

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF EXPEDITED TRANSFER EXT-5355, PETITION RLP-5357
AND MAP NUMBER 19197 FOR WATER APPROPRIATION A-10710

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-10710 is held by Miracle Farms, Inc.
2. Appropriation A-10710 has a priority date of November 2, 1965, and authorizes the use of water for irrigation of the 18.0 acres of land described below. The water may be diverted from the Niobrara River at points of diversion located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 29 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 33, both in Township 33 North, Range 28 West of the 6th P.M. in Cherry County. Water diverted shall not exceed the ratio of one cubic foot per second (cfs) for every 70 acres irrigated at a maximum rate of 0.26 cfs.

Township 33 North, Range 28 West of the 6 th P.M. in Cherry County	Acres
Section 28: SE $\frac{1}{4}$ SW $\frac{1}{4}$	11.0
Section 33: NW $\frac{1}{4}$ NW $\frac{1}{4}$	2.0
NE $\frac{1}{4}$ NW $\frac{1}{4}$	<u>5.0</u>
TOTAL	18.0

3. On March 23, 2015, Daniel J. Hirschfeld, on behalf of Miracle Farms, Inc., filed application EXT-5355 for a permit for an expedited transfer, petition RLP-5357 for a permit to change the location of diversion and map number 19197 showing the proposed location of diversion and the location of use for land authorized to be irrigated by appropriation A-10710.

ORDER

IT IS HEREBY ORDERED:

1. Petition RLP-5357 for a permit to change the location of diversion for appropriation A-10710 and map number 19197 are APPROVED.
2. Appropriation A-10710 through petition RLP-5357 is now A-10710R.
3. Application EXT-5355 for a permit for an expedited transfer of the location of use is APPROVED.

4. Appropriation A-10710R through transfer EXT-5355 authorizes the use of water to irrigate 18.0 acres of land described below and depicted on map number 19197, which is made a part of this Order. The water may be diverted from the Niobrara River at points of diversion located on the left bank of the stream in the NW¹/₄NW¹/₄ and NE¹/₄NW¹/₄ of Section 33, Township 33 North, Range 28 West of the 6th P.M. in Cherry County, as depicted on map number 19197. Water diverted shall not exceed the ratio of one cfs for every 70 acres irrigated at a maximum combined rate of 0.26 cfs from both points of diversion (116 gallons per minute). The total volume may not exceed 3 acre-feet per irrigated acre per year; not to exceed the least amount of water necessary for the production of crops in the exercise of good husbandry.

<u>Township 33 North, Range 28 West of the</u>		
<u>6th P.M. in Cherry County</u>		<u>Acres</u>
Section 28:	SW ¹ / ₄ SW ¹ / ₄	0.1
	SE ¹ / ₄ SW ¹ / ₄	15.8
Section 33:	NW ¹ / ₄ NW ¹ / ₄	0.2
	NE ¹ / ₄ NW ¹ / ₄	<u>1.9</u>
	TOTAL	18.0

5. All terms and conditions of appropriation A-10710 remain in effect unless specifically changed by this Order.
6. The appropriator must comply with all relevant statutes. This includes, but is 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.

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 cause cancellation of part or all of this appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use an 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.

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 Order was posted on the Department's website. Copies of this Order and map number 19197 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 19197 were 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