into the District of Columbia's rivers every year, and there is a belief that George Hawkins is the man to fix it.

The D.C. Water general manager is a national environmental rock star, a charismatic man — as anyone who has seen him sketch a once-in-a-century infrastructure project on a white board can attest.

He is said to harbor ambitions of someday becoming administrator of the Environmental Protection Agency (EPA).

But with Mr. Hawkins acting in concert with D.C. Water's Chairman of the Board Allen Lew, who also is the D.C. City Administrator, the attempt to open up a 2005 federal consent decree requiring reduced overflows from the city's combined sewer system has gotten messy. The plan is to shift resources away from a three-tunnel project to divert and treat polluted rainwater that flows into the Potomac and Anacostia Rivers and Rock Creek, and into a pilot project to study green alternatives such as rain gardens.

Already, there have been consequences for D.C. officials who questioned the plan, with Mr. Lew exercising a heavy hand in firings and aborted attempts at firings. Meantime, Mr. Hawkins, with the approval of Mr. Lew and Mayor Vincent C. Gray, has quietly negotiated a "Green Infrastructure Partnership Agreement" with the EPA that could shift D.C. Water's financial burdens onto District agencies and taxpayers to support its stormwater projects.

On Monday, Mr. Gray and Mr. Lew will ask the D.C. Council to confirm appointment of the director of the District Department of Environment (DDOE) to the board of D.C. Water. But D.C. Water is supposed to be an independent agency, and DDOE is empowered to regulate stormwater management activities in the District.

Environmental groups see the maneuver as a conflict of interest, and Mr. Gray as willing to manipulate his DDOE director in spite of his regulatory authority in order to gain EPA approval of Hawkins' plan.

They are equally concerned the pilot project will forestall the tunnels in favor of newer technology that is unproven on a citywide scale.

Mr. Hawkins often plays by his own rules, according to those who have observed him up close. In promoting the pilot project, he reportedly bypassed EPA Region 3 Administrator Shawn Garvin and went

directly to former EPA Administrator Lisa P. Jackson, a friend from when the two served as environmental protection officials in New Jersey.

Mr. Hawkins denies bypassing Mr. Garvin — a major “process foul” in EPA parlance — but during a recent two-hour interview he conceded, “We communicate with EPA [headquarters] more than other agencies because they’re in D.C. Plus, I know Lisa from New Jersey.”

Mr. Hawkins also admits that he kept DDOE — the city’s stormwater administrator — out of the EPA discussions until the 11th hour, a decision that would not be possible without Mr. Lew’s approval.

“If I had it to do over, I would have involved DDOE earlier and more often,” Mr. Hawkins said. “I misjudged that, and should’ve engaged them early on.”

### **Put D.C. at the forefront**

Mr. Hawkins aims to put D.C. at the forefront of the clean rivers movement. Currently the project to reduce stormwater and sewage overflows is funded by D.C. Water, which provides 600,000 residents, 17.8 million annual visitors and 700,000 District employees with water and sewer service.

D.C. Water is spending \$1.6 billion to build a tunnel along the Anacostia River to divert those overflows to the Blue Plains Advanced Wastewater Treatment Plant. Mr. Hawkins said D.C. Water will finish that tunnel by 2017, and that by 2025, it will reduce billions of gallons of annual overflows into the city’s rivers by 96 percent.

But faced with a 2015 deadline to begin work on the other two tunnels, at an additional cost of \$1 billion, he is proposing spending \$30 million to \$40 million to evaluate the impacts of green roofs, rain gardens, rain barrels and “pervious pavements.”

Initially, Mr. Hawkins asked EPA for an 8-year grace period from working on the other two tunnels, but now he says he “mischaracterized” the plan. He says he is asking EPA to give him until 2015 to gain the support of the other necessary federal and local agencies. If he cannot, or fails to meet other benchmarks by 2017 or 2023, then D.C. Water will keep tunneling, he said.

Cities such as St. Louis, Cleveland and Indianapolis are working under similar consent decrees with a combination of tunnels and green methods. Philadelphia has a plan that is almost entirely green.

But environmentalists ask why the District hasn’t made more green progress since 2005, and question whether green infrastructure can capture the amount of stormwater that the tunnels can handle.

### **‘International green city’**

In 2009, as director of DDOE, Mr. Hawkins spoke before the D.C. Council on the importance of “teamwork” in turning D.C. into a “leading international green city.” He supported the Stormwater Management Act, a 2008 law that made DDOE responsible for “monitoring and coordinating the [stormwater] activities of all District agencies, including [D.C. Water].”

In January 2012, however, once Mr. Hawkins became general manager of D.C. Water, his agency argued in an EPA appeal that “the District government cannot impose financial obligations on D.C. Water,” and that “DDOE cannot speak for or constrain D.C. Water with respect to [its] obligations...”

That appeal was dismissed, and DDOE still regulates stormwater management, but its status relative to D.C. Water has changed. According to a letter from Mr. Gray to Ms. Jackson, by March 2012, D.C. Water had made “significant progress in its negotiations with EPA to establish a framework that would allow for an exploration of green infrastructure as an alternative to the costly underground tunnels.”

This was news to DDOE when, in July, Mr. Garvin notified former DDOE Director Christophe Tulou that a draft green infrastructure partnership agreement with EPA was in the works, according to multiple sources. At Mr. Garvin’s — and Mr. Hawkins’ — request, Mr. Tulou submitted comments on the draft agreement to the EPA. He was fired in August, purportedly for not getting the mayor’s approval prior to submitting the comments, despite having sent them to Mr. Lew, Mr. Hawkins and the mayor’s chief of staff, Christopher Murphy.

Mr. Lew would not respond to requests for comment. Mr. Garvin did not return calls. The Gray administration did not respond to questions about its relationship with D.C. Water.

Mr. Tulou was not the only casualty. His special assistant, Barry Weiss, who wrote the Stormwater Management Act, was fired. DDOE’s general counsel and deputy general counsel were reprimanded, but only after D.C. Attorney General Irvin Nathan refused requests from Mr. Lew’s office that they too be fired, according to multiple sources outside D.C. government.

Environmental advocates took note of the lack of distance between Mr. Hawkins and the Gray administration, embodied in the draft agreement with EPA and two letters to the EPA administrator signed by Mayor Gray — without DDOE’s knowledge.

“George Hawkins has everyone under his spell at some level, and the city has consolidated power with D.C. Water with Lew as the chairman of its board,” said Chris Weiss, former aide to Council Chairman Phil Mendelson. “The mayor is clearly deferring to Lew, and he doesn’t seem to have a problem undermining his own agency heads.”

### **‘Fiscally irresponsible’**

Mr. Gray’s letters to Ms. Jackson, sent without Mr. Garvin’s knowledge according to multiple sources, state that “it would be fiscally irresponsible” for D.C. Water to continue spending funds for the Potomac River and Rock Creek underground tunnels without first studying the impacts of green infrastructure.

Neither the Gray administration nor D.C. Water would say who drafted those letters or the green partnership agreement.

In an Aug. 12 letter to Mr. Garvin, environmental groups accused D.C. Water of negotiating a backroom deal with the EPA, and said the 60-day comment period after the proposal is unveiled may not be sufficient. They also question whether Hawkins’ plan can meet the consent decree’s deadlines, and point

out that both the Stormwater Management Act and the 2005 consent decree required them to have undertaken that review by now.

Rebecca Hammer of the Natural Resources Defense Council says Mr. Hawkins' plan is vague, that the city does not have enough land to build green infrastructure on the necessary scale, and that it is underestimating the maintenance such systems will require.

"How do you do it on private property?" she asked.

Mr. Hawkins and Mr. Lew say the maintenance will create jobs. Mr. Hawkins also insists he has found public land in less developed parts of the city that are contributing to toxic runoff into Rock Creek.

But talk of cost is fuzzy. While there exists a notion that green is less expensive than gray infrastructure, Adam Krantz, managing director of government affairs for the National Association of Clean Water Agencies, says this is a misconception. "The idea that green is a cheaper approach is not true," he said.

Mr. Hawkins agreed that the city will be "spending like crazy on these [green] projects," and noted that monthly water bills have gone up by \$7 since the tunnel project began. "But we believe we will get more bang for the buck," he said.

Speaking for Mr. Hawkins, the mayor's chief of staff added: "We owe it to the rate payers and, frankly, the environment itself to get more data about the effectiveness and cost of what some have called 'green solutions.' It's a question about effectiveness and whether one approach has more ancillary benefits."

So who will pay for D.C. Water's green pilot project, and any further tunnel plans going forward? The EPA draft agreement states that decision points for the project will weigh "the extent to which District departments will commit to revising capital expenditure plans to prioritize [green infrastructure] retrofits in priority areas" — suggesting costs could shift from D.C. Water to District agencies.

Mr. Hawkins brushed aside such concerns, but confirmed the agreement will be part of the proposed modified consent decree to be approved by EPA and a federal judge. Of the possibility that DDOE and other agencies such as the District Departments of Transportation and Public Works end up paying for his projects while having limited input, he said: "Not if the parties are working well together. I'm not going to be political about it, but I'll explain to any mayor or city administrator why it's important. If anything, the costs will be to D.C. Water and not the other way around."

DDOE's recently appointed director Keith Anderson, who is up for confirmation as D.C. Water's newest board member, said he has not spoken with Mr. Lew — both chairman of that board and, as city administrator, Mr. Anderson's putative boss — or Mr. Hawkins about the role his agency will play. Yet he bristled at the suggestion he could soon be taking orders from Mr. Hawkins. "I'm never going to be working for George Hawkins," Mr. Anderson said. "I regulate D.C. Water, and I work for the mayor."