



Control Number: 45489



Item Number: 97

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**PUC DOCKET NO. 45489**  
**SOAH DOCKET NO. 473-18-4178.WS**

2019 JAN 11 AM 9:19

**APPLICATION OF CITY OF**  
**GREGORY TO OBTAIN**  
**CERTIFICATES OF CONVENIENCE**  
**AND NECESSITY IN SAN PATRICIO**  
**COUNTY**

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**PUBLIC UTILITY COMMISSION**  
**OF TEXAS**

**COMMISSION STAFF'S FINAL RECOMMENDATION**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Final Recommendation in response to Order No. 19 and would show the following:

**I. BACKGROUND**

On December 31, 2015, the City of Gregory (Gregory) filed an application with the Public Utility Commission of Texas (Commission) to obtain new water and sewer certificates of convenience and necessity (CCN) in San Patricio County, Texas. On November 30, 2018, the State Office of Administrative Hearings (SOAH) Administrative Law Judge issued SOAH Order No. 7, remanding this case to the Commission and dismissing it from SOAH's docket.

On January 4, 2019, Order No. 19 was issued, establishing a deadline of January 29, 2019, for Staff to file a procedural schedule for continued processing of this application. This pleading is therefore timely filed.

**II. RECOMMENDATION**

As detailed in the attached memorandum from Elisabeth English in the Commission's Water Utility Regulation Division, Staff has reviewed the application and all supplemental information that has been provided. As further discussed in the attached memorandum, Staff's review indicates that Gregory meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code and is therefore capable of providing continuous and adequate service. Staff's review also indicates that approval of Gregory's application is necessary for the service,

accommodation, convenience, and safety of the public. Staff therefore recommends that the application be approved.

### **III. PROCEDURAL SCHEDULE**

Staff recommends that a deadline of January 18, 2019, be established for the parties to file joint proposed findings of fact and conclusions of law.

### **IV. CONCLUSION**

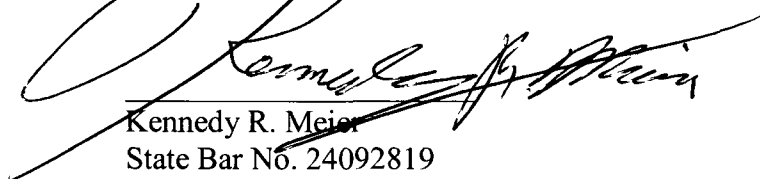
For the reasons detailed above, Staff recommends approval of the application. Joint proposed findings of fact and conclusions of law will be filed by January 18, 2019, or as otherwise directed by the administrative law judge.

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Katherine Lengieza Gross  
Managing Attorney

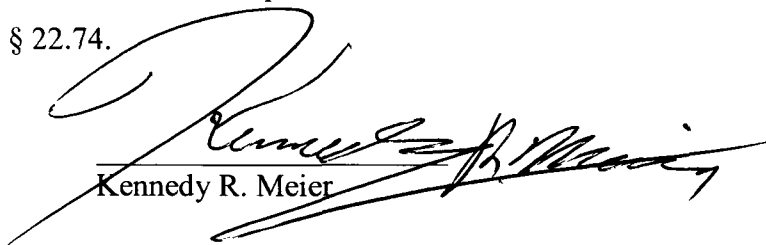


Kennedy R. Meier  
State Bar No. 24092819  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7265  
(512) 936-7268 (facsimile)  
Kennedy.Meier@puc.texas.gov

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on this the 11<sup>th</sup> of January, 2019 in accordance with 16 TAC § 22.74.



Kennedy R. Meier

## **PUC Interoffice Memorandum**

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**To:** Kennedy Meier, Attorney  
Legal Division

**Thru:** Heidi Graham, Manager  
Water Utility Regulation Division

**From:** Elisabeth English, Engineering Specialist  
Water Utility Regulation Division

**Date:** January 11, 2019

**Subject:** **Docket No. 45489;** *Application of City of Gregory to obtain Certificates of Convenience and Necessity in San Patricio County*

On December 31, 2015, the City of Gregory (City or Applicant) filed an application with the Public Utility Commission of Texas (Commission) to obtain water and sewer Certificates of Convenience and Necessity (CCN) in San Patricio County, Texas. This application is being reviewed pursuant to Texas Water Code (TWC) §§ 13.241-250 and 16 Texas Administrative Code (TAC) §§ 24.225-24.259 (formerly 16 TAC §§ 24.101-.120).

### **Background**

Gregory is seeking to obtain a sewer and water CCN for the service area containing approximately 2141 acres and 686 existing customers. Following Staff's request, the application was referred to the State Office of Administrative Hearings (SOAH) to resolve ongoing application issues on June 12, 2018. Gregory amended their requested area via the maps filed on November 9, 2018 and the application was remanded back to the Commission on November 30, 2018. Gregory amended their application to request only their current utility service area, which includes area within their municipal boundaries and a portion of their extraterritorial jurisdiction (ETJ).

### **Notice**

The comment period ended February 16, 2017. Multiple landowner opt-out requests were received following notice, which have been sufficiently addressed by Gregory.

### **Criteria Considered**

TWC § 13.246(c) requires the Commission to consider nine criteria when granting or amending a CCN. Therefore, the following criteria were considered:

#### ***TWC § 13.246(c)(1) requires the Commission to consider the adequacy of service currently provided to the requested area.***

Gregory has a public water system registered with the Texas Commission on Environmental Quality (TCEQ) under Public Water System (PWS) Identification No. 2050001 and a Wastewater Discharge Permit No. WQ-0010092001. Gregory does not have any pending TCEQ enforcement. Additionally, there is not any additional construction that is necessary for Gregory to serve the requested area.

***TWC § 13.246(c)(2) requires the Commission to consider the need for additional service in the requested area.***

The requested area generally encompasses existing customers and infrastructure.

***TWC § 13.246(c)(3) requires the Commission to consider the effect of granting an amendment on the recipient, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area.***

There will be no effect on any landowners or retail public utilities servicing the proximate area as Gregory has only requested area that generally encompasses existing customers and infrastructure. As a recipient, Gregory will be required to provide continuous and adequate service in accordance with Commission requirements.

***TWC § 13.246(c)(4) requires the Commission to consider the ability of Gregory to provide adequate service.***

Gregory has sufficient capacity to serve the additional service connections and has adequate facilities for the provision of water and sewer utility service.

***TWC § 13.246(c)(5) requires the Commission to consider the feasibility of obtaining service from an adjacent retail public utility.***

Gregory is a municipality that has existing facilities with the ability to serve the requested area.

***TWC § 13.246(c)(6) requires the Commission to consider the financial ability of Gregory to pay for facilities necessary to provide continuous and adequate service.***

16 TAC § 24.11 establishes criteria to demonstrate that an owner or operator of a retail public utility has the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service area. 16 TAC § 24.11(e) lists the financial tests. Gregory meets two out of the five leverage tests with a debt service coverage ratio of 1.48 which is greater than 1.25, and two years of cash on hand for debt service. Gregory meets the operations test demonstrating that there is sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations. Gregory did not submit projections in its application; however, based on its 2017 Comprehensive Annual Financial Report Statement of Revenues, Expenses, and Changes in Fund Net Position, Gregory had \$324,103 in operating income. Thus, there are no shortages to cover.

***TWC §§ 13.246(c)(7) and (9) require the Commission to consider the environmental integrity and the effect on the land to be included in the certificate.***

The environmental integrity of the land will not be affected as no additional construction is needed to provide water and sewer service to the requested area.

***TWC § 13.246(c)(8) requires the Commission to consider the probable improvement in service or lowering of cost to consumers.***

Gregory will continue to provide water and sewer utility service to the existing customers in the requested area.

Staff recommends that Gregory has met all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations and is capable of providing continuous and adequate service. Approving this application and granting the CCN Nos. 13275 and 21113 is necessary for the service, accommodation, convenience and safety of the public.

Gregory consented to the attached maps and certificates on December 19, 2018.

Based on the above information, Staff recommends the application be approved and that the attached maps and certificates be provided to Gregory. Staff further recommends that Gregory file certified copies of the CCN map along with a written description of the CCN service area in the county clerk's office pursuant to TWC § 13.257(r)-(s).



# **Public Utility Commission Of Texas**

**By These Presents Be It Known To All That**

## **City of Gregory**

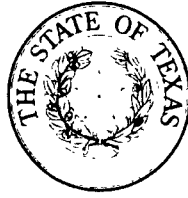
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Gregory, is entitled to this

### **Certificate of Convenience and Necessity No. 13275**

to provide continuous and adequate water utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45489 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Gregory, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Issued at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_ 2019.





# **Public Utility Commission Of Texas**

**By These Presents Be It Known To All That**

## **City of Gregory**

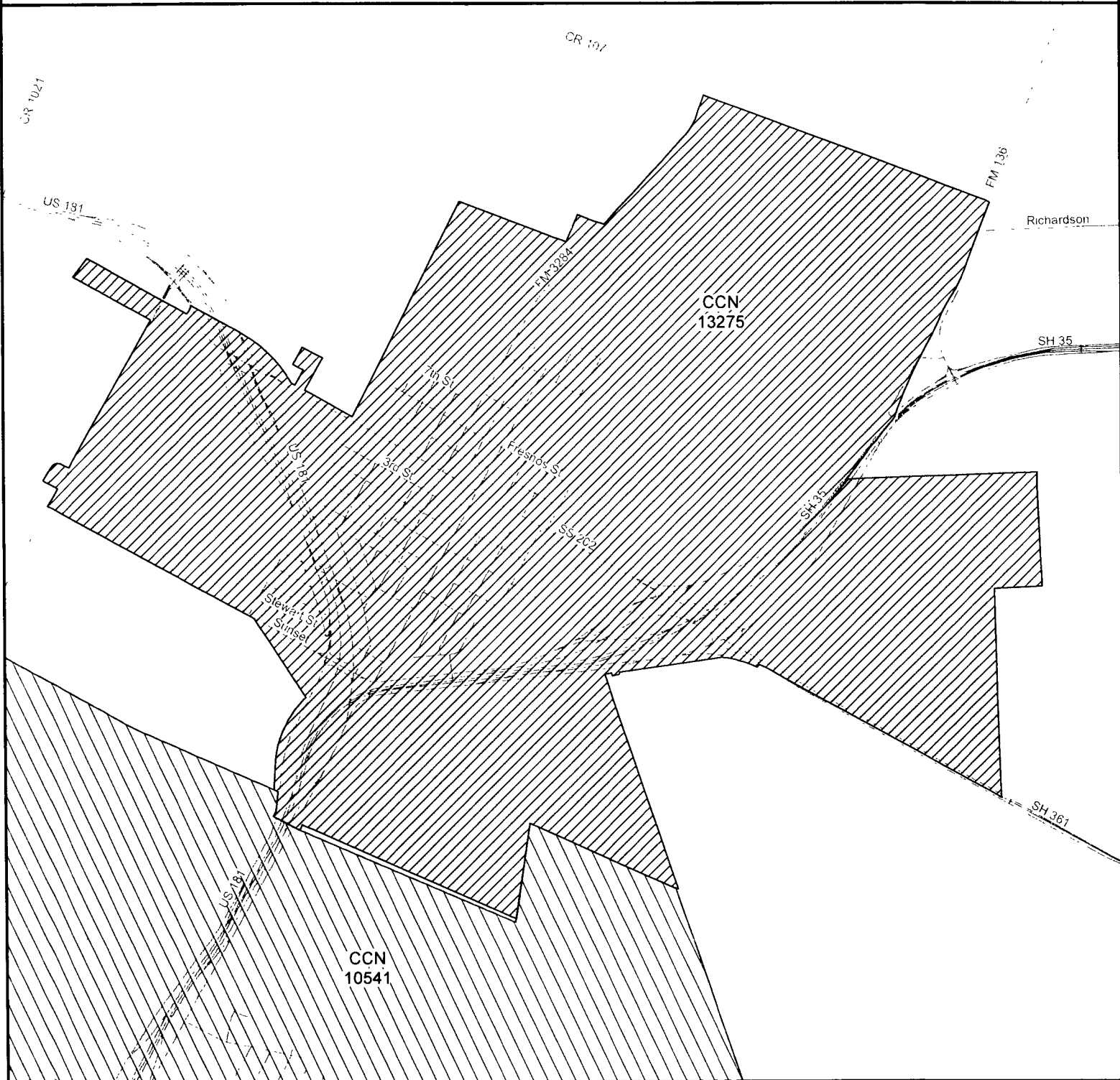
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Gregory, is entitled to this

### **Certificate of Convenience and Necessity No. 21113**

to provide continuous and adequate sewer utility service to that service area or those service areas in San Patricio County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45489 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the City of Gregory, to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.



Issued at Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

City of Gregory  
Water CCN No. 13275  
PUC Docket No. 45489  
Obtained New CCN in San Patricio County



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Water CCN**

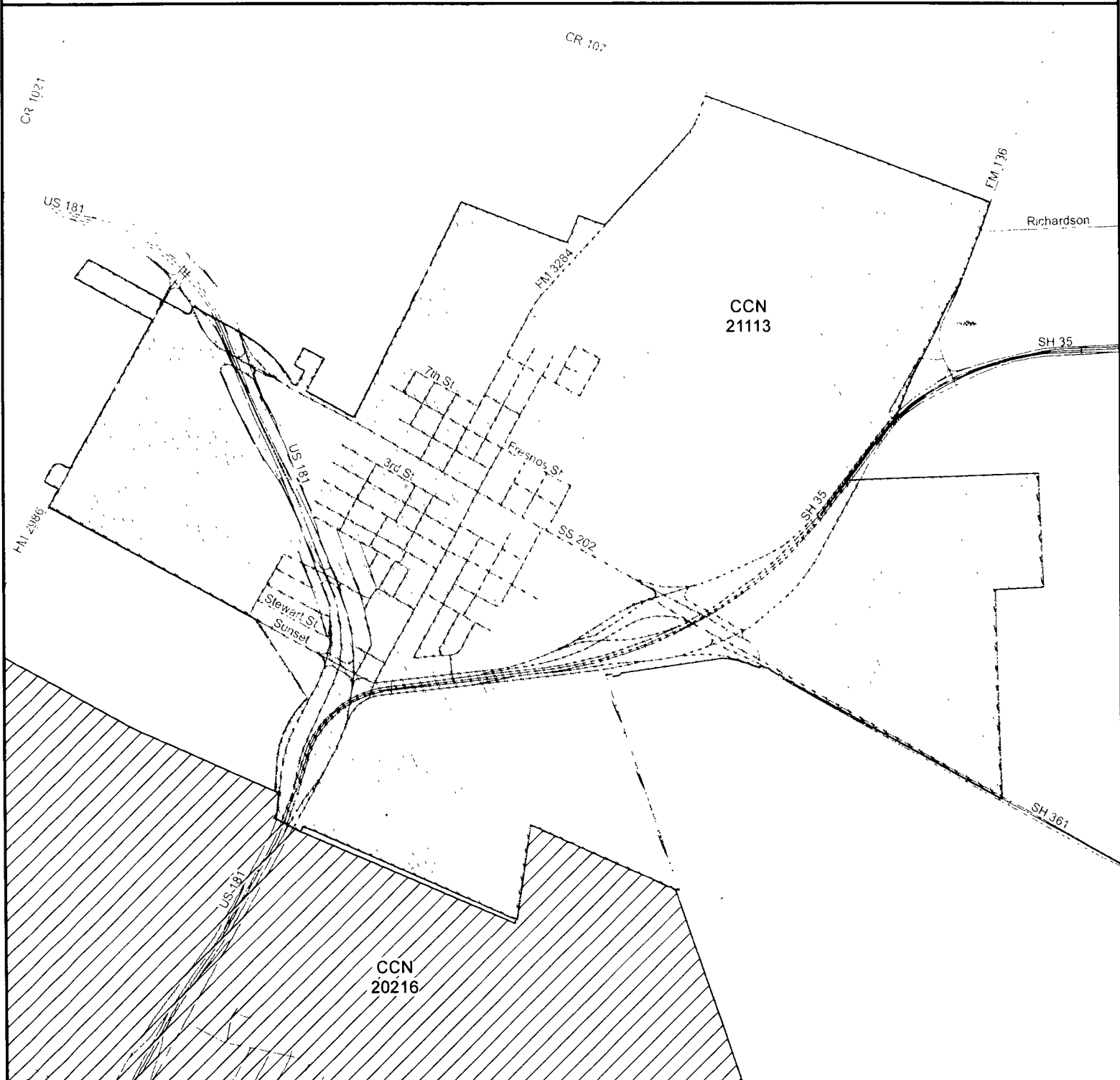
-  13275 - City of Gregory
-  10541 - City of Portland

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
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45489CityofGregoryWater.mxd

City of Gregory  
Sewer CCN No. 21113  
PUC Docket No. 45489  
Obtained New CCN in San Patricio County



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Sewer CCN**

-  21113 - City of Gregory
-  20216 - City of Portland

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Map by Komal Patel  
Date created December 7, 2018  
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