

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-8364, Douglas County	)	PROPOSING <b>DENIAL</b> OF A CHANGE
	)	IN POINT OF DIVERSION, PLACE OF
	)	USE, AND CHARACTER OF USE

**Authority**

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

TRUAD VENTURES  
ATTN – LEE MILLSTEAD  
P.O. BOX 2463  
WALDPORT, OREGON 97394

**Findings of Fact**

**Background**

1. On November 22, 1999, Loran Waldron, Vice President of Land and Water Environmental Services, Inc., on behalf of Truad Ventures, filed an application to change the point of diversion, place of use and character of use under Certificate 22368. The Department assigned the application number T-8364.
2. The right to be transferred is as follows:  
**Certificate:** 22368 in the name of J. HAROLD AND CYRIL H. NICHOLS (perfected under Permit S-21045)  
**Use:** IRRIGATION of 50.75 ACRES  
**Priority Date:** JANUARY 17, 1952  
**Rate:** 0.634 CUBIC FOOT PER SECOND (cfs)  
**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year  
**Source:** SOUTH UMPQUA RIVER, tributary to the UMPQUA RIVER

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
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**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
28 S	6 W	WM	29	NE NW	51

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
28 S	6 W	WM	20	SW SW	51	2.18
28 S	6 W	WM	20	SE SW	51	9.97
28 S	6 W	WM	29	NE NW	51	8.45
28 S	6 W	WM	29	NW NW	51	19.24
28 S	6 W	WM	29	SW NW	51	10.91

3. Transfer Application T-8364 proposes to move the point of diversion approximately 0.25 mile downstream from the authorized point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
28 S	6 W	WM	21	SE SW	1040 FEET NORTH AND 1360 FEET EAST FROM THE SW CORNER OF SECTION 21

4. Transfer Application T-8364 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	Additional location information
28 S	6 W	WM	15	SW NW	
28 S	6 W	WM	15	NW SW	
28 S	6 W	WM	15	SE SW	
28 S	6 W	WM	16	NE NE	
28 S	6 W	WM	16	NW NE	
28 S	6 W	WM	16	NE NW	
28 S	6 W	WM	16	NW NW	
28 S	6 W	WM	16	NE SW	
28 S	6 W	WM	16	NW SW	
28 S	6 W	WM	16	SW SW	
28 S	6 W	WM	16	SE SW	
28 S	6 W	WM	16	NE SE	
28 S	6 W	WM	16	NW SE	
28 S	6 W	WM	16	SW SE	
28 S	6 W	WM	16	SE SE	
28 S	6 W	WM	17	NE NE	
28 S	6 W	WM	17	NW NE	
28 S	6 W	WM	17	SW NE	
28 S	6 W	WM	17	SE NE	
28 S	6 W	WM	17	NW NW	
28 S	6 W	WM	17	SW NW	
28 S	6 W	WM	17	NE SW	
28 S	6 W	WM	17	NW SW	
28 S	6 W	WM	17	SW SW	
28 S	6 W	WM	17	SE SW	
28 S	6 W	WM	17	NE SE	
28 S	6 W	WM	17	NW SE	
28 S	6 W	WM	17	SW SE	

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Additional location information</b>
28 S	6 W	WM	17	SE SE	
28 S	6 W	WM	18	NE NE	
28 S	6 W	WM	18	NW NE	
28 S	6 W	WM	18	SW NE	
28 S	6 W	WM	18	SE NE	
28 S	6 W	WM	18	NE NW	
28 S	6 W	WM	18	SE NW	
28 S	6 W	WM	18	NE SW	
28 S	6 W	WM	18	SE SW	
28 S	6 W	WM	18	NE SE	
28 S	6 W	WM	18	NW SE	
28 S	6 W	WM	18	SW SE	
28 S	6 W	WM	18	SE SE	
28 S	6 W	WM	19	NE NE	
28 S	6 W	WM	19	NW NE	
28 S	6 W	WM	19	SW NE	
28 S	6 W	WM	19	SE NE	
28 S	6 W	WM	19	NE SW	
28 S	6 W	WM	19	NW SW	
28 S	6 W	WM	19	SW SW	
28 S	6 W	WM	19	SE SW	
28 S	6 W	WM	19	NE SE	
28 S	6 W	WM	19	NW SE	
28 S	6 W	WM	19	SW SE	
28 S	6 W	WM	19	SE SE	
28 S	6 W	WM	20	NE NE	
28 S	6 W	WM	20	NW NE	
28 S	6 W	WM	20	SW NE	
28 S	6 W	WM	20	SE NE	
28 S	6 W	WM	20	NE NW	
28 S	6 W	WM	20	NW NW	
28 S	6 W	WM	20	SW NW	
28 S	6 W	WM	20	SE NW	
28 S	6 W	WM	20	NE SW	
28 S	6 W	WM	20	NW SW	
28 S	6 W	WM	20	SW SW	
28 S	6 W	WM	20	SE SW	
28 S	6 W	WM	20	NE SE	
28 S	6 W	WM	20	NW SE	
28 S	6 W	WM	20	SW SE	
28 S	6 W	WM	21	NE NE	
28 S	6 W	WM	21	NW NE	
28 S	6 W	WM	21	SW NE	
28 S	6 W	WM	21	SE NE	
28 S	6 W	WM	21	NE NW	
28 S	6 W	WM	21	NW NW	
28 S	6 W	WM	21	SW NW	
28 S	6 W	WM	21	SE NW	
28 S	6 W	WM	21	NE SW	
28 S	6 W	WM	21	NW SW	

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Additional location information</b>
28 S	6 W	WM	21	SW SW	
28 S	6 W	WM	21	SE SW	
28 S	6 W	WM	21	NE SE	
28 S	6 W	WM	21	NW SE	
28 S	6 W	WM	21	SW SE	
28 S	6 W	WM	21	SE SE	
28 S	6 W	WM	22	NE NW	
28 S	6 W	WM	22	NW NW	
28 S	6 W	WM	22	SW NW	
28 S	6 W	WM	22	SE NW	
28 S	6 W	WM	22	NE SW	
28 S	6 W	WM	22	NW SW	
28 S	6 W	WM	22	SW SW	
28 S	6 W	WM	22	SE SW	
28 S	6 W	WM	27	NW NW	
28 S	6 W	WM	27	SW NW	
28 S	6 W	WM	28	NE NE	
28 S	6 W	WM	28	NW NE	
28 S	6 W	WM	28	SW NE	
28 S	6 W	WM	28	SE NE	
28 S	6 W	WM	28	NE NW	
28 S	6 W	WM	28	NW NW	
28 S	6 W	WM	28	SW NW	
28 S	6 W	WM	28	SE NW	
28 S	6 W	WM	29	NE NE	
28 S	6 W	WM	29	SE NE	
28 S	6 W	WM	29	NW NW	
28 S	6 W	WM	29	SW NW	
28 S	6 W	WM	29	NE SW	
28 S	6 W	WM	29	NE SE	
28 S	6 W	WM	29	SW SE	
28 S	6 W	WM	29	SE SE	
28 S	6 W	WM	30	NE NE	
28 S	6 W	WM	30	NW NE	
28 S	6 W	WM	30	SW NE	
28 S	6 W	WM	30	SE NE	
28 S	6 W	WM	30	NE SE	
28 S	6 W	WM	30	NW SE	
28 S	6 W	WM	31	SW NE	
28 S	6 W	WM	31	SE NE	
28 S	6 W	WM	31	NE SE	
28 S	6 W	WM	31	NW SE	
28 S	6 W	WM	32	NE NE	
28 S	6 W	WM	32	NW NE	
28 S	6 W	WM	32	SW NE	
28 S	6 W	WM	32	SE NE	
28 S	6 W	WM	32	NE NW	
28 S	6 W	WM	32	NW NW	
28 S	6 W	WM	32	SW NW	
28 S	6 W	WM	32	SE NW	

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Additional location information</b>
28 S	6 W	WM	32	NE SW	
28 S	6 W	WM	32	NW SW	
28 S	6 W	WM	32	SW SW	
28 S	6 W	WM	32	SE SW	
28 S	6 W	WM	32	NE SE	
28 S	6 W	WM	32	NW SE	
28 S	6 W	WM	32	SW SE	
28 S	6 W	WM	32	SE SE	
28 S	6 W	WM	33	NE NW	South of river
28 S	6 W	WM	33	NW NW	South of river
28 S	6 W	WM	33	SW NW	South of river
28 S	6 W	WM	33	SE NW	South of river
28 S	6 W	WM	33	NE SW	South of river
28 S	6 W	WM	33	NW SW	South of river
28 S	6 W	WM	33	SW SW	South of river
28 S	6 W	WM	33	SE SW	South of river
28 S	6 W	WM	33	NE SE	South of river
28 S	6 W	WM	33	NW SE	South of river
28 S	6 W	WM	33	SW SE	South of river
28 S	6 W	WM	33	SE SE	South of river
29 S	6 W	WM	3	NE NW	South of river
29 S	6 W	WM	3	NW NW	South of river
29 S	6 W	WM	3	SW NW	South of river
29 S	6 W	WM	3	SE NW	South of river
29 S	6 W	WM	3	NE SW	South of river
29 S	6 W	WM	3	NW SW	South of river
29 S	6 W	WM	3	SW SW	South of river
29 S	6 W	WM	3	SE SW	South of river
29 S	6 W	WM	4	NE NW	
29 S	6 W	WM	4	NW NW	
29 S	6 W	WM	4	SW NW	
29 S	6 W	WM	4	SE NW	
29 S	6 W	WM	4	NE SW	
29 S	6 W	WM	4	NW SW	
29 S	6 W	WM	4	SW SW	
29 S	6 W	WM	4	SE SW	
29 S	6 W	WM	4	NE SE	
29 S	6 W	WM	4	NW SE	
29 S	6 W	WM	4	SW SE	
29 S	6 W	WM	4	SE SE	
29 S	6 W	WM	5	NE NE	
29 S	6 W	WM	5	NW NE	
29 S	6 W	WM	5	SW NE	
29 S	6 W	WM	5	SE NE	
29 S	6 W	WM	5	NE NW	
29 S	6 W	WM	5	NW NW	
29 S	6 W	WM	5	SW NW	
29 S	6 W	WM	5	SE NW	
29 S	6 W	WM	6	NE NE	East of Kent Creek Rd.
29 S	6 W	WM	6	NW NE	

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Additional location information</b>
29 S	6 W	WM	6	SW NE	East of Kent Creek Rd.
29 S	6 W	WM	6	SE NE	East of Kent Creek Rd.
29 S	6 W	WM	6	NE SE	East of Kent Creek Rd.
29 S	6 W	WM	6	NW SE	East of Kent Creek Rd.
29 S	6 W	WM	6	SW SE	East of Kent Creek Rd.
29 S	6 W	WM	6	SE SE	East of Kent Creek Rd.
29 S	6 W	WM	7	NW NE	
29 S	6 W	WM	7	NE NW	
29 S	6 W	WM	9	NE NE	
29 S	6 W	WM	9	NW NE	
29 S	6 W	WM	9	SW NE	
29 S	6 W	WM	9	SE NE	
29 S	6 W	WM	9	NE NW	
29 S	6 W	WM	9	NW NW	
29 S	6 W	WM	9	SW NW	
29 S	6 W	WM	9	SE NW	
29 S	6 W	WM	9	NE SW	
29 S	6 W	WM	9	NW SW	
29 S	6 W	WM	9	SW SW	
29 S	6 W	WM	9	SE SW	
29 S	6 W	WM	9	NE SE	
29 S	6 W	WM	9	NW SE	
29 S	6 W	WM	9	SW SE	
29 S	6 W	WM	9	SE SE	
29 S	6 W	WM	10	NE NW	
29 S	6 W	WM	10	NW NW	
29 S	6 W	WM	10	SW NW	
29 S	6 W	WM	10	SE NW	
29 S	6 W	WM	10	NE SW	
29 S	6 W	WM	10	NW SW	
29 S	6 W	WM	10	SW SW	
29 S	6 W	WM	10	SE SW	
29 S	6 W	WM	15	NE NW	
29 S	6 W	WM	15	NW NW	
29 S	6 W	WM	15	SW NW	
29 S	6 W	WM	15	SE NW	
29 S	6 W	WM	15	NE SW	
29 S	6 W	WM	15	NW SW	
29 S	6 W	WM	15	NE SE	
29 S	6 W	WM	15	NW SE	
29 S	6 W	WM	15	SW SE	
29 S	6 W	WM	15	SE SE	
29 S	6 W	WM	16	NE NE	
29 S	6 W	WM	16	NW NE	
29 S	6 W	WM	16	SW NE	
29 S	6 W	WM	16	SE NE	
29 S	6 W	WM	16	NE NW	
29 S	6 W	WM	16	NW NW	
29 S	6 W	WM	16	SW NW	
29 S	6 W	WM	16	SE NW	

Twp	Rng	Mer	Sec	Q-Q	Additional location information
29 S	6 W	WM	16	NE SW	
29 S	6 W	WM	16	NW SW	
29 S	6 W	WM	16	SW SW	
29 S	6 W	WM	16	SE SW	
29 S	6 W	WM	16	NE SE	
29 S	6 W	WM	16	NW SE	
29 S	6 W	WM	16	SW SE	
29 S	6 W	WM	21	NW NE	
29 S	6 W	WM	21	SW NE	
29 S	6 W	WM	21	SE NE	
29 S	6 W	WM	21	NE NW	
29 S	6 W	WM	21	NW NW	
29 S	6 W	WM	21	SW NW	
29 S	6 W	WM	21	SE NW	
29 S	6 W	WM	21	NE SW	
29 S	6 W	WM	21	NW SW	
29 S	6 W	WM	21	SW SW	
29 S	6 W	WM	21	SE SW	
29 S	6 W	WM	22	NE NE	
29 S	6 W	WM	22	NW NE	
29 S	6 W	WM	22	SW NE	
29 S	6 W	WM	22	SE NE	
29 S	6 W	WM	22	NE SE	
29 S	6 W	WM	22	NW SE	
29 S	6 W	WM	23	NW NW	

5. Transfer Application T-8364 proposes to change the character of use to municipal uses.
6. Notice of the application for transfer was published on December 7, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. Newspaper notice should have been previously published pursuant to 690-015-0080(1) however; the record does not contain an affidavit of publication. The notice was provided to the applicant on September 20, 2000.
8. On December 19, 2000, the Department received information from Dole, Coalwell, Clark, Mountainspring and Mornarich, P.C. stating their firms represent Nichols Bros., Inc., and others who hold liens on lands associated with Transfer Application T-8364. Additionally, they supplied copies of a trust deed and a contract of sale held by Nichols Bros., Inc., which encumber some or all of the lands proposed to be affected by Transfer Application T-8364.

9. On January 5, 2001, the Department mailed a letter informing the applicant of the information received from Dole, Coalwell, Clark, Mountainspring and Mornarich, P.C. The letter also informed the applicant of the objection of Nichols Brothers, Inc., to the proposed transfer. Furthermore, the letter informed the applicants that pursuant to OAR 690-15-060(14), being the administrative rules in effect at the time, that if encumbrances exist against the property to which the existing right is appurtenant, the application shall be accompanied by a signed statement from the holder of the encumbrance that there is no objection to the proposed change.
10. On July 16, 2007, the Department contacted the Douglas County Assessor's office to determine current ownership of the lands involved in Transfer Application T-8364. The Assessor's office report indicated that Nichols Brothers, Inc., and Resort Towns International are the current owners of record for the land appurtenant to Certificate 22368.
11. On July 16, 2007, the Department mailed a letter to the applicant wherein a request for submittal of notarized statements from the lien holders be forward to the Department no later than September 17, 2007. To date, no signed statement has been received by the Department.
12. On July 23, 2007, the letter referenced in Finding of Fact No. 11 was returned by the U. S. Postal Service as undeliverable. An attempt to locate an updated address or telephone number of the applicant was unsuccessful. An inquiry to the State of Oregon's Business Registry Business Name Search indicated that the entity named Truad Ventures, Inc., was inactive. Additionally, information was gleaned from this resource that the company had filed Articles of Dissolution.
13. On September 12, 2007, the Department made telephone contact with Loran Waldron of Land and Water Environmental Service, Inc. who had, at one time, been acting as an agent for the applicant. Mr. Waldron indicated that the entity known as Truad Ventures no longer exists and that his organization is no longer acting as agent for this application.
14. On September 17, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-8364 to the applicant. The draft Preliminary Determination set forth a deadline of October 15, 2007, for the applicant to respond. The applicant did not respond by the deadline.
15. As identified in Findings of Fact Nos. 7, 8 and 9 above, the transfer application does not meet standards for completeness as per ORS 540.520, OAR Chapter 690, Division 15 which were in effect at the time of filing, nor does it meet OAR Chapter 690, Division 380 completeness standards currently in effect.
16. As identified in Findings of Fact Nos. 11, 12, 13, and 14 above, the Department has exhausted all reasonable attempts at contacting the applicant to resolve the deficiencies in the application.



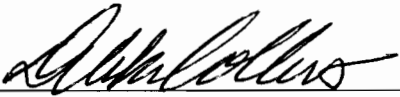
***Transfer Review Criteria [OAR 690-380-4010(2)]***

17. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
18. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-8364.
19. The record does not contain sufficient information for the Department to determine whether the proposed change would not result in enlargement of the right.
20. The record does not contain sufficient information for the Department to determine whether the proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

The changes in point of diversion, place of use and character of use proposed in application T-8364 appear to not be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380 for completeness. If protests are not filed pursuant to OAR 690-380-4030, the application will be denied.

Dated at Salem, Oregon this 22 day of October, 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Susan Douthit. If you have questions about the information in this document, you may reach me at 503-986-0858 or Susan.M.Douthit@wrdd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.