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**STATEMENT OF ERIC R. GLITZENSTEIN**

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\*Admitted in PA only

Section 7 of the Endangered Species Act (“ESA”) has been described as the “heart” of the ESA. It is based on Congress’s desire to “institutionalize caution” in how federal agencies deal with endangered species. It mandates that federal agencies “consult” with either the National Marine Fisheries Service (“NMFS”) or the Fish and Wildlife Service (“FWS”) before taking any action -- or permitting a private party to take an action -- that might harm an endangered or threatened species, or its habitat. The end result of this consultation process is a Biological Opinion, which details the impacts that the action will have on an imperilled species, and spells out whether there are any conditions under which the project can go forward. A critical part of the Biological Opinion is the “incidental take statement,” in which NMFS or FWS specifies precisely how many members of the endangered species may be “taken” -- i.e., killed, injured, harassed, etc. -- by a particular project. Under the ESA, these “take” levels must be based on the best available scientific data, and cannot be based on political or economic considerations.

“Licensed to Kill” documents a clear breakdown in this vital process designed to safeguard endangered and threatened species, particularly sea turtles. The Report documents that, time and again, NMFS and the NRC have capitulated to nuclear utility demands that approved “take” levels of sea turtles be increased, regardless of whether there is sound science underlying those increases, and irrespective of the cumulative impacts impeding sea turtle survival and recovery. Rather than use their “authorities in furtherance of the purposes” of the



Endangered Species Act -- as required by Congress -- these agencies have instead elected to allow nuclear industry profits to take precedence over the needs and interests of highly imperilled species.

The Report documents that other important federal environmental laws -- such as the National Environmental Policy Act ("NEPA"), the Clean Water Act, and the Migratory Bird Treaty Act -- have also been given short shrift by the NRC and its licensees. NEPA, for example, requires that every federally licensed project -- such as operation of a nuclear power plant -- must be the subject of a full, comprehensive analysis of both its direct and indirect effects on the environment, including area wildlife. With regard to many nuclear plants discussed in "Licensed to Kill," however, it appears that there has never been a full, public accounting -- by the NRC and/or its licensee -- of the true adverse impacts of power plant operations, particularly from once-through cooling systems, on marine mammals, sea turtles, fish, migratory birds, and other wildlife and plants. Nor, as required by NEPA, has there ever been a full consideration of the feasible alternatives to the once-through cooling systems in light of the true extent of the wildlife death and devastation wrought by those systems.

The nuclear industry should not be permitted to pass itself off as innocuous or friendly to wildlife at least until it -- and the federal regulators who oversee it -- bring themselves into full compliance with the federal laws designed to protect and conserve wildlife.