STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

APPROVAL OF PETITION RLP-5531 AND MAP NUMBER 19371 TO CHANGE THE LOCATION OF DIVERSION FOR WATER APPROPRIATION A-7101

WATER DIVISION 2-C

BACKGROUND

1. Records on file in the Department of Natural Resources (Department) show that surface water appropriation A-7101 is held by Miracle Farms, Inc.

2. Appropriation A-7101 has a priority date of February 14, 1955, and authorizes the use of water for irrigation of the 20.2 acres of land described below. The water may be diverted from the Niobrara River at a point of diversion located on the left bank of the stream in the NW¼NW¼ of Section 33, 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 90 acres irrigated at a maximum rate of 0.23 cfs.

Township 33 North, Range 28 West of the 6th P.M. in Cherry County		Acres
Section 28:	SW¼SW¼	16.0
	SE¼SW¼	3.7
Section 33:	NW¼NW¼	0.5
	TOTAL	20.2

3. On October 27, 2015, Daniel J. Hirschfeld, on behalf of Miracle Farms, Inc., filed petition RLP-5531 in the Department for a permit to change the location of diversion for appropriation A-7101 and map number 19371 showing the location of the proposed pump site and the land to be irrigated under appropriation A-7101 through petition RLP-5531.

ORDER

IT IS HEREBY ORDERED:

1. Petition RLP-5531 for a permit to change the location of diversion for appropriation A-7101 and map number 19371 are APPROVED.

2. Appropriation A-7101 through petition RLP-5561 is now A-7101R.

3. Appropriation A-7101R shall be shown in the Department's records authorizing the use of water to irrigate 20.2 acres of land described below and depicted on map number 19371, which is made a part of this Order. The water may be diverted from the Niobrara River at a point of diversion located on the left bank of the stream in the NE¼NW¼ of Section 33, Township 33 North, Range 28 West of the 6th P.M. in Cherry County, as depicted on map number 19371. Water diverted shall not exceed the ratio of one cfs for every 90 acres irrigated at a maximum rate of 0.23 cfs (103 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.

Township 33 North, Range 28 West of the 6th P.M. in Cherry County		Acres
Section 28:	SW¼SW¼	16.0
	SE¼SW¼	3.7
Section 33:	NW¼NW¼	0.5
	TOTAL	20.2

4. All terms and conditions of appropriation A-7101 remain in effect unless specifically changed by this Order.

5. 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

January 12, 2016

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 19371 were provided to the Department's field office in Ord, Nebraska. Copies of this Order and map number 19371 were mailed on January 12, 2016, to the following:

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

Dallas Dodson
89542 State Highway 97
Valentine, Nebraska 69201