

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al.,	)	Case No. CV-03-49-E-BLW
	)	
Plaintiffs,	)	MEMORANDUM DECISION
	)	AND ORDER REGARDING
v.	)	OBJECTIONS TO
	)	DEPOSITION OF THOMAS
UNITED STATES OF AMERICA,	)	STEELE (Docket No. 1310)
et al.,	)	
	)	
Defendants.	)	
_____	)	

**INTRODUCTION**

The Court has before it objections to deposition excerpts from the deposition of Thomas Steele. The Court rules on those objections below.

**ANALYSIS**

Thomas Steele is a former employee of Northwest Farm Credit Services and was involved in the agency's lending relationship with Plaintiff Jentzsch-Kearl ("JK") Farms beginning sometime around 1990. Mr. Steele was personally involved in receiving information from JK Farms and processing the information for the bank to use in extending and maintaining operating loans to JK Farms.

DuPont has set forth grounds and supporting documentation that Mr. Steele is unable to testify at trial person due to illness. The Court finds based on the

information provided that Mr. Steele is excused from testifying at trial because of illness pursuant to Fed. R. Civ. P. 32(a)(4)(C). Accordingly, his video deposition may be played at trial in lieu of live testimony.

Plaintiffs and the BLM made objections and counter-designations to DuPont's designations. The Court's rulings on these objections are set forth in the appended chart incorporated herein by reference. The Court notes that because of Mr. Steele's unavailability, the Court has applied a liberal reading of the foundation requirements for the admissibility of evidence under Fed. R. Evid., Rules 802(d)(2) and 803(6). The Court's approach is consistent with the mandate of Fed. R. Evid. 102, which states that the Rules:

shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

The Court's rulings are attached, and need not be further addressed.

### **ORDER**

In accordance with the Memorandum Decision filed above,

NOW THEREFORE IT IS HEREBY ORDERED, that the objections to the Thomas Steele deposition be resolved as set forth in the attachment incorporated

herein by reference.



DATED: **July 20, 2009**

A handwritten signature in black ink, reading "B. Lynn Winmill". The signature is written in a cursive style with a horizontal line underneath.

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

THOMAS STEELE<sup>1</sup>

DUPONT'S DESIGNATIONS	PLAINTIFFS' OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	DUPONT'S RESPONSES TO PLAINTIFFS' OBJECTIONS TO DESIGNATIONS AND EXHIBITS	PLAINTIFFS' COUNTER-DESIGNATIONS TO DUPONT'S DESIGNATIONS	DUPONT'S OBJECTIONS TO PLAINTIFFS' COUNTER-DESIGNATIONS	DUPONT'S REBUTTAL DESIGNATIONS
All <i>Resolved by counsel</i>	As to all, counsel's objections and related exchanges should be deleted, 402, 403	DuPont will remove all such objections and exchanges	Any objections included in counters should be deleted.	DuPont will remove all such objections and exchanges	
7:18-21					
13:21-14:7			14:8-13		
14:14-15:4					
15:17-16:2			16:15-21		
20:9-19					
39:25-40:16	402, 403, 602, no foundation for budget or yield projections, 802	— OR			36:18-37:11, 38:6-39:24
41:18-42:24			43:12-44:2		

<sup>1</sup> USA has not objected to any trial exhibits or deposition designations, nor has it provided any counter-designations.

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68:8-15  OR	402, 403, 602, 802; As to Ex. 41652, no foundation for basis, source or purpose of information, particularly information assessing crops, no foundation for bank-employee witness qualifications to assess quality or other crop issues, sources of specific information in document unspecified, vague as to "quality problems," 402, 403, 602, 701, 802.	As to foundational objections to credit summaries, generally: other designated testimony establishes these are business records and information contained therein obtained from JK representatives for purposes of extending credit; any hearsay from Plaintiffs contained therein is 801(d)(2).	58:3-59:11; 106:7-108:4; 26:12-27:10, 28:13-29:25; 30:8-21; 31:20-32:4; 32:15-33:1; 34:5-35:13 (statements not offered for truth, but notice to witness to context documents that do not mention Oust); 243:2-244:8	Statements all being offered for truth of matter asserted. 402/403 as to use for notice.  27:4-10 (802, 402/403 - non-testifying Plaintiff); 29:6-25 (802); 30:8-21, 31:20-32:4, 32:15-33:1, and 34:5-35:13 (802, 402/403)	SUSTAIN
80:23-81:13  OR	As to Ex. 41653, hearsay, no foundation for source, basis or purpose; 402, 403, 602, 802.	As to Ex. 41653: business records; 83:2-11 gives source/basis of info; 86:9-12, 86:16-87:5 provides purpose.			86:9-12, 86:16-87:5
83:2-11					
87:21-90:12  OR	Prejudicial and no foundation as to "dramatic," "lot of money," "material", "significant" and 2006 information, 402, 403, 602, 701, 802.	2006 information relevant to planned expansion			

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109:25-110:16 OR	As to testimony and Ex. 41656, see objections to page 68 and Ex. 41652 above.	See response to objections to 41652, above.			110:17-21
111:7-113:12 OR	Hearsay – see 112:15 (“primarily” – witness cannot identify source); 111:7-24 document speaks for itself.				
117:9-16 OR	Document speaks for itself; 402, 403, 602, 802				
123:13-22 OR	As to testimony and Ex. 41657, see objections to 41652 above. 124:19-125:7, document speaks for itself;	See response to objections to 41652, above.			
124:19-126:5 OR	125:3-22, no foundation for witness to identify “leaf roll” or consequences, 402, 602, 701, 802.				
128:8-129:2 OR	As to testimony and Ex. 41658, see objections to 41652 above. Also, no foundation regarding replants and weather in exhibit.	See response to objections to 41652, above.			
130:21-131:12 OR	Hearsay – cannot identify speaker (see 131:5-7); vague as to “quality” in exhibit, 402, 403, 602, 701, 802				
131:24-132:23 OR					



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133:4-20 OR-	As to testimony and Ex. 41659, see objections to 41652 above. 134:1-10, no foundation for "material crop quality problems" 402, 403, 602, 701, 802	See response to objections to 41652, above.			134:8-21
135:1-10 OR-					
136:13-137:6 OR	Cumulative; documents speak for themselves, no foundation for basis for exclusion of Oust, no foundation for witness qualifications to assess Oust damage. 402, 403, 602, 701, 802		137:7-9; 137:19-21	402/403 OR	
151:16-25 OR	As to testimony and Ex. 41660, see objections to 41652 above.	See response to objections to 41652, above.			
154:4-155:4 SUSTAIN	No foundation for loan carryovers or relationship to Oust; 402, 402, 602, 701.	Directly relevant to Spreader case standard.			
203:19-23 OR	204:9-17; document speaks for itself. 402, 403, 602, 802;				
204:9-17 OR	205:6-12, no foundation, 402; 602; 802				
205:6-12 SUSTAIN					

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212:20-214:5 <i>OR</i>	Cumulative; no foundation for calculations or comparison across documents; calls for opinion, 402, 403, 602, 701, 802.				
217:22-218:15 <i>OR</i>					
219:20-220:1 <i>OR</i>					

TRIAL EXHIBITS	PLAINTIFFS' OBJECTIONS	DUPONT'S RESPONSE TO PLAINTIFFS' OBJECTIONS
41652	Plaintiffs' integrated their exhibit objections into their objections to deposition testimony  <i>OR all</i>	DuPont's response to Plaintiffs' objections are contained within its response to Plaintiffs' deposition testimony objections.
41653		
41656		
41657		
41658		
41659		
41663		



