

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.

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.

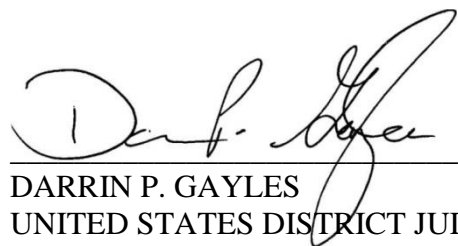
R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781,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