

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al,)	
)	Civ. No. 03-0049-E-BLW
Plaintiffs,)	
)	MEMORANDUM DECISION
v.)	AND ORDER REGARDING
)	DUPONT’S RULE 50(A)
)	MOTION ON PLAINTIFFS’
)	DEBT BASED COSTS
UNITED STATES OF AMERICA,)	
et al,)	
)	
Defendants.)	
_____)	

INTRODUCTION

The Court has before it DuPont’s Rule 50(a) motion for judgment on plaintiffs’ debt based cost claims. For the reasons expressed below, the Court will deny the motion.

ANALYSIS

In a prior decision (docket no. 1138), the Court discussed at length plaintiffs’ claim for debt based costs, the testimony of Hofman that supported that claim, and

the key Idaho case of *Spreader Specialists Inc. v. Monroc, Inc.*, 752 P.2d 617 (Id.Ct.App. 1987), *overruled on other grounds*, *Walton v. Jensen*, 979 P.2d 118 (Id.Sup.Ct. 1999) . The Court finds nothing in the present motion warranting a reconsideration of that decision.

DuPont argues that Idaho law limits debt based cost claims to new loans. The Court disagrees. The rationale in *Spreader Specialists* applies to the facts encountered here, where the Growers were unable to pay down existing operating lines of credit due to Oust losses. Whether they are unable to pay down an existing operating line of credit due to Oust losses or must take out a new loan, the situation is the same under the reasoning of *Spreader Specialists*.

DuPont's objection will be preserved for appeal because the Special Verdict Form will separate out the debt based costs for award. But the Court does not find persuasive DuPont's arguments in support of its motion. For these reasons, the Court will deny the motion.

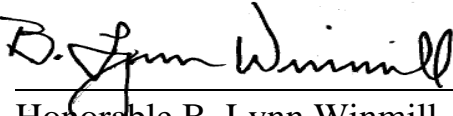
ORDER

In accordance with the Memorandum Decision filed above,

NOW THEREFORE IT IS HEREBY ORDERED, that DuPont's Rule 50(a) motion for judgment on debt based costs (docket no. 1239) is DENIED.



DATED: **August 14, 2009**


Honorable B. Lynn Winmill
Chief U. S. District Judge