

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 16-23017-CIV-GAYLES/OTAZO-REYES**

**SOUTHERN ALLIANCE FOR CLEAN  
ENERGY and TROPICAL AUDUBON  
SOCIETY, INC.,**

**Plaintiffs,**

v.

**FLORIDA POWER & LIGHT  
COMPANY,**

**Defendant.**

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**ORDER AFFIRMING AND ADOPTING REPORT OF MAGISTRATE JUDGE**

**THIS CAUSE** comes before the Court on the Report of Magistrate Judge [ECF No. 62]. Plaintiffs filed a citizen suit under the Clean Water Act alleging Defendant is in violation of its National Pollutant Discharge Elimination System (NPDES) permit [ECF No. 1]. Defendant filed a Motion to Dismiss [ECF No. 37] (“Motion”), arguing that Plaintiffs lacked standing to pursue their claims. The Motion was referred to Judge Otazo-Reyes, pursuant to 28 U.S.C. § 636(b)(1)(B), for a Report and Recommendation. [ECF No. 54]. After a hearing, Judge Otazo-Reyes recommended denying the Motion, finding that Plaintiffs’ claims are redressable and did not become moot by virtue of the state administrative actions. [ECF No. 62].

A district court may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objection is made are accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed.

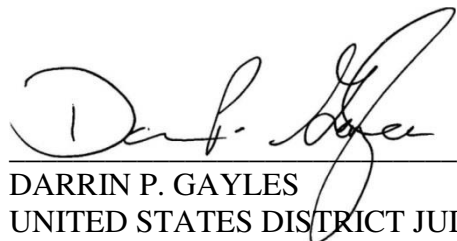
R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

This Court, having held an additional hearing on the Motion and having conducted a *de novo* review of the record, agrees with Judge Otazo-Reyes's well-reasoned analysis.

Accordingly, after careful consideration, it is **ORDERED AND ADJUDGED** as follows:

- (1) Judge Otazo-Reyes's Report and Recommendation [ECF No. 62] is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference.
- (2) Defendant's Motion to Dismiss [ECF No. 37] is **DENIED**.
- (3) Within twenty (20) days of the date of this Order, the parties shall file supplemental briefs with the Court addressing whether the Florida Department of Environmental Protection is a necessary party to this action and any impediments to its joinder.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 17th day of November, 2017.

  
DARRIN P. GAYLES  
UNITED STATES DISTRICT JUDGE