STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF APPLICATION A-19387 AND MAP NUMBER 19333

WATER DIVISION 1-F

BACKGROUND

1. On August 4, 2015, William E. and Heather A. Othmer filed in the Department of Natural Resources (Department) application A-19387 for a Permit to Appropriate Water.

2. On August 26, 2015, William E. and Heather A. Othmer filed in the Department map number 19333 showing land proposed to be irrigated under application A-19387.

ORDER

IT IS HEREBY ORDERED that application A-19387 and map number 19333 are APPROVED subject to the following limitations and conditions:

1. The following land is authorized to be irrigated (appurtenant land) under surface water appropriation A-19387 as depicted on map number 19333 which is made a part of this Order.

Township 04 North, Range 11 East of the 6th P.M. in Johnson County		Acres
Section 34:	SE¼NE¼	16.9
	NW¼SE¼	24.0
	NE¼SE¼	38.6
	TOTAL	79.5

2. Appropriation A-19387 has a priority date of August 4, 2015, and authorizes the appropriator the use of 1.14 cubic feet per second (cfs) (512 gallons per minute) of water for irrigation of the 79.5 acres of land described above. The water may be diverted from Todd Creek at a point of diversion located on the left bank of the stream in the NW¼SE¼ of Section 34, Township 04 North, Range 11 East of the 6th P.M. in Johnson County, as depicted on map number 19333.

3. The rate that water may be diverted shall not exceed one cfs for every 70 acres irrigated nor the least amount of water necessary for the production of crops in the exercise of good husbandry. Therefore, in any year when less than the maximum permitted acres are being irrigated, the quantity of water diverted at any time may be restricted to 1/70 cfs for each permitted acre being irrigated that year. This appropriation of water under any circumstance shall be limited annually to three acre-feet per acre of land on which water is actually and beneficially applied.

4. Only the land shown on map number 19333 may be irrigated under appropriation A-19387.

5. 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.

6. 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-19387 must be beneficially used by September 1, 2018.

   D. After September 1, 2018, 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-19387.

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.

DEPARTMENT OF NATURAL RESOURCES

September 22, 2015

Gordon W. Fassett, P.E., 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 19333 were provided to the Department's field office in Lincoln, Nebraska. Copies of this Order, map number 19333 and Surface Water Administration brochure were mailed on September 22, 2015, to the following:

William E. and Heather A. Othmer
1728 South 177th Avenue
Omaha, Nebraska 68130