STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-18834

WATER DIVISION 2-C

BACKGROUND

1. On November 14, 2011, Daniel J. Hirschfeld, on behalf of Miracle Farms, Inc., filed in the Department of Natural Resources (Department) application A-18834 for a Permit to Appropriate Water.

2. On March 23, 2015, Daniel J. Hirschfeld, on behalf of Miracle Farms, Inc., filed in the Department map number 19196 showing land proposed to be irrigated under application A-18834.

ORDER

IT IS HEREBY ORDERED that application A-18834 is APPROVED subject to the following limitations and conditions:

1. The source of water is the Niobrara River.

2. The water shall be used for the purpose of irrigation.

3. The priority date is November 14, 2011.

4. Only the land shown on map number 19196 may be irrigated under appropriation A-18834.

5. Water diverted under appropriation A-18834 shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated. Total annual volume of water diverted may not exceed 3 acre-feet per acre irrigated and the least amount that can be beneficially used.

6. A measuring device approved by the Department may be required.

7. The appropriator must comply with all relevant statutes. The statutes include, but are not limited to, the following:

   A. Notify the Department of any change in ownership or address.

   B. Notify the Department of the name and address of the person responsible for the use of the water appropriation (this may include farm managers, tenants, or relatives that actually apply the water to the approved use).

   C. Obtain approval from the Department prior to taking any action that changes the location of the point of diversion, the location of the place of use, the type of use, or the type of appropriation.

8. The appropriator must comply with the following deadlines:

A. Construction of the diversion works must begin within twelve months of the signing date of this application approval. The appropriator must proceed diligently with the construction unless interrupted by some unavoidable and natural cause.

B. Construction of the project must be completed by two years past the signing date of this application approval.

C. The appropriation is not considered perfected until water has been beneficially applied for the purpose stated in this approval. The water appropriated under A-18834 must be beneficially used by September 1, 2017.

D. After September 1, 2017, a field investigation will be conducted to determine the acres irrigated, after which an order of cancellation will be issued for any unused portions of appropriation A-18834.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations, any orders issued by the Director of the Department of Natural Resources, or the provisions of this Approval may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for more than five consecutive years may result in cancellation of the appropriation.

This appropriation is not a guarantee that water will be available. Nebraska law gives priority to senior appropriations. This appropriation may be closed if there is insufficient water to satisfy senior appropriations. If in the future you are not able to divert sufficient amounts of water, and if there are junior appropriations upstream, you may call for water by contacting your local field office.

Nebraska law provides that waters previously appropriated for power purposes may be taken for irrigation purposes upon due and fair compensation.

DEPARTMENT OF NATURAL RESOURCES

June 11, 2015

James C. Schneider, Ph.D.
Acting Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this order may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act* §§ 84-901 et. seq. RRS and the Department's *Rules of Practice and Procedure Title 454 Admin. Code* Chapter 7. The request must be received by the Department at its

Lincoln office (Nebraska State Office Building, 4th Floor, 301 Centennial Mall South, P.O. Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of $10.

A copy of this approval was posted on the Department's website and provided to the Department's field office in Ord, Nebraska. A copy of this approval was mailed on June 11, 2015, to the following:

Daniel J. Hirschfeld
Miracle Farms, Inc.
3606 4th Avenue
Kearney, Nebraska 68845

Dallas Dodson
89542 State Highway 97
Valentine, Nebraska 69201