



Control Number: 45781



Item Number: 43

Addendum StartPage: 0

**SOAH DOCKET NO. 473-16-5010.WS  
DOCKET NO. 45781**

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**APPLICATION OF CITY OF  
PORTLAND TO AMEND ITS  
CERTIFICATES OF CONVENIENCE  
AND NECESSITY IN SAN PATRICIO  
COUNTY**

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§

**PUBLIC UTILITY COMMISSION**

**OF TEXAS**

PUBLIC UTILITY COMMISSION  
FILING CLERK

**JOINT MOTION TO ADMIT EVIDENCE AND PROPOSED ORDER**

COMES NOW, City of Portland (Portland), Rincon Water Supply Corporation (Rincon WSC), City of Gregory (Gregory), and Staff of the Public Utility Commission of Texas (Staff), representing the public interest, (collectively, the Parties), and files this Joint Motion to Admit Evidence, and Proposed Order. In support thereof, the Parties show the following:

**I. BACKGROUND**

On March 29, 2016, the City of Portland (Portland) filed an application to amend its water certificate of convenience (CCN) No. 10541 and sewer CCN No. 20216 in San Patricio County. Staff filed a final recommendation of approval on May 25, 2017. Pursuant to SOAH Order No. 7, the parties timely file this joint proposed motion to admit evidence and order.

**II. JOINT MOTION TO ADMIT EVIDENCE**

The Parties move to admit the following into the record evidence of this proceeding:

- (a) Portland's application for a CCN amendment, filed on March 29, 2016 (AIS Item No. 1);
- (b) The affidavits of notice, filed on May 31, 2017 (AIS Item No. 10);
- (c) Rincon's Letter to Judge Rodriguez, filed on March 13, 2017 (AIS Item No. 31);
- (d) Portland's Letter to Judge Rodriguez, filed on March 13, 2017 (AIS Item No. 32);
- (d) The consent forms to the final map and certificate, filed May 10, 2017 (AIS Item No. 37);
- (e) Commission Staff's recommendation that the Application be approved, filed May 25, 2017 (AIS Item No. 38); and,

### **III. JOINT PROPOSED ORDER**

The attached Joint Proposed Order would grant Portland's Application to amend water CCN No. 10541 and sewer CCN No. 20216 in San Patricio County. Also attached are the final map and certificate that were included in Staff's recommendation on final disposition filed May 25, 2017.

### **IV. CONCLUSION**

The Parties respectfully request that the Commission grant the Motion to Admit Evidence, and adopt the attached Joint Proposed Order.

Dated: June 23, 2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
Division Director

Karen S. Hubbard  
Managing Attorney



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Landon J. Lill  
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(512) 936-7228 (facsimile)  
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**CITY OF PORTLAND, TEXAS**

/s/ Randy Wright  
Randy Wright  
City Manager

**CITY OF GREGORY, TEXAS**

/s/ Robert Meager  
Robert Meager  
City Administrator

**RINCON WSC**

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Kenneth Johnson  
General Manager

Dated: 6/14/2017

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

Margaret Uhlig Pemberton  
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**CITY OF PORTLAND, TEXAS**

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Randy Wright  
City Manager

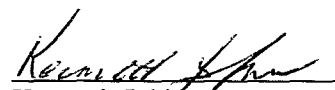
**CITY OF GREGORY, TEXAS**

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Robert Meager  
City Administrator

**RINCON WSC**

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Kenneth Johnson  
General Manager

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**CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 23, 2017 in accordance with 16 TAC § 22.74.



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Landon J. Lill  
State Bar No. 24092700

**SOAH DOCKET NO. 473-16-5010.WS  
DOCKET NO. 45781**

<b>APPLICATION OF CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>PORTLAND TO AMEND ITS</b>	<b>§</b>	
<b>CERTIFICATES OF CONVENIENCE</b>	<b>§</b>	<b>OF TEXAS</b>
<b>AND NECESSITY IN SAN PATRICIO</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**JOINT PROPOSED ORDER**

This Proposed Order addresses the application of City of Portland (Portland) to amend its water certificate of convenience (CCN) No. 10541 and sewer CCN No. 20216 in San Patricio County. The Public Utility Commission Staff (Staff) recommended approval of this application. The application is approved.

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

**I. FINDINGS OF FACT**

**Procedural History**

1. On March 29, 2016, Portland filed an application to amend water CCN No. 10431 and sewer CCN No. 20216 in San Patricio County.
2. On April 4, 2016, Order No. 1 was issued, requiring comments on administrative completeness.
3. On April 6, 2016, The Commission submitted notice of Portland's application to the Texas Register, which was published on April 22, 2017.
4. On April 29, 2016, Staff comments on administratively completeness recommending the application be deemed complete.
5. On May 3, 2016, the Administrative Law Judge (ALJ) issued Order No. 2 deeming the application administratively complete.
6. On May 31, 2016, Portland filed proof of mailed notice issued on May 20, 2016 and published notice issued on May 19, 2016 and May 26, 2016.
7. On June 8, 2016, Kenneth McKamey requested to opt out of the proposed CCN expansion.

8. On June 15, 2016, Rincon Water Supply Corporation (Rincon) intervened and requested a hearing.
9. On June 20, 2016, the City of Gregory (Gregory) intervened.
10. On June 24, 2016, Staff requested Portland's application be referred to the State Office of Administrative Hearings (SOAH).
11. On July 7, 2016, Commission Advising and Docket Management referred Portland's application to SOAH and requested the parties file lists of issues.
12. On July 22, 2016, Staff filed a proposed list of issues.
13. On July 28, 2016, Rincon filed a response to Staff's proposed list of issues.
14. On July 28, 2016, SOAH Order No. 1 was issued setting a date for a prehearing conference.
15. On August 24, 2016, SOAH Order No. 2 was issued granting a continuance and postponing the prehearing conference.
16. On August 25, 2016, Portland filed a letter to Judge Rodriguez requesting continuance.
17. On September 14, 2016, Portland filed a letter to Judge Rodriguez requesting a further continuance.
18. On September 19, 2016, Order No. 4 was issued granting a further continuance.
19. On February 7, 2017, Portland filed a letter to Judge Rodriguez stating that a settlement had been reached.
20. On February 16, Order No. 5 was issued requesting staff to file a status report on the sufficiency of the settlement documents.
21. On February 24, 2017, Staff filed a status report stating that settlement documents were insufficient.
22. On March 1, 2017, Order No. 6 was issued scheduling a prehearing conference.
23. On March 13, 2017, Rincon filed a letter stating agreement to the settlement terms outlined by Portland and withdrawing its request for a hearing.
24. On March 13, 2017, Portland filed a letter to Judge Rodriguez requesting the prehearing conference be cancelled.
25. On March 14, 2017, Staff filed an updated status report recommending that the settlement documentation was sufficient and that the prehearing conference be cancelled.
26. On March 16, 2017, SOAH Order No. 6 was issued cancelling the prehearing conference.



27. On March 31, 2017, Staff filed an updated status report proposing a procedural schedule for processing the application.
28. On April 12, 2017, SOAH Order No. 7 was issued adopting Staff's proposed procedural schedule.
29. On May 2, 2017, Staff provided Portland with proposed final maps and certificates for review.
30. On May 10, 2017, Portland filed its consent to the proposed maps and certificates.
31. On May 25, 2017, Staff filed its final recommendation requesting the application be approved.
32. The final maps and CCN certificate referenced in Finding of Fact No. 29 are attached to this Proposed Order.
33. On \_\_\_\_\_, Order No. \_\_\_\_ was issued, admitting evidence into the record of this proceeding.

## **II. CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over these matters pursuant to Tex. Water Code Ann. §§ 13.041 and 13.042 (West 2016) (TWC).
2. Portland is a retail public utility as defined in TWC § 13.002(19) and 16 Tex. Admin. Code 24.3(59) (TAC).
3. Public notice of the application was provided in compliance with TWC § 13.246 and 16 TAC § 24.106.
4. The application meets the requirements set forth in TWC §§ 13.241-50.
5. After considering the factors in TWC § 13.241-50, Portland is entitled to approval of its application, having demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC § 13.241(a).
6. 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 § 24.102(c).
7. Under TWC § 13.257(r) and 16 TAC § 24.106(e), Portland is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area

in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.

### **III. ORDERING PARAGRAPHS**

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

1. Portland's application is approved.
2. Portland's water CCN No. 10431 is hereby amended, consistent with this Notice.
3. Portland's sewer CCN No. 20216 is hereby amended, consistent with this Notice.
4. Portland shall serve every customer and applicant for service within the areas certified under sewer CCN No. 10431 and sewer CCN No. 20216, and such service shall be continuous and adequate.
5. Portland shall comply with the recording requirements in TWC § 13.257(r) 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.
6. All other motions, requests for entry of specific findings of fact and conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are denied.

**SIGNED AT AUSTIN, TEXAS on the \_\_\_\_ day of \_\_\_\_\_ 2017.**

**PUBLIC UTILITY COMMISSION OF TEXAS**

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**Kenneth W. Anderson**

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**Brandy Marquez**



# **Public Utility Commission of Texas**

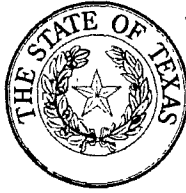
**By These Presents Be It Known To All That**  
**City of Portland**

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, the City of Portland is entitled to this

## **Certificate of Convenience and Necessity No. 20216**

to provide continuous and adequate sewer utility service to that service area or those service areas in Nueces and San Patricio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45781 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 Portland, 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 \_\_\_\_\_ 2017.



# **Public Utility Commission of Texas**

## **By These Presents Be It Known To All That City of Portland**

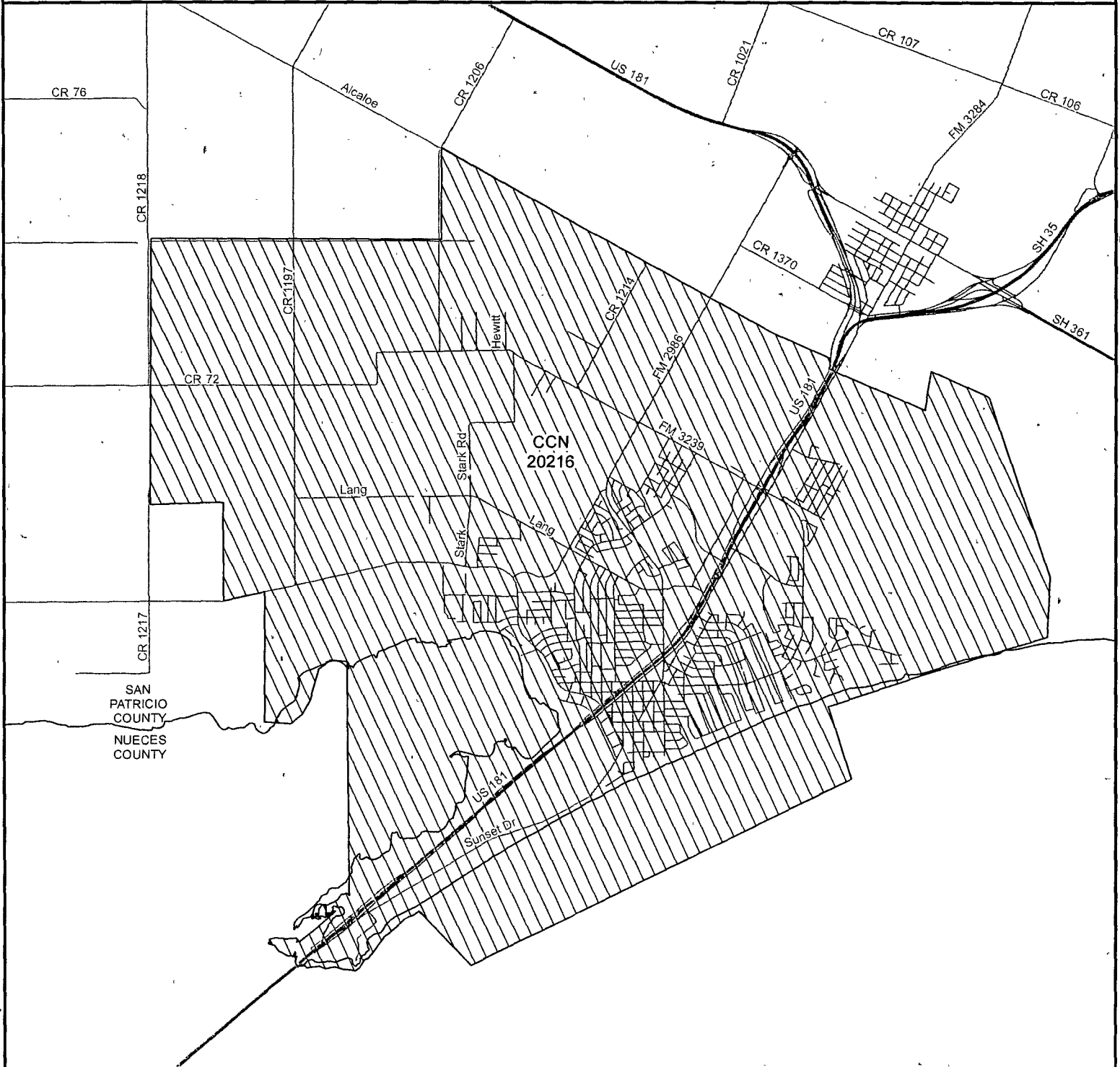
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, the City of Portland is entitled to this

### **Certificate of Convenience and Necessity No. 10541**


to provide continuous and adequate water utility service to that service area or those service areas in Nueces and San Patricio Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 45781 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 Portland, 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 \_\_\_\_\_ 2017.

City of Portland  
 Sewer CCN No. 20216  
 PUC Docket No. 45781  
 Amended CCN No. 20216 in San Patricio County



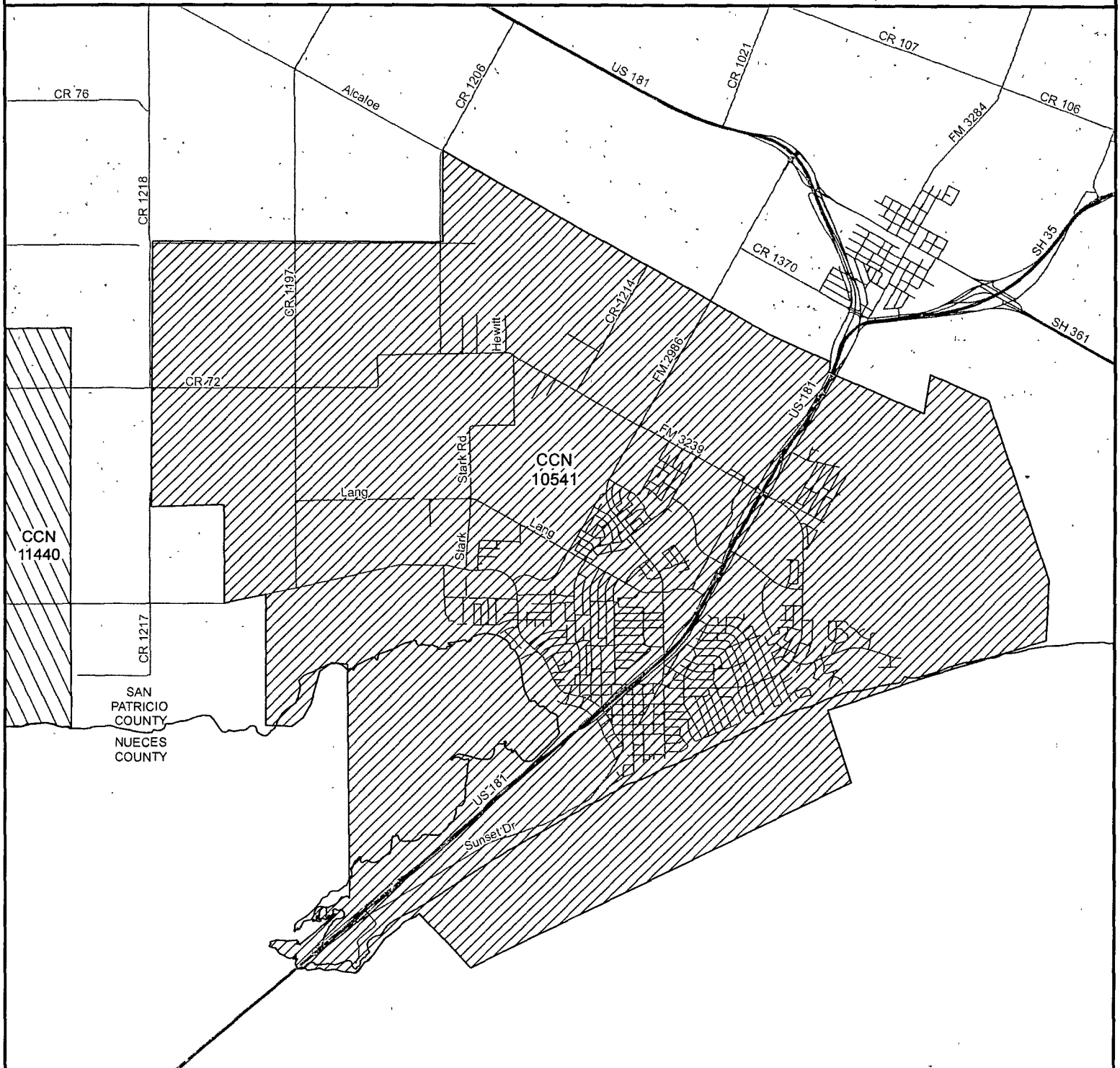
**Sewer CCN**

 20216 - City of Portland



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City of Portland  
Water CCN No. 10541  
PUC Docket No. 45781  
Amended CCN No. 10541 in San Patricio County



**Water CCN**

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-  11440 - Rincon WSC

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