

DISTRICT COURT, WATER DIVISION 2, COLORADO

Case No. 95CW188

Filed in the office of the
Clerk, District Court Water
Division No. 2, State of
Colorado50.00
1.00AMENDED
RULING OF THE REFEREE, DECREE OF THE WATER COURT

APR 2 1996

CONCERNING THE APPLICATION FOR WATER RIGHTS OF

DAVID L. MEHLIS and MARJIE MEHLIS

Mando R. R. R.

Clerk

In El Paso County.

The Referee, having considered all matters contained in the application, documents, stipulations, and other filed pleadings, and having taken testimony and evidence as necessary and appropriate, makes the following Ruling of the Referee:

FINDINGS OF FACT

1. The application was filed in Water Division 2 on August 29, 1995. Timely and adequate notice of the application was given as required by statute. A statement of opposition was timely filed by the City of Colorado Springs. The time for filing Statements of Opposition has expired.
2. The court has jurisdiction over the subject matter of this proceeding and over all persons who might be affected by the granting of this decree, whether or not they have appeared herein.
3. None of the land or water involved in this application is within a designated ground water basin.

II. DECREE FOR UNDERGROUND WATER RIGHTS

4. The Applicants herein are David L. Mehlis and Marjie Mehlis, whose address is 35W031 Frentenac Drive, West Dundee, IL 60018. Their phone number is 708 741-2400.
5. Applicants own 233.2 acres of land in northern El Paso County. Applicant's land is depicted on the map labeled Exhibit "A"; the legal description is set forth on Exhibit "B" (the "Property"). Applicant seeks the quantification and adjudication of all ground water from the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property.

6. The amount of water underlying the Property and which is available for appropriation is set forth on Table A:

Table A

Aquifer	Acreage	Specific Yield	Saturated Thickness (feet)	Total Yield (AF)	Annual Yield (AF)
Dawson NNT	217	.20	120	5208	52.1
Denver NNT	233	.17	295	11685	116.9
Arapahoe NNT	188	.17	255	8150	81.5
Arapahoe NT	45	.17	255	1951	19.5
Laramie- Fox Hills NT	233	.15	190	6640	66.4

The above figures were determined by the State Engineer as set forth in his Determination of Facts dated November 2, 1995.

Pursuant to § 37-92-305(11), the Court will retain jurisdiction to finally determine the amount of water available for appropriation, based on site-specific data when it becomes available, and to adjust upward or downward as appropriate the amount available for withdrawal from each aquifer.

7. The above water will be withdrawn by the following structures:

Well DA-1:

Location: 1000 feet north of the south section line and 50 feet west of the east section line of Section 29, T. 12 S., R. 65 W., 6th P.M., El Paso County, Colorado.

Source: Not nontributary Dawson aquifer.

Depth: approximately 200 feet.

Amount: 15 gpm, absolute, 52.1 acre feet annually, combined with Well DA-2.

Decreed use: All beneficial uses.

Well DA-2:

Location: 2540 feet south of the north section line and 600 feet

west of the east section line of Section 32, T. 12 S., R. 65 W.,
6th P.M., El Paso County, Colorado.

Source: Not nontributary Dawson aquifer.

Depth: approximately 200 feet.

Amount: 15 gpm, absolute, 52.1 acre feet annually, combined with
Well DA-1.

Decreed use: All beneficial uses.

Well DEN-1:

Location: 1040 feet north of the south section line and 50 feet
west of the east section line of Section 29, T. 12 S., R. 65 W.,
6th P.M., El Paso County, Colorado.

Source: Not nontributary Denver formation.

Depth: approximately 1100 feet

Amount: 50 gpm, absolute, 116.9 acre feet annually, in combina-
tion with Well DEN-2.

Decreed use: All beneficial uses.

Well DEN-2:

Location: 2580 feet south of the north section line and 600 feet
west of the east section line of Section 32, T. 12 S., R. 65 W.,
6th P.M., El Paso County, Colorado.

Source: Not nontributary Denver formation.

Depth: approximately 1100 feet.

Amount: 50 gpm, absolute, up to 116.9 acre feet annually, in
combination with Well DEN-1.

Decreed uses: All beneficial uses.

Well A-1:

Location: 1000 feet north of the south section line and 90 feet
west of the east section line of Section 29, T. 12 S., R. 65 W.,
6th P.M., El Paso County, Colorado.

Source: Nontributary and/or not nontributary Arapahoe formation.

Depth: approximately 1600 feet.

Amount: 150 gpm, absolute, and 101 acre feet annually in conjunction with Well A-2.

Decreed uses: All beneficial uses.

Well A-2:

Location: 2540 feet south of the north section line and 640 feet west of the east section line of Section 32, T. 12 S., R. 65 W., 6th P.M., El Paso County, Colorado.

Source: Nontributary and/or not nontributary Arapahoe formation.

Depth: approximately 1600 feet.

Amount: 150 gpm, absolute, and 101 acre feet annually in conjunction with Well A-1

Decreed uses: all beneficial uses.

Well LFH-1:

Location: 1040 feet north of the south section line and 90 feet west of the east section line of Section 29, T. 12 S., R. 65 W., 6th P.M., El Paso County, Colorado.

Source: Nontributary Laramie-Fox Hills formation.

Depth: approximately 2200 feet.

Amount: 200 gpm, absolute, and 66.4 acre feet annually, combined with Well LFH-2.

Decreed uses: All beneficial uses.

Well LFH-2:

Location: 2580 feet south of the north section line and 640 feet west of the east section line of Section 32, T. 12 S., R. 65 W., 6th P.M., El Paso County, Colorado.

Source: Nontributary Laramie-Fox Hills formation.

Depth: approximately 2200 feet.

Amount: 200 gpm, absolute, and 66.4 acre feet annually, combined with Well LFH-2.

Decreed uses: All beneficial uses.

8. The wells in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers may be operated as well fields pursuant to 2 CCR 4-207, so that the total appropriation may be withdrawn from any combination of the wells.

9. The Property may be subdivided in the future, with each lot obtaining its water from individual wells in the Dawson or Denver aquifer, or some combination thereof. Thus, the wells and well locations described for those aquifers are only advisory. If individual wells are constructed, total diversions from all such wells combined shall not exceed the amounts set forth in ¶ 6 above, or as those amounts may be adjusted pursuant to the Court's retained jurisdiction. Applicants shall have the right to construct any number of wells on the property necessary to withdraw the water to which Applicants are entitled, but such wells must be located at least 600 feet from any well not on the Property which is constructed in the same aquifer, and at least 200 feet from the property boundary. Applicant waive the 600 foot spacing requirement for wells on the Property which are located in the same aquifer.

10. With regard to the Arapahoe aquifer, Division of Water Resources rules do not permit the withdrawal of water from the nontributary portion of an aquifer through a well located in the not nontributary portion of the same aquifer, unless the nontributary water withdrawn is augmented in the same manner as the not nontributary water. Thus, all water diverted through Wells A-1 and A-2 must be augmented pursuant to a court-approved augmentation plan. Nothing herein shall prevent Applicant from relocating either Well A-1 or A-2, or constructing another well, in the nontributary portion of the Apapahoe aquifer and diverting up to 19.5 acre feet of nontributary water each year though said structure without being required to augment the same, after republication and court approval.

11. Applicant must limit the consumption of the nontributary water decreed herein to no more than 98% of the water diverted. Applicant may divert not nontributary water decreed herein only after court approval of a plan for augmentation, to replace all injurious depletions caused by such pumping.

POLY SUBD.
N 89.41'25" E

POLY ROAD

BOOK PAGE
6861 1181

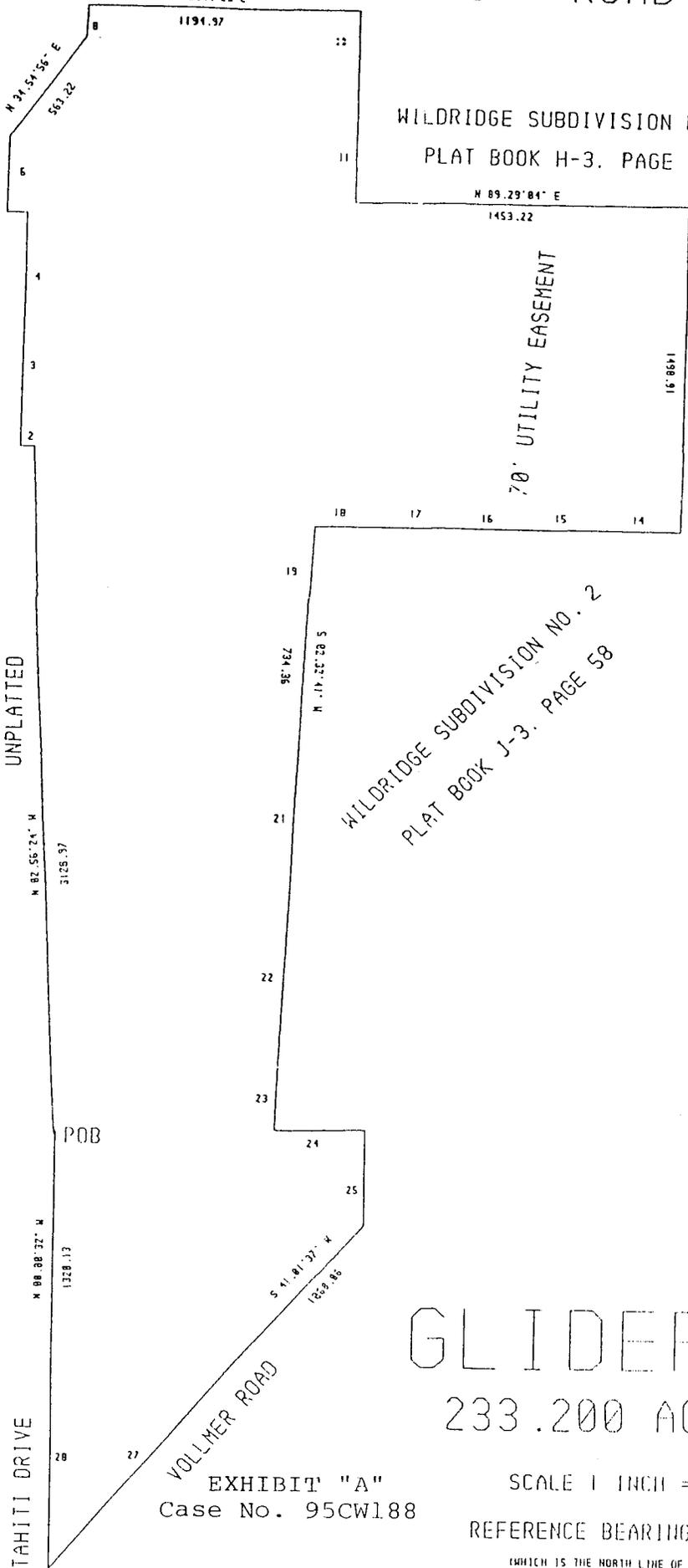
Tract in the SW¼ of Section 28,
the SE¼ of Section 29 and the
NE¼ quarter of Section 32,
T 12 S. R 65 W of the 6th P.M.,
El Paso County, Colorado, more
particularly described as follows:

POB = NE corner of Holiday Hills No. 1

- 1 = N 02°56'24" W, 3128.97 feet
- 2 = S 90°00'00" W, 61.34 feet
- 3 = N 00°00'00" E, 610.26 feet
- 4 = N 00°00'00" E, 459.65 feet
- 5 = S 90°00'00" W, 87.56 feet
- 6 = N 00°00'00" E, 344.55 feet
- 7 = N 34°54'56" E, 563.22 feet
- 8 = N 01°27'34" E, 142.00 feet
- 9 = N 89°44'25" E, 1194.97 feet
- 10 = S 00°26'30" E, 541.87 feet
- 11 = S 00°24'39" E, 325.00 feet
- 12 = N 89°29'04" W, 1453.22 feet
- 13 = S 00°07'09" E, 1498.91 feet
- 14 = S 89°46'44" W, 234.99 feet
- 15 = S 89°46'49" W, 518.76 feet
- 16 = S 89°47'00" W, 70.01 feet
- 17 = S 89°47'38" W, 506.36 feet
- 18 = S 89°47'15" W, 259.79 feet
- 19 = S 02°33'12" W, 481.89 feet
- 20 = S 02°32'41" W, 734.36 feet
- 21 = S 02°32'35" W, 624.92 feet
- 22 = S 02°34'37" W, 616.63 feet
- 23 = S 02°30'41" W, 304.93 feet
- 24 = N 89°19'02" E, 394.84 feet
- 25 = S 00°07'32" W, 445.79 feet
- 26 = S 41°01'37" W, 1068.06 feet
- 27 = S 40°16'31" W, 1000.51 feet
- 28 = N 00°00'29" W, 660.00 feet
- 29 = N 00°00'32" W, 1320.13 feet



NORTH



WILDRIDGE SUBDIVISION NO. 1
PLAT BOOK H-3. PAGE 87

UNPLATTED

WILDRIDGE SUBDIVISION NO. 2
PLAT BOOK J-3. PAGE 58

CAPITOL ROAD

HOLIDAY HILLS NO. 1
PLAT BOOK E-2. PAGE 12

GLIDERPORT
233.200 ACRES MOL

EXHIBIT "A"
Case No. 95CW188

SCALE 1 INCH = 713 FEET

REFERENCE BEARING = S89.3130W

(WHICH IS THE NORTH LINE OF HOLIDAY HILLS NO. 1)

LEGAL DESCRIPTION:

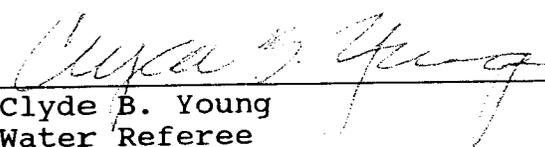
A tract of land in the Southwest quarter of Section 28, the Southeast quarter of Section 29 and the Northeast quarter of Section 32, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado, more particularly described as follows:

Beginning at the Northeast corner of Holiday Hills No. 1 as recorded in Plat Book E-2 at Page 12 (all bearings in this description are relative to the North line of said Holiday Hills No. 1, which bears S 89°31'30" W); thence N 02°56'24" W, 3128.97 feet; thence S 90°00'00" W, 61.34 feet; thence N 00°00'00" E, 610.26 feet; thence continue N 00°00'00" E, 459.65 feet; *thence S 90°00'00" W, 87.56 feet; thence N 00°00'00" E, 344.55 feet; thence N 34°54'56" E, 563.22 feet; thence N 01°27'34" E, 142.00 feet; thence N 89°44'25" E, 1194.97 feet to a point on the west line of Wildridge Subdivision No. 1, as recorded in Plat Book H-3 at Page 87; thence S 00°26'30" E, 541.87 feet; thence S 00°24'39" E, 325.00 feet; **thence N 89°29'04" E, 1453.22 feet;** thence S 00°07'09" E, 1498.91 feet to the Northeast corner of Wildridge Subdivision No. 2, as recorded in Plat Book J-3 at Page 58; thence S 89°46'44" W, 234.99 feet; thence S 89°46'49" W, 518.76 feet; thence S 89°47'00" W, 70.01 feet; thence S 89°47'38" W, 506.36 feet; thence S 89°47'15" W, 259.79 feet to the Northwest corner of said Wildridge Subdivision No. 2; thence S 02°33'12" W, 481.89 feet; thence S 02°32'41" W, 734.36 feet; thence S 02°32'35" W, 624.92 feet; thence S 02°34'37" W, 616.63 feet; thence S 02°30'41" W, 304.93 feet to the Southwest corner of said Wildridge Subdivision No. 2; thence N 89°19'02" E, 394.84 feet to the Northwest corner of that tract conveyed in deed recorded in Book 1073 at Page 219 of the records of El Paso County; thence S 00°07'32" W along the West line of said tract, 445.79 feet to a point on the Northwesterly right-of-way line of Vollmer Road (60' R.O.W.); thence S 41°01'37" W along said Northwesterly right-of-way line, 1068.06 feet; thence S 40°16'31" W along said Northwesterly right-of-way line, 1000.51 feet to the Southeast corner of said Holiday Hills No. 1; thence N 00°00'29" W along the East line of said Holiday Hills No. 1, 660.00 feet; thence N 00°00'32" W along the East line of said Holiday Hills No. 1, 1320.13 feet to the point of beginning, and containing 233.200 acres, more or less.*

jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights finding. The State Engineer shall submit such finding to the Water Court and the Applicants.

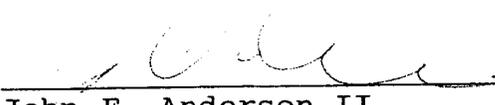
C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. If a protest is filed, or if the State Engineer makes no determination within four months, such final determination shall be made by the Court after notice and hearing.

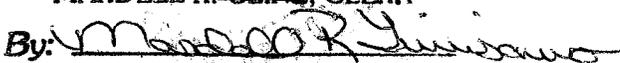
Dated: February 22, 1996, **nunc pro tunc** February 14, 1996.


Clyde B. Young
Water Referee
Water Division 2

NO PROTEST WAS FILED IN THIS MATTER. THE FOREGOING RULING IS CONFIRMED AND APPROVED, AND IS MADE THE JUDGMENT AND DECREE OF THIS COURT.

Dated: April 2, 1996.


John E. Anderson II
Water Judge
Water Division 2

**DISTRICT COURT
WATER DIVISION NO. 2
STATE OF COLORADO**
Certified to be a full, true
and correct copy of original
on file: APR 08 1996
Date: TRIVISANO #13541/Mehlis
MARDELL R. CLINE, CLERK
By: 
Deputy Clerk

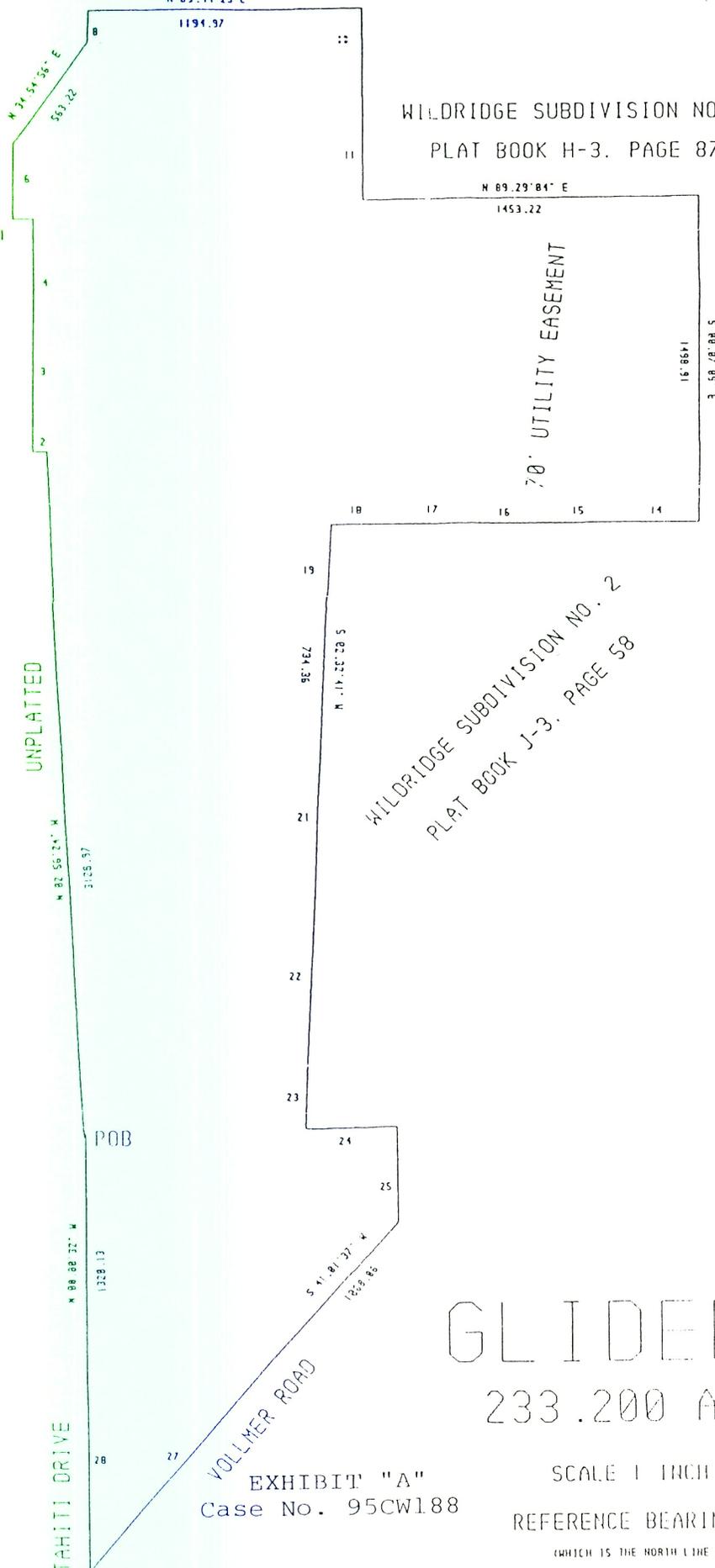
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NORTH



WILDRIDGE SUBDIVISION NO. 1
PLAT BOOK H-3, PAGE 87

N 89.29'84" E
1453.22

70' UTILITY EASEMENT

UNPLATTED

WILDRIDGE SUBDIVISION NO. 2
PLAT BOOK J-3, PAGE 58

CAPITOL ROAD

HOLIDAY HILLS NO. 1
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