

Exhibit 1

3.2 ISSUES OUTSIDE THE SCOPE OF THE EIS

The purpose of an EIS is to assess the potential environmental impacts of a proposed action as part of the decision-making process of an agency – in this case, a licensing decision. As noted in Sect. 2.1, some issues and concerns raised during the scoping process are not relevant to the EIS because they are not directly related to the assessment of potential impacts or to the decision-making process. Exclusion from the EIS, however, does not suggest that an issue or concern lacks value. Issues beyond the scope of an EIS may be appropriately discussed and decided in other venues.

Some of the issues raised during the public scoping will not be addressed in the EIS. These include legal issues such as the potential conflict between Federal laws regarding Tribal sovereignty and State laws regarding waste storage. An analysis of DOE's statutory responsibilities regarding SNF, particularly as legislated in the Nuclear Waste Policy Act, is also outside the scope of the EIS; and DOE's responsibilities regarding SNF do not require that DOE be a cooperating agency for this EIS. Similarly, DOE's activities at Yucca Mountain and questions about the future availability of that site are beyond the scope of the EIS, as is the potential that such a facility may not become available within the next 40 years [see 10 CFR § 51.23(b)]. Other issues that will not be evaluated in the EIS include requests to extend the scoping period in response to revised licensing-related submittals by the applicant and conducting separate scoping processes for BIA and BLM.

Some issues raised during the public scoping process for the proposed facility are outside the scope of the EIS, but they will be analyzed in the SER. The EIS and the SER are related in that they may cover the same topics and may contain similar information, but the analysis in the EIS is limited to an assessment of potential environmental impacts. In contrast, the SER primarily deals with safety evaluations and procedural requirements or license conditions to ensure the health and safety of workers and the general public. The SER also covers other aspects of the proposed action such as demonstrating that the applicant will provide adequate funding for decommissioning of the facility (in compliance with NRC financial assurance regulations) and that the site-specific emergency preparedness procedures are appropriate. Also, the design of the transport, transfer, and storage casks will be evaluated in the SER or in separate rulemaking proceedings for conformity with NRC regulations regarding safety and testing. The SER will include an evaluation of the safeguards at the proposed facility (pursuant to 10 CFR Part 73).

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)
)
PRIVATE FUEL STORAGE L.L.C.) Docket No. 72-22
)
(Private Fuel Storage Facility)) ASLBP No. 97-732-02-ISFSI

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Reply to State of Utah's Response to NRC Staff Lead Agency Filing" were served on the persons listed below (unless otherwise noted) by e-mail with conforming copies by U.S. mail, first class, postage prepaid, this 5th day of January 1999.

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