IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 24-cv-02499-RMR-STV

UNITED SOVEREIGN AMERICANS, INC.;
RAMEY JOHNSON; and
MICHAEL CAHOON,

Plaintiffs,

v.

JENNA GRISWOLD; and
PHIL WEISER,

Defendants.

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Chief Magistrate Judge Scott T. Varholak

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This matter comes before the Court on Defendants' Motion to Dismiss (the "Motion"). [#71] The Motion has been referred to this Court. [#72] The Court has carefully considered the Motion and related briefing, the entire case file and the applicable case law, and has determined that oral argument would not materially assist in the disposition of the Motion. For the following reasons, the Court respectfully **RECOMMENDS** that the Motion be **GRANTED.**

I. BACKGROUND[1]

Plaintiffs United Sovereign Americans, Inc. ("USA Inc."), Ramey Johnson, and Michael Cahoon allege that Colorado's administration and certification of the 2022 and

[1] The facts are drawn from the allegations in Plaintiff's Amended Complaint (the "Complaint") [#57], which the Court accepts as true when addressing Defendants' facial attack to standing. *Ruiz v. McDonnell*, 299 F.3d 1173, 1180 (10th Cir. 2002) (When

2024 combined federal and state elections failed to comply with federal election laws, rendering those elections unreliable and unlawfully certified. [#57 at ¶¶ 2-3] According to Plaintiffs, Congress has established minimum standards governing the reliability and integrity of federal elections, and Defendants did not meet those standards in either election cycle. [*Id.*] Plaintiffs further allege that the same deficiencies are likely to recur in future elections beginning in 2026, absent judicial intervention. [*Id.* at ¶¶ 4-5, 8, 21]

Plaintiffs' claims rely in significant part on their interpretation of the Help America Vote Act of 2002 ("HAVA"). [*Id.* at ¶¶ 25-42] Plaintiffs allege that HAVA requires voting systems used in federal elections to comply with a maximum permissible error rate of one error per 500,000 ballot positions, as defined by federal voting system standards in effect at the time HAVA was enacted. [*Id.* at ¶¶ 25-30] Plaintiffs further allege that 500,000 ballot positions equate to approximately 125,000 individual ballots, and therefore conclude that federal law permits no more than one voting-system error per 125,000 ballots cast in a federal election. [*Id.* at ¶¶ 33-35]

Applying this methodology, Plaintiffs allege that the 2022 Colorado general election, in which 2,564,519 ballots were cast, permitted no more than twenty-one errors under federal law. [*Id.* at ¶¶ 36-37] They further allege that the 2024 general election, in which 3,192,745 ballots were cast, permitted no more than twenty-six errors. [*Id.* at ¶ 40] Plaintiffs allege that Colorado exceeded these thresholds in both elections, rendering the results unreliable and uncertifiable. [*Id.* at ¶¶ 36-41]

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reviewing a facial attack on subject matter jurisdiction, the Court "presume[s] all of the allegations contained in the amended complaint to be true.").

Plaintiffs also allege that Colorado's voter registration rolls contained "hundreds of thousands of material errors and omissions" during the 2022 and 2024 elections. [*Id*. at ¶ 41] These alleged potential errors include duplicate registrations, registrations with invalid or illogical dates, voting histories that predate registration, backdated registrations, age-discrepant registrants, and voters placed on inactive status without proper authority. [*Id*. at ¶ 42] According to Plaintiffs, these alleged errors and omissions compromised the accuracy of Colorado's elections, undermined public confidence in the electoral process, and resulted in the certification of election results derived from unreliable and legally deficient processes. [*Id*. at ¶¶ 44, 46] Plaintiffs allege that Defendants failed to adequately police and correct voter registration inaccuracies or otherwise ensure compliance with federal election laws, despite being responsible for overseeing the administration of elections in Colorado. [*Id*. at ¶¶ 46-48, 50]

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According to the Complaint, Plaintiffs conducted analyses of voter registration and election data and provided notice to Defendants of the alleged deficiencies prior to filing suit. [*Id*. at ¶¶ 47, 52] They assert that Defendants failed to investigate or take corrective action and that, as a result of this inaction, the same deficiencies present in the 2022 election were repeated in the 2024 election. [*Id*. at ¶¶ 48-52] Plaintiffs contend that this has diluted their votes and deprived them of their right to vote in a fair, accurate, and lawful election. [*Id*. at ¶¶ 55-58] Plaintiffs further allege that unless Defendants are compelled to investigate and correct these alleged deficiencies, future elections will suffer from the same errors, resulting in continued impairment of Plaintiffs' voting rights. [*Id*. at ¶¶ 5, 21]

Plaintiffs filed this action on September 10, 2024. [#1] Plaintiffs filed the operative complaint on August 4, 2025, appearing to assert claims under the Fourteenth Amendment, [#57 at ¶¶ 9,10, 220]; the Voting Rights Act of 1965 ("VRA"), 52 U.S.C. § 10101 *et seq.* [*id*. at ¶¶ 218, 220, 223, 227]; the National Voter Registration Act of 1993 ("NVRA"), 52 U.S.C. § 20501 *et seq.*, [*id*. at ¶¶ 236-241]; the HAVA, 52 U.S.C. § 20901 *et seq.* [*id*. at ¶¶ 220, 223, 227]; the Federal Information Security Modernization Act ("FISMA"), 44 U.S.C. § 3551 *et seq.* [*id*. at ¶¶ 13, 218, 220, 223]; and the Colorado Uniform Election Code of 1992, Colo. Rev. Stat. § 1-1-101 *et seq*. [*id*. at ¶¶ 218-220, 223]. Defendants filed the instant Motion on October 20, 2025, seeking dismissal of Plaintiff's Amended Complaint. [#71] Plaintiffs responded to the Motion [#80] and Defendants have replied [#87].

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II. STANDARD OF REVIEW

Federal Rule of Civil Procedure 12(b)(1) empowers a court to dismiss a complaint for "lack of subject-matter jurisdiction." Fed. R. Civ. P. 12(b)(1). Dismissal under Rule 12(b)(1) is not a judgment on the merits of a plaintiff's case, but only a determination that the court lacks authority to adjudicate the matter. *See Castaneda v. INS*, 23 F.3d 1576, 1580 (10th Cir. 1994) (recognizing federal courts are courts of limited jurisdiction and may only exercise jurisdiction when specifically authorized to do so). A court lacking jurisdiction "must dismiss the cause at any stage of the proceedings in which it becomes apparent that jurisdiction is lacking." *Basso v. Utah Power & Light Co.*, 495 F.2d 906, 909 (10th Cir. 1974).

Rule 12(b)(1) challenges are generally presented in one of two forms: "[t]he moving party may (1) facially attack the complaint's allegations as to the existence of subject

matter jurisdiction, or (2) go beyond allegations contained in the complaint by presenting evidence to challenge the factual basis upon which subject matter jurisdiction rests." *Merrill Lynch Bus. Fin. Servs., Inc. v. Nudell*, 363 F.3d 1072, 1074 (10th Cir. 2004) (quoting *Maestas v. Lujan*, 351 F.3d 1001, 1013 (10th Cir. 2003)). When reviewing a facial attack on subject matter jurisdiction, the Court "presume[s] all of the allegations contained in the amended complaint to be true." *Ruiz v. McDonnell*, 299 F.3d 1173, 1180 (10th Cir. 2002). "In reviewing a factual attack, a court has wide discretion to allow affidavits, other documents, and a limited evidentiary hearing to resolve disputed jurisdictional facts." *Stuart v. Colo. Interstate Gas Co.*, 271 F.3d 1221, 1225 (10th Cir. 2001) (quotation omitted). "In the course of a factual attack under Rule 12(b)(1), a court's reference to evidence outside the pleadings does not convert the motion into a Rule 56 motion." *Id.*

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Pursuant to Federal Rule of Civil Procedure 12(b)(6), a court may dismiss a complaint for "failure to state a claim upon which relief can be granted." In deciding a motion under Rule 12(b)(6), the court must "accept as true all well-pleaded factual allegations . . . and view these allegations in the light most favorable to the plaintiff." *Casanova v. Ulibarri*, 595 F.3d 1120, 1124 (10th Cir. 2010) (alteration in original) (quoting *Smith v. United States*, 561 F.3d 1090, 1098 (10th Cir. 2009)). Nonetheless, a plaintiff may not rely on mere labels or conclusions, "and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The ultimate duty of the court is to "determine whether the complaint sufficiently alleged facts supporting all the elements necessary to establish an entitlement to relief under the legal theory proposed." *Forest Guardians v. Forsgren*, 478 F.3d 1149, 1160 (10th Cir. 2007).

III. ANALYSIS

Defendants make several arguments in support of their Motion. Defendants claim: 1) Plaintiffs lack Article III standing [#71 at 5-12], 2) Plaintiffs' claims are not justiciable because they are either moot or unripe [*id*. at 12-14], 3) the Eleventh Amendment bars all claims against Defendant Weiser, and bars all state law claims against the Defendants [*id*. at 14-18] 4) Plaintiffs have failed to state any viable claims for relief [*id*. at 19-24], and 5) this Court should decline to exercise supplemental jurisdiction over any remaining state law claims [*id*. at 24-25]. Because the Court agrees that Plaintiffs lack Article III standing, the Court does not address Defendants' alternative arguments.

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Defendants argue that this action must be dismissed at the threshold because Plaintiffs lack Article III standing and the Court therefore lacks subject-matter jurisdiction. [*Id*. at 5-12] "Article III of the Constitution confines the judicial power of federal courts to deciding actual 'Cases' or 'Controversies.'" *Hollingsworth v. Perry*, 570 U.S. 693, 704 (2013) (quoting U.S. CONST. art. III, § 2). "Plaintiffs must demonstrate a personal stake in the outcome in order to assure that concrete adverseness which sharpens the presentation of issues necessary for the proper resolution of constitutional questions." *City of Los Angeles v. Lyons*, 461 U.S. 95, 101 (1983) (internal quotations omitted). Plaintiffs, as the parties invoking federal jurisdiction, bear the burden of establishing standing. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). To establish standing, a plaintiff must show that: (1) he suffered an injury in fact that is concrete, particularized, and actual or imminent; (2) the injury was likely caused by the defendant; and (3) the injury would likely be redressed by judicial relief. *Id*. at 560-561.

First, "[t]o establish injury in fact, a plaintiff must show that he or she suffered an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016) (quotation omitted); *see also Tandy v. City of Wichita*, 380 F.3d 1277, 1283 (10th Cir. 2004) ("The threatened injury must be 'certainly impending' and not merely speculative.") A "concrete" injury must be "real" rather than "abstract." *Lupia v. Medicredit, Inc.*, 8 F.4th 1184, 1190 (10th Cir. 2021). "A 'concrete' injury must be 'de facto'; that is, it must actually exist." *Spokeo, Inc.*, 578 U.S. at 340. Mere risk of future harm without more is insufficient to confer standing in a suit for damages. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 435-39 (2021). "If a party satisfies these minimum constitutional requirements, then a court may still deny standing for prudential reasons if the injury alleged constitutes a 'generalized grievance' that more appropriately should be addressed by the representative branches." *Colo. Taxpayers Union, Inc. v. Romer*, 963 F.2d 1394, 1396 (10th Cir. 1992).

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Where, as here, an intangible harm is alleged, courts look to both history and to the "judgment of Congress" to determine the sufficiency of jurisdiction. *Lupia*, 8 F.4th at 1191. With respect to history, the Supreme Court has explained that "history and tradition offer a meaningful guide to the types of cases that Article III empowers federal courts to consider." *TransUnion*, 594 U.S. at 424 (quotation omitted). The Court further indicated that courts should assess whether the alleged injury to the plaintiff has a "close relationship" to a harm "traditionally" recognized as providing standing under Article III. *Spokeo*, 578 U.S. at 341. "Those include, for example, reputational harms, disclosure of private information, and intrusion upon seclusion." *TransUnion*, 594 U.S. at 425. "[T]he

close relationship standard . . . has been interpreted by the Tenth Circuit as requiring that the intangible harm to be similar in kind, as opposed to similar in degree, to the harm addressed by a common-law cause of action." *Ozuna v. Budget Control Servs., Inc.*, No. 19-cv-02034-LTB-NRN, 2022 WL 1619684, at *4 (D. Colo. Mar. 1, 2022) (citing *Lupia*, 8 F.4th at 1192).

With respect to the judgment of Congress, the Supreme Court has explained that "because Congress is well positioned to identify intangible harms that meet minimum Article III requirements, its judgment is . . . instructive and important." *Spokeo*, 578 U.S. at 341. In enacting the NVRA and the VRA, Congress recognized that certain failures in the electoral process constitute concrete and legally cognizable harms and expressly authorized private lawsuits to enforce those rights.[2] Under the NVRA, failures to maintain accurate voter registration rolls or to provide proper registration opportunities are actionable. 52 U.S.C. § 20510(b); *see also Voter Reference Found., LLC v. Torrez*, 160 F.4th 1068, 1078 (10th Cir. 2025) (holding that plaintiffs may bring private suits under the NVRA for individuals harmed by violations of the statute). Under the VRA, practices or procedures that discriminate against voters on the basis of race, color, or membership in

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[2] By contrast, HAVA reflects Congress's judgment that modernizing election administration and safeguarding voter access are important interests, but it does not create a private right of action and explicitly grants enforcement to the Attorney General and the states. *See* 52 U.S.C. §§ 21111-21112; *see, e.g.*, *Am. Civil Rights Union v. Phila. City Comm'rs*, 872 F.3d 175, 184-85 (3d Cir. 2017) (holding that HAVA does not confer a private right of action for enforcement by individual plaintiffs); *Minn. Voters All. v. City of Minneapolis*, No. 20-2049 (MJD/TNL), 2020 WL 6119937, at *6 (D. Minn. Oct. 16, 2020) (same); *Roberts v. Caskey*, No. 22-2366-DDC-ADM, 2022 WL 11089308, at *5 (D. Kan. Oct. 19, 2022) (same). FISMA also does not provide a private right of action, leaving enforcement to federal agencies. 44 U.S.C. §§ 3551-3558.; *see*, *e.g.*, *Moore v. United States*, No. 4:22-CV-4020, 2023 WL 8832918, at * 3 (S.D. Tex. Nov. 30, 2023) (collecting cases for the proposition that FISMA does not create a private right of action).

a language minority group are similarly actionable. 52 U.S.C. § 10301; *see also Coca v. City of Dodge City*, 669 F. Supp. 3d 1131, 1140 (D. Kan. 2023) (holding that private plaintiffs may bring suit under Section 2 of the VRA to challenge voting practices that deny or abridge the right to vote on account of race or color).

Nonetheless, while the violation of a procedural right granted by statute can be sufficient in some circumstances to constitute injury in fact, Article III standing requires a concrete injury even in the context of a statutory violation. *Spokeo,* 578 U.S. at 341-42. "[U]nder Article III, an injury in law is not an injury in fact." *TransUnion*, 594 U.S. at 427. "Only those plaintiffs who have been concretely harmed by a defendant's statutory violation may sue that private defendant over that violation in federal court." *Id*. (emphasis omitted).

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As to the traceability requirement, "[s]tanding exists only if the injury is 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." *N. Laramie Range All. v. FERC*, 733 F.3d 1030, 1035 (10th Cir. 2013) (citing *Lujan*, 504 U.S. at 560). "To meet this element of standing, a plaintiff must allege a substantial likelihood that the defendant's conduct caused plaintiff's injury in fact." *Hudson v. Boppy Co., LLC*, No. 24-1322, 2025 WL 1806182, at *4 (10th Cir. July 1, 2025) (quotations omitted). Finally, to establish Article III standing, a plaintiff must also demonstrate redressability—that it is likely, as opposed to merely speculative, that the requested relief will remedy the alleged injury. *Lujan*, 504 U.S. at 561.

"At the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice." *Kan. Nat. Res. Coal. v. U.S. Dep't of Interior*, 971 F.3d

1222, 1231 (10th Cir. 2020) (quoting *Lujan*, 504 U.S. at 561). But "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id*. (quoting *COPE v. Kan. State Bd. of Educ.*, 821 F.3d 1215, 1221 (10th Cir. 2016), in turn quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). If "the plaintiff does not claim to have suffered an injury that the defendant caused and the court can remedy, there is no case or controversy for the federal court to resolve." *TransUnion*, 594 U.S. at 423 (quotation omitted).

With these principles in mind, the Court turns to Plaintiffs' standing in this case. Defendants argue that Plaintiffs do not have standing because: 1) USA Inc. does not satisfy the constitutional requirements for organizational or associational standing, [#71 at 6-9]; 2) the individual plaintiffs have not alleged a concrete and particularized injury, [*id*. at 9-11]; and 3) all Plaintiffs fail to establish causation by Defendants and redressability by the relief sought. [*Id*. at 11-12] The Court will begin with the individual Plaintiffs' standing then turn to the standing of USA Inc.

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A. Individual Plaintiffs

Plaintiffs Johnson and Cahoon, Colorado voters, allege that their right to vote has been impaired and diluted because Colorado election officials allegedly permitted ineligible or improperly registered individuals to cast ballots and allegedly maintained inaccurate voter registration records and that these alleged deficiencies rendered the 2022 and 2024 elections unreliable and will impair future elections. [*See generally* #57] Defendants argue that these allegations do not describe a concrete and particularized injury to any individual Plaintiff, but instead amount only to a generalized grievance shared

by all voters, namely, dissatisfaction with election administration and speculative concerns about election integrity. [#71 at 9-11] The Court agrees.

Plaintiffs claim that allowing erroneous registrations to vote equally with valid registrants dilutes the votes of eligible voters and violates the Equal Protection Clause of the Fourteenth Amendment.[3] [#57 at ¶¶ 10, 24, 62-65, 229-230] The Equal Protection Clause prohibits vote dilution in the form of unequal weighting of votes, meaning that a voter's ballot is accorded less weight than other ballots within the same electoral system. *See Reynolds v. Sims*, 377 U.S. 533, 554-558 (1964) (defining vote dilution as unequal weighting of votes); *see also Wesberry v. Sanders*, 376 U.S. 1, 7-8 (1968) (stating that, as nearly as practicable, one person's vote should be worth as much as another person's vote). "[V]oters who allege facts showing disadvantage to themselves as individuals have standing to sue to remedy that disadvantage." *Gill v. Whitford*, 585 U.S. 48, 65-66 (2018).

Here, Plaintiffs do not allege that their own ballots were rejected, miscounted, or treated differently than any other voter's ballot. [*See generally* #57] Instead, they assert

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[3] Plaintiffs also appear to invoke the VRA's Materiality Provision, Section 10101(a)(2)(B), as support for their vote dilution claim. [#57 at ¶¶ 10, 63, 231] But that statute does not recognize a claim based on the theory that permitting erroneous registrations to vote "dilutes" the votes of eligible voters. The statute is narrowly directed at preventing the denial of an individual's right to vote due to errors or omissions on registration or voting documents that are not material to determining eligibility. And courts have consistently interpreted the provision as protecting individual voters from being denied the right to vote based on errors or omissions on registration or voting paperwork that are not material to determining eligibility, not as a vehicle for challenging the permissive inclusion of other voters. *See*, *e.g.*, *Vote.Org v. Callanen*, 89 F.4th 459, 484 (5th Cir. 2023) (describing Section 10101(a)(2)(B) as prohibiting rejection of ballots based on immaterial paperwork defects). The statute's cognizable injury is thus the disenfranchisement of the voter whose registration or ballot is rejected for an immaterial defect, not a generalized grievance that other voters were improperly allowed to participate. Therefore, Plaintiffs' claims alleging generalized vote dilution arising from the inclusion of allegedly ineligible voters fall outside the statute's text and purpose.

harm in general terms without identifying concrete, individualized injuries. [*Id*. at ¶¶ 78 ("Plaintiffs have been and are currently harmed"), 82 ("Plaintiffs have standing due to suffering an injury in fact"), 83 (same)] And they claim systemic defects in election administration that, if true, would affect all Colorado voters equally. [*Id*. at ¶¶ 5, 7, 80, 214] Thus, unlike cases where the Supreme Court has found that voters have standing to sue, Plaintiffs here have not alleged that their votes are treated any differently than any other Colorado voter. Plaintiffs' alleged election errors do not legally constitute vote dilution and therefore do not establish an injury-in-fact. *See Judicial Watch, Inc.*, 554 F. Supp. 3d at 1103 (finding alleged bloated voter rolls both a generalized grievance and hypothetical, and therefore insufficient to confer standing); *O'Rourke v. Dominion Voting Sys. Inc.*, No. 20-cv-03747, 2021 WL 1662742, at *6-8 (D. Colo. Apr. 28, 2021) ("It should be no surprise to Plaintiffs or their counsel that their generalized grievances about their votes being diluted or other votes being improperly counted would be insufficient to grant them the standing required under Article III of the Constitution." (collecting cases)), *aff'd*, No. 21-1161, 2022 WL 1699425 (10th Cir. May 27, 2022); *see also Election Integrity Project Cal., Inc. v. Weber*, 113 F.4th 1072, 1087-89 (9th Cir. 2024) (rejecting vote dilution claim premised on alleged counting of invalid ballots, because "[v]ote dilution in the legal sense occurs only when disproportionate weight is given to some votes over others within the same electoral unit" (emphasis omitted)); *Drouillard v. Roberts*, No. 24-cv-06969-CRB, 2024 WL 4667163, *5-8 (N.D. Cal. Nov. 4, 2024) (rejecting vote dilution theory based on alleged presence of ineligible voters on voter rolls); *see generally Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 382 (2024) ("An Article III court is not a legislative assembly, a town square, or a faculty lounge. Article III does not contemplate

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a system where 330 million citizens can come to federal court whenever they believe that the government is acting contrary to the Constitution or other federal law.").

Plaintiffs nonetheless rely on *Baker v. Carr* and *FEC v. Akins* to argue that a group of voters who allegedly suffer interference with their voting rights may establish Article III standing even where the asserted harm is widely shared. *See Baker v. Carr*, 369 U.S. 186, 207-08 (1962) (holding that voters had standing to challenge malapportionment that resulted in unequal weighting of their votes); *FEC v. Akins*, 524 U.S. 11, 24-25 (1998) (holding that voters suffered a concrete injury where they were denied information that a federal statute expressly entitled them to receive). The Court agrees with the general proposition that widespread injuries may, in appropriate circumstances, satisfy Article III standing. But the injuries recognized in *Baker* and *Akins* were concrete and personal to Plaintiffs, and legally cognizable, *i.e.*, unequal vote weight due to malapportionment in *Baker* and denial of a statutory informational right in *Akins*. Plaintiffs here do not allege this type of harm. They do not contend that their votes were weighted differently from other voters' votes, whether due to malapportionment or any other reason. Nor do Plaintiffs contend that Defendants withheld information to which Congress granted Plaintiffs an individual right. Instead, they allege generalized deficiencies in election administration and speculative counting of allegedly ineligible ballots, an asserted harm that is shared equally by all voters and is untethered to any personal deprivation of a legally protected interest. And "when a plaintiff asserts only a harm to rights shared with every other citizen, the claim falls outside the constitutional constraints on federal jurisdiction." *Judicial Watch, Inc. v. Griswold*, 554 F. Supp. 3d 1091, 1102-03 (D. Colo. 2021). Accordingly, *Baker* and *Akins* do not support standing in this case.

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Plaintiffs also invoke *Massachusetts v. EPA* to argue that a widespread harm may nonetheless satisfy Article III standing. *See Massachusetts v. EPA*, 549 U.S. 497, 517–21 (2007) (recognizing standing where a State alleged concrete injury to its quasi-sovereign interests arising from increased greenhouse gas emissions). But that case similarly does not help Plaintiffs. The Supreme Court's standing analysis there rested on the plaintiff's status as a sovereign State asserting injury to its territory and quasi-sovereign interests, and the Court expressly emphasized that States are "not normal litigants for the purposes of invoking federal jurisdiction." *Id*. at 518. The Court further relied on a statutory framework in which Congress had authorized States to challenge the agency's refusal to regulate. *Id*. at 516-17. Plaintiffs here are private individuals and an organization, not a sovereign State, they do not assert any injury to territory or quasi-sovereign interests, and they do not identify any comparable statutory authorization to sue. Accordingly, *Massachusetts v. EPA* does not support standing in this case.

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Thus, Plaintiffs' generalized allegations of harm from the 2022 and 2024 election do not confer standing. Plaintiffs' allegations of future harm do not fare any better. Plaintiffs assert that, absent judicial intervention, the alleged deficiencies in voter registration records and election administration will persist and impair future elections, beginning in 2026. [#57 at ¶¶ 5, 8, 21, 166, 171, 234] They further allege that these purported deficiencies undermine confidence in the integrity and reliability of future elections and create a continuing risk that their voting rights will be diluted going forward. [*Id*. at ¶¶ 44-46, 53-58] But an asserted interest in election integrity or public confidence in the electoral process, without a showing of concrete and particularized injury to Plaintiffs' own voting rights, is insufficient to confer Article III standing. *See Clapper v.*

Amnesty Int'l USA, 568 U.S. 398, 416 (2013) (plaintiffs "cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending"); *see also TransUnion LLC*, 594 U.S. at 435-439 (speculative risk of future harm is insufficient to confer standing). And Plaintiffs do not offer any concrete facts demonstrating that comparable problems will recur in future elections or that any future injury is imminent, rather than speculative. Their assertions rest on assumptions about future administrative decisions and contingent events. [#57 at ¶ 21] Such conjectural allegations do not establish an injury that is actual or imminent. Indeed, Plaintiffs' failure to allege that their own ballots were affected in either the 2022 or 2024 elections weighs against any plausible inference of future harm. Accordingly, Plaintiffs' asserted concerns about election integrity going forward do not supply Article III standing.[4]

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B. Plaintiff United Sovereign Americans, Inc.

Plaintiff USA Inc. has likewise not satisfied the constitutional requirements for standing. To achieve organizational standing, "organizations must satisfy the usual standards for injury in fact, causation, and redressability that apply to individuals." *FDA*, 602 U.S. at 393-94. "Organizations . . . have two methods to achieve Article III standing. They can claim organizational standing because they suffered an injury of their own, or they can claim associational standing based on injuries suffered by their members." *Citizens Project v. City of Colo. Springs*, No. 22-cv-01365-SKC-MDB, 2024 WL 3345229,

[4] Because Plaintiffs have not alleged a concrete, particularized injury, the Court need not separately analyze causation and redressability.

at *4 (D. Colo. July 9, 2024) (citing *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023)).

"Organizations may assert standing in their own right when, for instance, a defendant's conduct makes it difficult or impossible for the organization to fulfill one of its essential purposes or goals, such as when the organization faces a drain on its resources or when the defendant's actions have perceptively impaired the organization's ability to carry out its mission." *Judicial Watch, Inc.*, 554 F. Supp. 3d at 1104 (quotation omitted). Here, USA Inc. does not appear to be asserting organizational standing in its own right—USA Inc. does not allege that it has suffered a concrete and particularized injury to itself that is fairly traceable to the Defendants' conduct and that is likely to be redressed by a favorable decision. Instead, the Amended Complaint expressly bases USA Inc.'s alleged standing on injuries purportedly suffered by its volunteers; *i.e.,* associational standing.

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With respect to associational standing, "an association has standing to bring suit on behalf of its members when: (1) its members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). Here, USA Inc. claims that Defendants have denied its members[5] their right to a fair vote. [#57 at ¶¶ 55, 67, 68] But USA Inc. fails at the threshold to satisfy the first requirement of associational standing. As discussed above,

[5] The Court notes that USA Inc. expressly states that it is not a member organization but instead has volunteers that work with the organization. [##57 at ¶ 66; 80 at 7] The Court need not assess whether USA Inc.'s "volunteers" should be considered members; even if, arguendo, they are considered members, the Court's analysis remains the same.

the Court has already determined that the individual Plaintiffs—USA Inc.'s volunteers—lack standing to sue. *See supra* Section III.A. Beyond these named individuals, USA Inc. does not allege facts identifying any other member who has suffered a concrete and particularized injury sufficient to confer standing. And where an organization cannot identify at least one member with standing to sue in his or her own right, associational standing is foreclosed. *Hunt*, 432 U.S. at 343. Accordingly, USA Inc. lacks associational standing to bring this matter.[6]

C. Conclusion

Because neither the individual plaintiffs nor USA Inc. have alleged a concrete and particularized injury, Plaintiffs lack Article III standing.[7] The Court therefore lacks subject-matter jurisdiction over this case and respectfully recommends dismissal without reaching the merits.[8]

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[6] Because USA Inc. fails to satisfy the first *Hunt* requirement, the Court need not address the remaining elements of associational standing.

[7] Even if Plaintiffs had alleged a concrete injury, they have not plausibly established causation or redressability. Plaintiffs do not allege facts demonstrating that the purported harm to their voting rights is fairly traceable to the specific actions of Defendants, as opposed to independent actors or speculative assumptions about election administration. Similarly, Plaintiffs have not shown that the relief they seek would redress a personal injury. Plaintiffs request broad declaratory and injunctive relief requiring Defendants to investigate alleged errors, enforce election laws, and alter future election administration. Such relief would, at most, provide generalized oversight of election processes and would not remedy a concrete injury unique to any Plaintiff. And Article III requires that a favorable decision be likely to redress the plaintiff's own injury, not merely advance a generalized interest in lawful government conduct.

[8] Having found that Plaintiffs have not alleged a sufficient injury to establish Article III standing, the Court need not consider Defendants' alternative arguments for dismissal.

IV. CONCLUSION

For the foregoing reasons, the Court respectfully **RECOMMENDS** Defendant's Motion to Dismiss [#71] be **GRANTED**.[9]

DATED: February 9, 2026

BY THE COURT:

s/Scott T. Varholak
Chief United States Magistrate Judge

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[9] Within fourteen days after service of a copy of this Recommendation, any party may serve and file written objections to the magistrate judge's proposed findings of fact, legal conclusions, and recommendations with the Clerk of the United States District Court for the District of Colorado. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *Griego v. Padilla (In re Griego)*, 64 F.3d 580, 583 (10th Cir. 1995). A general objection that does not put the district court on notice of the basis for the objection will not preserve the objection for *de novo* review. "[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for *de novo* review by the district court or for appellate review." *United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996). Failure to make timely objections may bar *de novo* review by the district judge of the magistrate judge's proposed findings of fact, legal conclusions, and recommendations and will result in a waiver of the right to appeal from a judgment of the district court based on the proposed findings of fact, legal conclusions, and recommendations of the magistrate judge. *See Vega v. Suthers*, 195 F.3d 573, 579-80 (10th Cir. 1999) (holding that the district court's decision to review magistrate judge's recommendation *de novo* despite lack of an objection does not preclude application of "firm waiver rule"); *Int'l Surplus Lines Ins. Co. v. Wyo. Coal Refining Sys., Inc.*, 52 F.3d 901, 904 (10th Cir. 1995) (finding that cross-claimant waived right to appeal certain portions of magistrate judge's order by failing to object to those portions); *Ayala v. United States*, 980 F.2d 1342, 1352 (10th Cir. 1992) (finding that plaintiffs waived their right to appeal the magistrate judge's ruling by failing to file objections). *But see, Morales-Fernandez v. INS*, 418 F.3d 1116, 1122 (10th Cir. 2005) (holding that firm waiver rule does not apply when the interests of justice require review).