

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-5284**September Term 2011****1:07-cv-01756-RCL****Filed On:** January 30, 2012

Sierra Club, et al.,

Appellees

v.

Robert L. Van Antwerp, Lieutenant General,
U.S. Army Corp of Engineers, et al.,

Appellees

Sierra Properties I, LLC, et al.,

Appellants

Consolidated with 10-5297, 10-5345

BEFORE: Garland and Kavanaugh, Circuit Judges, and Williams, Senior
Circuit Judge

ORDER

Upon consideration of the government's petition for limited rehearing and the response thereto, it is

ORDERED that the petition be granted. It is

FURTHER ORDERED that the opinion issued November 29, 2011, be amended as follows:

(1) Slip Op., page 13, line 9, insert the following sentence before the sentence beginning with the words "After issuing": "The regulations create an exception to that obligation where, as a result of informal consultation, the "Federal agency determines, with the written concurrence of the Director [of the Fish and Wildlife Service], that the proposed action is not likely to adversely affect any listed species or critical habitat." *Id.* at § 402.14(b)."; and

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(2) Slip Op., page 13, last paragraph, line 2, delete the words “It requires” and insert in lieu thereof, “Subject to the exception noted above, it requires”.

Per Curiam**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Jennifer M. Clark

Deputy Clerk