

November 3, 2003

MEMORANDUM TO: George A. Mulley, Assistant Inspector General
Office of the Inspector General

FROM: R. William Borchardt, Deputy Director **/RA by BSheron for/**
Office of Nuclear Reactor Regulation

SUBJECT: REFERRAL TO THE OFFICE OF INSPECTOR GENERAL

On October 27, 2003, Mr. David Lochbaum of the Union of Concerned Scientists (UCS) submitted a note by electronic mail to Brian Benney of my staff expressing his comments on a letter sent to him on October 22, 2003. The October 22, 2003, letter responded to a Petition submitted on September 8, 2003, by UCS and Riverkeeper, Inc., pursuant to 10 CFR 2.206, requesting that the Nuclear Regulatory Commission (NRC) staff take enforcement action against the licensee of Indian Point Units 2 and 3 (IP2 and 3) for concerns about containment sump performance during postulated accident conditions. A copy of the October 22, 2003, NRC letter upon which Mr. Lochbaum based his comments is in ADAMS at accession number ML032930295. In addition, Mr. Lochbaum submitted a letter dated October 29, 2003, supplementing his Petition with a report entitled, "Regulatory Malpractice: NRC's 'Handling' of the PWR [Pressurized-Water Reactor] Containment Sump Problem." Mr. Lochbaum also copied Brian Benney on an email to John Mangels dated October 30, 2003.

Within both his electronic mail and Petition supplement, Mr. Lochbaum raises performance issues with the way the NRC staff is evaluating his concerns. Thus, we are referring Mr. Lochbaum's documents to you for whatever action you deem appropriate. In his October 29, 2003, letter, he also states that by separate letter, he has asked the NRC's Office of the Inspector General to investigate why the NRC failed to enforce 10 CFR 50.46 with respect to the PWR containment sump problem.

For additional information, you may contact Cornelius F. Holden, Director, Project Directorate I, Division of Licensing Project Management at (301) 415-1353, or Brian Benney, Petition Manager for the Petition at (301) 415-3764.

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*See previous concurrence

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|--------|------------|-----------|-----------|----------|----------|
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| DATE | 10/30/03 | 10/30/03 | 10/30/03 | 10/31/03 | 10/31/03 |

| OFFICE | ADPT/D | NRR/DD |
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| DATE | 10/31/03 | 10/31/03 |

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