

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

March 14, 2023

Sarah T. Esterson
Senior Policy Advisor
Oregon Department of Energy
550 Capitol St. NE
Salem, OR 97301

Re: **Hermiston Power Project Facility Change Request- Potable Water Well Installation**

Dear Ms. Esterson:

As we previously discussed, the Hermiston Power Project is in the process of commissioning a new potable water well at the site. This new installation was encouraged by the Oregon Health Authority Drinking Water Services due to elevated nitrate levels in the existing water source.

HPP does not believe this installation requires an amendment to the existing Site Certificate. Enclosed is the requested Amendment Determination Request outlining the standards and our responses.

Please let me know if you are in agreement with our assessment.

Sincerely,

DocuSigned by:

6C613D01F619420...

Jeff Krupp
Plant Manager
Hermiston Power Project

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

1.0 Description of Proposed Modification

The Hermiston Power Project (HPP) intends to drill a new potable water well onsite. The new well is estimated to be 700 feet deep with a steel casing and a pump rated for 75 GPM. The new well will be on Calpine HPP property and will be connected to our potable water system that feeds our kitchen, restrooms, and showers.

There will be no process change to the facility.

2.0 Rationale for Change Request

HPP currently uses potable water provided by a well owned by J.R. Simplot on an adjacent property. Nitrate levels in water from this source have trended upwards and it is no longer compliant with drinking water standards established by the Oregon Health Authority Drinking Water Services (DWS).

As an immediate mitigation method, HPP installed a reverse osmosis system for faucets from the kitchen, however, drinking fountains remain out of service, and kitchen and bathrooms are still required to be labeled as non-potable.

HPP intends to drill the new potable water well as a permanent solution for all drinking water needed at the facility.

3.0 Compliance Assessment for Proposed Modification

ORAR 345-027-0050(3) requires an evaluation of applicable EFSC standards relevant to the proposed modifications; therefore, this compliance assessment is provided for the requested modifications, organized in accordance with ORAR 345-027-0060(1)(e). The Council standards relevant to the site are Division 22 (General Standards for Siting Facilities) and Division 24 (Specific Standards for Siting Facilities). The Facility is an electric generating facility and therefore, Division 23, which applies to nongenerating facilities, does not apply.

ORAR 345-022f

The following Division 22 standards are addressed:

- ORAR 345-022-0010 Organizational Expertise
- ORAR 345-022-0020 Structural Standard
- ORAR 345-022-0022 Soil Protection
- ORAR 345-022-0030 Land Use
- ORAR 345-022-0040 Protected Areas
- ORAR 345-022-0050 Retirement and Financial Assurance
- ORAR 345-022-0060 Fish and Wildlife Habitat
- ORAR 345-022-0070 Threatened and Endangered Species
- ORAR 345-022-0080 Scenic Resources
- ORAR 345-022-0090 Historic, Cultural and Archaeological Resources
- ORAR 345-022-0100 Recreation
- ORAR 345-022-0110 Public Services

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

- OAR 345-022-0120 Waste Minimization

OAR 345-022-0010 Organizational Expertise

- (1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.*
- (2) The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.*
- (3) If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.*
- (4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.*

Response: This standard is not applicable to the change request. The certificate holder remains the same and there has been no change in organizational expertise.

OAR 345-022-0020 Structural Standard

- (1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:*
 - (a) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site; and*
 - (b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a);*

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

- (c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and*
- (d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).*
- (2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*
- (3) The Council may not impose the Structural Standard in section (1) to deny an application for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities). However, the Council may, to the extent it determines appropriate, apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: This standard is not applicable to the change request. No new facility structures are being constructed as a part of the project.

OAR 345-022-0022 Soil Protection

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

Response: This standard is not applicable to the change request. The construction and operation of the facility remain unchanged. Drill spoils from the installation will be used as fill onsite.

OAR 345-022-0030 Land Use

- (1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*
- (2) The Council shall find that a proposed facility complies with section (1) if:*
 - (a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*
 - (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*
 - (A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission*

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);

- (B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or*
 - (C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).*
- (3) As used in this rule, the “applicable substantive criteria” are criteria from the affected local government’s acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050 (Distribution of a Preliminary Application), the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*
- (4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732 (Goal exceptions), the statewide planning goal pertaining to the exception process or any rules of the Land Conservation and Development Commission pertaining to the exception process, the Council may take an exception to a goal if the Council finds:*
- (a) The land subject to the exception is physically developed to the extent that the land is no longer available for uses allowed by the applicable goal;*
 - (b) The land subject to the exception is irrevocably committed as described by the rules of the Land Conservation and Development Commission to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*
 - (c) The following standards are met:*
 - (A) Reasons justify why the state policy embodied in the applicable goal should not apply;*
 - (B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility; and*

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

(5) If the Council finds that applicable substantive local criteria and applicable statutes and state administrative rules would impose conflicting requirements, the Council shall resolve the conflict consistent with the public interest. In resolving the conflict, the Council cannot waive any applicable state statute.

(6) If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300 (Definitions)(11)(a)(C) to (E) or for a related or supporting facility that does not pass through more than one local government jurisdiction or more than three zones in any one jurisdiction, the Council shall apply the criteria recommended by the special advisory group. If the special advisory group recommends applicable substantive criteria for an energy facility described in ORS 469.300 (Definitions)(11)(a)(C) to (E) or a related or supporting facility that passes through more than one jurisdiction or more than three zones in any one jurisdiction, the Council shall review the recommended criteria and decide whether to evaluate the proposed facility against the applicable substantive criteria recommended by the special advisory group, against the statewide planning goals or against a combination of the applicable substantive criteria and statewide planning goals. In making the decision, the Council shall consult with the special advisory group, and shall consider:

(a) The number of jurisdictions and zones in question;

(b) The degree to which the applicable substantive criteria reflect local government consideration of energy facilities in the planning process; and

(c) The level of consistence of the applicable substantive criteria from the various zones and jurisdictions.

Response: The Council previously found that the Facility satisfied the land use standard. The proposed well installation does not alter the basis for the earlier findings or the certificate holder's ability to comply with the Site Certificate conditions.

OAR 345-022-0040 Protected Areas

(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed below. References in this rule to protected areas designated under federal or state statutes or regulations are to the designations in effect as of May 11, 2007...

Response: This standard is not applicable to the well installation. The well installation will occur within the boundaries of the facility which the Council previously determined is not located in any protected area.

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

OAR 345-022-0060 Fish and Wildlife Habitat

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with:

- (1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017, and*
- (2) For energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater Sage-Grouse Conservation Strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effect as of February 24, 2017.*

Response: This standard does not apply. The well installation will occur within the boundaries of the facility which the Council previously determined in compliance with the Council's Fish and Wildlife Habitat Standard.

OAR 345-022-0070 Threatened and Endangered Species

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

- (1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105 (Responsibility to protect and conserve native plants)(2), the design, construction and operation of the proposed facility, taking into account mitigation:*
 - (a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105 (Responsibility to protect and conserve native plants)(3); or*
 - (b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and*
- (2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172 (Commission management authority for threatened or endangered species)(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.*

Response: This standard does not apply. The well installation will occur within the boundaries of the facility.

OAR 345-022-0080 Scenic Resources

- (1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic resources and values identified as significant or important in local land use plans, tribal land management plans and federal land management plans for any lands located within the analysis area described in the project order.*

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

- (2) *The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities) without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: This standard is not applicable at this time. The well installation will occur within the boundaries of the facility and there will be no operational changes to the facility. The scenic resources will not be impacted.

OAR 345-022-0090 Historic, Cultural and Archaeological Resources

- (1) *Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:*
- (a) *Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;*
 - (b) *For a facility on private land, archaeological objects, as defined in ORS 358.905 (Definitions for ORS 358.905 to 358.961)(1)(a), or archaeological sites, as defined in 358.905 (Definitions for ORS 358.905 to 358.961)(1)(c); and*
 - (c) *For a facility on public land, archaeological sites, as defined in ORS 358.905 (Definitions for ORS 358.905 to 358.961)(1)(c).*
- (2) *The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*
- (3) *The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities) without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: The Council previously found that the construction and operation of the Facility did not impact historic, cultural or archeological resources. The proposed well installation will take place within the Facility boundaries and does not alter the basis for the earlier findings.

OAR 345-022-0100 Recreation

- (1) *Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:*
- (a) *Any special designation or management of the location;*
 - (b) *The degree of demand;*
 - (c) *Outstanding or unusual qualities;*
 - (d) *Availability or rareness;*

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

- (e) Irreplaceability or irretrievability of the opportunity.*
- (2) *The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities) without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

Response: This standard is not applicable. The proposed well installation is within the existing Facility boundaries.

345-022-0110 Public Services

- (1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.
- (2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.
- (3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities) without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Response: This standard is not applicable. The well installation will be within the existing boundaries of the Facility. The well installation has no effect on the ability of public and private providers to provide services in the area.

OAR 345-022-0120 Waste Minimization

- (1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:
- (a) The applicant's solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;
- (b) The applicant's plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.
- (2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.
- (3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 (Request for Expedited Review of Special Criteria Facilities) without making the findings described

Hermiston Power Project

78910 Simplot Road
Hermiston, Oregon 97838

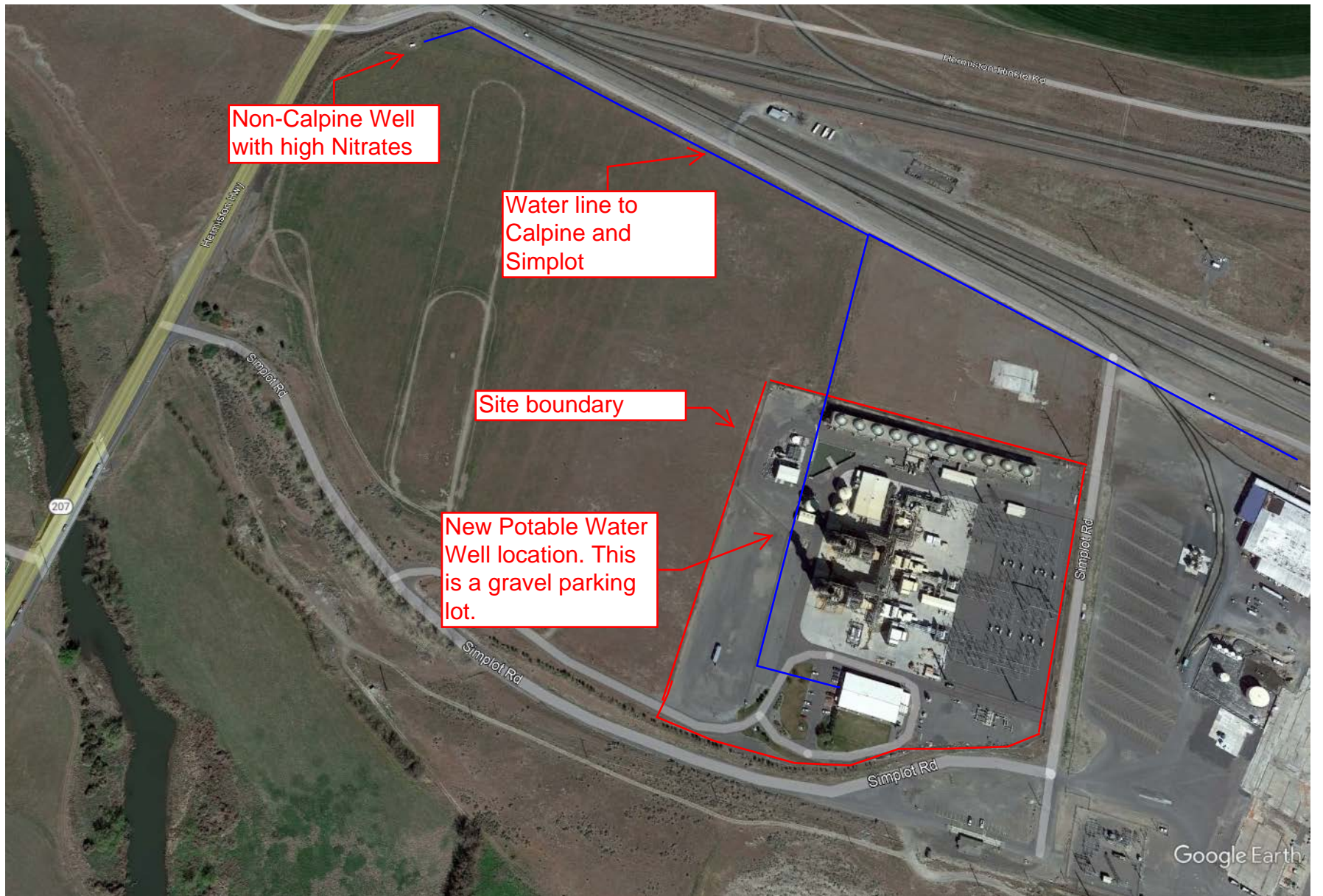
in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Response: This standard is not applicable. Solid waste and wastewater from the facility operation will not be increased as a result of the well installation. The drill cuttings from the well installation will be used onsite.

4.0 Conclusion

After a review of the Council standards relevant to the site, Division 22 and Division 24, HPP concludes the proposed well installation does not affect the ability to comply with existing conditions of the Site Certificate.

Attachment 2A – Potable Water Well Location



Non-Calpine Well with high Nitrates

Water line to Calpine and Simplot

Site boundary

New Potable Water Well location. This is a gravel parking lot.