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COMMERCIAL ENVELOPE

20 February 2009

RECEIVED BY RPA FOIA OFFICE THIS DATE: 3-12-09
FILE DATE: 4-9-09
LOG # 09-027

FOIA Officer  
United States Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

**FREEDOM OF INFORMATION ACT REQUEST**

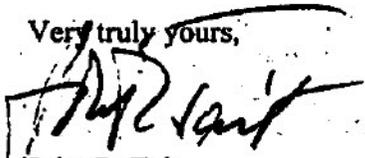
To Whom It May Concern:

Under the provisions of the Freedom of Information Act, U.S.C. 552, I request access to the following records:

Any and all records pertaining to a fire that commenced on July 10, 2008 on or around Eaton Road in the City of Lewiston, County of Nez Perce, State of Idaho. See the attached Lewiston Morning Tribune newspaper articles of July 11 and 12, 2008, report of Nez Perce County Fire Chief Ron Hall and letter of February 13, 2009 of attorney Paul F. Mautner to assist you in identifying the records we are seeking.

Please do not inform me of any fees that may be charged for search or copying records, if the fees do not exceed \$50.00.

If all or any part of this request is denied, please cite the specific exemption that you think justifies your refusal, and inform me of appeals procedures available under the law. I would appreciate your processing this request as soon as possible, and I look forward to hearing from you within ten days, as stipulated in the law.

Very truly yours,  
  
John R. Tait

ser  
Enclosures

FOIA-2009-000165

*Jean*

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The Lewiston Tribune Online

Print This Article

## Crews conquer wildfire

By David Cole

Saturday, July 12, 2008

The fire that started near Central Grade and Eaton roads burned up to 3,500 acres, blackening grass and brush north of U.S. Highway 95/12 and the Clearwater River Casino.

The fire was about 99 percent contained Friday, and the casino, hotel and RV park were all back open for business after being evacuated during the fire.

"If we can make it through the hot afternoon (Friday), I'd say we'll have it fully contained by dark," Nez Perce County Fire Chief Ron Hall said. The cause of the fire is unknown, he said, and their investigation has concluded.

One abandoned older home was destroyed in the wildfire, which blackened a giant swath of the steep south-facing hillside. No injuries were reported due to the fire.

Several homes were threatened, including some in the Hatwai Creek area.

The fire jumped the two northbound lanes of U.S. Highway 95/12, burning grass and brush in a stretch of the median near Coyote's Fishnet and Lower Hog Island. The highway was closed for several hours Thursday because of the danger.

The fire moved rapidly in all directions after starting, Hall said. Aircraft could be seen flying above the dark, heavy smoke produced by the blaze, dropping water and flame retardant.

Thursday's high winds pushed the flames rapidly to the east, eventually reaching about one-half mile west of Coyote Gulch Road, he said.

In August 1996, a fire started on top of Lewiston Hill, near Vista House, and moved east, pushed by high winds. That fire burned eight miles east, reaching Coyote Gulch Road.

And last summer, the Coyote Creek Fire blackened several thousand acres, forcing some residents of Coyote Gulch Road to evacuate their homes. The flames went east toward Catholic Creek. A house on Steeple Lane was destroyed.

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Cole may be contacted at [dcole@lmtribune.com](mailto:dcole@lmtribune.com) or at (208) 848-2278.

Hall anticipates investigators will begin looking for the cause of the fire sometime today. He said it is believed to have started near the intersection of Central Grade and Eaton roads.

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Cole may be contacted at [dcole@lmtribune.com](mailto:dcole@lmtribune.com) or at (208) 848-2278.

Nez Perce County Fire Dept  
P.O. Box 896, Lewiston, Id  
208-298-0165

07-10-08 1428 hrs. Winds: From the West at 30 mph plus

I was advised by dispatch that a grass fire had started on Eaton Road, just West of Central Grade Road. I had Nez Perce County Fire units paged out. Assistant Fire Chief Gilliam in brush unit # 7 arrived on scene first. Gilliam advised that he had a fast moving grass fire and one structure was fully involved. At that time I had Nez Perce Tribal Fire and Lapwai City Fire paged out to respond to the area of the Clearwater Casino. I also asked for mutual aid from Genesee Fire.

As I arrived on scene the fire had just gotten into the yard at 16015 Eaton Rd. We were able to walk the fire around the buildings at that location. The old structure that was involved was already destroyed, so units proceeded East on Eaton Road to set up protection for the next residence. As more fire units arrived on scene they were sent to provide protection for the structures that were in front of the advancing fire. The Nez Perce County Sheriff's deputies were requested to start advising residences to prepare for evacuation.

Nez Perce Tribal Fire Chief, Dale Johnson, set up command in the area of the casino and was running the fire operations in that area. As more agencies arrived on scene they were sent to a staging area at the casino. As soon as possible I met with Chief Johnson on the road behind the casino. At that time we agreed we would have joint command and that I would handle the West edge of the fire and Johnson would take the East end. Johnson was able to call in air support to help suppress the fire. Without the initial retardant drops we would not have been able to stop the Western advance of the flames. Crews with water packs and flappers were able to stop the upper West edge of the fire in the canyon below the power sub-station.

To be able to stay in front of the East edge of the fire, the staging area was moved to the gravel pit boat launch area at Spalding. I requested that the Red Cross be contacted to see if they could set up their mobile kitchen to feed the approximately 75 fire fighters and volunteers. The Red Cross did set up there kitchen at that location. A D5 cat belonging to Larry Boyer pushed in a fire break up the West side of Beardy Gulch to provide protection for the residences there.

Towards midnight on the tenth the humidity had finally risen enough to slow down the fire. It was decided between Johnson and myself, that it in the interest of safety, that we suspend fire operations for the night. Deputy sheriffs would monitor the progress of the fire and call out crews for any emergencies.

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## Wildfire threatens casino

By David Cole of the Tribune  
Friday, July 11, 2008

A grass fire whipped by high winds burned hundreds of acres Thursday, prompting authorities to close several miles of U.S. Highway 95/U.S. Highway 12 near the Clearwater River Casino and Resort, east of Lewiston.

The fire crawled eastward in the hot and dry hills north of the casino and highway, sending dark smoke down toward the casino, covering it in a thick shroud before drifting upstream along the Clearwater River.

Nez Perce County Fire Chief Ron Hall said the fire blackened about 1,500 acres as of about 6:15 p.m., destroying one abandoned older home. He said some outbuildings may also have been damaged or destroyed.

A couple of homes were evacuated, he said, but the residents returned later in the day.

As of 7:30 p.m. the fire was still out of control, he said, with winds blowing about 30 mph.

"The wind is pushing it hard," Hall said. He said they were preparing to take a stand at Coyote Grade Road sometime Thursday night.

The fire threatened the casino during the late afternoon, he said, burning right up to a nearby road. The casino and hotel were evacuated, a nearby RV park was also evacuated, and the gas station there was shut down.

Damon Johnson and his wife, Candy, were told to evacuate the 38-foot trailer they have been living in at the RV park.

With the fire creeping closer on the hills above the RV park, and the smoke getting thicker, Johnson said they planned to get in their truck and leave their trailer behind.

"I just hope it doesn't burn," he said. "We invested everything we have in it."

From the highway, the fire appeared to be rapidly approaching the roadway at Coyote's Fishnet and Lower Hog Island, near Spalding Bridge. Large pieces of blackened debris and smoke were blowing across the road at those locations.

Hall estimated about 75 to 100 people were battling the fire. The county received mutual aid assistance from several agencies, including the Nez Perce Tribe, Whitman County, and the cities of Troy, Juliaetta and Genesee, he said.

FEB 17 2009



Department of Energy  
Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

GENERAL COUNSEL

February 13, 2009

In reply refer to: LC/7 (T-P-41-08)

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

John R. Tait, Esq.  
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312 Miller Street  
Lewiston, ID 83501

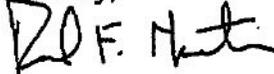
Dear Mr. Tait:

I considered the federal tort claim you filed on behalf of your client, Eaton. The claim represents property that resulted from a fire on July 10, 2008 near Lewiston, Idaho.

Before the Bonneville Power Administration (BPA) can pay for damages under the Federal Tort Claims Act, it must be established that the damage resulted from a negligent act or omission of a BPA employee acting within the scope of his or her employment. As detailed in the enclosures, the Nez Perce County Fire Chief concluded that the cause of the fire was a controlled burn that got out of control. The Nez Perce County Fire Department report concluded that the actual cause of the fire is unknown. There is no evidence that BPA conducted a controlled burn in the area on the date of the fire, or that a BPA employee started the fire. Accordingly, your claim is denied.

If you are dissatisfied with this determination of your claim, you may file a written request for reconsideration with this office or file suit in the appropriate United States District Court within six months from the date this letter is postmarked, or the claim will be barred.

Sincerely,

  
Paul F. Mautner  
Attorney

Enclosures

Friday 07-11-08 0315 hrs

I was dispatched to 25859 Central Grade for a flare up of the fire. Upon arrival I found a ¼ acre patch of grass burning behind the residence. I was able to put out the spot fire without any problem. At 0400 hrs Nez Perce County fire units responded to Beardy Gulch as the fire had arrived at that location. After putting out the Southern edge of Beardy Gulch I went up Coyote Gulch to get a better view. The high humidity had worked and the fire was slowed down. There was a section of fire in the upper end of Beardy Gulch still burning but it did not pose an immediate threat.

After the morning briefing with Johnson I placed myself and crew under his direction and he took over full command. Hand crews from Tribal Fire and Genesee Fire were sent in to stop the East edge of the fire in Beardy Gulch. I responded to the fields on the top West edge of Beardy Gulch and set up protection for the crops along with a Genesee engine and a tractor and disk. Both groups of fire fighters were successful and were able to contain the East edge of the fire.

Saturday 07-12-08

07-12-08 1320 hrs

I responded to Central Grade area for what appeared to be a plume of smoke. Upon arrival I met up with Chief Johnson and a Tribal Fire crew. The fire had reignited about ½ way up a ridge just West of the power sub-station. We were able to find a road into the fire from the top of the hill by coming down a farm road at the end of Archibald Road. We were able to knock down the fire and start the mop up of the area.

Total acres burned: 4862

Agencies involved: Nez Perce County Fire, Nez Perce Tribal Fire, Lapwai City Fire, Juliaetta Fire, Kendrick Fire, I.D.L., Whitman County # 12, Potlatch Forest Inc. Fire, Genesee Fire, Troy Fire Dept, dozer from Boyer Ranch, McGregors Company and numerous volunteers.

An investigation into the fire was conducted by the Nez Perce County Sheriffs Office. No evidence was found pertaining to the cause of the fire. The final determination is listed as unknown cause.

Ron Hall Fire Chief