

Tumalo Reservoir: Past, Present and Future

Updated June 2016

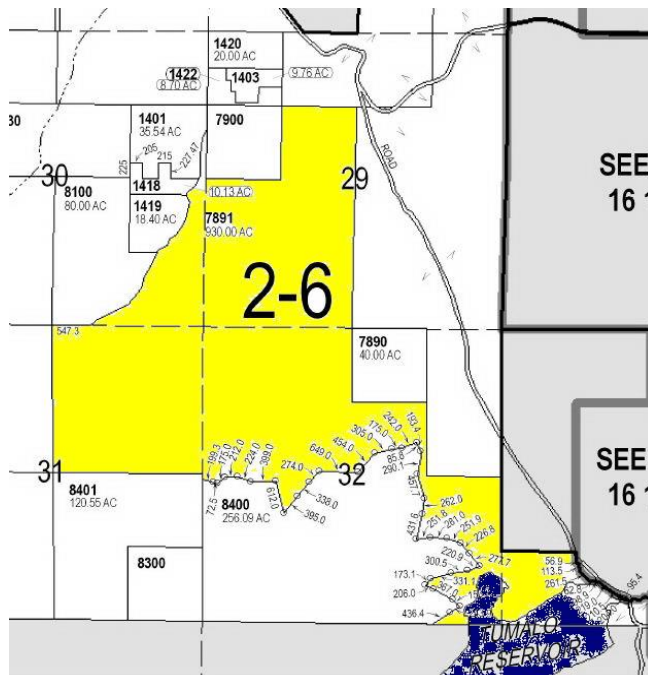
Background

The History of Tumalo Reservoir is a long and varied story stretching over the more than 100 years, but events over the last 30 years are most relevant to current concerns.

Back in the 1980s, Tumalo Reservoir was considered “the spot” in Bend for keg parties, four-wheel mud bogging, sailing, shooting, camping and generally having fun. At this time, the Tumalo Irrigation District (TID) was still actively trying to expand and rebuild the Upper Tumalo Reservoir due to a chronic shortage of water, and to develop a hydroelectric facility to subsidize irrigation water rates, if possible. Safety was also a concern. As a result, a “No Motorized Vehicles” closure was attempted by the staff to limit access and preserve the water quality. But this didn’t work. People damaged gates and interfered with the District facilities. The ditch riders would arrive Monday morning to find the water turned into Tumalo Reservoir and half the district dry.

In August 1987, the District attempted to close Tumalo Reservoir to the public. The record states they took this action, "Because of the numerous complaints concerning our District's lands, the Board of Directors reluctantly voted to close the Tumalo Reservoir and other lands to all public use until further notice." The board voted unanimously in favor of the motion.

Figure 1. District property



The State of Oregon, which owned the property Tumalo Reservoir occupied, intervened, stating that the District didn’t have the right to change the status of state-owned property. It did, however, suggest it could turn the property over to the District with conditions. The District could then determine the use of the property and take appropriate measures to ensure the safety and quality of Tumalo Reservoir.

The property was subsequently deeded over to Tumalo Irrigation District in 1988 and a new motion was made at a special meeting in September 1988 to "Close the Tumalo Reservoir and surrounding lands from public access, and to make the area a wildlife sanctuary." The motion was to include the

stipulation that a vote of 75 percent of the water users would be needed before any changes could be made to this motion. This was a controversial decision, but it was made.

In the 25 years since, the District has tightened the boundaries of the actual closed area to just the property surrounding the reservoir itself, and it has not actively posted the northern half of the property closed to the public. This decision is also not without controversy but it is a compromise, allowing other uses on the District property.

In turning the property over to the District, the State placed this restriction on the deeds.

“Provided that said property is held in public ownership and used as a Winter feeding area for wildlife satisfactory to the Oregon Department of Fish and Wildlife. When said property is no longer owned by Tumalo Irrigation District, or another public body, or is no longer used for a public purpose including use as a Winter feeding area for wildlife satisfactory to the Oregon Department of Fish and Wildlife then Grantor may reenter and terminate the interest of the Grantee or Grantees assigns.”

In layman’s terms, this means that the property will remain open space as it is now as long as Tumalo Irrigation District owns it; it will not be developed.

Current Events

As recently as 2013, controversy again surrounded the Tumalo Reservoir when a demand was made that TID restrict access to the property north of Tumalo Reservoir. TID was (and still is) trying to sort out the local land use issues involved. The following is a TID fact sheet from 2013.

******* 2013 Tumalo Reservoir Doc *******

The District management has been asked to explain the current Tumalo Board of Directors discussion about Tumalo Reservoir, its historical and current closures, and the request by some Tumalo Irrigation District patrons for additional changes to some types of uses on TID lands.

Before getting started it is perhaps best to refer to the two maps linked below, neither of which purport to show the location of property ownership lines except to give a general understanding of the current situation as the Board of Directors sees it.

The first map was produced by the Bureau of Land Management (BLM) and can be accessed here.

[<Link to BLM_Map.pdf>](#)

The second map is a compilation of data from the Deschutes County GIS database by TID and can be accessed here.

[<Link to TumaloReservoirLands.pdf>](#)

- As you can see the maps do not agree on property ownership and this is our first issue to tackle. Just who owns what land can be a difficult question to answer as the records of ownership stretch back over 100 years - this research is in progress.
- Tumalo Reservoir is currently, and has been, posted closed to public entry by a vote of the Tumalo Irrigation District Board since 1988. It is patrolled by Deschutes County Sheriff's officers who will ticket trespassers. The green line on the TID map is an approximate representation of the posted no trespassing signs surrounding Tumalo Reservoir and posted in accordance with ORS 105.700
- Tumalo Irrigation District has not posted the lands outside of the posted signs except as provided by Oregon State Fish and Wildlife in regards to the winter deer range closures**.
- The BLM currently restricts shooting to lawful hunting only on its lands (i.e., no target shooting) around the Tumalo Reservoir. Note: Please contact the BLM for exact rules and regulations regarding BLM lands.
- Some Tumalo Irrigation Patrons have requested that the District post the remaining (un-posted) District properties around Tumalo Reservoir 'No Shooting Except for Lawful Hunting' as to parallel the BLM rules. This would change the current status of the area being closed to the public.
- Some Tumalo Irrigation Patrons have expressed an opinion that the District not enforce a full closure as they use the district property to access other public lands. They would like to keep the Bull Flat Road open to the public at the very least. Evidence was presented that the Bull Flat Road was in fact a public road. The District shows the road on some of its maps going back >80 years, as does the BLM and USGS.
- Some Tumalo Irrigation Patrons have expressed an opinion that the District not restrict target shooting on lands they have been using for a long time for that purpose.
- A new request has been made to remove the posted signs and replace them with a 'Use at your own risk' type sign (wording would have to be determined by legal counsel).
- The next Board of Directors meeting where this will be discussed in on May 14th 2013, at 10:00 AM at the Tumalo Irrigation District Office the results of which are published in the May 2013 minutes.

Below please find links to the minutes of the Sept 13, 1988, board meeting and the minutes of the Sept 27, 1988, Special Board Meeting at Tumalo School. These minutes are the conclusion of the multiyear process that went into the Closing of Tumalo Reservoir to public access and contain the resolutions to do so.

[<Link to 1988RegBoardMeetingSept131988.pdf>](#)

[<Link to 1988SpecialBoardMeetingSept271988.pdf>](#)

*4/10/2013 Modified wording of the bullet points to better match the current understanding of the issues. Added Minutes of the 1988 board Meetings detailing the final decisions of the 1988 Tumalo Board of Directors.

[<Link to 4/09/2013 Minutes>](#)

[<Link to 5/14/2013 Minutes>](#)

** Tumalo Irrigation District in Cooperation with Oregon Fish and Wildlife supports the Tumalo Winter Range Cooperative Closure that closes the winter range to motorized vehicles from December 1st through March 31st. The closure area is jointly monitored and enforced by the Oregon Department of Fish and Wildlife and the Oregon State Police. The unauthorized use of the area by motor vehicles is prohibited and can result in prosecution and fines. Please see map:

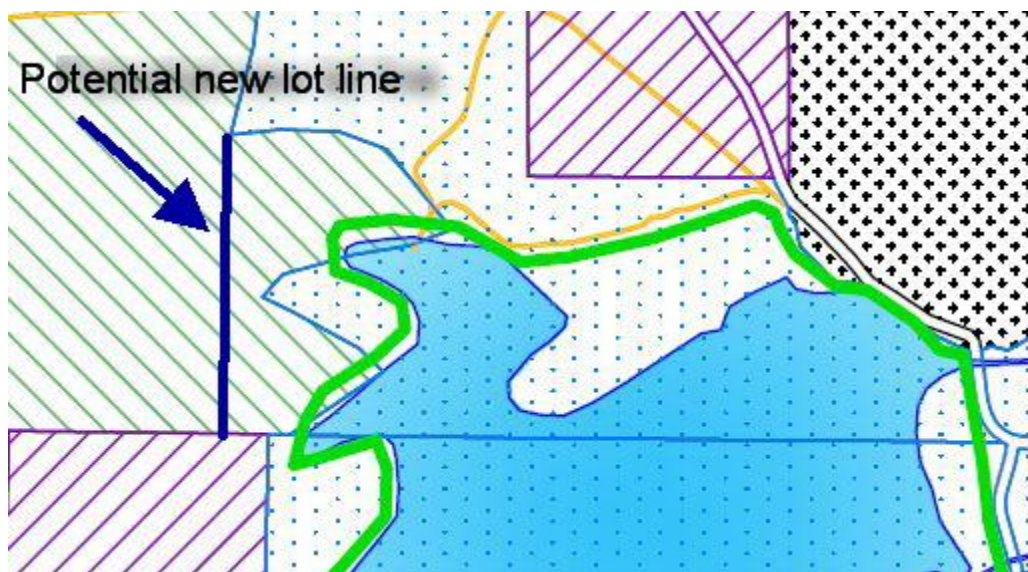
[<Link to TumaloDeerWinterRange.pdf>](#)

***** End 2013 Tumalo Reservoir Doc *****

Recently, the District has asked Deschutes County to determine if the northern lot is a “legal lot of record.” This step is required before TID can do a lot line adjustment with the State of Oregon. This is necessary because it seems the person who drew out the first lot line ‘missed’ part of Tumalo Reservoir. TID would like to include those lands under the reservoir as part of the reservoir property to protect the lands from a potential state sale to a third party. The lands TID would give back to the state in exchange would be an equal amount of lands it does not have a use for in the operation of the District.

As shown on the map below (Figure 2), most of the land is not required for the operation of Tumalo Reservoir. TID would like to secure all the lands under and around the Reservoir and bring those lands under District control. The same state-mandated deed restrictions that were placed on the original lots would be placed on the additional lands obtained from the state.

Figure 2. Potential New Lot Line



The Legal Lot of Record determination request submitted to Deschutes County Planning Department found eight legal lots on the property (all of the lots are more than 80 years old) and two are ‘remnants.’

This determination was appealed by Central Oregon Land Watch (COLW), and a hearing was held on Sept 8, 2015, at the Deschutes County offices. Subsequently, the county hearings officer ruled for the Deschutes County Planning Department. This decision was again appealed by COLW to the Deschutes County commissioners, who also upheld the decisions made by Deschutes County Planning and the Deschutes County hearings officer. These decisions were again appealed by COLW to the State of Oregon Land Use Board of Appeals (LUBA).

To date, these appeals have cost TID more than \$40,000, and will cost more as the TID board voted to intervene with Deschutes County on the LUBA case at its May 10, 2016, board meeting.

Currently, Tumalo Irrigation District does not own all the land under Tumalo Reservoir, but it would like to. At the same time, TID has excess land making an exchange with the State of Oregon a reasonable solution.

Tumalo Reservoir is a very valuable asset to TID, the Patrons it serves, and the agriculture and river health it supports. To ensure its quality, Tumalo Reservoir must be maintained and ongoing conservation projects completed as soon as possible. In addition, the resources Tumalo Reservoir provides are also valuable assets. For example, the silt used throughout the system (removed during routine maintenance from Tumalo Reservoir) saves the District hundreds of thousands of dollars in material costs.

However, a District patron living across from Tumalo Reservoir has complained to Deschutes County Code Enforcement about maintenance of and use of the silt from the floor of Tumalo Reservoir, which it has been doing for more than 80 years. Subsequently, Deschutes County has found that it is against a new interpretation of county code for TID to maintain Tumalo Reservoir or use the silt dredged from it along the canals (where it came from in the first place) to bed the pipes without first obtaining a Conditional Use Permit (CUP) for mining from Deschutes County. Deschutes County has also declared Tumalo Reservoir a wetland.

Tumalo Irrigation District has determined that, at best, it will take years and tens of thousands of dollars to obtain the mining permit and to deal with continuous appeals. In addition, there are other negative consequences.

- Our legal costs as of June 2016 for defending our right to maintain Tumalo Reservoir has exceeded \$22,000.
- This ruling will cost the District hundreds of thousands of dollars to buy materials to bed the pipelines and repair canals.
- As a result, the pipelines will be shorter per job, taking more time and costing more money.
- Tumalo Creek restoration and restoration of Crescent Creek to benefit the Oregon Spotted Frog, listed on the Endangered Species Act, will now take longer and cost more than expected as we will not be able to source our own materials.
- Not able to maintain Tumalo Reservoir means the capacity of the reservoir itself will be lost by the continued inflow of silt, which means less water storage for our patrons and the eventual loss of our right to store water in Tumalo Reservoir.

[<Link to Deschutes County decision on maintaining Tumalo Reservoir>](#)

New information will be provided as it becomes available. In the meantime, please call or email the Tumalo Irrigation District office with any questions.

Kenneth Rieck
District Manager / Secretary to the Board
Tumalo Irrigation District