

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Michelle Irizarry, Valerie Williams,
Joanne Nixon, Joann Robinson, and
Brandon Litt,

Plaintiffs,

v.

Case No. 6:19-cv-00268

Orlando Utilities Commission; Lennar
Corporation; Lennar Homes, LLC; U.S.
Home Corporation; Avalon Park Group
Management, Inc., d/b/a/ Avalon Park
Group; Beat Kahli; Boral Resources, LLC;
and Preferred Materials, Inc.,

Defendants.

**DEFENDANT ORLANDO UTILITIES COMMISSION'S
ANSWER AND AFFIRMATIVE DEFENSES
TO AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Defendant, Orlando Utilities Commission (“OUC”), answers Plaintiffs’ Amended Class Action Complaint, filed on March 27, 2019 (Doc. 43), and as to each correspondingly numbered paragraph states as follows:

RESPONSES TO NUMBERED PARAGRAPHS¹

1. Denied; admitted only that (i) OUC partially owns and operates the two coal-fired electric generating units at the Curtis H. Stanton Energy Center (“Stanton Power

¹ The Complaint contains headings and subheadings. To the extent that a response may be required, OUC denies every allegation in each Complaint heading and subheading.

Plant”), and (ii) Michelle Irizarry, Valerie Williams, Joanne Nixon, Joann Robinson, and Brandon Litt brought this action.

2. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

3. Denied.

4. Denied.

5. Without knowledge or information.

6. Denied.

7. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

8. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

9. Denied as to first two sentences; admitted only that (i) OUC has at various times entered into agreements with Boral Resources LLC or its predecessors (collectively, Boral), for Boral to perform certain services at Stanton, including the management of various waste by-products and landfill operations, and that contemplate the marketing and

sale by Boral of suitable waste by-products; (ii) such agreements provide for a cost and revenue sharing arrangement between the parties; and (iii) some coal combustion residuals are transported by enclosed pneumatic tanker over internal site roads subject to dust control measures for off-site delivery. Otherwise without knowledge or information.

10. Without knowledge or information.

11. Without knowledge or information.

12. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

13. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

14. Denied.

15. Denied.

16. Denied; admitted only that some on-site samples of groundwater in the vicinity of the Stanton Power Plant's coal combustion residuals landfill have detected gross alpha radiation at various times.

17. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment; admitted only that some

on-site samples of groundwater in the vicinity of the Stanton Power Plant's coal combustion residuals landfill have detected gross alpha radiation at various times.

18. Without knowledge or information.

19. Denied.

20. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

21. Without knowledge or information.

22. Without knowledge or information.

23. Without knowledge or information.

24. Without knowledge or information.

25. Without knowledge or information.

26. Denied; admitted only that OUC is a statutory commission created by the Florida legislature governed by a five-member commission (including the Mayor of Orlando) that provides electric, water, chilled water and/or lighting services to more than 264,000 customers in Orlando, St. Cloud, and parts of unincorporated Orange and Osceola counties.

27. Admitted.

28. Without knowledge or information.

29. Without knowledge or information.

30. Without knowledge or information.

31. Without knowledge or information.

32. Without knowledge or information.

33. Without knowledge or information.

34. Without knowledge or information.

35. Without knowledge or information.

36. Without knowledge or information.

37. Without knowledge or information.

38. Admitted only that OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the management of various waste by-products and landfill operations, and that contemplate the marketing and sale by Boral of suitable waste by-products. Otherwise without knowledge or information.

39. Without knowledge or information.

40. Without knowledge or information.

41. Without knowledge or information.

42. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

43. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

44. Without knowledge or information.

45. Without knowledge or information.

46. Denied as to OUC; admitted only that (i) Plaintiffs originally filed this action in the Circuit Court of Florida's Ninth Judicial Circuit, and (ii) the federal district court has jurisdiction over Plaintiffs' claims against OUC. Otherwise without knowledge or information.

47. Denied; admitted only that (i) OUC removed this action, and (ii) the federal district court has jurisdiction under the Price Anderson Act over Plaintiffs' claims against OUC based on Plaintiffs' allegations, which allegations OUC denies.

48. Denied; admitted only that the statutory language speaks for itself.

49. Denied; admitted only that the applicable law speaks for itself.

50. Denied; admitted only that (i) Plaintiffs have alleged they have incurred damages arising out of or resulting from a nuclear incident and (ii) the federal district court has jurisdiction over Plaintiffs' claims against OUC based on Plaintiffs' allegations.

51. Denied; admitted only that venue is proper in this Court.

52. Denied, as this paragraph consists of a legal conclusion to which no response is required.

53. Denied; admitted only that OUC is identified as "The Reliable One" and that it provides electric, water, chilled water and/or lighting services to more than 246,000 customers in Orlando, St. Cloud, and parts of unincorporated Orange and Osceola counties, serving a population of more than 435,000.

54. Denied; admitted only that OUC partially owns and operates the Stanton Power Plant located in east Orange County approximately twelve miles southeast of Orlando and that the Stanton Power Plant can generate more than 1,800 megawatts of

electricity through a combination of coal, natural gas, landfill gas and solar generation facilities.

55. Denied; admitted only that the Stanton Power Plant includes (i) two natural gas-fired energy generating units that are jointly owned with NextEra Energy, Inc., Kissimmee Utility Authority, and Florida Municipal Power Agency, and (ii) two coal-fired units (“Unit 1” and “Unit 2”) and coal combustion residual storage and disposal facilities associated with these units.

56. Denied; admitted only that OUC’s Title V permit for the Stanton Power Plant describes Unit 1 as consisting of “a Babcock and Wilcox boiler/steam generator (Model RB 611) and steam turbine, which drives a generator with a nameplate rating of 468 megawatts.”

57. Denied; admitted only that OUC’s Title V permit for the Stanton Power Plant describes Unit 2 as consisting of “a Babcock and Wilcox boiler/steam generator (Model RB 621) and steam turbine, which drives a generator with a nameplate rating of 468 megawatts.”

58. Denied; admitted only that OUC’s Title V permit for the Stanton Power Plant describes each boiler/steam generator as a “wall-fired dry-bottom unit.”

59. Denied; admitted only that planning for development of Stanton Power Plant’s Units 1 and 2 began in the late 1970s and early 1980s in conjunction with engineering consultants in order to accommodate, in part, rapid growth, new environmental regulations, and the need for fuel diversity.

60. Denied; admitted only that planning for development of Stanton Power Plant's Units 1 and 2 began in the late 1970s and early 1980s in conjunction with engineering consultants in order to accommodate, in part, rapid growth, new environmental regulations, and the need for fuel diversity.

61. Denied; admitted only that (i) planning for development of Stanton Power Plant's Units 1 and 2 began in the late 1970s and early 1980s in conjunction with engineering consultants in order to accommodate, in part, rapid growth, new environmental regulations, and the need for fuel diversity, and (ii) Unit 1 began its commercial operation in 1987 and Unit 2 began its commercial operation in 1996.

62. Denied; admitted only that OUC operates Units 1 and 2 and that it performs or contracts with others to perform certain other aspects of operations at the Stanton Power Plant, including transportation and offloading of coal for use in Units 1 and 2, storage and handling of coal for use in Units 1 and 2, and storage, handling, and disposition of solid fuels, coal, coal ash, coal combustion residuals, limestone, gypsum, and slag used in or generated from Units 1 and 2.

63. Denied; admitted only that Stanton has been issued site certifications under the Power Plant Siting Act and that such certifications contain operating conditions.

64. Denied; admitted only that OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the operation and maintenance of the Flue Gas Desulfurization Waste Treatment and Disposal System, which includes a Sludge Conditioning Facility that receives ash from off-site sources.

65. Denied; admitted only that the Stanton Power Plant's address is 5100 S. Alafaya Trail, Orlando, FL 32831, and that the Plant abuts the Hal Scott Regional Preserve and Park.

66. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

67. Denied.

68. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

69. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

70. Admitted only that the regulatory or guidance materials identified by Plaintiffs exist and that those documents speak for themselves. Otherwise without knowledge or information.

71. Admitted only that the regulatory or guidance materials identified by Plaintiffs exist and that those documents speak for themselves. Otherwise without knowledge or information.

72. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

73. Admitted only that the regulatory or guidance materials identified by Plaintiffs exist and that those documents speak for themselves. Otherwise without knowledge or information.

74. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

75. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Admitted only that the regulatory or guidance materials identified by Plaintiffs exist and that those documents speak for themselves. Otherwise without knowledge or information.

76. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Admitted only that the regulatory or guidance materials identified by Plaintiffs exist and that those documents speak for themselves. Otherwise without knowledge or information.

77. Without knowledge or information.

78. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is

appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

79. Denied.

80. Denied.

81. Denied; admitted only that coal can contain varying levels of naturally occurring radioactive materials, organics, and metals.

82. Denied; admitted only that coal combustion residuals are the byproducts remaining after coal is burned, including by power plants to produce electricity.

83. Denied; admitted only that when coal is burned, ignitable compounds, which are largely organics, are converted into energy, i.e., heat, which in turn boils water to create steam that powers the rotation of turbines to create electricity.

84. Denied; admitted only that coal combustion residuals are the byproducts remaining after coal is burned by power plants to produce electricity.

85. Without knowledge or information.

86. Denied; admitted only that (i) some wetted, fixated coal combustion residuals are transported by truck over internal site roads subject to dust control measures for disposal at the on-site permitted CCR landfill, and (ii) other coal combustion residuals are transported by enclosed pneumatic tanker over internal site roads subject to dust control measures for off-site delivery.

87. Denied; admitted only that coal is stored in open, shaped piles on Stanton Power Plant property.

88. Denied.

89. Denied.

90. Denied; admitted only that some on-site samples of groundwater in the vicinity of the Stanton Power Plant's coal combustion residual landfill have detected gross alpha radiation at various times.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied; admitted only that (i) Boral conducts daily observations for the presence of dust from the on-site roadways or landfill and initiates additional dust mitigation measures, including additional water application and use of sweeper trucks, as appropriate, and (ii) records are maintained of such activities.

97. Denied; admitted only that (i) OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the management of various waste by-products and landfill operations, and that contemplate the marketing and sale by Boral of suitable waste by-products, and (ii) the minutes of the January 26, 2016 OUC Commission meeting speak for themselves.

98. Denied; admitted only that (i) OUC has at various times entered into contracts with Boral for Boral to perform certain services at Stanton, including the management of various waste by-products and landfill operations, and that contemplate the marketing and sale by Boral of suitable waste by-products; (ii) such agreements provide

for a cost and revenue sharing arrangement between the parties; and (iii) the minutes of the January 26, 2016 OUC Commission meeting speak for themselves.

99. Denied; admitted only that (i) Boral conducts daily observations for the presence of dust from the on-site roadways or landfill and initiates additional dust mitigation measures, including additional water application and use of sweeper trucks, as appropriate, and (ii) records are maintained of such activities.

100. Denied; admitted only that (i) Boral conducts daily observations for the presence of dust from the on-site roadways or landfill and initiates additional dust mitigation measures, including additional water application and use of sweeper trucks, as appropriate, and (ii) records are maintained of such activities.

101. Denied; admitted only that records are maintained of observing the presence of dust from the on-site roadways or landfill and initiating additional dust mitigation measures, and upon information and belief, Plaintiffs appear to have selectively combined and presented certain information from such records into Plaintiffs' table in Paragraph 101.

102. Denied; admitted only that OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the operation and maintenance of the Flue Gas Desulfurization Waste Treatment and Disposal System, which includes a Sludge Conditioning Facility that receives ash from off-site sources.

103. Without knowledge or information.

104. Denied; admitted only that (i) OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the

management of various waste by-products and landfill operations, and that contemplate the marketing and sale by Boral of suitable waste by-products, and (ii) such agreements provide for a cost and revenue sharing arrangement between the parties.

105. Denied.

106. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

107. Denied.

108. Denied; admitted only that OUC has purchased some coal for the Stanton Power Plant produced from mines located in the Illinois Basin.

109. Denied; admitted only that the minutes of the January 23, 2018 OUC Commission meeting speak for themselves and contain a statement attributed to Jan Aspuru that in 2004 OUC and CSX entered into a 13-year term to transport approximately 2 million tons of coal annually from the Illinois Basin to Stanton.

110. Without knowledge or information.

111. Without knowledge or information.

112. Denied; admitted only that OUC performed planning and permitting activities for construction of coal-fired electric generating units at the Stanton Power Plant in the 1980s.

113. Denied; admitted only that (i) OUC received a permit to construct and operate Units 1 and 2 from the Florida Department of Environmental Protection, and (ii)

that permit, Permit No. Federal-PSD-FL-084 dated May 14, 1982, speaks for itself and contains operational requirements.

114. Denied; admitted only that (i) OUC received a permit to construct and operate Units 1 and 2 from the Florida Department of Environmental Protection, and (ii) that permit, Permit No. Federal-PSD-FL-084 dated May 14, 1982, speaks for itself and contains operational requirements.

115. Denied; admitted only that the Stanton Power Plant began coal-burning operations at Unit 1 in 1987 and at Unit 2 in 1996.

116. Without knowledge or information.

117. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

118. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

119. Without knowledge or information.

120. Without knowledge or information.

121. Without knowledge or information.

122. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

123. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

124. Without knowledge or information.

125. Without knowledge or information.

126. Without knowledge or information.

127. Without knowledge or information.

128. Without knowledge or information.

129. Without knowledge or information.

130. Denied; admitted only that Storey Park and Moss Park are located to the south of the Stanton Power Plant.

131. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

132. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

133. Without knowledge or information.

134. Without knowledge or information.

135. Without knowledge or information.

136. Without knowledge or information.

137. Without knowledge or information.

138. Without knowledge or information.

139. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

140. Without knowledge or information.

141. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

142. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

143. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

144. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

145. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

146. Without knowledge or information.

147. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

148. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

149. Without knowledge or information.

150. Without knowledge or information.

151. Without knowledge or information.

152. Without knowledge or information.

153. Without knowledge or information.

154. Denied.

155. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

156. Denied.

157. Denied.

158. Denied.

159. Denied.

160. Denied.

161. Without knowledge or information.

162. Without knowledge or information.

163. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

164. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

165. Without knowledge or information.

166. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

167. Without knowledge or information.

168. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

169. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

170. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

171. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

172. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

173. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

174. Denied.

175. Denied.

176. Denied that Plaintiffs or any putative class members are entitled to any damages or injunctive relief. Otherwise without knowledge or information.

177. Denied.

178. Denied.

179. Denied.

180. Denied.

181. Without knowledge or information.

182. Without knowledge or information.

183. Without knowledge or information.

184. Without knowledge or information.

185. Without knowledge or information.

186. Without knowledge or information.

187. Without knowledge or information.

188. Without knowledge or information.

189. Without knowledge or information.

190. Without knowledge or information.

191. Without knowledge or information.

192. Without knowledge or information.

193. Without knowledge or information.

194. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

195. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

196. Without knowledge or information.

197. Without knowledge or information.

198. Without knowledge or information.

199. Without knowledge or information.

200. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

201. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

202. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

203. Denied.

204. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

205. Without knowledge or information.

206. Without knowledge or information.

207. Without knowledge or information.

208. Without knowledge or information.

209. Without knowledge or information.

210. Denied.

211. Without knowledge or information.

212. Without knowledge or information.

213. Without knowledge or information.

214. Without knowledge or information.

215. Without knowledge or information.

216. Without knowledge or information.

217. Without knowledge or information.

218. Without knowledge or information.

219. Without knowledge or information.

220. Without knowledge or information.

221. Without knowledge or information.

222. Without knowledge or information.

223. Without knowledge or information.

224. Without knowledge or information.

225. Without knowledge or information.

226. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

227. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is

appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

228. Without knowledge or information.

229. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

230. Without knowledge or information.

231. Without knowledge or information.

232. Without knowledge or information.

233. Without knowledge or information.

234. Without knowledge or information.

235. Without knowledge or information.

236. Without knowledge or information.

237. Without knowledge or information.

238. Without knowledge or information.

239. Without knowledge or information.

240. Without knowledge or information.

241. Without knowledge or information.

242. Without knowledge or information.

243. Without knowledge or information.

244. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area or that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

245. Without knowledge or information.

246. Without knowledge or information.

247. Without knowledge or information.

248. Without knowledge or information.

249. Without knowledge or information.

250. Without knowledge or information.

251. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

252. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

253. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

254. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

255. Denied.

256. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

257. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area and that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

258. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area and that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

259. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

260. Denied that this action is appropriate for class certification or any form of class treatment. Otherwise without knowledge or information.

261. Denied.

262. Denied.

263. Denied.

264. Denied; admitted only that the federal district court has jurisdiction over Plaintiffs' claims against OUC under the Price Anderson Act based on Plaintiffs' allegations and that the statutory language speaks for itself.

265. Denied; admitted only that the alleged conduct took place in Florida and that the statutory language speaks for itself.

266. Denied; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT I—STRICT LIABILITY UNDER FLORIDA STATUTE § 376.313 AGAINST
THE OUC

267. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

268. Denied.

269. Admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

270. Denied; admitted only that OUC is a “person” under Fla. Stat. 376.301 and that the statutory language speaks for itself.

271. Denied.

272. Denied.

273. Denied.

274. Denied.

275. Denied.

276. Denied.

277. Denied; admitted only that the statutory language speaks for itself.

278. Denied; admitted only that OUC’s 1982 Unit 1 Site Certification Application speaks for itself.

279. Denied; admitted only that OUC’s 1982 Unit 1 Site Certification Application speaks for itself.

280. Denied.

281. Denied.

282. Denied; admitted only that the document cited to by Plaintiffs at the identified hyperlink speaks for itself.

283. Denied; admitted only that the document cited to by Plaintiffs at the identified hyperlink speaks for itself.

284. Denied.

285. Denied; admitted only that the document cited to by Plaintiffs at the identified hyperlink speaks for itself.

286. Denied.

287. Denied; admitted only that the March 1987 Management Plan for the Combustion Waste Storage Area of OUC Stanton Energy Center, prepared by Conversion Systems, Inc. speaks for itself.

288. Denied; admitted only that the August 30, 2017 Conditions of Certification for OUC Stanton Energy Center, issued by the Florida Department of Environmental Protection speaks for itself.

289. Denied; admitted only that the August 30, 2017 Conditions of Certification for OUC Stanton Energy Center, issued by the Florida Department of Environmental Protection speaks for itself.

290. Denied; admitted only that the February 3, 2017 Landfill Operation and Maintenance Plan for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc., speaks for itself.

291. Denied; admitted only that the May 5, 2011 Operation Plan for Combustion Waste Management Areas for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc. speaks for itself.

292. Denied; admitted only that the April 8, 2011 correspondence by Florida Department of Environmental Protection to OUC, and the November 1, 2011 correspondence by Florida Department of Environmental Protection to OUC speak for themselves.

293. Denied; admitted only that the May 5, 2011 Operation Plan for Combustion Waste Management Areas for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc. speaks for itself.

294. Denied; admitted only that the January 19, 2011 Updated Management Plan for Combustion Waste Storage Area for OUC Stanton Energy Center, prepared by Ardaman & Associates, speaks for itself.

295. Denied.

296. Denied.

297. Denied.

298. Denied; admitted only that the February 3, 2017 Landfill Operation and Maintenance Plan for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc. speaks for itself.

299. Denied.

300. Denied; admitted only that the applicable law speaks for itself.

301. Denied; admitted only that the regulatory language speaks for itself.

302. Denied; admitted only that the February 3, 2017 Landfill Operation and Maintenance Plan for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc. speaks for itself.

303. Denied.

304. Denied; admitted only that the February 3, 2017 Landfill Operation and Maintenance Plan for OUC Stanton Energy Center, prepared by Ardaman & Associates, Inc. speaks for itself.

305. Denied.

306. Admitted only that the statutory language and the applicable law speak for themselves; otherwise denied, as this paragraph consists of a legal conclusion to which no response is required.

COUNT II—INVERSE CONDEMNATION AGAINST OUC

307. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

308. Denied; admitted only that the applicable law speaks for itself regarding inverse condemnation.

309. Denied.

310. Denied.

311. Denied, as this paragraph consists of a legal conclusion to which no response is required.

COUNT III—STRICT LIABILITY UNDER FLORIDA STATUTE § 376.313
AGAINST LENNAR

312. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

313. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

314. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

315. Without knowledge or information.

316. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

317. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

318. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

319. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT III²—STRICT LIABILITY UNDER FLORIDA STATUTE § 376.313
AGAINST LENNAR HOMES

320. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

321. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

322. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

323. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

324. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

325. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

² Plaintiffs appear to have identified both the third and fourth counts by sequence in their Amended Complaint as “Count III.”

326. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

327. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT IV—STRICT LIABILITY UNDER FLORIDA STATUTE § 376.313
AGAINST U.S. HOME

328. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

329. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

330. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

331. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

332. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

333. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

334. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

335. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT V—LIABILITY UNDER FLORIDA STATUTE § 376.313 AGAINST
AVALON PARK GROUP AND BEAT KAHLI

336. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

337. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

338. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

339. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

340. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

341. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

342. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

343. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT VI—LIABILITY UNDER FLORIDA STATUTE § 376.313 AGAINST
BORAL RESOURCES LLC

344. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

345. Denied; admitted only that OUC has at various times entered into agreements with Boral for Boral to perform certain services at Stanton, including the operation and maintenance of the Flue Gas Desulfurization Waste Treatment and Disposal System which includes a Sludge Conditioning Facility.

346. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

347. Admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

348. Admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

349. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

350. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

351. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory and regulatory language speaks for itself. Otherwise without knowledge or information.

352. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself and that Plaintiffs reallege and reaffirm their allegations in paragraphs 275 - 305 to which OUC restates its responses. Otherwise without knowledge or information.

353. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that (i) OUC has at various times entered into agreements with Boral for Boral to perform certain

services at Stanton, including the management of various waste by-products and landfill operations, and that contemplate the marketing and sale by Boral of suitable waste by-products, and (ii) the statutory language speaks for itself. Otherwise without knowledge or information.

354. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

COUNT VII—LIABILITY UNDER FLORIDA STATUTE § 376.313 AGAINST
PREFERRED MATERIALS, INC.

355. Admitted that Plaintiffs reallege and reaffirm their allegations in paragraphs 1 - 266 to which OUC restates its responses.

356. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area. Otherwise without knowledge or information.

357. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

358. Admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

359. Admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

360. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

361. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

362. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory and regulatory language speaks for itself. Otherwise without knowledge or information.

363. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

364. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

365. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

366. Denied that the Stanton Power Plant has contaminated, harmed, damaged, or injured any properties or persons within the purported class area; admitted only that the statutory language speaks for itself. Otherwise without knowledge or information.

TOLLING OF LIMITATIONS

367. Denied.

JURY TRIAL DEMAND AND PRAYER FOR RELIEF

Denied that Plaintiffs are entitled to judgment or any relief requested in Plaintiff's Amended Complaint. OUC hereby demands a trial by jury on all matters triable as of right by a jury.

GENERAL DENIAL

To the extent any allegation in Plaintiffs' Amended Complaint—including in footnotes, headings, subheadings, diagrams, exhibits, or subparagraphs—has not been admitted or specifically responded to, OUC denies such allegation.

AFFIRMATIVE DEFENSES

Without assuming any burden it would not otherwise bear, OUC asserts the following affirmative defenses:

**First Affirmative Defense
(Florida Statute Section 403)**

Plaintiffs' claims under Section 376.313, Florida Statutes, fail because, among other things, the alleged discharges on which Plaintiffs' claims are based are authorized under Section 403.

**Second Affirmative Defense
(Florida Statute Section 308)**

Plaintiffs' relief under Count I is barred, in whole or in part, by Section 376.308, Florida Statutes.

**Third Affirmative Defense
(Waiver)**

Plaintiffs' relief is barred, in whole or in part, by the doctrine of waiver.

**Fourth Affirmative Defense
(Estoppel)**

Plaintiffs' relief is barred by the doctrine of estoppel.

**Fifth Affirmative Defense
(Laches)**

Plaintiffs' relief is barred, in whole or in part, by the doctrine of laches.

**Sixth Affirmative Defense
(Statute of Limitations)**

Plaintiffs' relief is barred, in whole or in part, by the applicable statute of limitations.

**Seventh Affirmative Defense
(No Tolling)**

Plaintiffs' relief is barred because Plaintiffs cannot prove the requisite elements of tolling, or any other theory under which Plaintiffs seek to toll the applicable statute of limitations.

**Eighth Affirmative Defense
(Notice)**

Plaintiffs' relief is barred because Plaintiffs had prior knowledge of all available information and because Plaintiffs were on actual, constructive, and/or inquiry notice of the conditions about which they now complain.

**Ninth Affirmative Defense
(Assumption of Risk)**

Plaintiffs' relief is barred because Plaintiffs knew of the risk they assumed when the purchased their properties.

**Tenth Affirmative Defense
(Statute of Repose)**

Plaintiffs' relief is barred by the applicable statute of repose.

**Eleventh Affirmative Defense
(Caveat Emptor)**

Plaintiffs' relief is barred by the doctrine of caveat emptor.

**Twelfth Affirmative Defense
(Failure to Mitigate)**

Plaintiffs' relief is barred because Plaintiffs failed to mitigate, minimize, or avoid the purported injuries and damages alleged.

**Thirteenth Affirmative Defense
(Offset)**

Plaintiffs' relief is barred because any claimed injury or damage has been offset by benefits received by Plaintiffs and/or one or more members of the alleged class with respect to the challenged conduct.

**Fourteenth Affirmative Defense
(Intervening and/or Superseding Cause)**

Plaintiffs' relief is barred because Plaintiffs' damages were directly caused by intervening and/or superseding cause, which was remote and unforeseeable.

**Fifteenth Affirmative Defense
(Sovereign Immunity)**

Plaintiffs' relief is barred by sovereign immunity.

**Sixteenth Affirmative Defense
(Lack of Standing)**

Plaintiffs lack standing.

**Seventeenth Affirmative Defense
(Preemption)**

Plaintiffs' relief is preempted by federal law.

**Eighteenth Affirmative Defense
(Economic Loss Doctrine)**

Plaintiffs' relief is barred under the economic loss doctrine.

**Nineteenth Affirmative Defense
(No Deprivation)**

Plaintiffs' relief under Count II is barred because Plaintiffs have not been deprived of all, or even substantially all, economically viable use of the property at issue.

**Twentieth Affirmative Defense
(Compliance with Laws)**

Plaintiffs' relief is barred because OUC's action and/or conduct was done in accordance and compliance with the applicable laws and standards.

**Twenty-First Affirmative Defense
(Mandated Acts or Omissions)**

Plaintiffs' relief is barred because the federal and state laws mandated the alleged actions or omissions of OUC.

**Twenty-Second Affirmative Defense
(Good Faith)**

Plaintiffs' relief is barred because OUC has at all times acted in good faith and without malice toward Plaintiffs and in accordance with applicable law.

**Twenty-Third Affirmative Defense
(Unjust Enrichment)**

Plaintiffs' relief is barred under the doctrine of unjust enrichment.

**Twenty-Fourth Affirmative Defense
(Economic Waste Doctrine)**

Plaintiffs are not entitled to relief insofar as Plaintiffs may not recover both diminution in value and restoration costs, nor may Plaintiffs recover restoration costs that exceed the diminution in value.

**Twenty-Fifth Affirmative Defense
(Set Off)**

To the extent that Plaintiffs are entitled to recover any sums against OUC, OUC is entitled to a set off for any reimbursements and payments received by Plaintiffs from any other sources.

**Twenty-Sixth Affirmative Defense
(Primary Jurisdiction)**

The relief sought by Plaintiffs is within the particular expertise of federal and state governments and their agencies. This Court should abstain and defer to the public agencies, including, but not limited to, the Florida Department of Environmental Protection.

* * *

OUC has not waived any defenses and reserves its right to amend or supplement the above defenses or to delete and withdraw such defenses as may become necessary after discovery.

Dated: April 10, 2019

Respectfully submitted,

/s/ David B. Weinstein

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Attorneys for Defendant

Orlando Utilities Commission

CERTIFICATE OF SERVICE

I certify that on April 10, 2019, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to counsel of record.

/s/ David B. Weinstein
Attorney