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7 Attorney for Defendant and Cross-Defendant, GGF, LLC

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF LOS ANGELES

10 ANTELOPE VALLEY)
 11 GROUNDWATER CASES)

12 Included Actions:)

13 Los Angeles County Waterworks District)
 14 No.-40 v. Diamond Farming Co.)
 15 Los Angeles County Superior Court)
 Case No. BC 325201)

16 Los Angeles County Waterworks District)
 17 No. 40 v. Diamond Farming Co.)
 18 Kern County Superior Court)
 Case No. S-1500-CV-254-348)

19 Wm. Bolthouse Farms, Inc. v. City of)
 20 Lancaster, Diamond Farming Co. v. City)
 21 of Lancaster, Diamond Farming Co. v.)
 Palmdale Water Dist.)
 22 Riverside County Superior Court)
 Consolidated actions)
 23 Case Nos. RIC 353 840, RIC 344 436,)
 RIC 344 668)

Case No.: Judicial Council Coordination No. 4408

) For filing purposes only:

) Santa Clara County Case No. 1-05-CV-049053

) Assigned to The Honorable Jack Komar

) **ANSWER TO COMPLAINT AND ALL**
) **CROSS-COMPLAINTS BY DEFENDANT**
) **GGF, LLC**

25
 26 GGF, a Limited Liability Company, answers the Complaint and all Cross-Complaints which
 27 have been filed as of this date, specifically those of Antelope Valley East-Kern Water Agency, Palmdale
 28 Water District & Quartz Hill Water District, Rosamond Community Services District and Waterworks

1 District No. 40 of Los Angeles County. GGF LLC does not intend to participate at trial or other
 2 proceedings unless ordered by the Court to do so, but it reserves the right to do so upon giving written
 3 notice to that effect to the Court and all parties. GGF, LLC owns the following properties located in the
 4 Antelope Valley that are subject to this litigation:

5
6 PARCEL 1:

7 The Southeast quarter of Section 13, Township 8 North, Range 16 West, San Bernardino Meridian, in
 8 the unincorporated territory of the County of Los Angeles, according to the Official Plat of said land.
 9 EXCEPT therefrom the North 60 acres thereof.

10 PARCEL 2:

11 The North 30 acres of the Southeast quarter of Section 13, Township 8 North, Range 16 West, San
 12 Bernardino Meridian, in the unincorporated territory of the County of Los Angeles, according to the
 13 Official Plat of said land.

14 PARCEL 3:

15 The South 30 acres of the North 60 acres of the Southeast quarter of Section 13, Township 8 North,
 16 Range 16 West, San Bernardino Meridian, in the unincorporated territory of the County of Los Angeles,
 17 according to the Official Plat of said land.

18 APN #3278-025-019

19 APN #3278-025-020

20 APN #3278-025-021

21 APN #3278-025-022

22 APN #3278-024-007

23
 24 Lot 251, of Tract No. 30639, as per map recorded in Book 784, Pages 1-20, inclusive, of Maps, in the
 25 office of the County Recorder of said County.

26 APN #3257-004-021-06.000

27 APN #3257-007-005

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GENERAL DENIAL

1. Pursuant to Code of Civil Procedure section 431.30(d), Defendant and Cross-Defendant hereby generally denies each and every allegation set forth in the Complaint and Cross-Complaint, and the whole thereof, and further denies that Plaintiff and Cross-Complainant are entitled to any relief against Defendant and Cross-Defendant.

AFFIRMATIVE DEFENSES

First Affirmative Defense

(Failure to State a Cause of Action)

2. The Complaint and Cross-Complaint and every purported cause of action contained therein fail to allege facts sufficient to constitute a cause of action against Defendant and Cross-Defendant.

Second Affirmative Defense

(Statute of Limitation)

3. Each and every cause of action contained in the Complaint and Cross-Complaint is barred, in whole or in part, by the applicable statutes of limitation, including, but not limited to, sections 318, 319, 321, 338, and 343 of the California Code of Civil Procedure.

Third Affirmative Defense

(Laches)

4. The Complaint and Cross-Complaint, and each and every cause of action contained therein, is barred by the doctrine of laches.

Fourth Affirmative Defense

(Estoppel)

5. The Complaint and Cross-Complaint, and each and every cause of action contained therein, is barred by the doctrine of estoppel.

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Fifth Affirmative Defense

(Waiver)

6. The Complaint and Cross-Complaint, and each and every cause of action contained therein, is barred by the doctrine of waiver.

Sixth Affirmative Defense

(Self-Help)

7. Defendant and Cross-Defendant has, by virtue of the doctrine of self-help, preserved its paramount overlying right to extract groundwater by continuing, during all times relevant hereto, to extract groundwater and put it to reasonable and beneficial use on its property.

Seventh Affirmative Defense

(California Constitution Article X, Section 2)

8. Plaintiff and Cross-Complainant's methods of water use and storage are unreasonable and wasteful in the arid conditions of the Antelope Valley and thereby violate Article X, Section 2 of the California Constitution.

Eighth Affirmative Defense

(Additional Defenses)

9. The Complaint and Cross-Complaint do not state their allegations with sufficient clarity to enable Defendant and Cross-defendant to determine what additional defenses may exist to Plaintiff and Cross-Complainant's causes of action. Defendant and Cross-Defendant therefore reserve the right to assert all other defenses which may pertain to the Complaint and Cross-Complaint.

Ninth Affirmative Defense

10. The prescriptive claims asserted by governmental entity Cross-Complainants are *ultra vires* and exceed the statutory authority by which each entity may acquire property as set forth in Water Code sections 22456, 31040 and 55370.

Tenth Affirmative Defense

11. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the provisions of Article 1 Section 19 of the California Constitution.

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Eleventh Affirmative Defense

12. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the provisions of the 5th Amendment to the United States Constitution as applied to the states under the 14th Amendment of the United States Constitution.

Twelfth Affirmative Defense

13. Cross-Complainants' prescriptive claims are barred due to their failure to take affirmative steps that were reasonably calculated and intended to inform each overlying landowner of cross-complainants' adverse and hostile claim as required by the due process clause of the 5th and 14th Amendments of the United States Constitution.

Thirteenth Affirmative Defense

14. The prescriptive claims asserted by governmental entity Cross-Complainants are barred by the provisions of Article 1 Section 7 of the California Constitution.

Fourteenth Affirmative Defense

15. The prescriptive claims asserted by the governmental entity Cross-Complainants are barred by the provisions of the 14th Amendment to the United States Constitution.

Fifteenth Affirmative Defense

16. The governmental entity Cross-Complainants were permissively pumping at all times.

Sixteenth Affirmative Defense

17. The request for the court to use its injunctive powers to impose a physical solution seeks a remedy that is in violation of the doctrine of separation of powers set forth in Article 3 section 3 of the California Constitution.

Seventeenth Affirmative Defense

18. Cross-Complainants are barred from asserting their prescriptive claims by operation of law as set forth in Civil Code sections 1007 and 1214.

Eighteenth Affirmative Defense

19. Each Cross-Complainant is barred from recovery under each and every cause of action contained in the Cross-Complaint by the doctrine of unclean hands and/or unjust enrichment.

1 **Nineteenth Affirmative Defense**

2 20. The Cross-Complaint is defective because it fails to name indispensable parties in
3 violation of California Code of Civil Procedure section 389(a).

4 **Twentieth Affirmative Defense**

5 21. The government entity Cross-Complainants are barred from taking, possessing or using
6 Cross-Defendants' property without first paying just compensation.

7 **Twenty-First Affirmative Defense**

8 22. The governmental entity Cross-Complainants are seeking to transfer water right priorities
9 and water usage which will have significant effects on the Antelope Valley Groundwater basin and the
10 Antelope Valley. Said actions are being done without complying with and contrary to the provisions of
11 California's Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).

12 **Twenty-Second Affirmative Defense**

13 23. The governmental entity Cross-Complainants seek judicial ratification of a project that
14 has had and will have a significant effect on the Antelope Valley Groundwater Basin and the Antelope
15 Valley that was implemented without providing notice in contravention of the provisions of California
16 Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).

17 **Twenty-Third Affirmative Defense**

18 24. Any imposition by this court of a proposed physical solution that reallocates the water
19 right priorities and water usage within the Antelope Valley will be *ultra vires* as it will be subverting the
20 pre-project legislative requirements and protections of California's Environmental Quality Act (CEQA)
21 (Pub.Res.C. 2100 *et seq.*).

22
23 **WHEREFORE**, Defendant and Cross-Defendant prays that judgment be entered as follows:

- 24 1. That Plaintiff and Cross-Complainant take nothing by reason of its Complaint or Cross-
25 Complaint.
26 2. That the Complaint and Cross-Complaints be dismissed with prejudice;
27 3. For the Defendant and Cross-Defendant's costs incurred herein; and
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4. For such other and further relief as the Court deems just and property.

Dated: December 20, 2006

O'ROURKE, FONG & MANOUKIAN, LLP

By: 
DENIS M. O'ROURKE
Attorneys for Defendant and Cross-
Defendant GGF, LLC

1 PROOF OF SERVICE

2 I, Kerry V. Keefe, declare:

3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza,
Suite 1500, Irvine, California 92614. On December 21, 2006, I served the within document(s):

5 **ANSWER TO COMPLAINT AND ALL CROSS-COMPLAINTS BY DEFENDANT**
6 **GGF, LLC**

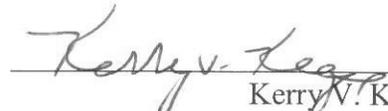
- 7 by posting the document(s) listed above to the Santa Clara County Superior Court
8 website in regard to the Antelope Valley Groundwater matter.
- 9 by placing the document(s) listed above in a sealed envelope with postage thereon
10 fully prepaid, in the United States mail at Irvine, California addressed as set forth
below.
- 11 by causing personal delivery by ASAP Corporate Services of the document(s)
12 listed above to the person(s) at the address(es) set forth below.
- 13 by personally delivering the document(s) listed above to the person(s) at the
14 address(es) set forth below.
- 15 I caused such envelope to be delivered via overnight delivery addressed as
16 indicated on the attached service list. Such envelope was deposited for delivery
by Federal Express following the firm's ordinary business practices.

17 (SEE ATTACHED SERVICE LIST)

18 I am readily familiar with the firm's practice of collection and processing
19 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
20 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

21 I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

22 Executed on December 21, 2006, at Irvine, California.

23
24 
25 _____
Kerry V. Keefe

LAW OFFICES OF
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