



Control Number: 45489



Item Number: 98

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

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

**JOINT PROPOSED NOTICE OF APPROVAL
AND MOTION TO ADMIT EVIDENCE**

COME NOW the Staff of the Public Utility Commission of Texas (Staff) and the City of Gregory (collectively, the Filing Parties) and jointly file this Proposed Notice of Approval and Motion to Admit Evidence. The City of Portland is unopposed to this Proposed Notice of Approval and Motion to Admit Evidence. In support thereof, the Filing Parties 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 11, 2019, Staff filed a final recommendation, indicating that the parties would file joint proposed findings of fact and conclusions of law by January 18, 2019, unless directed otherwise. This pleading is therefore timely filed.

II. MOTION TO ADMIT EVIDENCE

The Filing Parties request the entry of the following items into the record of this proceeding:

- (a) Application of City of Gregory to obtain certificates of convenience and necessity in San Patricio County (filed on December 31, 2015, AIS Item No. 1);
- (b) Supplemental information (filed on March 29, 2016, May 16, 2016, June 28, 2016, September 1, 2016, March 2, 2017, April 20, 2017, May 12, 2017, August 1, 2017,

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- October 23, 2017, March 6, 2018, May 22, 2018, July 3, 2018, September 12, 2018, and November 9, 2018, AIS Item Nos. 8, 13, 14, 19, 39, 43, 45, 51, 55, 61, 67, 76, 87, and 92);
- (c) Proof of notice affidavits and documentation (filed on November 10, 2016, and January 25, 2017, AIS Item Nos. 24 and 30);
 - (d) Gregory's response to Staff's first Request for Information (filed on January 30, 2017, AIS Item No. 33);
 - (e) Supplemental financial information (filed on February 21, 2018, and April 24, 2018, AIS Item Nos. 60 and 63);
 - (f) Gregory's consent form, (filed on December 19, 2018, AIS Item No. 95); and
 - (g) Staff's Final Recommendation and all attachments thereto (filed on January 11, 2019, AIS Item No. 97).

III. JOINT PROPOSED NOTICE OF APPROVAL

The Filing Parties have agreed on the attached Joint Proposed Notice of Approval, which would grant Gregory's application to obtain new water and sewer CCNs in San Patricio County. The Filing Parties request that the Commission approve the Notice, which the City of Portland does not oppose.

IV. CONCLUSION

The Filing Parties respectfully request that the items listed above be admitted into the record of this proceeding as evidence and that the findings of fact, conclusions of law, and ordering paragraphs from the attached Joint Proposed Notice of Approval be adopted.

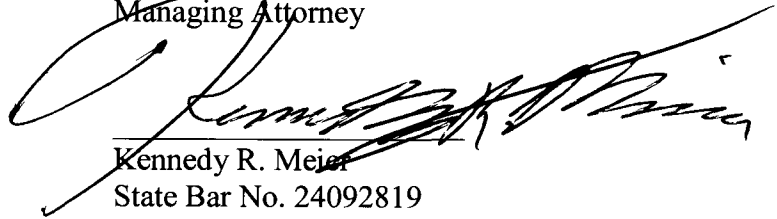
Dated: January 17, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Katherine Lengieza Gross
Managing Attorney

A handwritten signature in black ink, appearing to read "Kennedy R. Meier", is written over a horizontal line.

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

CITY OF GREGORY

Signed: Celestino A. Zambrano

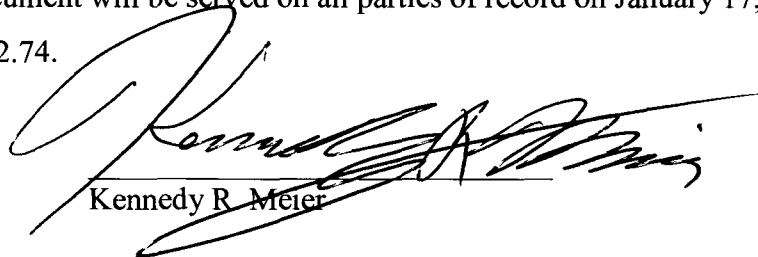
Printed Name: CELESTINO A. ZAMBRANO

Title: MAYOR

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

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on January 17, 2019, in accordance with 16 TAC § 22.74.



Kennedy R. Meier

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

APPLICATION OF CITY OF GREGORY	§	PUBLIC UTILITY COMMISSION
TO OBTAIN CERTIFICATES OF	§	
CONVENIENCE AND NECESSITY IN	§	
SAN PATRICIO COUNTY	§	OF TEXAS

JOINT PROPOSED NOTICE OF APPROVAL

This Joint Proposed Notice of Approval addresses the application of the City of Gregory (Gregory) to obtain new water and sewer certificates of convenience and necessity (CCNs) in San Patricio County. Commission Staff recommends approval of the amended and supplemented application. The Commission approves the application, as amended and supplemented, and issues Gregory water CCN No. 13275 and sewer CCN No. 21113.

The Commission adopts the following findings of fact and conclusions of law:

I. Findings of Fact

Application and Affected Entity

1. Gregory is a municipality that provides water and sewer service.
2. Gregory operates under Texas Commission on Environmental Quality (TCEQ) permitted public water system ID No. 2050001 and TCEQ wastewater discharge permit No. WQ-0010092001.

Application

3. On December 31, 2015, Gregory filed an application to obtain water and sewer CCNs in San Patricio County.
4. The requested area, as amended to address landowner opt-outs, resolve concerns raised by the City of Portland, and implement other changes, contains approximately 2141 acres and 686 current customers.
5. The requested area generally consists of the area within Gregory's municipal boundaries and a portion of Gregory's extraterritorial jurisdiction.
6. In Order No. 5 issued on July 14, 2016, the administrative law judge (ALJ) found the application administratively complete.

7. On December 19, 2018, Gregory filed a consent form concurring with the proposed maps and certificates prepared by Commission Staff.

Adequacy of Current Service

8. The area subject to this application is served by Gregory's TCEQ-approved public water system ID No. 2050001 and under TCEQ wastewater discharge permit No. WQ-0010092001. Gregory is not subject to any pending TCEQ enforcement actions, and no additional construction is necessary for Gregory to serve the requested area.

Need for Service

9. The requested area generally encompasses existing customers and infrastructure served by Gregory.

Effect of Granting the Certificates on Retail Public Utilities

10. Gregory has amended the requested area to remove all land affected by landowner opt-out requests and to contain area that generally encompasses existing customers and infrastructure. Therefore, granting Gregory's requested CCNs will not adversely affect landowners in the area or any other retail public utility service provider in the proximate area.
11. Gregory has existing facilities in place to serve the requested area. The requested area has been amended to address concerns raised by the City of Portland. The Commission received no other protests or concerns from any other adjacent retail public utility.

Ability of Gregory to Provide Adequate Service

12. Gregory is a municipal utility that currently serves the requested area. Gregory has sufficient capacity to serve the requested area and has adequate facilities for the provision of water and sewer utility service. No additional construction is necessary for Gregory to serve the requested area.

Feasibility of Obtaining Service from Adjacent Retail Public Utility

13. It is not feasible for an adjacent utility to provide service to the requested area because Gregory already provides service to the requested area and has the facilities in place to serve the requested area.

Financial Ability to Pay for, Operate, and Manage Facilities

14. Gregory has a debt service coverage ratio of 1.48, which is greater than 1.25, and two years of cash on hand for debt service.
15. Gregory has demonstrated that it has sufficient cash on hand to cover any projected operations and maintenance shortages in the first five years of operations.

Environmental Integrity

16. Granting Gregory's CCNs will not adversely impact the environmental integrity of the requested area as no additional construction is necessary for Gregory to serve the requested area.

Improvement of Service or Lowering of Costs

17. Gregory will continue to provide service in the requested area using existing facilities and rates for Gregory's customers are not affected by the issuance of the CCNs.

Effect on the Land

18. There is no effect on the land as no additional construction is necessary as a result of the issuance of the CCNs.

Notice

19. Notice of the application appeared in the January 22, 2016, issue of the *Texas Register*.
20. Notice of the application by publication appeared in the *Portland News*, a newspaper of general circulation in San Patricio County, on November 3, 2016, December 22, 2016, and December 29, 2016.
21. On January 17, 2017, Gregory mailed notice of the application to neighboring utilities, counties, cities, and affected parties.
22. On November 10, 2016, and January 25, 2017, Gregory filed affidavits of mailed and published notice.

Evidence

23. On January 18, 2019, Commission Staff and Gregory filed a motion to admit evidence.
24. In Order No. XX issued on _____, 2019, the ALJ admitted the following evidence into the record of the proceeding: (a) Application of City of Gregory to obtain certificates of convenience and necessity in San Patricio County (filed on

December 31, 2015); (b) Supplemental information (filed on March 29, 2016, May 16, 2016, June 28, 2016, September 1, 2016, March 2, 2017, April 20, 2017, May 12, 2017, August 1, 2017, October 23, 2017, March 6, 2018, May 22, 2018, July 3, 2018, September 12, 2018, and November 9, 2018); (c) Proof of notice affidavits and documentation (filed on November 10, 2016, and January 25, 2017); (d) Gregory's response to Staff's first Request for Information (filed on January 30, 2017); (e) Supplemental financial information (filed on February 21, 2018, and April 24, 2018); (f) Gregory's consent form, (filed on December 19, 2018); and (g) Staff's Final Recommendation and all attachments thereto (filed on January 11, 2019)

Informal Disposition

25. More than 15 days have passed since the completion of the notice provided in this docket.
26. Commission Staff, Gregory, and the City of Portland are the only parties to this proceeding.
27. All opt outs and requests for hearing have been resolved.
28. No issues of fact or law remain disputed by any party.

II. Conclusions of Law

1. Gregory is a retail public utility as defined in Texas Water Code (TWC) § 13.002(19)¹ and 16 Texas Administrative Code (TAC) § 24.3(59).
2. The Commission has jurisdiction over the application under TWC §§ 13.041, 13.241, 13.244, and 13.246.
3. The application meets the requirements set forth in TWC §§ 13.241, 13.244 and 13.246, and 16 TAC §§ 24.225-227 and 24.231-235.
4. Notice of the application was provided in compliance with 16 TAC § 24.235.
5. The Commission processed the application as required by the TWC, the Administrative Procedure Act,² and Commission rules.
6. After considering the factors in TWC § 13.246(c) and 16 TAC § 24.227(d), Gregory is entitled to approval of its application for water and sewer CCNs.

¹ Tex. Water Code Ann. § 13.002(19).

² Tex. Gov't Code Ann. §§ 2001.001-.902.

7. Gregory has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area as required by TWC § 13.241(a) and 16 TAC § 24.11(a).
8. Approval of the application is necessary for the service, accommodation, convenience, or safety of the public as required by TWC § 13.246(b) and 16 TAC § 24.227(c).
9. Under TWC § 13.257(r) and (s), Gregory is required to record a certified copy of the approved certificates and maps, along with a boundary description of the service areas, in the real property records of San Patricio County, and submit to the Commission evidence of the recording.
10. The application meets the requirements for informal disposition in 16 TAC § 22.35.

III. Ordering Paragraphs

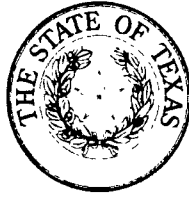
In accordance with these findings of facts and conclusions of law, the Commission issues the following order:

1. The Commission approves the application, as supplemented and amended.
2. The Commission approves the certificates and maps attached to this Notice.
3. The Commission issues Gregory water CCN No. 13275.
4. The Commission issues Gregory sewer CCN No. 21113.
5. Gregory shall serve every customer and applicant for service within the areas certified under its CCNs, and such service shall be continuous and adequate.
6. Gregory shall comply with the recording requirements in TWC § 13.257(r) and (s) for the area in San Patricio County affected by the application and submit to the Commission evidence of the recording no later than 31 days after receipt of this Notice.
7. All other motions and any other requests for general or specific relief, if not expressly granted, are denied.

Signed at Austin, Texas the ____ day of _____ 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

ADMINISTRATIVE LAW JUDGE



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

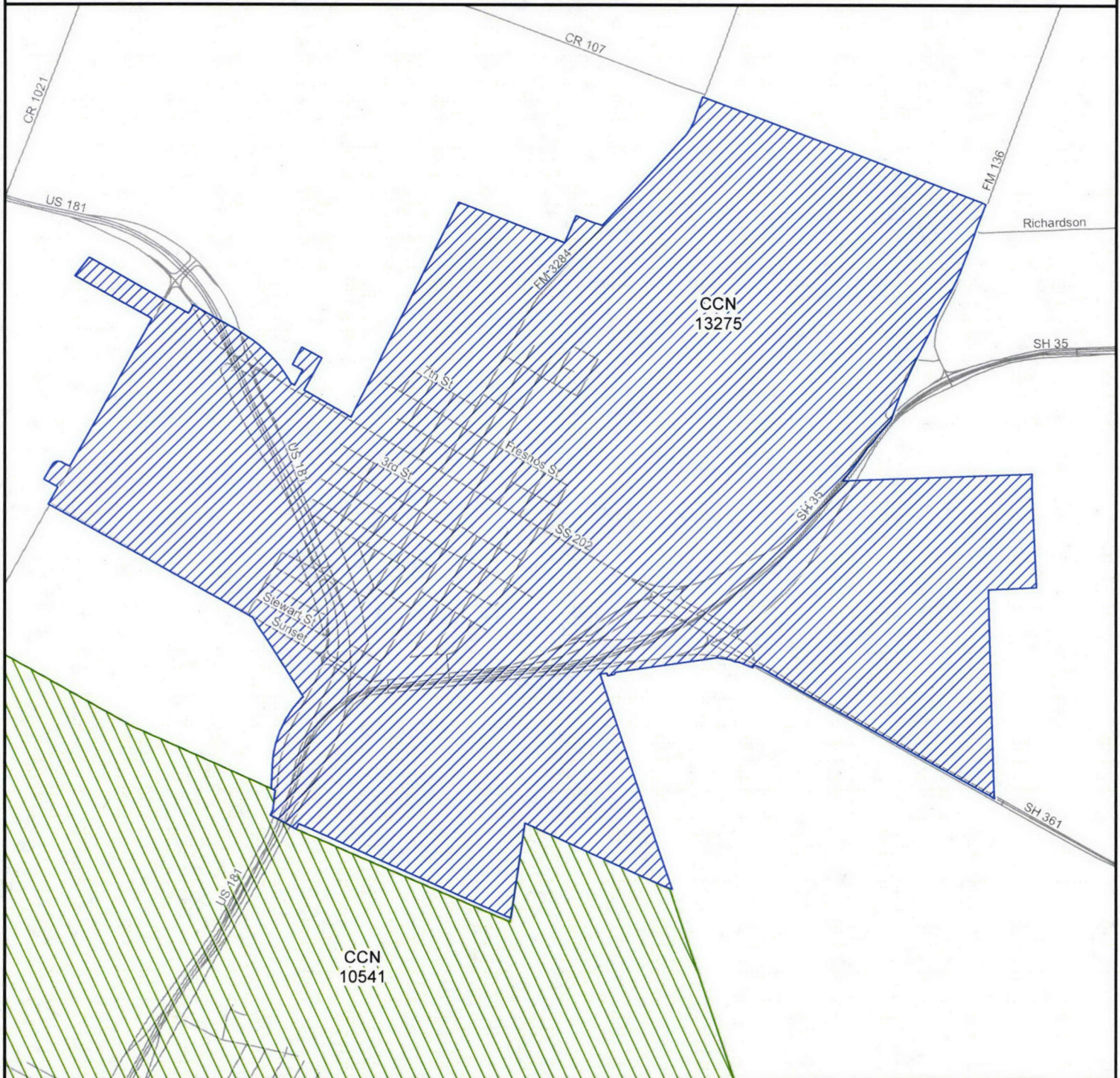
having obtained certification to provide sewer utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Gregory, is entitled to this

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

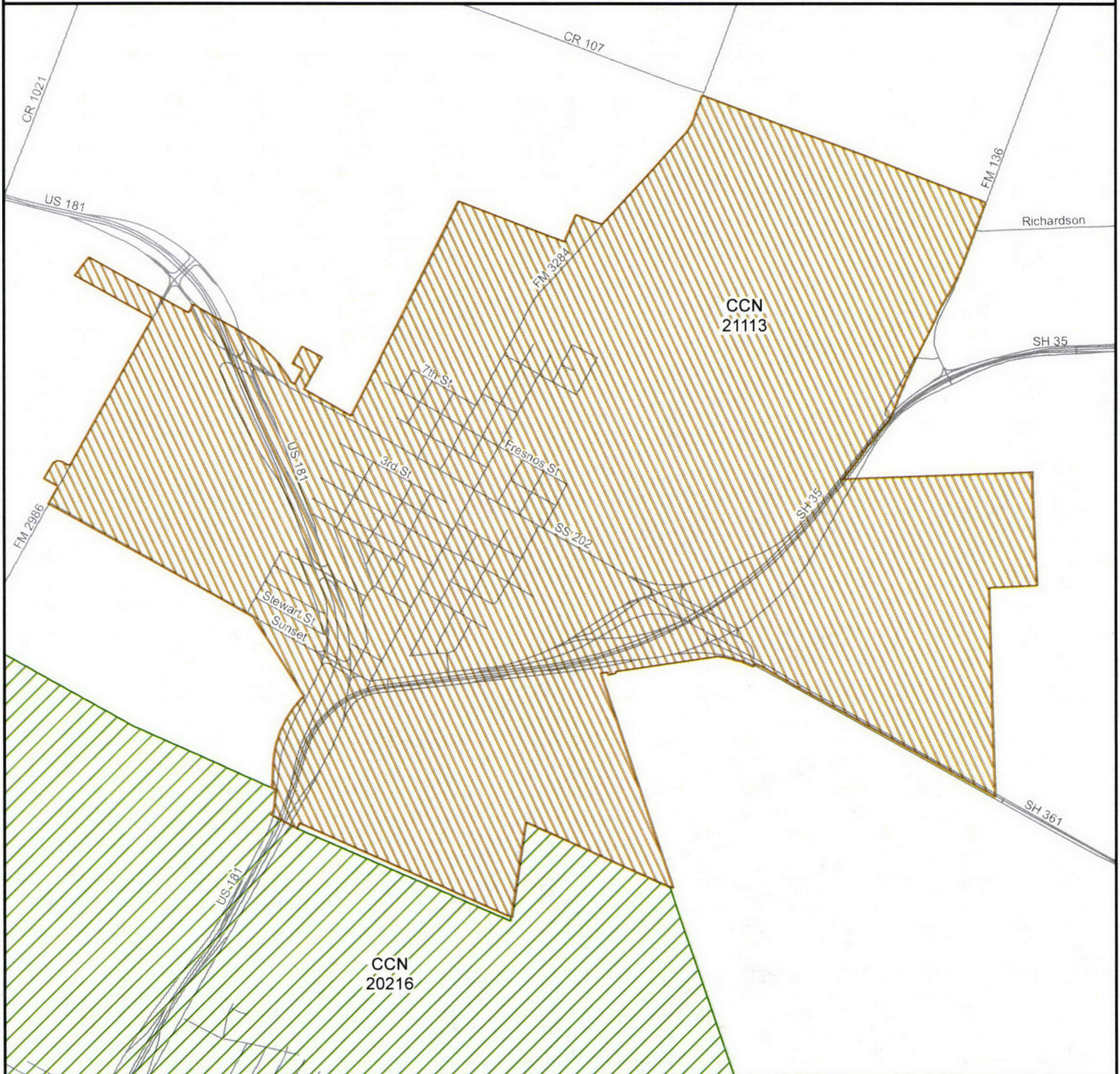
-  13275 - City of Gregory
-  10541 - City of Portland

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Map by: Komal Patel
Date created: December 7, 2018
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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
Project Path: n:\finalmapping\
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