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‘Scorched Worth’ Tells The Story Of How Some Bureaucrats Just Want To Watch The World Burn

Reilly Stephens

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In 2007, a fire broke out on Moonlight Peak in northern California, burning 65,000 acres of public and private lands before being subdued. Government investigators pinned responsibility on Sierra Pacific Industries (SPI), a subcontractor of which had been logging in the area.

In *Scorched Worth: A True Story of Destruction, Deceit, and Government Corruption*, journalist Joel Engel catalogs the years of frustration and malfeasance that followed as state and federal authorities pressed a frivolous case backed by their own intransigence.

There are specific procedures for determining the origin point and cause of a fire, though the layman might judge that the process often operates with a scientific rigor equivalent to reading entrails. Sometimes investigators get lucky, and can track down a campfire or cigarette butt. But here the investigators found more or less nothing, and more or less avoided the procedures that might impose a semblance of objectivity.

Their ultimate conclusion rested on the tenuous assumption that a bulldozer the subcontractor operated drove over a rock, and the resulting spark landed in some brush nearby. This is tenuous because, while equipment can throw off sparks, in this case the theory required that the spark smolder for an hour or more before igniting—and contemporary photographs and computer models show the fire started somewhere else entirely. As the book goes on, it becomes clear that no credible case can be made against SPI. You’ll be forgiven for imagining this means the government eventually agreed with the obvious.

Engel compels the conclusion that the case against SPI was more about SPI’s bank balance than its culpability. State and federal authorities can’t profit from a lone arsonist, but shaking down the second-largest lumber producer in the country promises rich rewards. (At the time, the California Department of Forestry and Fire Protection, a.k.a. Cal Fire, diverted settlement money into an off-the-books slush fund used to buy goodies for the department.) Many companies prefer to pay the authorities to go away, so a few fudged reports need not be an impediment.

Rather than settle, SPI preferred to fight. The company’s patriarch is one Archie “Red” Emmerson, an octogenarian self-made billionaire who could well be the backwoods version of Hank Rearden. A child of the depression, Emmerson took the reins of a failing mill from his unreliable father and built it into a thriving enterprise through diligence and risk.

At first, the industry operated by buying logging rights to federally managed forests. When the environmental movement began restricting access to timber on public lands in the 1970s, Emmerson had the foresight to buy up a portfolio of private forests that now stands at some two million acres, allowing him to grow as competitors fought over meager government rations. (The spotted owl crisis that vexed the logging business in the 1980s accrued to Emmerson's benefit, driving up prices at a time few others could profit from it.) Ol' Red is not the sort of man who likes to pay for something he didn't do.

But the power the authorities can bring to bear outstrips even the billionaires among us. The case against SPI was so flawed at least one government attorney appears to have been reassigned after finding his scruples, only to be replaced by others not so encumbered. Yet the judge in the federal proceeding so mangled the pretrial rulings SPI was ultimately compelled by risk of bankruptcy to settle with the federal government for some \$122 million in cash and acreage.

A California state court judge, assessing essentially the exact same case, saw things otherwise: throwing the state of California out on its hump with the sort of brimstone opinion that haunts lawyers' nightmares and an order to cover \$32 million dollars in SPI's legal costs as sanction for the misbehavior. SPI is now appealing the federal settlement, armed with the state judge's catalog of the long train of abuses and usurpations that extorted it.

Engel bounces back and forth between Emmerson's Horatio Alger biography and the fire investigation in short chapters, some lasting only a paragraph or two. The material is compelling, although this temporal tennis match makes each thread a bit hard to follow. Those without a background in forestry will find themselves consulting Google more than once.

Engel sometimes resorts to clunky conceits to weave exposition into present events, such as speculating that his characters might have known the obscure information he wishes to dump on the reader. For example, the Forest Service employee tasked with spotting fires from afar "may well have learned at some point that the Red Rock lookout was originally built in 1941 on this 7,600-foot peak two miles south of Diamond Mountain." But overall, he argues well that the government's case was made badly.

As Engel points out, logging companies "are often thought of as little more than rapists of Eden." But the truth is more complex. It's not in an industry's long-term interest to deplete the supply of input materials, and fires damage not just the environment but the bottom line. SPI self-imposes harvest quotas on its privately owned lands, the better to ensure long-term viability.

Incentives to behave responsibly are not guarantees thereof. Some logging companies certainly have started fires, and even responsible companies fall prey to bad apples. Engel suggests the actual cause of the fire may have been arson, set by a serially intoxicated young malcontent and erstwhile employee of the subcontractor.

Of course, sometimes companies impose costs on society they can rightfully be asked to reimburse. But the FernGully fairytale of burly lumberjacks denuding Gaia for fun and profit is hyperbole, and at least as concerning (if not more) is that an unjust exercise of authority of the state can coerce even the most powerful of its citizens to cry uncle.

Former assistant U.S. attorney turned defense attorney and blogger Ken White (best known on the Internet under the moniker PopeHat) [wrote a few years ago](#) about the culture of a U.S. Attorney's Office, which can cause even the honorable to lose perspective: "When a defense

attorney asserts that a prosecutor violated a defendant's rights, that attorney is attacking your brother or sister, your comrade in arms... it became easy—natural—to view allegations of misconduct as something that defense attorneys cynically pursue for tactical advantage.” White realized the depth of this problem after he had switched to criminal defense “by watching how the system crushed indigent clients, and by how it could destroy the lives of even wealthy clients with minimal effort or cause.”

Few are inclined to pity the billionaire, but all should understand that the institutions powerful enough to bring down the captains of industry wield the same power against each of us. Anatole France once scoffed that the law's idea of equality is to bar rich and poor alike from sleeping under bridges, yet no more virtuous is a law that places the rights and liberties of rich and poor alike at the sufferance of authorities with dollar signs in their eyes. The same system that shook down SPI shakes down average citizens to buy margarita machines for bureaucrats. The main difference is the corporate shakedown's greater profit margin.

On September 3, 2007, a fire ignited on Moonlight Peak. As this review goes to press, the case awaits the U.S. Supreme Court to take it up.

Reilly Stephens is a legal associate with the Cato Institute's Center For Constitutional Studies.