SUPREME COURT OF THE UNITED STATES

No. 90–1424

MANUEL LUJAN, JR., SECRETARY OF THE INTERIOR, PETITIONER *v.* DEFENDERS OF WILDLIFE ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

[June 12, 1992]

JUSTICE SCALIA delivered the opinion of the Court with respect to Parts I, II, III-A, and IV, and an opinion with respect to Part III-B in which THE CHIEF JUSTICE, JUSTICE WHITE, and JUSTICE THOMAS join.

This case involves a challenge to a rule promulgated by the Secretary of the Interior interpreting §7 of the Endangered Species Act of 1973 (ESA), 87 Stat. 892, as amended, 16 U. S. C. §1536, in such fashion as to render it applicable only to actions within the United States or on the high seas. The preliminary issue, and the only one we reach, is whether the respondents here, plaintiffs below, have standing to seek judicial review of the rule.

The ESA, 87 Stat. 884, as amended, 16 U. S. C. §1531 *et seq.*, seeks to protect species of animals against threats to their continuing existence caused by man. See generally *TVA* v. *Hill*, 437 U. S. 153 (1978). The ESA instructs the Secretary of the Interior to promulgate by regulation a list of those species which are either endangered or threatened under enumerated criteria, and to define the critical habitat of these species. 16 U. S. C. §§1533, 1536. Section 7(a)(2) of the Act then provides, in pertinent part:

> ``Each Federal agency shall, in consultation with and with the assistance of the Secretary [of the

> Interior], insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical.'' 16 U. S. C. §1536(a)(2).

In 1978, the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS), on behalf of the Secretary of the Interior and the Secretary of Commerce respectively, promulgated a joint regulation stating that the obligations imposed by §7(a)(2) extend to actions taken in foreign nations. 43 Fed. Reg. 874 (1978). The next year, however, the Interior Department began to reexamine its position. Letter from Leo Kuliz, Solicitor, Department of the Interior, to Assistant Secretary, Fish and Wildlife and Parks, Aug. 8, 1979. A revised joint regulation, reinterpreting §7(a)(2) to require consultation only for actions taken in the United States or on the high seas, was proposed in 1983, 48 Fed. Reg. 29990 (1983), and promulgated in 1986, 51 Fed. Reg. 19926 (1986); 50 C.F.R. 402.01 (1991).

Shortly thereafter, respondents, organizations dedicated to wildlife conservation and other environmental causes, filed this action against the Secretary of the Interior, seeking a declaratory judgment that the new regulation is in error as to the geographic scope of §7(a)(2), and an injunction requiring the Secretary to promulgate a new regulation restoring the initial interpretation. The District Court granted the Secretary's motion to dismiss for lack of standing. *Defenders of Wildlife* v. *Hodel*, 658 F. Supp. 43, 47–48 (Minn. 1987). The Court of Appeals for the Eighth Circuit reversed by a divided vote. *Defenders of Wildlife* v. *Hodel*, 851 F. 2d 1035 (1988). On remand, the Secretary moved for summary judgment on the standing issue, and respondents moved for summary judgment on the

merits. The District Court denied the Secretary's motion, on the ground that the Eighth Circuit had already determined the standing question in this case; it granted respondents' merits motion, and ordered the Secretary to publish a revised regulation. *Defenders of Wildlife* v. *Hodel*, 707 F. Supp. 1082 (Minn. 1989). The Eighth Circuit affirmed. 911 F. 2d 117 (1990). We granted certiorari, 500 U. S. ___ (1991).

While the Constitution of the United States divides all power conferred upon the Federal Government into "legislative Powers," Art. I, §1, "[t]he executive Power," Art. II, §1, and "[t]he judicial Power," Art. III, §1, it does not attempt to define those terms. To be sure, it limits the jurisdiction of federal courts to "Cases'' and ``Controversies," but an executive inquiry can bear the name "case" (the Hoffa case) and a legislative dispute can bear the name "controversy" (the Smoot-Hawley controversy). Obviously, then, the Constitution's central mechanism of separation of powers depends largely upon common understanding of what activities are appropriate to legislatures, to executives, and to courts. In The Federalist No. 48, Madison expressed the view that "[i]t is not infrequently a question of real nicety in legislative bodies whether the operation of a particular measure will, or will not, extend beyond the legislative sphere," whereas "the executive power [is] restrained within a narrower compass and . . . more simple in its nature," and "the judiciary [is] described by landmarks still less uncertain." The Federalist No. 48, p. 256 (Carey and McClellan eds. 1990). One of those landmarks, setting apart the "Cases'' and ``Controversies" that are of the justiciable sort referred to in Article III—``serv[ing] to identify those disputes which are appropriately resolved through the judicial process," *Whitmore* v. *Arkansas*, 495 U. S. 149, 155 (1990)—is the doctrine of standing. Though some of its elements express merely prudential considerations that are part of judicial self-government, the core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III. See, *e. g.*, *Allen* v. *Wright*, 468 U. S. 737, 751 (1984).

Over the years, our cases have established that the

irreducible constitutional minimum of standing contains three elements: First, the plaintiff must have suffered an "injury in fact"—an invasion of a legally-protected interest which is (a) concrete and particularized, see *id.*, at 756; *Warth* v. *Seldin*, 422 U. S. 490, 508 (1975); *Sierra Club* v. *Morton*, 405 U. S. 727, 740–741, n. 16 (1972);[1] and (b) "actual or imminent, not `conjectural' or `hypothetical,'" *Whitmore, supra*, at 155 (quoting *Los Angeles* v. *Lyons*, 461 U. S. 95, 102 (1983)). Second, there must be a causal connection between the injury and the conduct complained of—the injury has to be "fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court." *Simon* v. *Eastern Kentucky Welfare Rights Org.*, 426 U. S. 26, 41–42 (1976). Third, it must be "likely," as opposed to merely "speculative," that the injury will be "redressed by a favorable decision." *Id.*, at 38, 43.

The party invoking federal jurisdiction bears the burden of establishing these elements. See *FW/PBS, Inc.* v. *Dallas*, 493 U. S. 215, 231 (1990); *Warth, supra*, at 508. Since they are not mere pleading requirements but rather an indispensable part of the plaintiff's case, each element must be supported in the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.*, with the manner and degree of evidence required at the successive stages of the litigation. See *Lujan* v. *National Wildlife Federation*, 497 U. S. 871, 883–889 (1990); *Gladstone, Realtors* v. *Village of Bellwood*, 441 U. S. 91, 114–115, and n. 31 (1979); *Simon, supra*, at 45, n. 25; *Warth, supra*, at 527, and n. 6 (Brennan, J., dissenting). At the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice, for on a motion to

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[1]By particularized, we mean that the injury must affect the plaintiff in a personal and individual way.

dismiss we "presum[e] that general allegations embrace those specific facts that are necessary to support the claim," *National Wildlife Federation*, *supra*, at 889. In response to a summary judgment motion, however, the plaintiff can no longer rest on such "mere allegations," but must "set forth" by affidavit or other evidence "specific facts," Fed. Rule Civ. Proc. 56(e), which for purposes of the summary judgment motion will be taken to be true. And at the final stage, those facts (if controverted) must be "supported adequately by the evidence adduced at trial," *Gladstone, supra*, at 115, n. 31.

When the suit is one challenging the legality of government action or inaction, the nature and extent of facts that must be averred (at the summary judgment stage) or proved (at the trial stage) in order to establish standing depends considerably upon whether the plaintiff is himself an object of the action (or forgone action) at issue. If he is, there is ordinarily little question that the action or inaction has caused him injury, and that a judgment preventing or requiring the action will redress it. When, however, as in this case, a plaintiff's asserted injury arises from the government's allegedly unlawful regulation (or lack of regulation) of *someone else*, much more is needed. In that circumstance, causation and redressability ordinarily hinge on the response of the regulated (or regulable) third party to the government action or inaction—and perhaps on the response of others as well. The existence of one or more of the essential elements of standing "depends on the unfettered choices made by independent actors not before the courts and whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict," *ASARCO Inc.* v. *Kadish*, 490 U. S. 605, 615 (1989) (opinion of KENNEDY, J.); see also *Simon, supra,* at 41–42; and it becomes the burden of the plaintiff to adduce facts showing that those choices have been

or will be made in such manner as to produce causation and permit redressability of injury. *E.g.*, *Warth, supra*, at 505. Thus, when the plaintiff is not himself the object of the government action or inaction he challenges, standing is not precluded, but it is ordinarily "substantially more difficult" to establish. *Allen, supra,* at 758; *Simon, supra*, at 44–45; *Warth*, *supra*, at 505.

We think the Court of Appeals failed to apply the foregoing principles in denying the Secretary's motion for summary judgment. Respondents had not made the requisite demonstration of (at least) injury and redressability.

Respondents' claim to injury is that the lack of consultation with respect to certain funded activities abroad "increas[es] the rate of extinction of endangered and threatened species." Complaint ¶5, App. 13. Of course, the desire to use or observe an animal species, even for purely aesthetic purposes, is undeniably a cognizable interest for purpose of standing. See, *e. g.*, *Sierra Club* v. *Morton*, 405 U. S., at 734. "But the `injury in fact' test requires more than an injury to a cognizable interest. It requires that the party seeking review be himself among the injured." *Id.*, at 734–735. To survive the Secretary's summary judgment motion, respondents had to submit affidavits or other evidence showing, through specific facts, not only that listed species were in fact being threatened by funded activities abroad, but also that one or more of respondents' members would thereby be "directly" affected apart from their ```special interest' in th[e] subject." *Id.*, at 735, 739. See generally *Hunt* v. *Washington State Apple Advertising Comm'n.*, 432 U. S. 333, 343 (1977).

With respect to this aspect of the case, the Court of Appeals focused on the affidavits of two Defenders' members—Joyce Kelly and Amy Skilbred. Ms. Kelly

stated that she traveled to Egypt in 1986 and "observed the traditional habitat of the endangered nile crocodile there and intend[s] to do so again, and hope[s] to observe the crocodile directly," and that she "will suffer harm in fact as a result of [the] American . . . role . . . in overseeing the rehabilitation of the Aswan High Dam on the Nile . . . and [in] develop[ing] . . . Egypt's . . . Master Water Plan." App. 101. Ms. Skilbred averred that she traveled to Sri Lanka in 1981 and "observed th[e] habitat" of "endangered species such as the Asian elephant and the leopard" at what is now the site of the Mahaweli Project funded by the Agency for International Development (AID), although she "was unable to see any of the endangered species;" "this development project," she continued, "will seriously reduce endangered, threatened, and endemic species habitat including areas that I visited . . . [, which] may severely shorten the future of these species;" that threat, she concluded, harmed her because she "intend[s] to return to Sri Lanka in the future and hope[s] to be more fortunate in spotting at least the endangered elephant and leopard." *Id.,* at 145–146. When Ms. Skilbred was asked at a subsequent deposition if and when she had any plans to return to Sri Lanka, she reiterated that "I intend to go back to Sri Lanka," but confessed that she had no current plans: "I don't know [when]. There is a civil war going on right now. I don't know. Not next year, I will say. In the future." *Id.,* at 318.

We shall assume for the sake of argument that these affidavits contain facts showing that certain agency-funded projects threaten listed species—though that is questionable. They plainly contain no facts, however, showing how damage to the species will produce "imminent" injury to Mss. Kelly and Skilbred. That the women "had visited" the areas of the projects before the projects commenced proves nothing. As we have said in a related context,

"`[p]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects.'" *Lyons*, 461 U. S., at 102 (quoting *O'Shea* v. *Littleton*, 414 U. S. 488, 495–496 (1974)). And the affiants' profession of an "inten[t]" to return to the places they had visited before—where they will presumably, this time, be deprived of the opportunity to observe animals of the endangered species—is simply not enough. Such "some day" intentions—without any description of concrete plans, or indeed even any specification of *when* the some day will be—do not support a finding of the "actual or imminent" injury that our cases require. See *supra*, at 4.[2]

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[2]The dissent acknowledges the settled requirement that the injury complained of be, if not actual, then at least *imminent*--but it contends that respondents could get past summary judgment because "a reasonable finder of fact could conclude . . . that . . . Kelly or Skilbred will soon return to the project sites." *Post*, at 3. This analysis suffers either from a factual or from a legal defect, depending on what the "soon" is supposed to mean. If "soon" refers to the standard mandated by our precedents—that the injury be "imminent," *Whitmore* v. *Arkansas,* 495 U. S. 149, 155 (1990)—we are at a loss to see how, as a factual matter, the standard can be met by respondents' mere profession of an intent, some day, to return. But if, as we suspect, "soon" means nothing more than "in this lifetime," then the dissent has undertaken quite a departure from our precedents. Although "imminence" is concededly a somewhat elastic concept, it cannot be stretched beyond its purpose, which is to insure that the alleged injury is not too speculative for Article III purposes—that the injury is ``*certainly* impending,'' *id.*, at 158 (emphasis added). It has been stretched beyond the breaking

Besides relying upon the Kelly and Skilbred affidavits, respondents propose a series of novel standing theories. The first, inelegantly styled "ecosystem nexus," proposes that any person who uses *any part* of a "contiguous ecosystem" adversely affected by a funded activity has standing even if the activity is located a great distance away. This approach, as the Court of Appeals correctly observed,

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point when, as here, the plaintiff alleges only an injury at some indefinite future time, and the acts necessary to make the injury happen are at least partly within the plaintiff's own control. In such circumstances we have insisted that the injury proceed with a high degree of immediacy, so as to reduce the possibility of deciding a case in which no injury would have occurred at all. See, *e.g.*, *id.*, at 156–160; *Los Angeles* v. *Lyons*, 461 U. S. 95, 102–106 (1983).

There is no substance to the dissent's suggestion that imminence is demanded only when the alleged harm depends upon "the affirmative actions of third parties beyond a plaintiff's control," *post*, at 4. Our cases *mention* third-party-caused contingency, naturally enough; but they also mention the plaintiff's failure to show that he will soon expose *himself* to the injury, see, *e.g.*, *Lyons, supra*, at 105–106; *O'Shea* v. *Littleton*, 414 U. S. 488, 497 (1974); *Ashcroft* v. *Mattis*, 431 U. S. 171, 172–173, n. 2 (1977) *(per curiam)*. And there is certainly no reason in principle to demand evidence that third persons will take the action exposing the plaintiff to harm, while *presuming* that the plaintiff himself will do so. Our insistence upon these established requirements of standing does not mean that we would, as the dissent contends, "demand . . . detailed descriptions" of damages, such as a "nightly schedule of attempted activities" from plaintiffs alleging loss of consortium. *Post*, at 4–5. That case and the others posited by the

is inconsistent with our opinion in *National Wildlife Federation*, which held that a plaintiff claiming injury from environmental damage must use the area affected by the challenged activity and not an area roughly "in the vicinity" of it. 497 U. S., at 887–889; see also *Sierra Club*, 405 U. S., at 735. It makes no difference that the general-purpose section of the ESA states that the Act was intended in part "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved," 16 U. S. C. §1531(b). To say that the Act protects ecosystems is not to say that the Act creates (if it were possible) rights of action in persons who have not been injured in fact, that is, persons who use portions of an ecosystem not perceptibly affected by the unlawful action in question.

Respondents' other theories are called, alas, the "animal nexus" approach, whereby anyone who has an interest in studying or seeing the endangered animals anywhere on the globe has standing; and the "vocational nexus" approach, under which anyone with a professional interest in such animals can sue. Under these theories, anyone who goes to see Asian elephants in the Bronx Zoo, and anyone who is a keeper of Asian elephants in the Bronx Zoo, has standing to sue because the Director of AID did not consult with the Secretary regarding the AID-funded project in Sri Lanka. This is beyond all reason. Standing is not "an ingenious academic exercise in the conceivable," *United States* v. *Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U. S. 669, 688 (1973), but as we have said requires, at the summary judgment stage, a factual

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dissent all involve *actual* harm; the existence of standing is clear, though the precise extent of harm remains to be determined at trial. Where there is no actual harm, however, its imminence (though not its precise extent) must be established.

showing of perceptible harm. It is clear that the person who observes or works with a particular animal threatened by a federal decision is facing perceptible harm, since the very subject of his interest will no longer exist. It is even plausible—though it goes to the outermost limit of plausibility—to think that a person who observes or works with animals of a particular species in the very area of the world where that species is threatened by a federal decision is facing such harm, since some animals that might have been the subject of his interest will no longer exist, see *Japan Whaling Assn.* v. *American Cetacean Soc.,* 478 U. S. 221, 231, n. 4 (1986). It goes beyond the limit, however, and into pure speculation and fantasy, to say that anyone who observes or works with an endangered species, anywhere in the world, is appreciably harmed by a single project affecting some portion of that species with which he has no more specific connection.[3]

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[3]The dissent embraces each of respondents' "nexus" theories, rejecting this portion of our analysis because it is "unable to see how the distant location of the destruction *necessarily* (for purposes of ruling at summary judgment) mitigates the harm" to the plaintiff. *Post*, at 6. But summary judgment must be entered "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp.* v. *Catrett*, 477 U. S. 317, 322 (1986). Respondent had to adduce facts, therefore, on the basis of which it could reasonably be found that concrete injury to its members was, as our cases require, "certainly impending." The dissent may be correct that the geographic remoteness of those members (here in the United States) from Sri Lanka and Aswan does not "*necessarily*" prevent such a finding—but it assuredly does so when no further facts have been brought

Besides failing to show injury, respondents failed to demonstrate redressability. Instead of attacking the separate decisions to fund particular projects allegedly causing them harm, the respondents chose to challenge a more generalized level of government action (rules regarding consultation), the invalidation of which would affect all overseas projects. This programmatic approach has obvious practical

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forward (and respondent has produced none) showing that the impact upon animals in those distant places will in some fashion be reflected here. The dissent's position to the contrary reduces to the notion that distance *never* prevents harm, a proposition we categorically reject. It cannot be that a person with an interest in an animal automatically has standing to enjoin federal threats to that species of animal, anywhere in the world. Were that the case, the plaintiff in *Sierra Club*, for example, could have avoided the necessity of establishing anyone's use of Mineral King by merely identifying one of its members interested in an endangered species of flora or fauna at that location. JUSTICE BLACKMUN's accusation that a special rule is being crafted for "environmental claims," *post*, at 6, is correct, but *he* is the craftsman.

JUSTICE STEVENS, by contrast, would allow standing on an apparent "animal nexus" theory to all plaintiffs whose interest in the animals is "genuine." Such plaintiffs, we are told, do not have to visit the animals because the animals are analogous to family members. *Post*, at 3–4, and n. 2. We decline to join JUSTICE STEVENS in this Linnaean leap. It is unclear to us what constitutes a "genuine" interest; how it differs from a "non-genuine" interest (which nonetheless prompted a plaintiff to file suit); and why such an interest in animals should be different from such an interest in anything else that is the subject of a lawsuit.

advantages, but also obvious difficulties insofar as proof of causation or redressability is concerned. As we have said in another context, "suits challenging, not specifically identifiable Government violations of law, but the particular programs agencies establish to carry out their legal obligations . . . [are], even when premised on allegations of several instances of violations of law, . . . rarely if ever appropriate for federal-court adjudication." *Allen*, 468 U. S., at 759–760.

The most obvious problem in the present case is redressability. Since the agencies funding the projects were not parties to the case, the District Court could accord relief only against the Secretary: He could be ordered to revise his regulation to require consultation for foreign projects. But this would not remedy respondents' alleged injury unless the funding agencies were bound by the Secretary's regulation, which is very much an open question. Whereas in other contexts the ESA is quite explicit as to the Secretary's controlling authority, see, *e. g.*, 16 U. S. C. §1533(a)(1) ("The Secretary shall" promulgate regulations determining endangered species); §1535(d)(1) ("The Secretary is authorized to provide financial assistance to any State"), with respect to consultation the initiative, and hence arguably the initial responsibility for determining statutory necessity, lies with the agencies, see §1536(a)(2) ("*Each Federal agency shall*, in consultation with and with the assistance of the Secretary, insure that any" funded action is not likely to jeopardize endangered or threatened species) (emphasis added)). When the Secretary promulgated the regulation at issue here, he thought it was binding on the agencies, see 51 Fed. Reg., at 19928 (1986). The Solicitor General, however, has repudiated that position here, and the agencies themselves apparently deny the Secretary's authority. (During the period when the Secretary took the view that

§7(a)(2) did apply abroad, AID and FWS engaged in a running controversy over whether consultation was required with respect to the Mahaweli project, AID insisting that consultation applied only to domestic actions.)

Respondents assert that this legal uncertainty did not affect redressability (and hence standing) because the District Court itself could resolve the issue of the Secretary's authority as a necessary part of its standing inquiry. Assuming that it is appropriate to resolve an issue of law such as this in connection with a threshold standing inquiry, resolution by the District Court would not have remedied respondents' alleged injury anyway, because it would not have been binding upon the agencies. They were not parties to the suit, and there is no reason they should be obliged to honor an incidental legal determination the suit produced.[4] The Court of Appeals tried to

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[4]We need not linger over the dissent's facially impracticable suggestion, *post*, at 6–7, that one agency of the government can acquire the power to direct other agencies by simply claiming that power in its own regulations and in litigation to which the other agencies are not parties. As for the contention that the other agencies will be "collaterally estopped" to challenge our judgment that they are bound by the Secretary of Interior's views, because of their participation in this suit, *post*, at 8–9: Whether or not that is true now, it was assuredly not true when this suit was filed, naming the Secretary alone. "The existence of federal jurisdiction ordinarily depends on the facts *as they exist when the complaint is filed*." *Newman-Green, Inc.* v. *Alfonzo-Larrain*, 490 U. S., 826, 830 (1989) (emphasis added). It cannot be that, by later participating in the suit, the State Department and AID retroactively created a redressability (and hence a jurisdiction) that did not exist at the outset.

finesse this problem by simply proclaiming that "[w]e are satisfied that an injunction requiring the Secretary to publish [respondents' desired] regulatio[n] . . . would result in consultation." *Defenders of Wildlife*, 851 F. 2d, at 1042, 1043–1044. We do not know what would justify that confidence, particularly when the Justice Department (presumably after consultation with the agencies) has taken the position that the

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The dissent's rejoinder that redressability *was* clear at the outset because the *Secretary* thought the regulation binding on the agencies, *post*, at 9–10, n. 4, continues to miss the point: the *agencies* did not *agree* with the Secretary, nor would they be bound by a district court holding (as to this issue) in the Secretary's favor. There is no support for the dissent's novel contention, *ibid.*, that Rule 19 of the Federal Rules of Civil Procedure, governing joinder of indispensable parties, somehow alters our longstanding rule that jurisdiction is to be assessed under the facts existing when the complaint is filed. The redressability element of the Article III standing requirement and the "*complete* relief" referred to by Rule 19 are not identical. Finally, we reach the dissent's contention, *post*, at 9–10, n. 4, that by refusing to waive our settled rule for purposes of this case we have made "federal subject matter jurisdiction . . . a one-way street running the Executive Branch's way." That is so, we are told, because the Executive can dispel jurisdiction where it previously existed (by either conceding the merits or by pointing out that nonparty agencies would not be bound by a ruling), whereas a plaintiff cannot retroactively create jurisdiction based on postcomplaint litigation conduct. But *any* defendant, not just the government, can dispel jurisdiction by conceding the merits (and presumably thereby suffering a judgment) or by demonstrating standing defects. And permitting a defendant to point out a

regulation is not binding.[5] The short of the matter is that redress of the only injury-in-fact respondents complain of requires action (termination of funding until consultation) by the individual funding agencies; and any relief the District Court could have provided in this suit against the Secretary was not likely to produce that action.

A further impediment to redressability is the fact that the agencies generally supply only a fraction of the funding for a foreign project. AID, for example, has provided less than 10% of the funding for the Mahaweli Project. Respondents have produced nothing to indicate that the projects they have named will either be suspended, or do less harm to listed species, if that fraction is eliminated. As in *Simon*, 426 U. S., at 43–44, it is entirely conjectural whether the nonagency activity that affects respondents will be altered or affected by the agency activity they

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pre-existing standing defect late in the day is not remotely comparable to permitting a plaintiff to *establish* standing on the basis of the defendant's litigation conduct occurring after standing is erroneously determined.

[5]Seizing on the fortuity that the case has made its way to *this* Court, JUSTICE STEVENS protests that no agency would ignore "an authoritative construction of the [ESA] by this Court." *Post*, at 4. In that he is probably correct; in concluding from it that plaintiffs have demonstrated redressability, he is not. Since, as we have pointed out above, standing is to be determined as of the commencement of suit; since at that point it could certainly not be known that the suit would reach this Court; and since it is not likely that an agency would feel compelled to accede to the legal view of a district court expressed in a case to which it was not a party; redressability clearly did not exist.

seek to achieve.[6] There is no standing.

The Court of Appeals found that respondents had standing for an additional reason: because they had suffered a "procedural injury." The so-called "citizen-suit" provision of the ESA provides, in pertinent part, that "any person may commence a civil suit on his own behalf (A) to enjoin any person, including the United States and any other governmental instrumentality or agency . . . who is alleged to be in violation of any provision of this chapter." 16 U. S. C. §1540(g). The court held that, because §7(a)(2) requires interagency consultation, the citizen-suit provision creates a "procedural righ[t]" to consultation in all "persons"—so that *anyone* can file suit in federal court to challenge the Secretary's (or presumably any other official's) failure to follow the assertedly correct consultative procedure, notwithstanding their inability to allege any discrete injury flowing from that failure. 911 F. 2d, at 121–122. To understand the remarkable nature of this holding one must be clear about what it does *not* rest upon: This is not a case where plaintiffs are seeking

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[6]The dissent criticizes us for "overlook[ing]" memoranda indicating that the Sri Lankan government solicited and required AID's assistance to mitigate the effects of the Mahaweli Project on endangered species, and that the Bureau of Reclamation was advising the Aswan Project. *Post*, at 11–12. The memoranda, however, contain no indication whatever that the projects will cease or be less harmful to listed species in the absence of AID funding. In fact, the Sri Lanka memorandum suggests just the opposite: it states that AID's role will be to *mitigate* the ```negative impacts to the wildlife,''' *post*, at 11, which means that the termination of AID funding would *exacerbate* respondent's claimed injury.

to enforce a procedural requirement the disregard of which could impair a separate concrete interest of theirs (*e.g.*, the procedural requirement for a hearing prior to denial of their license application, or the procedural requirement for an environmental impact statement before a federal facility is constructed next door to them).[7] Nor is it simply a case where concrete injury has been suffered by many persons, as in mass fraud or mass tort situations. Nor, finally, is it the unusual case in which Congress has created a concrete private interest in the outcome of a suit against a private party for the government's benefit, by providing a cash bounty for the victorious plaintiff. Rather, the court held that the injury-in-fact requirement had been satisfied by congressional

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[7]There is this much truth to the assertion that "procedural rights" are special: The person who has been accorded a procedural right to protect his concrete interests can assert that right without meeting all the normal standards for redressability and immediacy. Thus, under our case-law, one living adjacent to the site for proposed construction of a federally licensed dam has standing to challenge the licensing agency's failure to prepare an Environmental Impact Statement, even though he cannot establish with any certainty that the Statement will cause the license to be withheld or altered, and even though the dam will not be completed for many years. (That is why we do not rely, in the present case, upon the Government's argument that, *even if* the other agencies were obliged to consult with the Secretary, they might not have followed his advice.) What respondents' "procedural rights" argument seeks, however, is quite different from this: standing for persons who have no concrete interests affected—persons who live (and propose to live) at the other end of the country from the dam.

conferral upon *all* persons of an abstract, self-contained, noninstrumental "right" to have the Executive observe the procedures required by law. We reject this view.[8]

We have consistently held that a plaintiff raising only a generally available grievance about government—claiming only harm to his and every citizen's interest in proper application of the

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[8]The dissent's discussion of this aspect of the case, *post*, at 12–17, distorts our opinion. We do *not* hold that an individual cannot enforce procedural rights; he assuredly can, so long as the procedures in question are designed to protect some threatened concrete interest of his that is the ultimate basis of his standing. The dissent, however, asserts that there exist "classes of procedural duties. . .so enmeshed with the prevention of a substantive, concrete harm that an individual plaintiff may be able to demonstrate a sufficient likelihood of injury just through the breach of that procedural duty," *post*, at 16. If we understand this correctly, it means that the government's violation of a certain (undescribed) class of procedural duty satisfies the concrete-injury requirement by itself, without any showing that the procedural violation endangers a concrete interest of the plaintiff (apart from his interest in having the procedure observed). We cannot agree. The dissent is unable to cite a single case in which we actually found standing solely on the basis of a "procedural right" unconnected to the plaintiff's own concrete harm. Its suggestion that we did so in *Japan Whaling Association, supra*, and *Robertson* v. *Methow Valley Citizens Council*, 490 U. S. 332 (1989), *post*, at 13–14, 16, is not supported by the facts. In the former case, we found that the environmental organizations had standing because the "whale watching and studying of their members w[ould] be adversely affected by continued whale harvesting," see 478 U. S., at 230–

Constitution and laws, and seeking relief that no more directly and tangibly benefits him than it does the public at large—does not state an Article III case or controversy. For example, in *Fairchild* v. *Hughes*, 258 U. S. 126, 129–130 (1922), we dismissed a suit challenging the propriety of the process by which the Nineteenth Amendment was ratified. Justice Brandeis wrote for the Court:

> "[This is] not a case within the meaning of . . . Article III . . . . Plaintiff has [asserted] only the right, possessed by every citizen, to require that the Government be administered according to law and that the public moneys be not wasted. Obviously this general right does not entitle a private citizen to institute in the federal courts a suit . . . ." *Ibid.*

In *Frothingham* v. *Mellon*, 262 U. S. 447 (1923), we dismissed for lack of Article III standing a taxpayer suit challenging the propriety of certain federal expenditures. We said:

> ``The party who invokes the power [of judicial review] must be able to show not only that the statute is invalid but that he has sustained or is immediately in danger of sustaining some direct injury as the result of its enforcement, and not merely that he suffers in some indefinite way in common with people generally. . . . Here the parties plaintiff have no such case. . . . [T]heir complaint . . . is merely that officials of the executive department of the government are executing and will execute an act of Congress

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231, n.4; and in the latter we did not so much as mention standing, for the very good reason that the plaintiff was a citizens' council for the area in which the challenged construction was to occur, so that its members would obviously be concretely affected, see *Methow Valley Citizens Council* v. *Regional Forester*, 833 F. 2d 810, 812–813 (CA9 1987).

> asserted to be unconstitutional; and this we are asked to prevent. To do so would be not to decide a judicial controversy, but to assume a position of authority over the governmental acts of another and co-equal department, an authority which plainly we do not possess.'' *Id.*, at 488–489.

In *Ex parte Lévitt*, 302 U. S. 633 (1937), we dismissed a suit contending that Justice Black's appointment to this Court violated the Ineligibility Clause, Art. I, §6, cl. 2. "It is an established principle," we said, "that to entitle a private individual to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained or is immediately in danger of sustaining a direct injury as the result of that action and it is not sufficient that he has merely a general interest common to all members of the public." *Id.*, at 634. See also *Doremus* v. *Board of Ed. of Hawthorne*, 342 U. S. 429, 433–434 (1952) (dismissing taxpayer action on the basis of *Frothingham*.).

More recent cases are to the same effect. In *United States* v. *Richardson*, 418 U. S. 166 (1974), we dismissed for lack of standing a taxpayer suit challenging the Government's failure to disclose the expenditures of the Central Intelligence Agency, in alleged violation of the constitutional requirement, Art. I, §9, cl. 7, that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." We held that such a suit rested upon an impermissible "generalized grievance," and was inconsistent with "the framework of Article III" because "the impact on [plaintiff] is plainly undifferentiated and common to all members of the public." *Richardson, supra*, at 171, 176–177. And in *Schlesinger* v. *Reservists Committee to Stop the War*, 418 U. S. 208 (1974), we dismissed for the same reasons a citizen-taxpayer suit contending that it was a violation of the

Incompatibility Clause, Art. I, §6, cl. 2, for Members of Congress to hold commissions in the military Reserves. We said that the challenged action, "standing alone, would adversely affect only the generalized interest of all citizens in constitutional governance . . . . We reaffirm *Lévitt* in holding that standing to sue may not be predicated upon an interest of th[is] kind . . . ." *Schlesinger, supra*, at 217, 220. Since *Schlesinger* we have on two occasions held that an injury amounting only to the alleged violation of a right to have the Government act in accordance with law was not judicially cognizable because "assertion of a right to a particular kind of Government conduct, which the Government has violated by acting differently, cannot alone satisfy the requirements of Art. III without draining those requirements of meaning." *Allen*, 468 U. S., at 754; *Valley Forge Christian College* v. *Americans United for Separation of Church and State, Inc.*, 454 U. S. 464, 483 (1982). And only two Terms ago, we rejected the notion that Article III permits a citizen-suit to prevent a condemned criminal's execution on the basis of "the public interest protections of the Eighth Amendment;" once again, "[t]his allegation raise[d] only the generalized interest of all citizens in constitutional governance . . . and [was] an inadequate basis on which to grant . . . standing." *Whitmore*, 495 U. S., at 160.

To be sure, our generalized-grievance cases have typically involved Government violation of procedures assertedly ordained by the Constitution rather than the Congress. But there is absolutely no basis for making the Article III inquiry turn on the source of the asserted right. Whether the courts were to act on their own, or at the invitation of Congress, in ignoring the concrete injury requirement described in our cases, they would be discarding a principle fundamental to the separate and distinct constitutional role of the Third Branch—one of the

essential elements that identifies those "Cases'' and ``Controversies" that are the business of the courts rather than of the political branches. "The province of the court," as Chief Justice Marshall said in *Marbury* v. *Madison*, 1 Cranch, 137, 170 (1803) "is, solely, to decide on the rights of individuals." Vindicating the *public* interest (including the public interest in government observance of the Constitution and laws) is the function of Congress and the Chief Executive. The question presented here is whether the public interest in proper administration of the laws (specifically, in agencies' observance of a particular, statutorily prescribed procedure) can be converted into an individual right by a statute that denominates it as such, and that permits all citizens (or, for that matter, a subclass of citizens who suffer no distinctive concrete harm) to sue. If the concrete injury requirement has the separation-of-powers significance we have always said, the answer must be obvious: To permit Congress to convert the undifferentiated public interest in executive officers' compliance with the law into an "individual right" vindicable in the courts is to permit Congress to transfer from the President to the courts the Chief Executive's most important constitutional duty, to "take Care that the Laws be faithfully executed," Art. II, §3. It would enable the courts, with the permission of Congress, "to assume a position of authority over the governmental acts of another and co-equal department," *Frothingham* v. *Mellon*, 262 U. S., at 489, and to become "`virtually continuing monitors of the wisdom and soundness of Executive action.'" *Allen*, 468 U. S., at 760 (quoting *Laird* v. *Tatum*, 408 U. S. 1, 15 (1972)). We have always rejected that vision of our role:

> ``When Congress passes an Act empowering administrative agencies to carry on governmental activities, the power of those agencies is circumscribed by the authority granted. This

> permits the courts to participate in law enforcement entrusted to administrative bodies only to the extent necessary to protect justiciable individual rights against administrative action fairly beyond the granted powers. . . . This is very far from assuming that the courts are charged more than administrators or legislators with the protection of the rights of the people. Congress and the Executive supervise the acts of administrative agents. . . . But under Article III, Congress established courts to adjudicate cases and controversies as to claims of infringement of individual rights whether by unlawful action of private persons or by the exertion of unauthorized administrative power.''

Stark v. *Wickard*, 321 U. S. 288, 309–310 (1944). "Individual rights," within the meaning of this passage, do not mean public rights that have been legislatively pronounced to belong to each individual who forms part of the public. See also *Sierra Club*, 405 U. S., at 740–741, n. 16.

Nothing in this contradicts the principle that "[t]he . . . injury required by Art. III may exist solely by virtue of `statutes creating legal rights, the invasion of which creates standing.'" *Warth*, 422 U. S., at 500 (quoting *Linda R. S.* v. *Richard D.*, 410 U. S. 614, 617, n. 3 (1973)). Both of the cases used by *Linda R. S.* as an illustration of that principle involved Congress's elevating to the status of legally cognizable injuries concrete, *de facto* injuries that were previously inadequate in law (namely, injury to an individual's personal interest in living in a racially integrated community, see *Trafficante* v. *Metropolitan Life Ins. Co.*, 409 U. S. 205, 208–212 (1972), and injury to a company's interest in marketing its product free from competition, see *Hardin* v. *Kentucky Utilities Co.*, 390 U. S. 1, 6 (1968)). As we said in *Sierra Club*, "[Statutory] broadening [of] the categories of injury that may be alleged in support of

standing is a different matter from abandoning the requirement that the party seeking review must himself have suffered an injury." 405 U. S., at 738. Whether or not the principle set forth in *Warth* can be extended beyond that distinction, it is clear that in suits against the government, at least, the concrete injury requirement must remain.

* * *

We hold that respondents lack standing to bring this action and that the Court of Appeals erred in denying the summary judgment motion filed by the United States. The opinion of the Court of Appeals is hereby reversed, and the cause remanded for proceedings consistent with this opinion.

It is so ordered.