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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF UTAH, IN AND FOR THE COUNTY OF MILLARD
Fourth District Court, 765 South Highway 99, Fillmore, UT 84631**

STEVE IRVING THATCHER, as Trustee of
the Steve Thatcher Trust dated October 12,
2022,

Petitioner,

**In Re. Water Right Nos. 68-2512, 68-2791,
and 68-2795**

ORDER QUIETING TITLE

Civil No.: 260700016

Judge: Anthony Howell

The Court, having reviewed the Verified Complaint and accompanying documents, including the chain of title, recorded deeds, the Findings of Fact and Conclusions of Law entered by the Fourth District Court in Civil Case No. 070700178, the Wills of Kenneth C. Thatcher and Norma H. Thatcher, the probate orders entered in Probate No. 173700025, the Personal Representative Deed dated October 12, 2022, and the Water Right Detail records of the Utah Division of Water Rights for Water Right Nos. 68-2512, 68-2791, and 68-2795, and having determined that no other person or entity has appeared to assert a plausible or legal claim to the Subject Water Rights, hereby makes the following:

FINDINGS OF FACT:

1. Petitioner, Steve Irving Thatcher, is an adult resident of Millard County, Utah, and is the

duly acting Trustee of the Steve Thatcher Trust dated October 12, 2022.

2. The water rights at issue (collectively, the “Subject Water Rights”) are known on the records of the Utah State Engineer as Water Right Nos. 68-2512, 68-2791, and 68-2795.

3. The Subject Water Rights are diverted from and used on real property situated in Millard County, Utah, hereinafter referred to as the “Thatcher Farm,” more particularly described as follows:

PARCEL 1 (Millard County Tax ID HD-4598-1):

The Northeast Quarter, and the North one-half of the Southeast Quarter of Section 1, Township 17 South, Range 8 West, Salt Lake Base and Meridian.

PARCEL 2 (Millard County Tax ID HD-4598):

The Northwest Quarter of Section 1, Township 17 South, Range 8 West, Salt Lake Base and Meridian. EXCEPTING THEREFROM: Beginning 33 feet East and 33 feet South of the Northwest corner of said Section 1; thence South 0°52' East 2720 feet; thence East 125 feet; thence North 1°36' West 2546 feet; thence East 1270 feet; thence North 175 feet; thence West 1365 feet to the point of beginning, belonging to Millard County Drainage District #3.

Water Right Nos. 68-2512 and 68-2791 share the same well, Well ID No. 9655, as a point of diversion, and the Division’s records reflect that the same well is also associated with Water Right No. 68-2795.

4. By Warranty Deed dated December 22, 1983, recorded in Book 178 at Page 255, Entry No. 50800, of the official records of the Millard County Recorder, Wilford A. Cardon and Phyllis R. Cardon conveyed the Thatcher Farm to Kenneth C. Thatcher and Norma H. Thatcher, husband and wife.

5. The Findings of Fact and Conclusions of Law entered by the Fourth District Court in Civil Case No. 070700178 found that Kenneth C. Thatcher and Norma H. Thatcher purchased the Thatcher Farm prior to the formation of the Ken Thatcher Family Farm partnership; that they acquired several water rights with the Farm; that they acquired an additional water right in 1995; that the partnership was created by written agreement dated April 1, 1984, to lease and operate the Farm; and that title to neither the real property nor the water rights was ever transferred to the partnership.

6. The current ownership records of the Utah Division of Water Rights inconsistently identify the owner of the Subject Water Rights as “Ken Thatcher Family Farms,” “Ken Family Farms Thatcher,” and “Ken and Norma Thatcher, DBA Ken Thatcher Family Farm.” These references all describe the same operating Farm associated with Kenneth C. Thatcher and Norma H. Thatcher rather than a separate titled owner of the Subject Water Rights.

7. Norma H. Thatcher executed her Will on October 31, 2007, in which she devised her interest in the Thatcher Farm and water shares to Kenneth C. Thatcher if he survived her, and separately devised her Ken Thatcher Family Farm partnership interest and associated personal property to him.

8. Norma H. Thatcher died on September 12, 2012, survived by her husband, Kenneth C. Thatcher.

9. Whether by right of survivorship arising from the 1983 deed to Kenneth and Norma as husband and wife, by operation of Norma’s Will, or, in the alternative, by intestacy under Utah law (Kenneth being Norma’s surviving spouse and all of her surviving descendants also being descendants of Kenneth), the entirety of Norma’s interest in the Thatcher Farm and

the Subject Water Rights vested in Kenneth C. Thatcher upon Norma's death.

10. Kenneth C. Thatcher executed his Will on October 31, 2007, in which he devised his interest in the Thatcher Farm and all water shares to his son, Steve Irving Thatcher, in the event Norma did not survive him, and separately devised all of his Ken Thatcher Family Farm partnership interest and associated personal property to Steve.

11. Kenneth C. Thatcher died on August 22, 2017. In Probate No. 173700025, the Fourth District Court entered an Order of Informal Probate and Appointment of Personal Representative on October 25, 2017, appointing Steve Irving Thatcher as Personal Representative of the Estate of Kenneth Cardon Thatcher, and Letters Testamentary issued to him.

12. On October 12, 2022, Steve Irving Thatcher, as Personal Representative of the Estate of Kenneth Cardon Thatcher, executed a Personal Representative Deed conveying the Thatcher Farm parcels to Steve Irving Thatcher, as Trustee of the Steve Thatcher Trust dated October 12, 2022, recorded on October 24, 2022, as Entry No. 00222184, in Book 734 at Page 447, of the official records of the Millard County Recorder.

13. The Subject Water Rights are appurtenant to the Thatcher Farm; the chain of title from Kenneth C. Thatcher and Norma H. Thatcher to Petitioner, as Trustee, contains no reservation or severance of water rights; and all conveyances either expressly or implicitly conveyed the Subject Water Rights as appurtenant to the Thatcher Farm.

14. The Utah Division of Water Rights denied Reports of Water Right Conveyance submitted for Water Right Nos. 68-2791 and 68-2795 in September 2023, on the asserted basis that the chain of title had to begin with the current owner of record shown on the Division's

records, demonstrating that judicial relief is required to clear the cloud on title.

15. No person or entity has appeared in this matter to assert an adverse interest in the Subject Water Rights, and Petitioner is unaware of any other person or entity asserting a plausible or legal claim to them.

CONCLUSIONS OF LAW:

1. The Subject Water Rights are appurtenant to the Thatcher Farm.
2. Under Utah Code Ann. § 73-1-11 and supporting case law, including *Roberts v. Roberts*, water rights follow the land when used continuously and not expressly severed.
3. Title to the Subject Water Rights was never transferred from Kenneth C. Thatcher and Norma H. Thatcher to the Ken Thatcher Family Farm partnership; the references in the records of the Utah Division of Water Rights to “Ken Thatcher Family Farms,” “Ken Family Farms Thatcher,” and “Ken and Norma Thatcher, DBA Ken Thatcher Family Farm” do not defeat Petitioner’s title to the Subject Water Rights.
4. Upon the death of Norma H. Thatcher, the entirety of the interest formerly held by Kenneth C. Thatcher and Norma H. Thatcher in the Thatcher Farm and the Subject Water Rights vested in Kenneth C. Thatcher, and thereafter passed to Petitioner through Kenneth’s Will, the probate of his estate, and the Personal Representative Deed dated October 12, 2022.
5. No other person or entity has a valid claim to the Subject Water Rights.
6. A judicial declaration and decree quieting title is necessary and proper to clear the muddy ownership references in the records of the Utah State Engineer and to allow administrative processing of ownership.

7. This Court has jurisdiction over the parties and subject matter under Utah Code Ann. §§ 78B-3a-205, 78B-3a-206, 78B-6-401, and 78B-6-1301 et seq.

Therefore, it is hereby ORDERED:

1. Title to Water Right Nos. 68-2512, 68-2791, and 68-2795 (collectively, the “Subject Water Rights”) is hereby quieted in and awarded to Steve Irving Thatcher, as Trustee of the Steve Thatcher Trust dated October 12, 2022, as the true and lawful owner.
2. The Subject Water Rights are declared appurtenant to the Thatcher Farm, as more particularly described in Finding of Fact No. 3 above.
3. The references in the records of the Utah Division of Water Rights to “Ken Thatcher Family Farms,” “Ken Family Farms Thatcher,” and “Ken and Norma Thatcher, DBA Ken Thatcher Family Farm” as the owner of the Subject Water Rights are determined to refer to the same Thatcher Farm operation associated with Kenneth C. Thatcher and Norma H. Thatcher and shall not defeat or cloud Petitioner’s title.
4. The Utah State Engineer and the Utah Division of Water Rights are directed to update the official records for Water Right Nos. 68-2512, 68-2791, and 68-2795 to reflect Steve Irving Thatcher, as Trustee of the Steve Thatcher Trust dated October 12, 2022, as the owner of record.
5. This Order is suitable for recording in the office of the Millard County Recorder.

By the Court:

(Signature on the First Page)
FOURTH District Court Judge

******END OF ORDER******