

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

**RAS 3164**

**DOCKETED 06/27/01**  
**SERVED 06/27/01**

COMMISSIONERS

Richard A. Meserve, Chairman  
Greta Joy Dicus  
Nils J. Diaz  
Edward McGaffigan, Jr.  
Jeffrey S. Merrifield

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In the Matter of )

PRIVATE FUEL STORAGE L.L.C. )

(Independent Spent Fuel )  
Storage Installation) )

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Docket No. 72-22-ISFSI

**CLI-01-15**

**ORDER**

In a May 31, 2001 order, the Atomic Safety and Licensing Board referred to the Commission the Board's ruling on where to set the regulatory standard for aircraft crash hazards at applicant Private Fuel Storage, L.L.C.'s proposed independent spent fuel storage installation (ISFSI) site. See LBP-01-19, 53 NRC \_\_ (2001). Consistent with our policy to accept Board certifications and referrals where "early resolution" of issues is desirable, we grant review and set the case for briefing. *See Private Fuel Storage*, CLI-00-03, 52 NRC 23, 28-29 (2000).

The applicant, Private Fuel Storage, L.L.C., seeks a license to operate an ISFSI on the Skull Valley Goshute Indian Reservation in Utah. NRC regulations require that the site be evaluated to determine credible accident scenarios associated with external and internal hazards, both natural and man-made, and the facility be designed to withstand credible accidents. *See* 10 C.F.R. Part 72 Subparts E and F.

In its Aircraft Crash Impact Hazard Report (Rev. 4)(Aug. 11, 2000), Private Fuel Storage argued that any accident with a less than one in a million ( $10^{-6}$ ) per year probability of occurring—"benchmark probability"--was not a credible accident. In its September 29, 2000, final Safety Evaluation Report, the NRC staff, accepting PFS's reasoning, agreed that the appropriate benchmark probability was one in a million per year. See SER at 15-77. The State of Utah contends, however, that the benchmark probability for air crash hazards should be one in ten million ( $10^{-7}$ ), a higher standard. The Board found that the benchmark probability should be set at  $10^{-6}$ , but referred the standard for the Commission's review. See LBP-01-19 at 19-20. We accept the referral and direct interested parties to submit briefs as follows:

All interested parties should submit electronic copies of briefs, with paper copies to follow, by July 13, 2001. The briefs should be no more than 20 pages in length. Reply briefs should be submitted no later than July 23, 2001 and should not exceed 10 pages in length.

IT IS SO ORDERED.

For the Commission<sup>1</sup>

/RA/

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ANNETTE VIETTI-COOK  
Secretary of the Commission

Dated at Rockville, MD  
This 27<sup>th</sup> day of June, 2001

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<sup>1</sup> Commissioner Diaz was not present for the affirmation of this Order. If he had been present, he would have approved it.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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|---------------------------------|---|------------------------|
| In the Matter of                | ) |                        |
|                                 | ) |                        |
| PRIVATE FUEL STORAGE L.L.C.     | ) | Docket No. 72-22-ISFSI |
|                                 | ) |                        |
| (Independent Spent Fuel Storage | ) |                        |
| Installation)                   | ) |                        |

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing COMMISSION ORDER (CLI-01-15) have been served upon the following persons by deposit in the U.S. mail, first class, as indicated by an asterisk (\*) or through the Nuclear Regulatory Commission's internal distribution as indicated by double asterisks (\*\*), with copies by electronic mail.

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Docket No. 72-22-ISFSI  
COMMISSION ORDER (CLI-01-15)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 27<sup>th</sup> day of June 2001