IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

BARBARA JEAN FLORES,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

Defendant.

Case No. 3:11-cv-01143-JE

OPINION AND ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

SIMON, District Judge.

Magistrate Judge John Jelderks filed Findings and Recommendations in this case on December 10, 2012. Dkt. 23. Judge Jelderks recommended that the Court enter a judgment reversing the Commissioner's decision and remanding this action to the agency for an award of benefits. No party has filed objections.

Under the Federal Magistrates Act, the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, "[t]here is no indication that Congress, in enacting [the Magistrates Act] intended to require a district judge to review a magistrate's report[.]" *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en*

banc) (court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise").

Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

No objections having been made, the court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Jelderks's Findings and Recommendations for clear error on the face of the record. No such error is apparent. Accordingly, the court **ADOPTS** Magistrate Judge Jelderks's Findings and Recommendations, Dkt. 23.

IT IS SO ORDERED.

Dated this 10th day of January, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge