

Instrument # 990795  
Bonner County, Sandpoint, Idaho  
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Michael W. Rosedale Fee \$0.00  
Ex-Officio Recorder Deputy \_\_\_\_\_  
Index to MISC



**Resolution #2021-74**  
**Vacation & Abandonment**  
**Portion of Barnhart Road**





# Bonner County Commissioners

1500 Hwy 2, Ste. 308 • Sandpoint, ID 83864 • Phone: (208) 265-1438

August 31, 2021

## Memorandum

To: Commissioners

Re: Resolution Barnhart

On August 24, 2021 the BOCC held a hearing to determine the validity of the Vacation of a portion of Barnhart Road as petitioned by Bonner County Road & Bridge. The BOCC has found it in the public interest to grant the road vacation according to the attached documents.

Legal Review: \_\_\_\_\_

Distribution: Original to BOCC, Copy Road & Bridge

A suggested motion would be: **Mr. Chairman based on the information before us I move to approve Resolution #21-74 including the Findings of Fact, Conclusions of Law, Decision and Order copied and attached hereto collectively as Exhibit 1, arising from the public hearing on the Petition of Bonner County Road & Bridge for the Vacation and abandonment.**

Recommendation Acceptance:  yes  no

  
Commissioner Dan McDonald, Chairman

Date: 8/31/2021

Steve Bradshaw

**Steve Klatt, Director**  
**Bonner County Road & Bridge Department**  
**1500 Highway 2, Suite 101**  
**Sandpoint, Idaho 83864**

**BEFORE THE BONNER COUNTY BOARD OF COMMISSIONERS**

**BONNER COUNTY ROAD & BRIDGE  
DEPARTMENT, a division of Bonner  
County,**  
  
**Petitioner,**

**PETITION FOR VACATION**

**COMES NOW, Petitioner Bonner County Road & Bridge Department, and petitions Bonner County for vacation of a segment of Huckleberry Mountain Road and a segment of Barnhart Road near Cocolalla, Idaho, pursuant to Idaho Code ~40-203; and acceptance of the dedication of public right of way for the extension of Barnhart Road as follows:**

**PARTIES**

**1. Petitioner Bonner County Road & Bridge Department (hereinafter Road & Bridge) is a division of Bonner County responsible for the preservation and/or maintenance of all rights-of-way containing the Huckleberry Mountain Road and the Barnhart Road.**

**2. Bonner County is a political subdivision of the State of Idaho, acting through the Bonner County Board of Commissioners in their official capacities. Bonner County has jurisdiction over Barnhart Road and Huckleberry Mountain Road.**

**GENERAL DESCRIPTION**

**Barnhart Road is a public road that connects with the public road, Huckleberry Mountain Road creating a looped public access in Bonner County, Idaho, originating at 456084 Highway 95, crossing the Northern Pacific Railway right-of-way and terminating at 458706 Highway 95 after crossing back**

over the Northern Pacific Railway right-of-way. Bonner County maintains .47 miles of the south end of the looped road and the remainder is privately maintained.

### **PETITION**

1. Barnhart and Huckleberry Mountain Roads were described and declared a Public Highway by the Bonner County Commissioners with the acceptance and approval of the Viewers' Report of April 28th, 1915, originating at the Northern Pacific railroad and ending at Kings Spur.

2. The Viewers' Report of 1915 as approved, created Road No. 326 for Road District No. 41 passing over lands in Sections 35 & 36; Township 55N, Range 3W, Boise Meridian and Sections 2, 11, 12 & 13; Township 54N, Range 3W, Boise Meridian.

3. Barnhart Road further became a public highway in part by the 1917 deeds granted to Bonner County by residents of Road District No. 41.

4. Barnhart road, including the portion of the right-of-way proposed for vacation has never been accepted as part of a platted subdivision.

5. In May of 1993 a petition for vacation was denied pursuant to Idaho Code §40-203 (2):  
No Highway or part of it shall be abandoned and vacated so as to leave any real property adjoining the highway without an established highway connecting that real property with another highway.

6. On June 26<sup>th</sup>, 1997 the petition for vacation was again proposed, but not granted a formal hearing, based on a change in the verbiage of state code:

No Highway or public right-of-way or parts thereof shall be abandoned and vacated so as to leave any real property adjoining the highway or public right-of-way without access to an established highway or public right-of-way.

7. The current owners of real property in SE1/4 Section 35, T55N, R3W, have constructed a connecting road from Barnhart Road to Huckleberry Mountain Road and will dedicate the land to create a new public right of way.

8. The current owners of real property in SE1/4 Section 35, T55N, R3W, that abut to the right-of-way to be vacated have advised Road and Bridge that they support the vacation.

9. There is no consideration for an easement for utilities in the proposed vacation of right-of-way, as currently no utility easement exists.

10. Upon dedication of a similar and acceptable right-of-way connecting Barnhart Road to Huckleberry Mountain Road, the vacation of this portion of Huckleberry Mountain Road will not create an issue of denied "access to the highway or public right-of-way". As a result of the vacation, no access to public lands will be denied, and in combination with the new dedication of right-of-way, no property will be left without access to an established highway.

### **VACATION REQUESTED**

1. That Huckleberry Mountain Road and Barnhart Road are public highways as that term is defined in Idaho Code ~40-117(7), and that Bonner County is the owner of those public highways.

2. The portion of the road the Petitioners seek to vacate is described as:

A 50 foot wide strip of land lying in Section 35, Township 35, Township 55 North, Range 3 West, Boise Meridian being 25 feet on each side of the centerline of the existing roadways, more particularly described as follows:

**COMMENCING** at the Center 1/4 Corner of said Section 35, monumented with a 3 1/4" aluminum cap by PLS 13548 according to CP&F Inst . No.974491, records of Bonner County, Idaho, from which point the South 1/4 of said Section 35, monumented with a 2 1/2" brass cap by PLS 882 according to CP&F Inst . No. 766774, bears South 00°54'20" West, 2630.43 feet;

**THENCE** along the East-West centerline of said Section 35, South 89°23' 43" East, 1314.18 feet to the C-E 1/16 Corner, monumented with a 5/8" Rebar and Yellow Plastic cap by PLS 13548;

Thence North 52°08'04" West, 180.24 feet to the centerline of Huckleberry Mountain Road, at the intersection of the existing centerline with the new centerline said point being the **TRUE POINT OF BEGINNING**;

Thence southerly along the centerline of Huckleberry Mountain Road to the intersecting terminus point with Barnhart Road, thence southerly along the centerline of Barnhart Road to the intersection of the newly-dedicated public right of way of Barnhart Road, said point being the **POINT OF TERMINUS**.

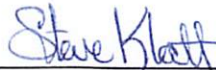
3. The portion of the road described above is shown on attached VACATION EXHIBIT MAP.

### STAFF ACTION REQUESTED

The petitioner respectfully requests that the Boner County Commissioners grant the following relief:

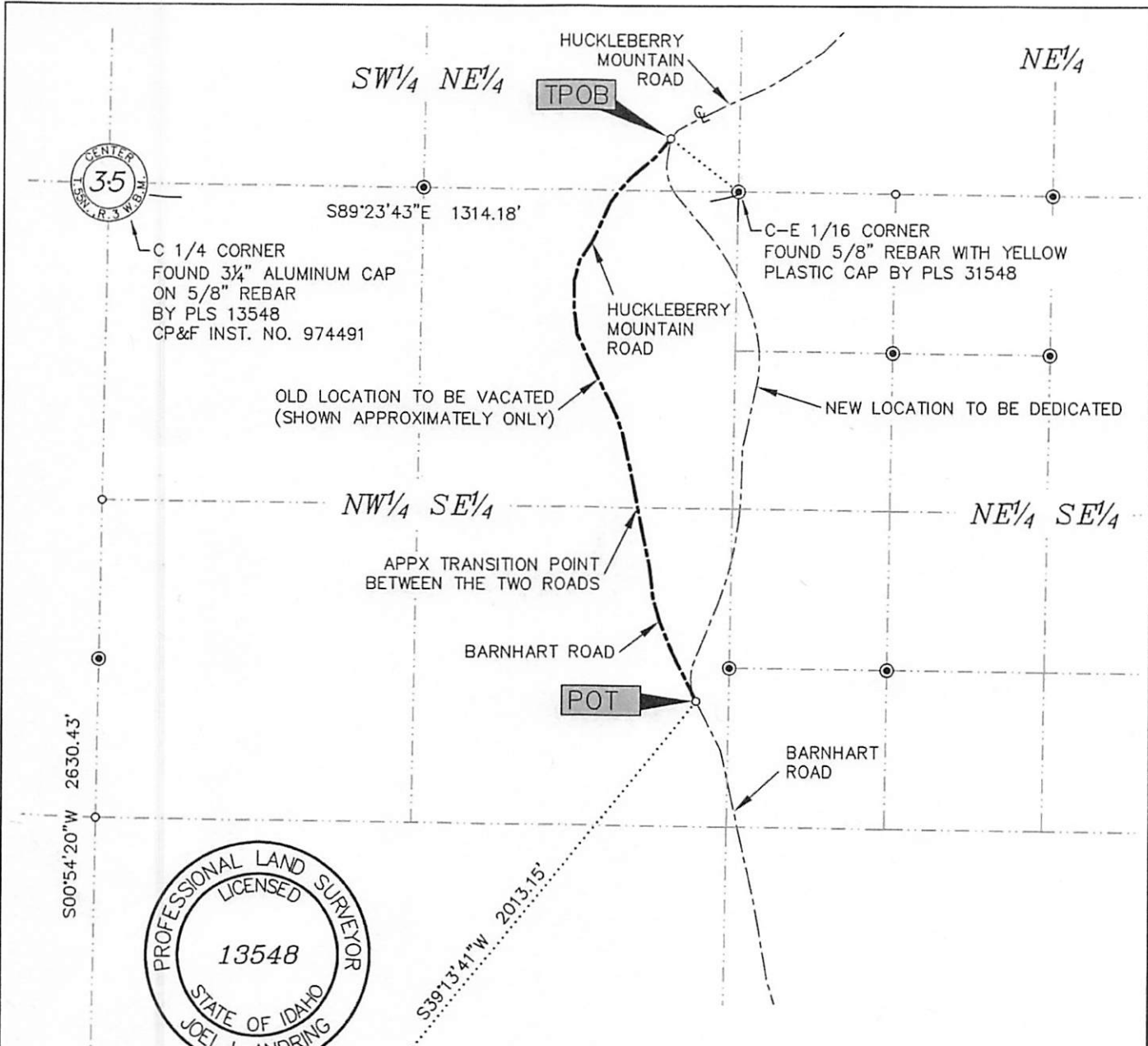
1. Establish a hearing date on the proposed abandonment and vacation, pursuant to Idaho Code 40-203(c).
2. Prepare and make available a public notice, pursuant to Idaho Code §40-203(d), stating their intention to hold a public hearing to consider the proposed abandonment and vacation.
3. Publish notice of the hearing pursuant to Idaho Code §40-203(f).
4. Make a finding that it is in the public interest for the right-of-way to be vacated.
5. Enter supporting findings of fact and conclusions of law, pursuant to Idaho Code §40-203(h), deciding that the abandonment and vacation of the portion of Huckleberry Mountain Road and Barnhart Road will not leave any real property adjoining the public right-of-way without access to an established highway or public right-of-way, and is in the public interest of the highway jurisdiction affected by the vacation.
6. Cause their order or resolution of abandonment and vacation to be recorded in the county records, and also cause the official map of the county highway system to be amended as affected by the abandonment and vacation pursuant to Idaho Code §40-203(j),
7. Grant such further relief as they deem just.

DATED: May 14<sup>th</sup>, 2021



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Steve Klatt, Director  
Bonner County Road & Bridge



CENTER  
35  
T. 55 N., R. 3 W., B. 1 M.

C 1/4 CORNER  
FOUND 3/4" ALUMINUM CAP  
ON 5/8" REBAR  
BY PLS 13548  
CP&F INST. NO. 974491

S89°23'43"E 1314.18'

TPOB

HUCKLEBERRY  
MOUNTAIN  
ROAD

NE 1/4

C-E 1/16 CORNER  
FOUND 5/8" REBAR WITH YELLOW  
PLASTIC CAP BY PLS 31548

HUCKLEBERRY  
MOUNTAIN  
ROAD

OLD LOCATION TO BE VACATED  
(SHOWN APPROXIMATELY ONLY)

NEW LOCATION TO BE DEDICATED

NW 1/4 SE 1/4

APPX TRANSITION POINT  
BETWEEN THE TWO ROADS

NE 1/4 SE 1/4

BARNHART ROAD

POT

BARNHART  
ROAD

S00°54'20"W 2630.43'



S39°13'41"W 2013.15'

# VACATION EXHIBIT MAP

FOR  
A SEGMENT OF  
HUCKLEBERRY MOUNTAIN ROAD  
& BARNHART ROAD

GOV'T LOT 2

Digitally signed  
by *Joel L. Andring*  
Date: 2021.04.22  
11:22:39 -07'00'

LYING IN A PORTION OF THE  
EAST 1/2 OF SECTION 35,  
TOWNSHIP 55 NORTH, RANGE 3 WEST,  
BOISE MERIDIAN, BONNER COUNTY, IDAHO

S 1/4 CORNER  
FOUND 2 1/2" BRASS CAP RLS 882  
CP&F INST. NO. 766774

2

**GLAHE & ASSOCIATES**  
PROFESSIONAL LAND SURVEYORS  
P.O. Box 1863  
Sandpoint, ID 83864  
208-265-4474

SCALE: N/A
DRAWN BY: JLA
DATE: 4/22/2021
DWG: 20-014
SHEET 1 of 1



BONNER COUNTY



**BONNER COUNTY ROAD AND BRIDGE  
DEPARTMENT STAFF REPORT**

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**Project Name:** Barnhart Road Vacation

**File Number, Type:** Road Vacation

**Request:** The applicants are requesting to abandon and vacate a county road approximately 1,235 feet long located west of and parallel to Highway 95 in Section 35, Township 55 North, Range 3 West, Boise Meridian, Idaho

**Legal Description  
Of Affected Parcels:** 35-55N-3W E2SWNE (for RP55N03W351200A)  
35-55N-3W E2SWNE (for RP55N03W358101A)

**Location:** The parcels are generally located in southwest Bonner County, off State Highway 95, in Section 35, Township 55 North and Range 3 West, Boise Meridian, Idaho.

**Parcel Number:** RP55N03W351200A  
RP55N03W358101A

**Road Length:** 1,235 feet (just under ¼ of a mile)

**Applicant/ Property  
Owner:** Charles Barnhart  
PO Box 37  
Careywood, Idaho 838

**Project  
Representative:** Bonner County Road and Bridge Department  
Steve Klatt, Director  
1500 Highway 2, Suite 101,  
Sandpoint, Idaho 83864

**Application filed:** May 14, 2021

**Notice provided:** Mail: July 27, 2021  
Published in newspaper: August 11, 17 & 19, 2021

BONNER COUNTY



**FINDINGS OF FACT, DOCUMENTS OF REFERENCE, CONCLUSIONS OF LAW**

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**Findings of Fact:**

1. A Petition to Abandon and Vacate County Road ("Petition") was filed with Bonner County, Idaho ("County") by Road and Bridge on behalf of the Barnhart Trust, Charles and Carol A Barnhart, Venette and Sammie Gale Humphries (collectively, "Petitioners"), on or about July 1, 2021.

2. Petitioners requested in the Petition that a portion of unmaintained public rights-of-way, referred to as Barnhart Road and Huckleberry Mountain road located on Petitioners' real property, as more specifically depicted in Exhibit B attached hereto (the "Affected ROW"), be vacated and abandoned.

3. Petitioners have provided executed ROW deeds to preserve the connection of Huckleberry Mountain Road and Barnhart Road.

4. The location of the Affected ROW is within Bonner County, west of State Highway 95 in the community of Careywood, Idaho.

5. The Affected ROW is a non-publicly maintained segment of public right-of-way created by a 1915 Viewers' report and opened as a public highway by the Bonner County Commissioners.

6. The Affected ROW is a connecting segment between the roads now known as Huckleberry Mountain Road and Barnhart Road.

7. Usage of the Affected RQW is generally undocumented and unknown. The Affected ROW is not currently used or maintained as a public right of way.

8. The beginning portion of the Affected ROW which the Petitioners seek to abandon and vacate begins near the southeast corner of the private property belonging to Venette and Sammie Gale Humphries.

9. The majority portion of the Affected ROW which the Petitioners seek to abandon and vacate runs entirely on private property, just East of the home of Charles and Carol Ann Barnhart.

10. Notification of the hearing to consider the Petition was provided to owners of real property abutting the Affected ROW and to known operators of underground facilities advising that the County would consider the Petition at a public hearing, scheduled for August 24, 2021, at 2:00 p.m., and the public could view the Petition and related materials at County offices.

11. Newspaper notice of the hearing to consider the Petition was published in the Bonner County Daily Bee of Bonner County, Idaho on August 11, 2021, August 17, 2021, and August 19, 2021.

12. No operators of underground facilities responded and made comment. Any underground utilities will become private easements.

13. The Affected ROW is within the jurisdiction of Bonner County.

14. The real property abutting the Affected ROW is adequately served by an existing system of public and private roads.

15. Vacation of the Affected ROW will not leave any real property adjoining the Affected ROW without access to an established public highway or public right-of-way.

16. No access to federal or state land will be denied if the Petition is approved.

17. A more established and easier travelled alternative route for the Affected ROW has already been established and is in use. Deeds to record the new ROW will be filed upon approval of the vacation of the Affected ROW.

18. Emergency services and fire equipment and personnel will not be affected by the vacation of the Affected ROW.

19. Emergency services and fire equipment and personnel will have improved access due to the creation of the alternative deeded ROW.

## **DOCUMENTS OF REFERENCE:**

1. A map and legal description depicting the new ROW is attached as Exhibit A and adopted by reference.
2. A map and legal description depicting the Affected ROW is attached as Exhibit B and adopted by reference.
3. The Petitioners' real property adjacent to the Affected ROW is shown on the attached Exhibit B. Barnhart Trust and Charles and Carol Ann Barnhart are the owners of all frontage on their property, while Venette Humphries and Sammie Gale Humphries own all frontage on the Humphries property.

## **CONCLUSIONS OF LAW:**

1. Vacation and abandonment of the Affected ROW is in the public interest with deeded ROW creating an improved connection between Huckleberry Mountain Road and Barnhart Road.

**DECISION AND ORDER:**

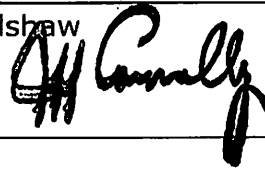
IT IS THEREFORE ORDERED by the Commissioners of Bonner County pursuant to Idaho Code §40-23 and Idaho Code Title 50, Chapter 13, with Board of County Commissioners adoption of the Staff Report and Findings of Fact and the recording of ROW deeds that The Affected ROW legally described in Exhibit B, but limited to those portions of the Affected ROW within the boundaries of Petitioners' real property, is hereby abandoned and vacated to the abutting and adjoining properties.

DATED this 31<sup>ST</sup> day of August, 2021.

BONNERCOUNTY COMMISSIONERS:



Steven Bradshaw



Jeff Connolly

ABSENT

Dan McDonald

ATTEST:

