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Jury finds agency, DuPont negligent in land case

BOISE, IDAHO

A federal jury has found the Bureau of Land Management and E.I. DuPont de Nemours and Co. negligent in the use of an herbicide blamed for damaging thousands of acres of crops across a broad swath of southern Idaho.

The jury found the BLM negligent in its decision to use of the powerful herbicide Oust to control invasive weeds on public lands burned by wildfires in 1999 and 2000.

The verdict reached Monday in U.S. District Court in Boise, also found DuPont responsible for selling a product that was defective and unreasonably dangerous and lacking adequate warnings.

The verdict was welcome news to some of the 130 farmers whose potatoes, sugar beets, grains and corn crops were destroyed for several years when winds blew the powdery herbicide on to their nearby farmland.

"This is very good" news, said Perry VanTassell, who farms north of the small town of Paul.

Plaintiff's attorney Steven Andersen said the verdict settles the fundamental legal issues of the case and clears the way for the damage phase.

The farmers allege they lost millions of dollars worth of crops from 2000-2004 because the broad spectrum herbicide either killed plants or made land barren. The croplands have since recovered.

"These are people who were seriously harmed and seriously wronged, and I think the jury agreed," Andersen said.

During the trial, DuPont claimed it had done nothing wrong and that Oust had been used correctly on millions of acres nationwide. Company attorneys blamed federal land managers for misusing the product, which warns against contact with crops.

Government lawyers defended how and where the BLM applied Oust but argued the product didn't perform as advertised.

Justice Department lawyer Christina Faulk, representing the BLM, declined to comment on the verdict, citing agency rules.

J. Walter Sinclair, attorney for DuPont, said the verdict is disappointing, considering Oust's proven track record for more than 22 years. An appeal is certain, he said.

"DuPont takes its product stewardship very seriously," Sinclair said. "All of its crop protection products, including Oust, when used according to label directions meet global regulation standards for safety and use.

The jury deliberated for nearly three days before reaching its unanimous conclusions, ending a trial that lasted more than six weeks by finding DuPont 60 percent at fault and the BLM 40 percent to blame.

The jury did not find the contractors hired by the BLM to apply Oust responsible in any way for the damage.