IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

LNG DEVELOPMENT COMPANY, LLC, dba OREGON LNG,

Plaintiff,

v.

PORT OF ASTORIA, an Oregon Port; DAN HESS, an individual; LARRY PFUND, an individual; WILLIAM HUNSINGER, an individual; JACK BLAND, an individual; and FLOYD HOLCOM, an individual,

Defendants.

No. CV 09-847-JE

OPINION & ORDER

MOSMAN, J.,

On December 29, 2009, Magistrate Judge Jelderks issued Findings and Recommendation ("F&R") (#109) in the above-captioned case recommending that I DENY defendants' Second Motion to Dismiss (#86). Defendants filed objections (#119) to the F&R and plaintiff responded (#123).

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 of 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, under a de novo or 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 of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Jelderks's recommendation, and I ADOPT the F&R (#109) as my own opinion. Defendants' Second Motion to Dismiss (#86) is DENIED.

IT IS SO ORDERED.

DATED this 16 day of February, 2010.

MICHAEL W. MOSMAN
United States District Court