

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PU WORKSHEET

1. File Number: 42025	2. Status Change Date: 3/30/2021	3. Change Num: C1 C3	4. Field Office: 04	5. GMD: 03	
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 2/1/2021	
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____		8c. Landowner(s) New to system <input type="checkbox"/>	
KEVIN L & TAMI L VIESTENZ REV LIVING TRUST EVIN L & TAMI L VIESTENZ 8903 W 149TH ST OVERLAND PARK, KS 66221		65735		65735	
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID 64735 _____ Add Seq# _____		8d. WUC New to system <input type="checkbox"/>	
KEVIN L & TAMI L VIESTENZ REV LIVING TRUST 8903 W 149TH ST OVERLAND PARK, KS 66221		8b		64735 _____	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/21 <input type="checkbox"/> N & P Date to Comply: _____					
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter					
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____					
10. Use Made of Water From: _____ To: _____					
Date Prepared: 3/19/2021 By: li Date Entered: 3/30/2021 By: L Moody					

File No. **42025** 11. County: **SV** Basin: **CIMARRON RIVER** Stream: **NA** Formation Code: **200 & 211** Special Use: **NA**

12. Points of Diversion
 CHK
 MOD
 DEL PDIV
 ENT
 Qualifier S T R ID 'N 'W Comment (AKA Line)
 Rate and Quantity
 Authorized Additional
 Rate Quantity Rate Quantity
 gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files

NO CHANGE

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____ **NONE NO CHANGE**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
						NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
DEL	31510	11	35	39W	2	22.50	30.0	30.0	21.5												104	2A	NO	42031	
CHK	58182	15	35	39W	3	26.5	26.5	26.5	26.5												106	2A	NO	42031	
CHK	68555	11	35	39W	3									30.0	30.0	30.0	30.0				120	2A	NO	42031	
ENT	70342	02	35	39W														28.5	28.5	28.5	28.5	114	2A	NO	42031

Base Acres: Year: Minimum Reasonable Quantity:
 Comments: ACRES IN NE 1/4 OF SECTION 11 WILL BE REMOVED FROM FILE NOS. 42025 & 42031 AND NO LONGER IRRIGATED LAND

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: File

DATE: March 18, 2021

FROM: Leslie Ireland

RE: Water Right, File Nos. 9437-DA; 42,023;
42,025 & 42,031

Angelica and Jackson Sheets on behalf of A C Shuck LLC, submitted applications to change the irrigated place of use under File Nos. 9437-DA & 42,023 on February 1, 2021, with Kevin L. and Tami L. Viestenz on behalf of Viestenz Family Farms LLC, submitting applications to change the irrigated place of use under File Nos. 42,025 & 42,031 on March 1, 2021. These owners also submitted signed requests to reduce the place of use and separate ownership under File No. 42,025 & 42,031 on February 25, 2021.

The referenced rights appear to be in compliance with K.S.A. 82a-732. The required notice of well owners to comply with K.S.A. 82a-1906 does not appear to be needed as the applicants are the owners of all the wells within the notification area. It appears the applications for change comply with K.A.R. 5-5-1a and the requested reduction with K.A.R. 5-7-5.

Currently File No. 9467-DA authorizes 182.6 acre-feet to irrigate 123 acres in the Southeast Quarter (SE $\frac{1}{4}$) of Section 10, having an irrigation ratio of 1.48 acre-foot per acre (AF/A) and developed 123 base acres per K.A.R 5-5-11. Water Right, File Nos. 42,023; 42,025 & 42,031 authorize 580 acres in the North Half (N $\frac{1}{2}$) of Section 10, the Northeast Quarter (NE $\frac{1}{4}$) and Southwest Quarter (SW $\frac{1}{4}$) of Section 11, and the Northeast Quarter (NE $\frac{1}{4}$) of Section 15, all in Township 35, Range 39 West, Stevens County, with a combined total of 1,140 acre-feet, equating to 1.96 acre-foot per acre (AF/A). The quantities are assigned per right with File No. 42,031 limited to 640 AF with File No. 42,025. The base acres determined by the area field office staff were determined to be a combined total of 580 acres: File No. 42,023 developed 250 base acres, File No 42,025 developed 226 acres and File No. 42,031 developed 224 acres overlapping acres in the Southwest of Section 11, between File Nos. 42,025 & 42,031. The rights are not located within a special use area but are within the Southwest Kansas Groundwater Management District No. 3.

The requested reduction to remove File No. 42,023, authorizing the North Half (N $\frac{1}{2}$) of Section 10, leaving File Nos. 42,025 & 42,031, authorizing a total of 330 acres in the Northeast Quarter (NE $\frac{1}{4}$) and Southwest Quarter (SW $\frac{1}{4}$) of Section 11 and Northeast Quarter (NE $\frac{1}{4}$) of Section 15, with a limited 640 acre-feet, resulting in an irrigation ratio of 1.94 AF/A. This request complies with K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*, as this area has an irrigation ratio of two (2) acre-feet per acre. The reduction results in Viestenz Family Farms LLC as owner of File No. 42,025 & 42,031 and A C Shuck LLC the sole owner of File No. 42,023.

The reduction leaves File No. 42,023, authorizing 250 acres in the North Half (N $\frac{1}{2}$) Section 10, to be irrigated with 500 acre-feet that is proposed by the change application to be overlapped with File No. 9467-DA to authorize 373 acre pivot in the North Half (N $\frac{1}{2}$) and Southeast Quarter (SE $\frac{1}{4}$) of Section 10, to be irrigated with 682.6 acre-feet resulting in an irrigation ratio of 1.83 AF/A. The proposal makes a complete overlap of the authorized acres comply with Part b(1) of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, and no increase in the 373 acres developed as base acres. As there is no increase in existing authorized acres or quantity, the changes comply with K.A.R. 5-5-3, *Change in consumptive use*. The irrigation ratio complies the values for Stevens County per K.A.R, 5-5-12 *Net irrigation requirements* of 1.40 AF/A at the 80% chance of rainfall, and K.A.R. 5-3-24, *Reasonable quantity for irrigation use*, value of 2.0 AF/A.

The requested changes under File Nos. 42,025 & 42,031, proposed to modify and add the irrigated acres. Together the two rights developed 330 base acres. The applications were originally submitted as Field Office Applications, but further review of the changes required reassignment of the acres and the applications to Headquarters. The owners proposed to remove the 104 acres in the Northeast Quarter (NE $\frac{1}{4}$) of Section 11, shifting them to authorized 120 acres in the Southeast Quarter (SE $\frac{1}{4}$) of Section 2. It was determined this proposal would exceed the 330 base acres or 340 acres as allowed by Part b(1) of K.A.R. 5-5-11, so the place of use in Section 2, was scaled back to 114 acres which was acknowledged by the owners with Michael Meyer, Water Commissioner. The modification resulted in a total of 340 acres, adding 10 acres to be base acres as allowed by Part b(1) of K.A.R. 5-5-5-11. The place of use will authorize 114 acres in the Southeast Quarter (SE $\frac{1}{4}$) of Section 2; 120 acres in the Southwest Quarter (SW $\frac{1}{4}$) of Section 11; 106 acres in the Northeast Quarter of (NE $\frac{1}{4}$) of Section 15, all in Township 35, Range 39 West, Stevens County, to be irrigated with the limited 640 acre-feet resulting in an irrigation ratio of 1.88 AF/A. The irrigation ratio complies the values for Stevens County per K.A.R. 5-5-12 *Net irrigation requirements* of 1.40 AF/A at the 80% chance of rainfall, and K.A.R. 5-3-24, *Reasonable quantity for irrigation use*, value of 2.0 AF/A.

A *Compliance Investigation* completed by DWR staff on October 13, 2016 on the well under File No. 9437-DA determined the well to be within 20 feet of authorized. The approval under this right will update the well, ID 4, to be located 5,124 feet North and 2,006 feet West of the Southeast corner of Section 31, Township 28 South, Range 39 West, Stevens County. The actual location complies with Part (a) of K.A.R. 5-5-6, *Failure to construct diversion works at authorized location*.

In a letter dated March 8, 2021, Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, recommend approval of the applications with reduction in place of use under File Nos. 42,025 & 42,031.

Michael Meyer, Water Commissioner of the Garden City Field Office area reviewed the proposed applications. In an email dated March 18, 2021, he recommended approval of the package.

Water flowmeters will be required for the change approvals pursuant to K.A.R. 5-5-11(e)(2). Check valves will be required, if chemigating. As no new wells will be drilled a water level measurement tube and WWC-5 will not be conditions of the approvals. The Viestenz Family Farms LLC will be designated as the water use correspondent for File Nos. 42,025 & 42,031, as requested in the applications.

Based on the above discussion, that the changes will create reasonable places of use, the historical consumptive use will not be increased, that impairment to existing water rights are unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced applications be approved with the requested reductions.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Thu 3/18/2021 7:12 AM
To: Ireland, Leslie [KDA]
Subject: RE: Recommendation File Nos. 9437-DA; 42,023; 42,025 & 42,031 Shuck_Viestentz

approve
thank you

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, March 17, 2021 6:15 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Recommendation File Nos. 9437-DA; 42,023; 42,025 & 42,031 Shuck_Viestentz

Mike,

Please let me know if you could recommend the requested reductions and changes.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT, FILE NO. 42,025

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Kevin L. and Tami L. Viestenz on behalf of the Kevin L. and Tami L. Viestenz Revocable Living Trust, 8903 W 149th Street, Overland Park, Kansas 66221, received in the office of the Chief Engineer on February 1, 2021, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer dated March 29, 2021, in the matter of the authorized place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
02 35S 39W													28.5	28.5	28.5	28.5	114.0
11 35S 39W									30.0	30.0	30.0	30.0					120.0
15 35S 39W	26.5	26.5	26.5	26.5													106.0

a total of 340 acres in Sections 2, 11 & 15, in Township 35 South, Range 39 West,
Stevens County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the place of use.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

April 1, 2021

KEVIN L & TAMI L VIESTENZ
KEVIN L & TAMI L VIESTENZ REV LIVING TRUST
8903 W 149TH ST
OVERLAND PARK KS 66221

RE: Approval of Change Applications
Water Right, File Nos. 42,025 & 42,031

Dear Mr. & Mrs. Viestenz:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the reference files.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized under the referenced files.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact our office at (785) 564-6640 or your local area office in Garden City, Kansas at (620) 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications & Change Unit Supervisor
Water Appropriation Program

KAB:LI: tv
Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

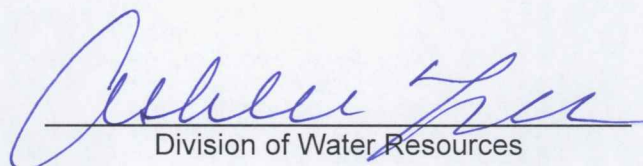
CERTIFICATE OF SERVICE

On this 1 day April, 2021, I hereby certify that the attached Approval of Application for Change in Place of Use, File No. 42,025 dated, 30 March 2021, was mailed postage prepaid, first class, US mail to the following:

KEVIN L. & TAMI L. VIESTENZ
KEVIN L & TAMI L VIESTENZ REV LIVING TRUST
8903 W 149TH ST
OVERLAND PARK, KS 66221

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources