

**SFGate.com**

## Urban oasis garden in legal limbo in S.F. Volunteers lack title to plot where Muni's drilling spilled sewage

Joe Garofoli, Chronicle Staff Writer

Monday, July 28, 2003



**(07-28) 04:00 PDT San Francisco** -- Nobody asked David Erickson and a bunch of his artist pals to revive a forgotten strip of land deep in an industrial San Francisco neighborhood. And despite 10 years of good intentions and hard work, that's what's crippling this band of guerrilla gardeners now:

Nobody asked them.

When a construction accident damaged a third of their adopted park in the Bayview district a year and a half ago, they learned that volunteerism has its downside -- especially in the eyes of a bunch of lawyers and a bureaucracy that doesn't easily accommodate a self-described bunch of "artists and freaks."

Their problem: The strip on the north edge of Islais Creek that Erickson's gardeners revived, maintained and named doesn't belong to them -- it is Port of San Francisco land.

"I told them when they started that there are risks in not getting permitted," said Julia Viera, founder of Friends of Islais Creek, a larger grassroots cleanup group that has made strong ties with several state and local agencies, including the port.

"There's no question that they're doing good work, but there comes a time when you need to make connections," she said.

For nearly 10 years, organization wasn't much of an issue for the people in Erickson's group. Their energy and heart carried them.

### Well-kept pocket park

Erickson's crew -- anywhere from 15 to 30 people living in nearby warehouse lofts and their friends -- tended the 1-acre sliver north of Islais Creek well enough to attract more than \$100,000 in federal and local grants and the respect of everyone from Bayview long-timers to the local Sierra Club. They obtained grants by working with nonprofits, including the San Francisco League of Urban Gardeners (SLUG).

They replenished their beloved nook with new plantings, cleaned up the trash and even christened the pocket park Muwekma Ohlone Sanctuary, after the region's native inhabitants. In a February 2001 letter, Supervisor Sophie Maxwell recommended that the Port of San Francisco "fully embrace this grassroots project."

"What they were doing was harmless enough at first," said Diane Oshima, the port's deputy director of waterfront planning, who has dealt with Erickson for several years. "And we want to work with them. But at the end of the day, who is the responsible party over there?"

Responsibility became a more pressing issue when the accident happened -- and the finger-pointing began.

On Nov. 19, 2001, construction crews were drilling holes for the Municipal Railway's Third Street light-rail extension that will pass near the sanctuary. Drillers inadvertently tapped into a pipeline carrying treated sewage, and several million gallons of the gunk spilled onto the preserve, according to court records.

Several large holes remain, pockmarking roughly a third of the park and hindering much of the group's restoration efforts.

The group estimated that it would take \$101,660 to do short-term repair and \$65,000 for plant and animal habitat restoration. Plus, the group lost out on \$74,000 of grant money that it couldn't use while the park was in disrepair, according to Erickson and court records.

Soon after the accident, as Erickson remembers it, Muni officials told him not to worry: "They said, 'We're not going to walk away from this.' "

### **Unrepaired damage**

But the money still hasn't come, and much damage to the area still hasn't been repaired. Four water-filled pits, 20 feet across and 3 to 5 feet deep, remain. Two circular containers, 6 feet across by 3 feet high, hold frogs and plants rescued from the creek banks after the accident.

In December, the group went to court to try to get the Muni or one of its subcontractors to pay for damage done to the site. The move triggered a round of legal finger-pointing about who was responsible for the accident and the cleanup.

While attorneys have haggled, the volunteer gardeners have been quietly offered a settlement. After paying legal fees, they'd be left with roughly \$10,000. Hardly enough to repair the damage, Erickson said.

Their nagging problem: The Muwekma Ohlone Sanctuary is on Port of San Francisco property. So

despite their noble intentions and decade of sweat equity, Erickson's crew doesn't have much legal standing.

"They never obtained any sort of property interest," said attorney Patrick Goggin, who is representing the Muwekma group at a deeply discounted rate. "What we have is a guerrilla gardening project that evolved into something that benefits the whole community."

But Muni spokeswoman Maggie Lynch said the group's lack of ownership rights to the park "doesn't affect our level of commitment at all. We want to return it to the state it was in before the accident."

While the legal papers shuffle, Erickson said the delay has been killing the sanctuary.

With the park in disrepair, the group hasn't been able to use two grants it received last year for habitat restoration. And with little money coming in, and the park still waiting for repairs, it's been harder to recruit volunteers,

Erickson said.

To make matters worse, last week SLUG temporarily suspended operations, leaving the guerrilla gardeners without a stewardship partner to take care of the park. Goggin is trying to find another nonprofit to take its place, and he's attempting to formalize the group's relationship with the port-owned land.

"What happens is that you lose the community momentum," said Lisa Hokholt, a supporter and district conservationist with the U.S. Department of Agriculture. "Sometimes, you beat your head against the wall, against the bureaucracy, for so long that people get tired out.

"Plus, that's not a wealthy neighborhood," she said. "There's not a lot of strong political support for it."

### **'Transcendent moment'**

Nor is there a lot of political support for what neighbor Kal Spelletich calls "people like us, the artists and freaks who took it upon themselves to fix up this place."

"All we wanted to do was provide a place down here in this industrial neighborhood where people could have a transcendent moment," said Spelletich, 42, a robotics designer who lives nearby. "A place to look at the water, look at the birds. But now the whole thing has been a mess of bureaucracy and buffoonery and shifting blame."

Karen Pierce, chairwoman of the the port's Southern Waterfront Advisory Committee, has mixed feelings about the group.

While she acknowledged that it's frustrating for the port and other entities to try to deal with a formless group, "on the other hand they're trying to put something in there that's nice. And with all of the gentrification that's going on down here, it's provided people an opportunity to take pride in something."

Erickson, whom friends describe as an eternal optimist, is disappointed but undeterred.

"We all know that (the Bayview) is the last frontier of development in San Francisco, so it's good to hold onto some open space," he said. "If this had been in the Marina (District) or some other part of town, it would have gotten more attention.

"And all good ideas started with a small group of people trying to do something about it."

*E-mail Joe Garofoli at [jgarofoli@sfgchronicle.com](mailto:jgarofoli@sfgchronicle.com).*

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/07/28/MN283123.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle



SFGate.com

Quick Search  GO

SFGATE HOME • BUSINESS • SPORTS • ENTERTAINMENT • TRAVEL

[JOBS](#) • [REAL ESTATE](#) • [CARS](#)

[« Back to Article](#)

[Buy Photos](#) | [Photo Gallery Home](#)



« PREVIOUS    NEXT »

**Urban oasis garden in legal limbo in S.F. / Volunteers lack title to plot where Muni's drilling spilled sewage**

Community Park. Chronicle Graphic



Chronicle Graphic

« PREVIOUS    NEXT »

Ads by Google

[What's This?](#)

**Earthquake Survival Kit**

Survive the First 72 Hrs with Food H2O, 1st Aid & Radio. Buy Now  
[www.AlwaysBePrepared.com](http://www.AlwaysBePrepared.com)

**Find A Job In Your Area**

Search millions of jobs for free! Find a new job today  
[www.indeed.com](http://www.indeed.com)

**Fun Activity Patches**

Tsunami Relief Patch In Stock and ready to ship.  
[www.advantageemblem.com](http://www.advantageemblem.com)



Chronicle / Lea Suzuki



SFGate.com

Quick Search  GO

SFGATE HOME • BUSINESS • SPORTS • ENTERTAINMENT • TRAVEL

JOB'S • REAL ESTATE • CARS

<< Back to Article

Buy Photos | Photo Gallery Home



<< PREVIOUS NEXT >>

**Urban oasis garden in legal limbo in S.F. / Volunteers lack title to plot where Muni's drilling spilled sewage**

David Erickson surveys water-filled pits remaining from an accidental sewage spill in the Bayview park. Chronicle photo by Lea Suzuki



Chronicle / Lea Suzuki

<< PREVIOUS NEXT >>

Ads by Google

What's This?

**Surplus Military Tents**

Over 2,500 Tents In Stock US Mil. Surplus & Relief Goods

[www.armytents.com](http://www.armytents.com)

**Mormon 72 Hr Kit**

Survival Kit Loaded With Essentials H2O, 1st Aid & Radio, More. Buy Now

[www.AlwaysBePrepared.com](http://www.AlwaysBePrepared.com)

**Find Jobs In Your Area**

Jobs listings from thousands of websites in one simple search.

[www.indeed.com](http://www.indeed.com)