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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Before the Commission

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

**APPLICANT'S REPLY TO NUCLEAR ENERGY INSTITUTE MOTION FOR LEAVE TO FILE AMICUS BRIEF REGARDING COMMISSION CONSIDERATION OF POTENTIAL INTENTIONAL MALEVOLENT ACTS**

Pursuant to 10 C.F.R. § 2.730(c), Applicant Private Fuel Storage, L.L.C. files this response to Motion by the Nuclear Energy Institute for Leave to File an Amicus Brief in Response to the Commission's Memorandum and Orders Dated February 6, 2002, Regarding the Commission's Consideration of Potential Intentional Malevolent Acts, dated February 27, 2002 ("NEI Mot."). In that motion, the Nuclear Energy Institute ("NEI") seeks leave to file an amicus brief on the following question accepted for review by the Commission from four ongoing NRC licensing proceedings:

What is an agency's responsibility under [the National Environmental Policy Act ("NEPA")] to consider intentional malevolent acts, such as those directed at the United States on September 11, 2001?

E.g., Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), CLI-02-03, 55 NRC \_\_\_, slip op. at 5 (Feb. 6, 2002).

NEI seeks to file its brief because of the importance of this issue and the potential generic applicability of a Commission ruling on the question to the nuclear energy industry. NEI Mot. at 1-2. The scope of the NRC's responsibilities under NEPA is pertinent to many licensing matters before the agency, involving numerous types of nuclear facili-

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ties. See, e.g., 10 C.F.R. § 51.20. Indeed, the Commission has accepted the question for review from licensing proceedings for three nuclear power plants, an independent spent fuel storage installation, and a nuclear fuel fabrication facility.

NEI notes that it is 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 of the nuclear power plant licensees in the United States, as well as many other organizations and individuals involved in the nuclear industry. NEI Mot. at 3.

The Applicant agrees that this questions is of generic applicability to the nuclear industry and thus is of significant interest to NEI and its members. Therefore, the Applicant supports NEI's motion.

Respectfully submitted,



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Dated: March 8, 2002

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION**

Before The Commission

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PRIVATE FUEL STORAGE L.L.C.	)	Docket No. 72-22
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the Applicant's Reply to Nuclear Energy Institute Motion for Leave to File Amicus Brief Regarding Commission Consideration of Potential Intentional Malevolent Acts 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 8<sup>th</sup> day of March, 2002.

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