

Kansas Department of Agriculture  
Division of Water Resources  
**PERMIT OF NEW APPLICATION WORKSHEET**

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50842</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>9/7/2023</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>01</b></p>	4. GMD: <p style="text-align: center; font-size: 1.2em;"><b>0</b></p>
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5. Status:      Approved                       Denied by DWR/GMD                       Dismiss by Request/Failure to Return

6. Enclosures:      Check Valve             N of C Form             Water Tube             Driller Copy             Meter

<p>7a. Applicant(s)                      Person ID <b>68536</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u></p> <p><b>ROCK CREEK STONE LLC</b> Attn: BRYAN DAVIS 434 ROAD 70 OLPE, KS 66865</p>	<p>7c. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p>
<p>7b. Landowner(s)                      Person ID <b>68536</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u></p> <p><b>7a.</b></p>	<p>7d. Misc.                                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p>

<p>8. WUR Correspondent                      Person ID <b>68536</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u> Overlap File (s) WUC                      Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No <b>7a.</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input type="checkbox"/> Groundwater    <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR            <input checked="" type="checkbox"/> REC            <input type="checkbox"/> DEW            <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK            <input type="checkbox"/> SED            <input type="checkbox"/> DOM            <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR    <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND    SIC: _____    <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: **12/31/2024**            11. Perfection Date: **12/31/2028**            12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

<div style="border: 1px solid blue; padding: 2px; display: inline-block;"> <p style="margin: 0;">9/11/2023 LMoody</p> </div>	<p>Date Prepared: 9/6/23 Date Reviewed: 9/7/2023 Date Entered: <b>9/11/2023</b> <b>KAnderson</b></p>	<p>By: LHH By: KAK By: _____</p>
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File No. **50,842**      15. Formation Code:      Drainage Basin: **Verdigris**      County: **LY**      Special Use:      Stream: **Rock Creek Trib 4 (Verdigris)**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
√				<b>89740</b>	<b>NE SW NW</b>	<b>34</b>	<b>20S</b>	<b>10E</b>	<b>1</b>	<b>3490</b>	<b>4037</b>				<b>NONE</b>

18. Storage: Rate **ALL NF** NF      Quantity **33.13** ac/ft      Additional Rate **ALL NF** NF      Additional Quantity **33.13** ac/ft

19. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

20. Meter Required?  Yes  No      To be installed by \_\_\_\_\_      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	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										
<b>MOD</b>			<b>70980</b>	<b>34</b>	<b>20S</b>	<b>10E</b>	<b>1</b>																			<b>7a</b>	<b>No</b>	<b>NONE</b>					

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** September 6, 2023

**FROM:** Lloyd Hemphill

**RE:** Application - File No. 50,842

Bryan Davis, on behalf of Rock Creek Stone, LLC has filed the referenced application to appropriate 33.13 acre-feet of surface water for storage at a rate of all natural flows of Rock Creek Trib 4 (Verdigris) for recreational use. The application is designed to cover the indirect use of water (one year of evaporation) plus the storage capacity of the pond. The proposed reservoir appears to be part of the reclamation of a small limestone quarry. The proposed point of diversion is located in the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 34, Township 20 South, Range 10 East, in Lyon County, Kansas. The point of diversion represents the drawdown pipe which outlets into the property's natural low point. The reservoir is also designed with an auxiliary spillway. The applicant owns the property containing the place of use and point of diversion. The applicant submitted a signed supplemental page on August 24, 2023 stating legal access to the point of diversion.

The reservoir surface area at auxiliary spillway elevation is 4.72 acres and the storage capacity is 28.01 acre-feet. Potential net evaporation in inches, based on K.A.R. 5-6-3, is 13 inches, resulting in a total evaporation of 5.1 acre-feet (13 in X 1 ft/ 12 in X 4.72 acres). This application requested a quantity equal to the reservoir storage capacity plus one year of evaporation (28.01 AF + 5.12 AF = 33.13 AF). This is consistent with K.A.R. 5-6-4 as it is reasonable to assume that three years of indirect use (evaporation and seepage) would be at least 33 acre-feet and would be greater than the reservoir capacity. Therefore, the reasonable storage quantity is the sum of direct use (none in this case), reservoir capacity, and one year of indirect use.

The application indicates that an additional embankment was constructed that directs runoff into the reservoir. The embankment will create a drainage area of 34 acre-feet. Runoff computations were completed considering a normal precipitation of 35 inches, soil complex number of 76, and drainage area of approximately 34 acres. These calculations determined that the drainage basin will generate 37.9 acre-feet of runoff in 1 out of every five (5) years (a 20% chance), therefore it will provide the requested quantity.

The applicant submitted a dam registration form with the application. DWR Water Structures reviewed the project under WSN: DLY-172 and determined that this project will not require any structures permits.

Sending notification letters to nearby landowners is not necessary for this project. There is no stream extending upstream of the applicant's property. The reservoir is located adjacent to an intermittent stream and the applicant owns property more than 1.5 miles downstream. Also, this stream joins a larger stream (Rock Creek) before it exits the applicant's property. The WRIS database indicates that there are two other permitted surface water rights within a two-mile radius. These water rights are located on streams in different drainage areas. Approval of this application will not impact any senior water rights.

Brett Bunger, Water Commissioner, Topeka Field Office, recommended in an August 21, 2023 e-mail that this application be approved. Based upon the above discussion, the area is open to new applications and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced application be approved.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

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

**SWORN STATEMENT**  
**PURSUANT TO K.S.A. 82a-709**

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 24, 2023.

Bryan Davis  
Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

<b>PDFs</b>
<a href="#">Mean Annual Precipitation</a>
<a href="#">Soil Cover Complex</a>

Mean Annual Precip, in	<b>35</b>
Soil Cover Complex No.	<b>76</b>
Drainage Area, acres	<b>34</b>
<b>Runoff at 20% Chance, AF</b>	<b>37.93</b>

**DO NOT EDIT BELOW THIS LINE**

% Chance Firm Coefficients			
	50%	80%	90%
a	0.5317	0.1216	0.0527
b	1.0815	1.2538	1.3547

%Chance Firm	Runoff, in	Comp. Runoff, in
50%	4.19	<b>4.19</b>
80%	1.33	<b>1.31</b>
90%	0.70	<b>0.72</b>
20%		<b>13.39</b>

Std. Dev. 90%	1.40
Std. Dev. 80%	1.36
Avg	1.38

Mean annual runoff for CN = 75, inches	6.50
Mean annual runoff for CN = 80, inches	7.75
Interp. Mean annual runoff for CN = 76, inches	6.75

# 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 and PERMIT TO PROCEED

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,842** of the applicant

**ROCK CREEK STONE LLC  
434 ROAD 70  
OLPE KS 66865**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **August 4, 2022**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 34, Township 20 South, Range 10 East, in Lyon County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to the Rock Creek, designated in the office of the Chief Engineer as Rock Creek Trib 4 (Verdigris), not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of **33.13 acre-feet** per calendar year, in a reservoir created by a dam located in the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 3,490 feet North and 4,037 feet West of the Southeast corner of said section, in Township 20 South, Range 10 East, Lyon County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That installation of works for diversion of water shall be completed on or before **December 31, 2024**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.
5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2028**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.





pc: Topeka Field Office



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

September 18, 2023

BRYAN DAVIS  
ROCK CREEK STONE LLC  
434 ROAD 70  
OLPE KS 66865

RE: Appropriation of Water  
File No. 50,842

Dear Mr. Davis:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports may be submitted for no fee online at [www.kswaterusereport.org](http://www.kswaterusereport.org). Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Also included is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information is available on our website at [agriculture.ks.gov/dwr](http://agriculture.ks.gov/dwr). If you have any questions or need assistance, please contact our office at 785-564-6640 or the local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:kak:llh  
Enclosure(s)

## 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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 review 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, Kansas 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.

## CERTIFICATE OF SERVICE

On this 18 day of September, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,842, dated September 7, 2023, was mailed postage prepaid, first class, US mail to the following:

ROCK CREEK STONE LLC  
434 ROAD 70  
OLPE KS 66865

With photocopies to:

KDA-DWR Topeka Field Office

  
\_\_\_\_\_  
Division of Water Resources