

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al,)	
)	Civ. No. 03-0049-E-BLW
Plaintiffs,)	
)	
v.)	MEMORANDUM DECISION
)	AND ORDER RE BLM'S
)	MOTION IN LIMINE
UNITED STATES OF AMERICA,)	
et al,)	
)	
Defendants.)	
_____)	

INTRODUCTION

The Court has before it a single motion in limine filed by the BLM. For the reasons expressed below, the Court will grant the motion.

ANALYSIS

The BLM seeks to exclude a single sentence in an ISDA letter to the BLM dated January 17, 2002. The sentence states the ISDA's conclusion that the application of Oust "to highly erodible lands . . . resulted in damage to agricultural crops" and is a violation of the Idaho Code, specifically § 22-3420(8).

The plaintiffs agree that the sentence should be excluded. DuPont argues generally that the factual findings of the ISDA should be admitted, but does not

take issue specifically with the single sentence at issue here. A conclusion by an agency that conduct violated a specific section of the Idaho Code would not appear to be a factual finding. Because DuPont has not identified a specific reason why the sentence at issue should not be excluded, and because plaintiffs agree that it should be excluded, the Court will exclude that sentence.

This motion shall be granted.

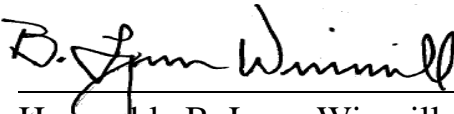
ORDER

In accordance with the terms of the Memorandum Decision above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to exclude filed by the BLM (docket no. 909) is GRANTED.



DATED: **May 5, 2009**


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