UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

EDWARD BRASLEY, *et. al*, Plaintiffs, v. FEARLESS FARRIS SERVICE STATIONS, INC., *et al.*, Defendants.	Case No. 1:08-cv-00173-BLW **ORDER**

The Court appointed Special Master Huss to provide the Court with a Report and Recommendation regarding the proper interest rate to be used in calculating lump sum distribution amounts, and what those final lump sum amounts should be. Mr. Huss has provided the Court with that report. Dkt. 303. The Court has reviewed the report *de novo*.

Upon review of the report, the Court will adopt the report as its own finding. Mr. Huss explained that when he issued his earlier report, which the Court adopted, it was his intent that lump sum payments of benefits due under the 1995 Plan would be calculated consistently with the calculations of such benefits previously submitted by Mr. Turpin in his affidavits. *Second Huss Report*, p. 4, Dkt. 303. Mr. Huss noted that Mr. Turpin's prior

calculations of minimum lump sum benefits were made in accordance with the interest rates required under Code Section 417(e). *Id.* Mr. Huss then explained that his report specifically referenced Appendix F to the actuarial valuation report attached to Mr. Turpin's 25 August 12, 2013 affidavit, which provided an estimate of lump sum distributions for certain of the Plaintiffs based upon an assumed plan termination date of August 1, 2013 and determined in accordance with Code Section 417(e). *Id.* Thus, it was Mr. Huss's intent that lump sum benefit payments be calculated in accordance with the interest rates specified in Code Section 417(e) for minimum lump sum distributions. The Court concurs that the lump sum benefit payments be calculated in accordance with the rates in Code Section 417(e).

Additionally, the Court asked Mr. Huss to recommend what the final lump sum amounts should be. He recommended that they be the amounts shown in Exhibits C, D and E to the September 22, 2014 affidavit of Michelle M. Soderland because they most closely correspond to the intent of his earlier report, which the Court adopted. Dkt. 295. The Court agrees and will adopt these amounts as the final lump sum amounts.

ORDER

IT IS ORDERED:

1. After a *de novo* review, the Court adopts Mr. Huss's Second Report and Recommendation as its findings and conclusions. The Court concurs that the lump sum benefit payments shall be calculated in accordance with the rates in Code Section 417(e). The amounts shown in Exhibits C, D and E to

the September 22, 2014 affidavit of Michelle M. Soderland shall be used as the final lump sum amounts.

DATED: July 13, 2015

B. Lynn Winmill
Chief Judge
United States District Court