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## Did Cal Fire do enough to prevent Summit fire?

By Tracey Kaplan, Mercury News

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### Special Report

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The contractor charged with recklessly causing the Summit wildfire that destroyed 35 homes last year was warned twice by state firefighters and yet was allowed to continue burning brush — a decision that residents in the Santa Cruz Mountains are now questioning.

On the brink of another fire season, the problem of how far to go with prevention measures in remote areas is one of the most challenging that officials face. In interviews last week, the California Department of Forestry and Fire Protection said it will continue to do the best it can with limited resources — but rejects the notion that it was somehow responsible for the Summit conflagration.

"I can appreciate people's anxiety, but to follow up on every burn permit, it's just not going to happen," said Chief Tom Hoffman, Cal Fire's head of law enforcement. "There is always going to be some idiot who is not going to do the right thing."

Some upset residents say Cal Fire should have stopped contractor Channing Verden from burning

20 tons of brush and fallen pines he cleared from five acres of land on the Santa Clara County side of Summit Road. Prosecutors say he left smoldering two piles of brush he was hired to burn. A month later, sparks from those piles ignited nearby brush and trees and became the May 22, 2008, massive fire that consumed 132 buildings, including the 35 homes.

Verden was released Thursday on \$250,000 bail and could not be reached for comment.

Prosecutors and fire officials declined to comment in detail, leaving many questions about Cal Fire's role unanswered. But according to court documents, two Cal Fire officials from the Santa Cruz/San Mateo division responded to a smoke complaint March 25 and warned Verden that he didn't have a water supply on hand, as required to put out any flare-ups and completely douse the burned material.

In late April another fire official — this time from the Santa Clara County division — met with Verden as he was preparing to burn more debris and warned the contractor that the piles were too big. It's unclear whether the second official knew Verden had already been warned.

Neither division apparently checked back to make sure Verden complied.

Cal Fire spokesman Paul Van Gerwen on Friday couldn't find out the size of the staff in each division. But to give an idea of how short-handed they were when it came to fire prevention, he said, there were only seven firefighters in the Burrell station on the Santa Cruz County side of Summit Road to cover a 24-square-mile area.

Cal Fire can issue written citations or douse a potentially dangerous debris pile — and in extreme cases, arrest anyone who refuses to follow the burn-

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permit rules, Hoffman said. None of those actions was taken in this case.

"Cal Fire saw a very dangerous situation during a very dangerous time of year and told somebody to do something and didn't go back and check," said Hugo Zazzara, whose house and wood shop burned down. "It's a failure on their part."

Other homeowners view it differently.

"I see Cal Fire as doing their job," said Mark Hamlin, a flooring contractor who lost outdoor plantings and a Mercedes in the fire. "It was the contractor who didn't heed the warnings."

The U.S. Forest Service, which patrols federal lands that make up 20 percent of the state, also is not required to check back on burn-permit compliance. But Laura Mark, acting special agent in charge of law enforcement for the service, said firefighters try to remain on the scene until problems are rectified.

In the Summit fire case, court documents show that the first set of Cal Fire officials left after Verden assured them he was getting a water truck to the site. But the documents also show that the temperatures of each of the smoldering piles on the first day of the fire weeks later were extremely high — indicating there had been no effort to extinguish the piles with water after the crew left the site four weeks earlier.

Verden faces up to nine years in state prison. But California history shows that people convicted of accidentally setting wildfires hardly ever end up going to state prison. They may, however, be held liable for the costs of fighting the fire and residents' losses.

In the giant Lick fire in South County in fall 2007, schoolteacher Margaret Pavese faces up to six

months in jail and a \$1,000 fine. That's if she is convicted of one misdemeanor count of failing to exercise reasonable care in the disposal of flammable materials to prevent causing an uncontrolled fire. The fire broke out after grass inside in a 55-gallon metal barrel she was using to burn paper plates ignited.

Workers using a grinder that sparked the enormous Zaca fire in Santa Barbara County in August 2007 were originally charged with felonies that carried nine-year prison sentences. But the consequences ended up being light: A judge dismissed the charges against one worker; the supervisor pleaded guilty to a misdemeanor that carried no jail time; and the ranch and the workers had to make an educational fire video.

The difference in this case is that prosecutors may be able to use the two warnings from Cal Fire to prove the legal principle of recklessness, which requires that a person be aware their actions present a substantial risk yet ignore the risk.

Some residents in the Santa Cruz Mountains want to see Verden get the maximum. "The amount of pain is ongoing every single day," said Ken Moore, president of the Summit Road Association, which represents 140 families, 20 of whom lost their homes. "He needs to pay."

Contact Tracey Kaplan at [tkaplan@mercurynews.com](mailto:tkaplan@mercurynews.com) or 408-278-3482.

**Cal Fire's Volunteers in Prevention (similar to neighborhood watch)**

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