



DENVER
THE MILE HIGH CITY

EXECUTIVE SUMMARY

Project Title: 2011-0210-08 Denargo Market, AMEND an Easement

Description of Proposed Project: Request for an Ordinance to approve the First Amendment to Permanent Easement which amends an existing storm drainage Permanent Easement in the Denargo Market Subdivision Filing No. 1.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: Request for Ordinance to approve the First Amendment to Permanent Easement, which amends an existing storm drainage Permanent Easement recorded at Reception No. 2008146409, to relinquish a small portion of said easement area and add more land to the easement area for storm sewer purposes.

Has a Temp MEP been issued, and if so, what work is underway: N/A

What is the known duration of an MEP: N/A

Will land be dedicated to the City if the vacation goes through: N/A

Will an easement be placed over a vacated area, and if so explain: N/A

Will an easement relinquishment be submitted at a later date: N/A

Additional information:



DENVER
THE MILE HIGH CITY

Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR ORDINANCE TO AMEND AN EASEMENT

TO: Esther Vargas, City Attorney's Office

FROM: Robert J. Duncanson, P.E.
Manager 2, Development Engineering Services

PROJECT NO: 2011-0210-08

DATE: September 7, 2011

SUBJECT: Request for an Ordinance to approve the First Amendment to Permanent Easement which amends an existing storm drainage Permanent Easement in the Denargo Market Subdivision Filing No 1.

NOTE: Request for Ordinance to approve the First Amendment to Permanent Easement, which amends an existing storm drainage Permanent Easement recorded at Reception No. 2008146409, to relinquish a small portion of said easement area and add more land to the easement area for storm sewer purposes.

It is requested that the above subject item be placed for City Council approval at the next earliest date.

This office has investigated the request of Kaydee Myers, dated 8/15/2011, on behalf of Denargo Market L.P. and Denargo Holdings LLC for the amendment of an existing storm sewer easement recorded at Reception No. 2008146409 to relinquish a small portion of the existing easement area and add additional area as to the easement required by Denver Wastewater.

This matter has been checked by this office and has been coordinated with the Division of Real Estate; Comcast Corporation; Councilperson Montero; CPD: Planning Services; Denver Water Board; Fire Department; Metro Wastewater Reclamation District; Office of Telecommunications; PW: DES Engineering, and DES Survey; Qwest Corporation; and Xcel Energy, all of whom have returned our questionnaires indicating their agreement to amend the existing storm sewer easement.

As a result of the investigations, it has been determined that there is no objection to amending the existing easement.

Therefore, you are requested to initiate Council action to approve the First Amendment to Permanent Easement, which amends an existing storm drainage Permanent Easement recorded at Reception No. 2008146409, to relinquish a small portion of said easement area and add more land to the easement area for storm sewer purposes

A copy of the proposed amended easement is attached.

RJD:VLH



cc: Asset Mgmt. Steve Wirth
City Council, Gretchen Williams
Councilperson Montero and Aides
Department of Law, Karen Aviles
Department of Law, Esther Vargas
Department of Law, Arlene Dykstra
Public Works, Christine Downs
Public Works, Debra Baca
Public Works Survey-Paul Rogalla
Project File **2011-0210-06**

Property Owner:
Denargo Market, L.P.
301 Congress Ave., Suite 500
Austin, TX 78701

Property Owner:
Denargo Holdings, L.L.C.
301 Congress Ave., Suite 500
Austin, TX 78701

Agent:
Kaydee Myers
Otten Johnson
950 17th St Ste 1600
Denver, Co 80202

ORDINANCE/RESOLUTION REQUEST

Please email requests to Daelene Mix at daelene.mix@denvergov.org by **NOON on Monday**.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: September 7, 2011

Please mark one: Bill Request or Resolution Request

1. Has your agency submitted this request in the last 12 months?

Yes No

If yes, please explain:

2. Title: *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)*

Request for an Ordinance to approve the First Amendment to Permanent Easement which amends an existing storm drainage Permanent Easement in the Denargo Market Subdivision Filing No 1.

3. Requesting Agency: PW Right of Way Engineering Services

4. Contact Person: *(With actual knowledge of proposed ordinance/resolution.)*

- Name: Vanessa Herman
- Phone: 720-913-0719
- Email: vanessa.herman@denvergov.org

5. Contact Person: *(With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*

- Name: Debra Baca
- Phone: 720-865-8712
- Email: debra.baca@denvergov.org

6. General description of proposed ordinance including contract scope of work if applicable:

Request for Ordinance to approve the First Amendment to Permanent Easement, which amends an existing storm drainage Permanent Easement recorded at Reception No. 2008146409, to relinquish a small portion of said easement area and add more land to the easement area for storm sewer purposes.

***Please complete the following fields: (Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

- a. Contract Control Number: N/A
- b. Duration: Permanent
- c. Location: Denargo Market
- d. Affected Council District: Montero
- e. Benefits: N/A
- f. Costs: N/A

7. Is there any controversy surrounding this ordinance? *(Groups or individuals who may have concerns about it?)* Please explain.

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____

After recording, please return to:
City and County of Denver
1437 Bannock Street, Room 353
Denver, CO 80202
Attention: Karen Aviles

FIRST AMENDMENT TO PERMANENT EASEMENT

THIS FIRST AMENDMENT TO PERMANENT EASEMENT (this "Amendment") is entered into as of _____, 2011, by DENARGO MARKET L.P., a Delaware limited partnership, by Cypress Denargo GP, LLC, a Delaware limited liability company, its general partner ("Grantor"), and the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado ("City" or "Grantee").

RECITALS

A. Grantor and Grantee previously entered into that certain Permanent Easement on July 7, 2008, recorded on July 14, 2008 at Reception No. 2008096448, as corrected by that certain Correction Easement recorded on October 28, 2008 at Reception No. 2008146409 (the "Permanent Easement"). Capitalized terms used herein without definition shall have the same meaning as assigned in the Permanent Easement.

B. Grantor has requested that Grantee release a certain portion of the Property from the Permanent Easement, and Grantee has requested that Grantor include an additional portion of property within the Property subject to the Permanent Easement.

C. Grantor and Grantee now desire to amend the legal description of the Property in the Permanent Easement as more specifically set forth below.

AMENDMENT

NOW, THEREFORE, the Permanent Easement is amended as follows:

1. New Legal Description. Exhibit A is hereby deleted in its entirety and in its place the legal description of the Property attached hereto as Exhibit A and incorporated herein is inserted. From and after the date hereof all portions of property not included in the Property as legally described on Exhibit A attached hereto are hereby released from the Permanent Easement and all portions of property now included in the Property as legally described on Exhibit A attached hereto are made subject to the Permanent Easement.

2. Effect of this Amendment. Subject only to the provisions of this Amendment, the Permanent Easement shall remain unmodified and in full force and effect in accordance with its terms.

[remainder of this page intentionally blank; signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Amendment as of the day and year first above written.

GRANTOR:

DENARGO MARKET L.P.,
a Delaware limited partnership

By: Cypress Denargo GP, LLC,
a Delaware limited liability company,
its general partner

By: *M. Timothy Clark*
Name: M. Timothy Clark
Title: President

STATE OF TEXAS)
) ss.
COUNTY OF Travis)

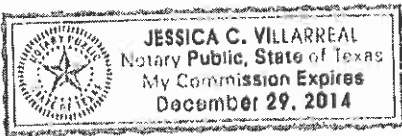
The foregoing instrument was acknowledged before me this 6th day of September 2011, by M. Timothy Clark, as President of Cypress Denargo GP, LLC, a Delaware limited liability company, as general partner of Denargo Market, L.P. a Delaware limited partnership.

Witness my hand and official seal.

Jessica C. Villarreal

Notary Public

My Commission expires: 12/29/2014



GRANTEE:

CITY AND COUNTY OF DENVER,
a Colorado municipal corporation

ATTEST:

DEBRA JOHNSON
Clerk and Recorder, *Ex-Officio Clerk of*
the City and County of Denver

MICHAEL HANCOCK
Mayor

APPROVED AS TO FORM:
DOUGLAS J. FRIEDNASH
City Attorney
for the City and County of Denver

By: _____
Assistant City Attorney

**EXHIBIT A
LEGAL DESCRIPTION**

A PARCEL OF LAND BEING A PART OF DENARGO MARKET SUBDIVISION FILING NO. 1, PER THE PLAT RECORDED AT RECEPTION NO. 2009018921 ON FEBRUARY 17, 2009 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER, COLORADO CLERK AND RECORDER'S OFFICE, LOCATED IN THE WEST HALF OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID CITY, COUNTY AND STATE, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BASIS OF BEARINGS: BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING MONUMENTED AS SHOWN HEREON AND BEARING NORTH 00°01'41" WEST.

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 27;

THENCE SOUTH 11°19'01" WEST, A DISTANCE OF 1311.52 FEET TO THE INTERSECTION OF THE SOUTHEASTERLY RIGHT OF WAY LINE OF ARKINS COURT AS DESCRIBED AND RECORDED IN BOOK 5309 AT PAGE 272 ON JUNE 08, 1939 IN THE RECORDS OF THE CITY AND COUNTY OF DENVER CLERK AND RECORDER AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 284 OF SERIES 2001 AND THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF 29TH STREET AS RECORDED IN BOOK 5348 AT PAGE 374 IN SAID RECORDS ON OCTOBER 02, 1939 AND DEDICATED BY ORDINANCE NO. 281 OF SERIES 2001;

THENCE ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF 29TH STREET SOUTH 46°11'13" EAST, A DISTANCE OF 369.51 FEET TO THE MOST NORTHERLY CORNER OF THAT EASEMENT DESCRIBED AND RECORDED UNDER RECEPTION NO. 2008096448 IN SAID RECORDS ON JULY 14, 2008 AND THE POINT OF BEGINNING;

THENCE ALONG THE BOUNDARY OF SAID EASEMENT THE FOLLOWING EIGHT (8) COURSES.

1. CONTINUING ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, SOUTH 46°11'13" EAST, A DISTANCE OF 30.00 FEET;
2. DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, SOUTH 43°48'47" WEST, A DISTANCE OF 569.86 FEET;
3. SOUTH 46°11'13" EAST, A DISTANCE OF 126.91 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 179.50 FEET;
4. SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 46°09'32" AN ARC LENGTH OF 144.61 FEET.
5. SOUTH 00°01'41" EAST, A DISTANCE OF 374.85 FEET TO A POINT ON THE WESTERLY BOUNDARY OF THAT PARCEL OF LAND DESCRIBED AS PARCEL NO. 203 AND RECORDED UNDER RECEPTION NO. 9800181468 ON OCTOBER 30, 1998 IN SAID RECORDS AND DEDICATED AS RIGHT-OF-WAY BY ORDINANCE NO. 280 OF SERIES 2001, AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 800.85 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 88°16'46" EAST;
6. SOUTHERLY ALONG THE WESTERLY BOUNDARY OF SAID PARCEL NO. 203 AND ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°14'17" AN ARC LENGTH OF 3.74 FEET,

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**EXHIBIT A
LEGAL DESCRIPTION CONT.**

7. NON-TANGENT TO SAID CURVE, SOUTH 34°35'16" WEST, A DISTANCE OF 123.96 FEET;
8. SOUTH 67°28'19" WEST, A DISTANCE OF 39.97 FEET;

THENCE DEPARTING SAID BOUNDARY SOUTH 00°23'25" EAST, A DISTANCE OF 25.64 FEET TO THE SOUTHERLY BOUNDARY OF TRACT B (WEWATTA WAY) PER SAID DENARGO MARKET SUBDIVISION FILING NO. 1;

THENCE CONTINUING SOUTH 00°23'25" EAST, A DISTANCE OF 193.09 FEET TO THE SOUTHEASTERLY BOUNDARY OF TRACT G, SAID DENARGO MARKET SUBDIVISION FILING NO. 1;

THENCE ALONG SAID SOUTHEASTERLY BOUNDARY, SOUTH 48°04'18" WEST, A DISTANCE OF 5.02 FEET TO THE SOUTHWEST CORNER OF SAID TRACT G;

THENCE ALONG THE WEST BOUNDARY OF SAID TRACT G, NORTH 00°01'41" WEST, A DISTANCE OF 195.46 FEET TO SAID SOUTHERLY BOUNDARY OF TRACT B AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 195.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 20°58'00" WEST;

THENCE SOUTHWESTERLY ALONG SAID SOUTHERLY BOUNDARY OF TRACT B AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°55'15" AN ARC LENGTH OF 33.76 FEET;

THENCE DEPARTING SAID SOUTHERLY BOUNDARY AND NON-TANGENT TO SAID CURVE, NORTH 00°23'25" WEST, A DISTANCE OF 53.83 FEET TO A POINT ON THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY BOUNDARY OF SAID EASEMENT;

THENCE ALONG SAID SOUTHWESTERLY EXTENSION AND ALONG SAID NORTHWESTERLY BOUNDARY, NORTH 67°28'19" EAST, A DISTANCE OF 56.70 FEET;

THENCE CONTINUING ALONG SAID NORTHWESTERLY BOUNDARY, NORTH 34°35'16" EAST, A DISTANCE OF 16.64 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 139.50 FEET, THE RADIUS OF POINT OF SAID CURVE BEARS NORTH 44°09'31" WEST;

THENCE DEPARTING SAID NORTHWESTERLY BOUNDARY AND NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°30'26" AN ARC LENGTH OF 54.80 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID EASEMENT;

THENCE ALONG THE BOUNDARY OF SAID EASEMENT THE FOLLOWING FIVE (5) COURSES:

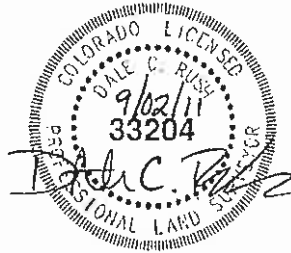
1. NON-TANGENT TO SAID CURVE, NORTH 34°35'16" EAST, A DISTANCE OF 34.86 FEET;
2. NORTH 00°01'41" WEST, A DISTANCE OF 369.09 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 149.50 FEET;
3. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 46°09'32" AN ARC LENGTH OF 120.44 FEET;
4. NORTH 46°11'13" WEST, A DISTANCE OF 156.91 FEET;

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**EXHIBIT A
LEGAL DESCRIPTION CONT.**

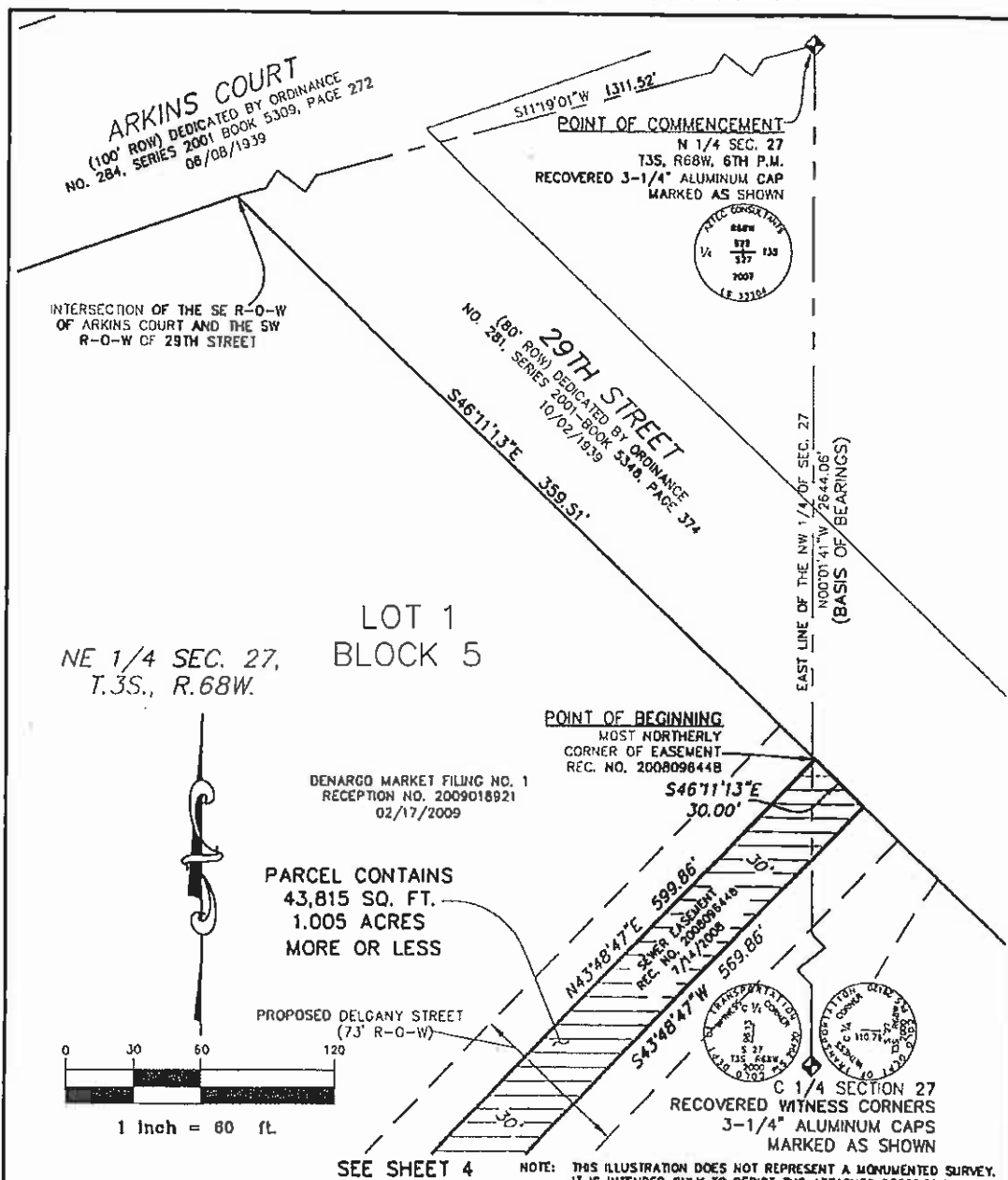
5. NORTH 43°48'47" EAST, A DISTANCE OF 599.86 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID 29TH STREET AND THE POINT OF BEGINNING.

CONTAINING 1.005 ACRES (43,815 SQ. FT.), MORE OR LESS.



DALE C. RUSH
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR P.L.S. 33204
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
8000 S. LINCOLN STREET, SUITE 201, LITTLETON, CO 80122

ILLUSTRATION TO EXHIBIT A



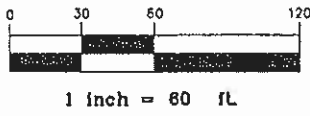
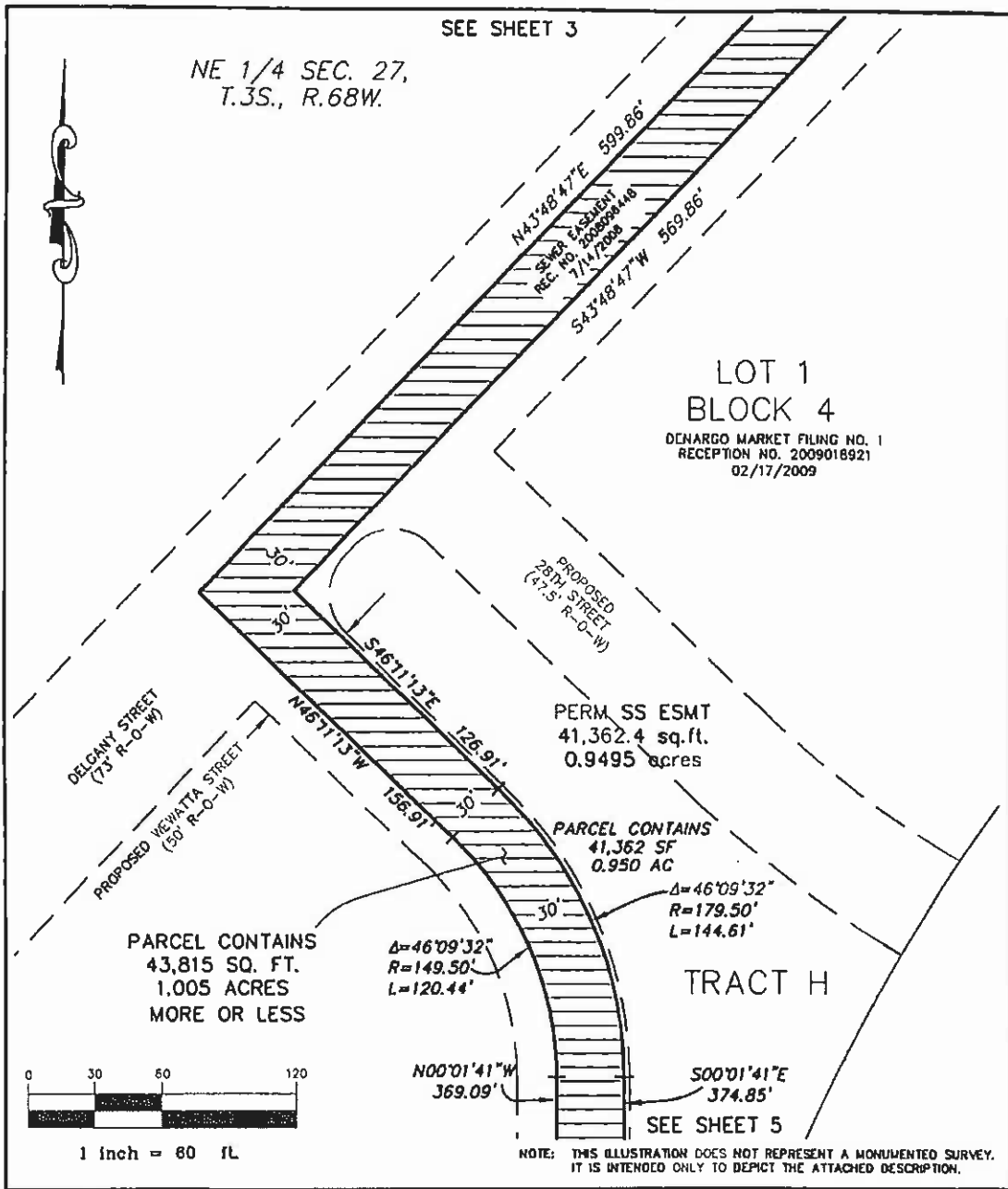
PATH: \\33911-D1\DWG
 DWG NAME: 101-29-DELGANY-F11.RVT
 ORIGINATOR: OCR
 DATE: 9/01/2011
 SCALE: 1" = 60'



AzTEC CONSULTANTS, Inc.
 A LAND SURVEYING COMPANY
 300 East Mineral Avenue, Suite 1
 Littleton, Colorado 80122
 Phone: (303)713-1898 Fax: (303)713-1897

EXHIBIT A
 WEST 1/2 SEC. 27, T3S, R66W, 6TH P.M.
 CITY & COUNTY OF DENVER, STATE OF COLORADO
 JOB NUMBER 33911-01 3 of 8 SHEETS

ILLUSTRATION TO EXHIBIT A



PATH: 33911-01.DWG DWG NAME: 01-SS-DELGANY-FLL REV. DRAWN: DCR - CHECKED: DCR DATE: 9/01/2011 SCALE: 1" = 60'	<p>AzTEC CONSULTANTS, Inc. A LAND SURVEYING COMPANY 300 East Mineral Avenue, Suite 1 Littleton, Colorado 80122 Phone: (303)713-1898 Fax: (303)713-1897</p>	<p>EXHIBIT A WEST 1/2 SEC. 27, T3S, R66W, 6TH P.M. CITY & COUNTY OF DENVER, STATE OF COLORADO JOB NUMBER 33911-01 4 OF 5 SHEETS</p>
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