



Written by [William F. Jasper](#) on February 22, 2016

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## Behind the Oregon Standoff

On January 4, Oregon rancher Dwight Hammond and his son Steven began their second prison sentence, entering the Federal Correctional Institution, Terminal Island, a low-security prison in Los Angeles Harbor. They were prosecuted as “terrorists” under the federal Antiterrorism and Effective Death Penalty Act of 1996 for controlled burns on their own property in 2001 and 2006 that got out of control and spread to around 150 acres of federal Bureau of Land Management land (on which the Hammonds own/have grazing rights). The fires caused no real damage and no threat to lives, homes, or property of other citizens. In fact, the BLM acknowledged that the 2001 fire for which the Hammonds were prosecuted had actually “improved range conditions” on the public lands.



In their first trial, the federal judge ruled that sentencing the Hammonds as terrorists to the five-year sentence demanded by federal prosecutors would “shock the conscience” of the court. It shocked the conscience of many other observers as well. But the federal Department of Justice was relentless in this case, appealing the Federal District Court’s more lenient sentences. It demanded that these dangerous “terrorists” serve the full five-year prison term.

In stark contrast, the BLM, U.S. Forest Service, National Park Service, and other federal agencies are notorious for starting “prescribed burns” that regularly rage out of control over many *thousands* of acres, often destroying public buildings and facilities, as well as private homes, ranches, and livestock — not to mention forests, grasslands, and wildlife habitat — and gravely endangering human life. In fact, as we report in our [companion story](#), in December, shortly before the Hammonds reported to prison, the federal government reversed itself on compensating farmers and ranchers in North and South Dakota who lost tens of millions of dollars in property and livestock destroyed by the 2013 Pautre Fire, a “controlled burn” started by the Forest Service. After initially promising to expedite remuneration to the struggling farmers and ranchers victimized by the federal arsonists, the federal government first delayed all recompense procedures, and then, ultimately, refused compensation altogether, forcing their victims to spend their own money on lawyers to sue in court for redress and compensation.

## Federal Fiascos

The Pautre Fire is but one of many flagrant abuses that are fueling the widespread smoldering resentment against federal agencies in the Western states. That smoldering resentment can erupt into white-hot flashpoints, such as the armed Bundy Ranch standoff in Nevada in 2014 and the armed



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occupation of the Malheur National Wildlife Refuge in eastern Oregon near the Hammonds' ranch. Led by Ammon and Ryan Bundy, sons of Nevada rancher Cliven Bundy, the takeover of the federal wildlife refuge (which was closed for the winter) began on January 2 as a protest against the prosecution of the Hammonds, as well as a protest against the federal government's oppressive control over such an enormous swath of "public lands" in the Western states. While many people sympathize with the Hammonds and with the stated objectives of the Bundy-led occupiers, relatively few appear to agree with the extreme and illegal methods chosen by the occupiers. Even the Hammonds and Cliven Bundy distanced themselves from the occupation. Many recognize the action as misguided and counterproductive, a move that will encourage anarchy and provide federal authorities with the pretext for even more extreme measures against rural property owners and gun owners — not to mention providing the liberal, big-city media with more opportunities to unfairly depict rural opponents of federal harassment as anti-government, anti-environment, redneck, belligerent yahoos.

Nevertheless, the Obama administration's aggressive use of executive orders to unconstitutionally bypass Congress and enact its own "environmental" regulations indicates that we can expect an intensification of the adversarial attitude by federal agencies toward ranchers, farmers, and rural property owners. The EPA's new "Waters of the United States" (WOTUS) interpretation, all by itself, guarantees collisions between federal authorities and property owners. According to Obama's EPA, even dry land miles from any "navigable waters" is still subject to EPA's arbitrary and capricious jurisdiction because the rainwater that sinks into the ground is somehow connected to navigable waters. This virtually guarantees an escalation of tensions and a certainty of more confrontations that could turn violent.

The vast majority of America's population is now concentrated in urban and suburban areas, and most Americans have probably not set foot on a real working farm or ranch other than on a grade-school field trip. Few have any knowledge of, or appreciation for, the desperation of farmers and ranchers who are being hammered on all sides and driven off their land, oftentimes land that has been cared for by their families for generations. Urban dwellers depend for their "news" on the big, corporate media networks, which uniformly dispense a radical "pro-environment" bias that generally characterizes farmers and ranchers (along with loggers, miners, manufacturers, and, in general, all producers) as nasty polluters and exploiters who are despoiling Nature for ugly "profit." Ironically (and in many cases, intentionally) this radical enviro ideology has led to policies that have destroyed hundreds of thousands of family-owned farms, ranches, and properties, making us all more dependent on the huge, corporate agri-business farms and feedlots that the enviro-activists claim to abhor and oppose. Thousands of farmers and ranchers are facing extinction, and many know that, like the Hammonds ([and Ocie and Carey Mills and others](#)), they could also go to prison for an unintentional violation of an arcane, unreasonable, and unconstitutional federal regulation.

As mentioned above, this is the second time the Hammonds have gone to prison for the same offense. In their first trial, in 2012, Federal District Court Judge Michael Hogan ruled that imposing a five-year mandatory minimum prison sentence on the Hammonds, as sought by federal prosecutors under the Antiterrorism and Effective Death Penalty Act, would "shock the conscience" of the court. It "would result in a sentence which is grossly disproportionate to the severity of the offenses here," he said. "It just would not be — would not meet any idea I have of justice, proportionality." The Hammonds' actions, Judge Hogan reasoned, "could not have been conduct intended" under the law. Judge Hogan



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used his discretionary authority to sentence Dwight Hammond (now 74) to three months in prison, followed by three years of supervised release. Dwight's son Steven (now 46 and a father of three) was sentenced to one year and one day in prison — also to be followed by three years of supervised release. The Hammonds served their sentences starting in 2013. They were also forced to accept a settlement in which they agreed to pay \$400,000 for firefighting costs, and to give the BLM the first option to buy their land if they are forced to sell. Many critics have opined that getting the Hammond ranch and making an example of them to break the will of others who might resist federal domination is the real motive behind the persecution of the Hammonds.

Former BLM employee Greg Allum says the BLM has a real “hatred” of the Hammonds, with whom he sympathizes. “I feel bad for them. They lost a lot and they’re going to lose more,” Allum said of the ranchers. “They’re not terrorists,” he told the *Capital Press*. “There’s this hatred in the BLM for them, and I don’t get it.” Is it this hatred that explains the disproportionate prosecution and sentencing? And is this hatred motivated by desire of federal bureaucrats to take the Hammonds’ land? And is it tied into the even larger land-grab proposal to turn much of eastern Oregon (2.5 million acres, larger than Yellowstone National Park) into a national monument, the most restrictive of national designations? The proposed Owyhee Canyonlands Monument would kill the remainder of the ranching and farming — and virtually all other productive activity — in most of eastern Oregon. Many locals see the federal persecution of the Hammonds as a blatant message: The feds were making an example of them to cow the other ranchers into submission.

## Justice Done?

The Obama Justice Department was more than a little displeased with Judge Hogan’s ruling. It appealed to the U.S. Ninth Circuit Court of Appeals and found a judge who would impose the full five-year “terrorist” sentence on the Hammonds. It is interesting that the ultra-liberal Ninth Circuit (popularly known as the Ninth Circus due to its far-out legal theories and rulings), which is notorious for its opposition to the Antiterrorism and Effective Death Penalty Act and for its tendency to overturn the conviction of murderers, illegal aliens, child molesters, and drug dealers, had no problem with throwing the book at the Hammonds, who, by many accounts, have been good neighbors and model citizens. The Ninth Circuit accommodated the DOJ prosecutors, ruling that “given the seriousness of arson, a five-year sentence is not grossly disproportionate to the offense.”

The DOJ trumpeted the victory. “Congress sought to ensure that anyone who maliciously damages United States’ property by fire will serve at least 5 years in prison,” declared U.S. Attorney Billy Williams. “These sentences are intended to be long enough to deter those like the Hammonds who disregard the law and place fire fighters and others in jeopardy.”

However, the five-year sentence will “shock the conscience” of a great many reasonable people who are aware of the facts in the case and are familiar with the larger context in which this drama is being played out. It is indeed a sentence that is “grossly disproportionate to the offense.” This is an important point that has been made by many farm bureaus, cattlemen associations, stockgrower associations, and property-rights groups all across the nation. Why the egregious double standard, they ask? Why are the Hammonds harshly punished as terrorists while federal arsonists who repeatedly torch vast areas of “public” and private land get off scot-free — or even get promoted?

Out of the many examples that could be cited, the 2000 Cerro Grande Fire in New Mexico is one of the



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most infamous cases of federal arsonists gone wild. Started as a “controlled burn” (during high-danger windy, drought conditions, of course), it quickly went out of control, eventually incinerating 48,000 acres of fragile habitat, destroying 400 homes and damaging the Los Alamos National Laboratory. Tens of thousands of people were forced to evacuate. The air pollution from the fire was suffocating. Damages exceeded \$1 billion. The 2013 Pautre Fire mentioned above ([and here](#)) is but another example of the many devastating pyrotechnic displays regularly set off by federal arsonists — with no punitive consequences to the agents or their agencies. Just an “Oops! We goofed,” seems to suffice.

Even under the best of conditions and when proper precautions have been taken, a “controlled fire” can quickly go out of control. The New American reported in 2013 that, according to the National Interagency Fire Center (NIFC), during the previous decade, wildfires annually consumed an average of 5.6 million acres, most of it grassland, woodland, and wetland under the control of federal agencies. Many of these began as “controlled burns” started in defiance of common sense and agency protocols, under conditions that even the complete greenhorn would understand to be inherently dangerous and ripe for catastrophic results.

However, even those started by natural causes, such as lightning, often turn into enormous and catastrophic conflagrations owing to mismanagement by federal agencies that have turned millions of acres of once-healthy forests into brown, dying, bug-infested tinderboxes. According to the Forest Service, there are now 58 million acres of national forest in danger of incineration, an area larger than the state of Utah. Representative Rob Bishop (R-Utah), chairman of the House Natural Resources Committee, points out that other studies estimate the endangered areas are much larger: 86 million acres, an area the size of Utah and Michigan combined.

The anti-grazing, anti-logging policies of the federal agencies and their radical environmentalist allies are making more Cerra Grande infernos inevitable. Ranchers such as the Hammonds are performing a public service: Their cattle, horses, sheep, and goats are doing much to reduce the wildfire hazard in the national forests and grasslands. They should be commended, not branded as public enemies.

The federal arsonists have been striking with such frequency, and in tandem with other hostile measures and punitive regulations, as to signify a systematic burn-em-out, drive-em-out strategy by federal agencies aimed at hardworking, salt-of-the-earth, family ranchers and farmers who are struggling to survive. Allowing the federal landlord to gobble up even more land is a sure prescription for even worse and greater environmental devastation. We should be encouraging more family farms and ranches, not destroying them.

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