

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**HIGHWAY J CITIZENS GROUP, U.A.
and WAUKESHA COUNTY
ENVIRONMENTAL ACTION LEAGUE
Plaintiffs,**

v.

Case No. 05-C-0212

**UNITED STATES DEPARTMENT OF
TRANSPORTATION; Secretary of
Transportation RAY LaHOOD;
FEDERAL HIGHWAY ADMINISTRATION;
Administrator of Federal Highway
Administration; U.S. ARMY
CORPS OF ENGINEERS; District Engineer
COLONEL JON L. CHRISTENSEN; and FRANK
BUSALACCHI, in his official capacity as
Secretary of the State of Wisconsin
Department of Transportation
Defendants.**

DECISION AND ORDER

On May 8, 2009, defendants filed their reply brief in support of their motion for summary judgment. In their brief, defendants brought to the court's attention the Supreme Court's recent decision in Summers v. Earth Island Institute, __ U.S. __, 129 S. Ct. 1142 (2009), which involves organizational standing. In its decision, the Court reiterated that "the court has an independent obligation to assure that standing exists, regardless of whether it is challenged by any of the parties." Id. at 1152. The Court then indicated that a court cannot discharge this independent obligation unless the plaintiff submits "individual affidavits" from its members which show that the members themselves have standing. Id. This is so, held the Court, even if the plaintiff's complaint includes allegations establishing

the standing of the organization's members and those allegations have been admitted by the defendant. Id.

So that this court can discharge its obligations under Summers, plaintiffs are hereby directed to submit an affidavit from at least one member of each organization which establishes that those members have standing. The affidavits must be filed on or before **June 5, 2009**. Plaintiffs may include along with the affidavits a short legal memorandum explaining the basis for their standing. If defendants so choose, they may file a response to the plaintiffs' submissions on or before **June 12, 2009**.

SO ORDERED at Milwaukee, Wisconsin this 27 day of May, 2009.

/s _____
LYNN ADELMAN
District Judge