

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Chief Judge Wiley Y. Daniel**

Civil Action No. 09-cv-01974-WYD-MEH

REGINALD VANCE CALVERT,

Plaintiff,

v.

SIEMEN WATER TECHNOLOGIES CORP.,  
MR. RODNEY CUMMINS,  
MR. PATRICK CONDON, and  
MS. EVELYN OLSON,

Defendants.

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**ORDER AFFIRMING AND ADOPTING RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

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THIS MATTER is before the Court on Motion to Dismiss Defendants Patrick Condon, Rodney Cummins and Evelyn Olson filed December 7, 2009 [d/e 18]. This motion was referred to Magistrate Judge Michael E. Hegarty for a recommendation by Order of Reference dated June 25, 2009. An Recommendation was issued on January 25, 2010, and is incorporated herein by reference [d/e 37]. See 28 U.S.C. § 636(b)(1)(B); FED. R. CIV. P. 72(b).

Magistrate Judge Hegarty recommends therein that Defendants' motion be denied as moot. Magistrate Judge Hegarty also advised the parties that specific written objections were due within ten (14) days after being served with a copy of the Recommendation. (Rec., p. 1, n. 1 [d/e 37]. Despite this advisement, no objections were filed by any party to

the Magistrate Judge's Recommendation.<sup>1</sup>

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I agree with Magistrate Judge Hegarty that the motion should be denied as moot given the filing of a Second Amended Complaint. Accordingly, it is hereby

ORDERED that the Recommendation of United States Magistrate Judge dated January 25, 2010, is **AFFIRMED and ADOPTED**. In accordance therewith, it is

FURTHER ORDERED that Defendants' Motion to Dismiss Defendants Patrick Condon, Rodney Cummins and Evelyn Olson filed December 7, 2009 [d/e 18] is **DENIED AS MOOT**.

Dated: March 2, 2010

BY THE COURT:

s/ Wiley Y. Daniel \_\_\_\_\_  
Wiley Y. Daniel  
Chief United States District Judge

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<sup>1</sup>No objections having been filed, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). Nonetheless, though not required to do so, I review the Recommendation to "satisfy [my]self that there is no clear error on the face of the record." See FED. R. CIV. P. 72(b) Advisory Committee Notes.