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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSIONBefore the CommissionOFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

**MOTION BY THE NUCLEAR ENERGY INSTITUTE FOR LEAVE
TO FILE AN AMICUS BRIEF ON THE REGULATORY STANDARD
FOR AIRCRAFT CRASH HAZARDS AT SPENT FUEL FACILITIES**

As permitted by 10 C.F.R. § 2.715(d), the Nuclear Energy Institute ("NEI") hereby moves for leave to file the attached Amicus Brief to address to the Commission's review of the appropriate regulatory standard for aircraft crash hazards at spent fuel facilities in the above captioned matter, as provided for in the Commission's Order of June 27, 2001, CLI-01-15, 53 NRC ____ (June 27, 2001). In that Order, the Commission accepted referral from the Atomic Safety and Licensing Board of the Board's ruling that any accident at an independent spent fuel storage facility ("ISFSI") with a probability of occurrence of less than one in a million (10^{-6} or 1 E-6) per year is not a credible accident applicable to an ISFSI. Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Facility), LBP-01-19, 53 NRC ___, slip op. at 18-21 (May 31, 2001). NEI seeks leave to file this Amicus Brief because of the importance of this issue as it affects the interests of the nuclear energy industry generally.

NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

One of the major issues facing the nuclear industry today is the storage and disposal of spent nuclear fuel. Many nuclear power plants are running out of room in their spent fuel pools to store spent nuclear fuel. Of the 103 U.S. nuclear reactors, 51 will have run out of pool storage space by 2004 and 93 reactors will have run out space by 2015. Construction of additional on-site capacity is expensive and for some reactors is prohibited by legal and physical site constraints. The Private Fuel Storage Facility ("PFSF") will provide temporary storage of spent nuclear fuel pending its permanent disposal. This will allow nuclear power plants to continue to operate after their on-site spent fuel storage capacities have been exhausted in accordance with recently announced energy policy calling for the continued operation and expansion of our nation's nuclear energy supply. In addition, the issue before the Commission is extremely important to the industry as it could affect the development of the Yucca Mountain repository.

In the above captioned proceeding, the intervenor State of Utah is seeking to impose a screening standard for the PFSF that contravenes established risk principles embodied in Commission regulatory pronouncements and the Commission's recently issued Safety Goal Policy. The adoption of the State's proposed standard would impede the development of spent fuel storage facilities, such as the PFSF, and, because the State's position is premised on an erroneous interpretation of 10 CFR Part 60, it also could directly affect development the proposed Yucca Mountain facility.

Accordingly, NEI respectfully moves the Commission to accept NEI's Amicus Brief and consider carefully these important issues affecting the nuclear industry.

Respectfully submitted,

Nuclear Energy Institute
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A handwritten signature in black ink, appearing to read "R. Bishop", is written over a horizontal line.

Robert W. Bishop
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Ellen Ginsburg
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Counsel for Nuclear Energy Institute

Dated: July 13, 2001

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Commission

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| (Private Fuel Storage Facility) |) | ASLBP No. 97-732-02- |
| ISFSI | | |

CERTIFICATE OF SERVICE

I hereby certify that copies of the Motion By The Nuclear Energy Institute For Leave To File An Amicus Brief On The Regulatory Standard For Aircraft Crash Hazards At Spent Fuel Facilities 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 13th day of July 2001.

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