

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

**WAIBEL RANCHES, LLC**, an Oregon  
Limited Liability Company, **WAIBEL  
PROPERTIES, LLC**, an Oregon Limited  
Liability Company,

Plaintiffs,

v.

**UNITED STATES OF AMERICA,**

Defendant.

Case No. 2:15-cv-02071-HL

OPINION AND ORDER

**MOSMAN, J.,**

On April 14, 2022, Magistrate Judge Andrew Hallman issued his Findings and Recommendation [ECF 149] (“F&R”), recommending that I grant the United States’ Motion to Dismiss [ECF 110]. F&R at 20–21. Plaintiffs Waibel Ranches and Waibel Properties (jointly, “Waibel”) filed timely objections [ECF 155], to which the United States responded [ECF 161]. Without leave to do so, Waibel filed a reply to the United States’ response [ECF 162]. Upon review, I agree with Judge Hallman.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or

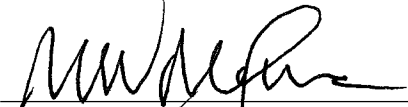
recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Hallman's recommendation and I ADOPT the F&R [ECF 149] as my own opinion. Accordingly, I GRANT the United States' Motion to Dismiss [ECF 110]. I dismiss Waibel's first, fifth, and sixth claims with prejudice. I dismiss Waibel's second, third, and fourth claims without prejudice.

IT IS SO ORDERED.

DATED this 14 day of July, 2022.

  
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MICHAEL W. MOSMAN  
Senior United States District Judge