

KENNEDY, J., concurring

**SUPREME COURT OF THE UNITED STATES**

No. 07–463

PRISCILLA SUMMERS, ET AL., PETITIONERS *v.*  
EARTH ISLAND INSTITUTE ET AL.

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

[March 3, 2009]

JUSTICE KENNEDY, concurring.

I join in full the opinion of the Court. As the opinion explains, “deprivation of a procedural right without some concrete interest that is affected by the deprivation—a procedural right *in vacuo*—is insufficient to create Article III standing.” *Ante*, at 8. The procedural injury must “impair a separate concrete interest.” *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 572 (1992).

This case would present different considerations if Congress had sought to provide redress for a concrete injury “giv[ing] rise to a case or controversy where none existed before.” *Id.*, at 580 (KENNEDY, J., concurring in part and concurring in judgment). Nothing in the statute at issue here, however, indicates Congress intended to identify or confer some interest separate and apart from a procedural right.