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

B.

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

DUPONT'S REBUTTAL DESIGNATIONS								36:18-37:11, 38:6-39:24			
DUPONT'S OBJECTIONS TO PLAINTIFFS' COUNTER- DESIGNATIONS	DuPont will remove all such objections and	exchanges									
PLAINTIFES' COUNTER- DESIGNATIONS TO DUPONT'S DESIGNATIONS DESIGNATIONS	Any objections included DuPont will remove all in counters should be such objections and	deleted.		14:8-13		16:15-21					43:12-44:2
DUPONT'S RESPONSES TO PLAINTIFFS' OBJECTIONS TO DESIGNATIONS AND EXHIBITS	DuPont will remove all such objections and	exchanges							201 201	•	
PLAINTIFES' OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	As to all, counsel's objections and related	exchanges should be deleted, exchanges 402, 403						402, 403, 602, no foundation	for budget or yield	projections, 802	
DUPONT'S DESIGNATIONS	l by All	Jr	7:18-21	13:21-14:7	14:14-15:4	15:17-16:2	20:9-19	39:25-40:16			41:18-42:24
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USA has not objected to any trial exhibits or deposition designations, nor has it provided any counter-designations.

DUPONT'S NOTICE OF INTENT TO INTRODUCE VIDEO DEPOSITION TESTIMONY OF THOMAS STEELE- 4

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THOMAS STEELE¹

DUPONT'S REBUTTAL DESIGNATIONS	- SUSTAIN 86:9-12, 86:16-87:5
DUPONT'S OBJECTIONS TO PLAINTIFFS' COUNTER- DESIGNATIONS	
PLAINTIFFS' COUNTER- DESIGNATIONS TO DUPONT'S DESIGNATIONS	58:3-59:11; 106:7- Statements all being 108:4; 26:12-27:10, offered for truth of mat 28:13-29:25; 30:8-21; asserted. 402/403 as to 31:20-32:4; 32:15-33:1; use for notice. 34:5-35:13 (statements asserted. 402/403 as to not offered for truth, but 27:4-10 (802, 402/403 not offered for truth, but 27:4-10 (802, 402/403 notice to witness to 29:6-25 (802); do not mention Oust); 32:15-33:1, and 34:5- 243:2-244:8 32:15-33:1, and 34:5- 35:13 (802, 402/403) 35:13 (802, 402/403)
DUPONT'S RESPONSES TO PLAINTIFES' OBJECTIONS TO DESIGNATIONS AND EXHIBITS	t Illy: aation 33:2- isis of 6- d
PLAINTIFFS' OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	402, 403, 602, 802; As to Ex. As to foundational41652, no foundation forhiformation, particularlyinformation, particularlyinformation, particularlyinformation, particularlyinformation, particularlyinformation, particularlyinformation, particularlyobjections to creditno foundation for bank-no foundation for bank-qualify or other crop issues,quality problems, 402, 403, Plaintiffs contained602, 701, 802.As to Ex. 41653, hearsay, noAs to Ex. 41653, hearsay, no602, 701, 802.802.802.802.Prejudicial and no foundationas to "dramatic," "lot ofrelevant to plannedmoney", "material","significant" and 2006information, 402, 403, 602,701, 802.
DUPONT'S DESIGNATIONS	68:8-15 68:8-15 68:8-15 80:23-81:13 80:23-81:13 87:21-90:12 0R

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DUPONT'S REBUTTAL DESIGNATIONS	110:17-21							
DUPONT'S OBJECTIONS TO PLAINTIFES' COUNTER- DESIGNATIONS								
PLAINTIFES' COUNTER- DESIGNATIONS TO DUPONT'S DESIGNATIONS								
DUPONT'S RESPONSES TO PLAINTHES' OBJECTIONS TO DESIGNATIONS AND EXHIBITS	See response to objections to 41652, above.			See response to objections to 41652, above.		See response to objections to 41652, above.		
PLAINTIFFS' OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	$\begin{array}{c c c c c c c c c c c c c c c c c c c $	("primarily" – witness cannot identify source); 111:7-24 document speaks for itself.	Document speaks for itself, 402, 403, 602, 802	As to testimony and Ex. 41657, see objections to 41652 above. 124:19-125:7, document sneaks for itself:	125:3-22, no foundation for witness to identify "leaf roll" or consequences, 402, 602, 701, 802.	As to testimony and Ex. 41658, see objections to 41652 above. Also, no	O(L) and weather in exhibit. Hearsay – cannot identify	speaker (see 131:5-7); vague as to "quality" in exhibit, 402, 403, 602, 701, 802
DUPONT'S DESIGNATIONS	0125-110:16	080	-117:9-16 0 C	123:13-22 0R -	124:19-126:5 OR -	128:8-129:2 0 C 130:21-131:12		131:24-132:23

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DUPONT'S REBUTTAL DESIGNATIONS	134:8-21			
DUPONT'S OBJECTIONS TO PLAINTIFES' COUNTER- DESIGNATIONS		402/403 OR		
PLAINTIFES' COUNTER- DESIGNATIONS TO DUPONT'S DESIGNATIONS		137:7-9; 137:19-21		
DUPONT'S RESPONSES TO PLAINTIFFS' OBJECTIONS TO DESIGNATIONS AND EXHIBITS	See response to objections to 41652, above.		See response to objections to 41652, above. Directly relevant to <u>Spreader</u> case standard.	
PLAINTIFFS' OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	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	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	As to testimony and Ex. 41660, see objections to 41652 above. No foundation for loan carryovers or relationship to Oust: 402, 402, 602, 701.	204:9-17; document speaks for itself, 402, 403, 602, 802; 205:6-12, no foundation, 402; 602; 802
DUPONT'S DESIGNATIONS	133:4-20 0R- 135:1-10 0R	136:13-137:6 OR	151:16-25 02 154:4-155:4 5USTPAIN	203:19-23 204:9-17 205:6-12 5USTAIN

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DUPONT'S PLAINTHFS' DESIGNATIONS OBJECTIONS TO DUPONT'S DESIGNATIONS AND EXHIBITS	212:20-214:5 Cumulative; no foundation \mathcal{O} \mathcal{O} \mathcal{O} for calculations or	217:22-218:15 comparison across $\partial R \rightarrow documents; cals for opinion.$	219:20-220:1 402, 403, 602, 701, 802.	

DUPONT'S RESPONSE TO PLAINTIFFS' OBJECTIONS	DuPont's response to	riamums objections are contained within its	response to Plaintiffs'	deposition testimony	objections.		
PLAINTIFES' OBJECTIONS DUPONT'S RESPONSE TO PLAINTIFES' OBJECTIONS OBJECTIONS	Plaintiffs' integrated their	exhibit objections into meir chiections to denosition	testimony				
TRIAL EXHIBITS	41652	41653	41656	41657	41658	41659	41663