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Troubled Waters:

Coastal Avulsion, A State Survey

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Common Law Approaches to Boundary Change

As the world warms, rising seas and more intense storms threaten to reshape the American coastline. Climate change has already had a dramatic effect on US coasts. For example, from 2004 to 2009 the US lost 80,160 acres of coastal wetlands per year.[1] Erosion and sea level rise will increasingly submerge coastal landscapes and have a significant impact on property ownership in the US.

The common law principles of avulsion, erosion, accretion, and reliction have traditionally governed changes to coastal property lines. These principles have changed little for over two centuries. However, given the rapid pace of change facing US coastlines, these principles may not be enough to efficiently and equitably resolve questions of coastal property rights. Avulsion, in particular, is ripe for change. Most coastal states adhere to common law principles of avulsion, yet these principles may not be suited for a future where avulsive events occur regularly.

Courts address riparian and coastal boundary change by relying on the well-developed common law principles of accretion, erosion, reliction, and avulsion. Accretion is the "addition[] of alluvion (sand, sediment, or other deposits) to waterfront land."[2] Erosion is the removal of alluvion from coastal or riverfront land. Reliction is previously submerged land that "become[s] dry when the water recedes."[3] Accretion, erosion, and reliction are gradual processes. By contrast, an avulsion is "the sudden or perceptible loss of or addition to land by the action of the water or a sudden change in the bed of a lake or the course of a stream."[4]

In most states, a property owner "automatically takes title to dry land added to his property by accretion" or erosion.[5] Emerging out of English law, "accretion . . . developed as an exception to the common law property rule requiring a deed transferring title in order to change a property boundary."[6] Thus, gradual

1 Elizabeth Fleming et al., *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II, Coastal Effects* 331 (2018), https://nca2018.globalchange.gov/downloads/NCA4_Ch08_Coastal-Effects_Full.pdf.

2 *Stop the Beach Renourishment, Inc. v. Fla. Dep't of Envtl. Prot.*, 560 US 702, 708 (2010).

3 *Id.*

4 *Bd. of Trs. v. Sand Key Assocs.*, 512 So. 2d 934, 936 (Fla. 1987).

5 *Stop the Beach Renourishment*, 560 US at 709.

6 Alyson C. Flournoy, *Beach Law Cleanup: How Sea-Level Rise Has Eroded the Ambulatory Boundaries Legal Framework*, 42 Vt. L. Rev. 89, 104 (2017).

increases or diminution of coastal land automatically led to corresponding changes in the property line. The principle was based in fairness and an understanding of the "flux and ebb of the sea," as coastal property owners would sometimes gain and sometimes lose land.[7]

Avulsion, in contrast to accretion, does not generally result in a change in the property line. Rather, property lines remain as they were prior to the avulsive event.[8] This too is an issue of equity. While a coastal property owner could expect their land to change with the tides, avulsive events, by their very nature, are unexpected. As such, applying the principles of accretion, erosion, or reliction in such a situation would unfairly benefit one party over another.[9]

Current State Approach to Avulsion

At present, 25 of 30 US coastal states have a clear common law position on avulsion.[10] Many of these states have not directly applied the principle of avulsion to changes in coastal boundaries.[11] Rather, their case law focuses on riparian properties.

There are also regional variations in the applicability of avulsion. In Hawaii, for example, "land added to oceanfront property through avulsive lava extension belongs to the State."[12] In New Jersey, state courts have recognized beach replenishment programs as avulsive events.[13] Thus, the land added to a shoreline through such a program does not accrue to the property owner but rather becomes part of the public trust.[14] Though such an approach helps state and federal actors harden coastlines against rising seas, it can, in some instances, cause coastal property owners to lose access to the coast.

Many states allow owners of property submerged by an avulsion to reclaim the property if done within a reasonable amount of time.[15] Some states are

7 Joseph L. Sax, *The Accretion/avulsion Puzzle: Its Past Revealed, Its Future Proposed*, 23 Tul. Envtl. L.J. 305, 320 (2010).

8 *Stop the Beach Renourishment*, 560 US at 709.

9 *See Bonelli Cattle Co. v. Arizona*, 414 US 313, 327 (1973) ("The rationale for the doctrine of avulsion is a need to mitigate the hardship that a shift in title caused by a sudden movement of the river would cause the abutting landowners were the accretion principle to be applied.").

10 Results from an analysis of available case law. Coastal states include those bordering the Great Lakes as well as the Atlantic and Pacific Ocean. Delaware, Maine, Massachusetts, New Hampshire, and South Carolina lack recent controlling cases that specifically accept the principle of avulsion.

11 Based on analysis of case law of coastal states. *See also* Sophie Stocks, *No Firm Ground: Fifth Amendment Takings and Sea-Level Rise*, 70 Hastings L.J. 621, 631 (2019).

12 *Maunalua Bay Beach Ohana 28 v. State*, 222 P.3d 441, 453 (Haw. Ct. App. 2009).

13 *See City of Long Branch v. Jui Yung Liu*, 4 A.3d 542, 552-54 (N.J. 2010).

14 *Id*. at 553-55.

15 *See Walton County v. Stop the Beach Renourishment, Inc*., 998 So. 2d 1102, 1117 (Fla. 2008); *see also Beach Colony II v. California*

especially generous. New York, for instance, has held that a property owner may reclaim land lost due to an avulsive event, noting that "[w]here one acquires a title by deed, it will not be affected by . . . [non-use] unless there is a loss of title in some of the ways recognized by law."[16] Thus, a property owner was able to reclaim land lost to an avulsion over thirty years prior.[17] In Michigan, the state supreme court held that property owners had an indefinite right to reclaim land lost to an avulsive event so long as they could establish valid, continuous title to that land.[18]

See a full table of coastal states' treatment of the principle of avulsion at the end of this document.

Problems Created by Existing Common Law Approach to Avulsion

Current state approaches to avulsion may increase tensions among government, property owners, and the public as sea levels rise.

Several coastal states that depend on tourism for growth have invested in beach renourishment and other programs that may be considered an avulsion in some states. Florida, for example, spent around $100 million on beach renourishment from 2016 to 2018.[19] Florida common law permits the state to reclaim submerged lands that were previously owned by the state.[20] Lands created by beach renourishment constitute an avulsion rather than accruing to the adjoining property, which means that they belong to the state.

Property owners in Florida challenged beach renourishment permitted under Florida's Beach and Shore Preservation Act as an unconstitutional taking of their right to accretion and to have their property touch the water.[21] The Supreme Court, however, held that the beach renourishment, a state-created avulsive event, did not constitute a taking under Florida law. Under Florida law, "if an avulsion exposes land seaward of littoral property that had previously been submerged, that land belongs to the State even if it interrupts the littoral owner's contact with the water."[22] The Court found that property owners' rights to accretion were always subject to potential avulsions and state law made no distinction between artificial and natural avulsions. As a result, the

Coastal Com., 199 Cal. Rptr. 195, 203 (Cal. App. Ct. 1984).

16 *City of New York v. Realty Assocs.*, 176 N.E. 171, 172 (N.Y. 1931).

17 *Id.*; *see also Trustees of Freeholders & Commonalty of Town of Southampton v. Heilner*, 375 N.Y.S.2d 761, 769 (N.Y. Sup. Ct. 1975).

18 *Klais v. Danowski*, 129 N.W.2d 414, 422 (Mich. 1964).

19 Dan Sweeney, *Florida has spent more than $100 million pouring more sand onto beaches in the past three years. Is it time to wave a white flag?*, Sun Sentinel (Jun. 8, 2018) https://www.sun-sentinel.com/news/sound-off-south-florida/fl-reg-beach-renourishment-20180608-story.html.

20 *Walton Cty.*, 998 So. 2d at 1117.

21 *See Stop the Beach Renourishment*, 560 US at 729.

22 *Id.* at 730.

property owners' rights to accretion were subordinate to the state's right to renourish the beach. The Court also discounted the property owners' concerns about their property losing contact with the water, finding Florida law had no such independent property right outside of the littoral owner's right to access the water.

As Justice Scalia notes, "[t]he result under Florida law . . . seem[s] counterintuitive. After all, the Members' property has been deprived of its character (and value) as oceanfront property by the State's artificial creation of an avulsion."[23] Still, such an action did not constitute a taking. This may not be the case in other states, however. Many state courts have yet to clarify whether natural and artificial avulsions should be handled similarly. It is possible that a court may distinguish between the two and treat a state-made artificial avulsion as a taking.

Avulsion poses a separate challenge in the many states which recognize some form of rolling easement for accretion and erosion. A rolling easement is a "public access easement[] that move[s] in accordance with the demarcation line between private and public property."[24] However, there is disagreement over whether easements should shift in the event of a shoreline avulsion. Texas, for example, does not recognize rolling easements resulting from avulsion.[25] Where an avulsion has submerged private land burdened with a public easement, the Supreme Court of Texas has held that the state cannot shift that easement on to previously unburdened private beachfront.[26] This conflicts with Texas's Open Beaches Act which allows the public the free and unrestricted right to access the state's beaches. Given that climate change is more likely to submerge coastline than create new beachfront, this position threatens that access.

Potential Solutions

Avulsion, accretion, and other common law riparian property principles emerged out of a desire for fairness and to preserve the public interest in coastal lands.[27] These principles should guide any future changes to the common law. As avulsive events increase in frequency, states will be forced to face the contradictions that result from the common law. For example, efforts to harden the coastline by building defenses on private property submerged through avulsive storms may lead to costly takings litigation.

One possible solution is to eliminate the avulsion/accretion distinction for coastal properties. Professor Joseph Sax argued that "maintaining

23 *Id*. at 732.

24 David Rusk, *Fix It or Forget It: How the Doctrine of Avulsion Threatens the Efficacy of Rolling Easements*, 51 Hous. L. Rev. 297, 308 (2013).

25 *See Severance v. Patterson*, 370 S.W.3d 705, 724 (Tex. 2012).

26 *Severance*, 370 S.W.3d at 725.

27 Flournoy, *supra* note 6, at 106.

water adjacency for riparian/littoral landowners and assuring public use of overlying water . . . are the central goals of the law relating to migratory waters, and titles should therefore follow a moving water boundary without regard to the rate, perceptibility, or suddenness of the movement."[28] The common law's approach to accretion reflects the idea that the erosion and accretion of coastal land is foreseeable, in contrast to avulsive events. Rapid erosion or flooding of coastal property, however, is becoming increasingly foreseeable. Indeed, "avulsive events frequently strike the Gulf Coast. Between 2000 and 2010, there were 174 tropical storms and 86 hurricanes in the Northern Atlantic Ocean, causing 8,204 deaths and over $200 billion in damages. Sixteen of those hurricanes made landfall in the United States between 2001 and 2007."[29] Given that avulsive events are becoming more common, riparian owners may need to accept that such events are more "accretive" than "avulsive." As such, property lines would adjust regardless of the speed of the change. Such an approach would allow state actors to build coastal defenses on submerged lands without worrying about potential takings litigation. At the same time, such an approach would lead to abrupt changes in property owners' title and could undermine the real estate value of many coastal properties.

Another possible solution is for the courts to apply the existing common law with an understanding of how the coastal landscape has changed. Professor Alyson Flournoy suggests that the courts "explicitly acknowledge[] that the changed context presented by sea-level rise requires rethinking the rationales that support applying the ambulatory boundaries framework. Therefore, in applying the doctrines . . . [courts should consider] how the changed facts affect the underlying rationales."[30] Such a case-by-case approach would allow the court to tailor orders that accord with underlying notions of fairness and efficiency, while still operating within the broader common law.

Conclusion

Regardless of what changes are ultimately implemented, the status quo is likely untenable. "It has been said so often as to have become axiomatic that the common law is not immutable but flexible, and by its own principles adapts itself to varying conditions."[31] State and federal actors will need to respond quickly to coastal climate disasters and the threat of potential takings lawsuits will slow efforts to protect US coasts. Courts should thus adjust the common law accordingly to adapt to changing climactic conditions.

28 Sax, *supra* note 7, at 353.

29 Rusk, *supra* note 24, at 326.

30 Flournoy, *supra* note 6, at 136.

31 *Funk v. United States*, 290 US 371, 383 (1933).

Survey of Avulsion in State Law

State	Avulsion Recognized in Case Law	Significant Cases	Relevant Statutes	Developments Since Significant Cases
Alabama	Yes	Greenfield v. Powell, 118 So. 556, 558 (Ala. 1928) ("We conclude as matter of law the boundary follows the present thread of the stream, unless the shift of its channel was sudden and perceptible.")	N/A	No significant developments
Alaska	Yes	Honsinger v. State, 642 P.2d 1352, 1353 (Alaska 1982) ("The benefits of accretion inure to the shoreline owner, while avulsion does not change the legal boundary.")	N/A	City of Saint Paul v. State, Dep't of Nat. Res., 137 P.3d 261, 263 (Alaska 2006) ("[A]n uplands owner is only entitled to benefit from a boundary change occurring by accretion.")
California	Yes	City of Long Beach v. Mansell, 476 P.2d 423, 428 n.4 (Cal. 1970) ("Generally speaking, the augmentation of existing upland by gradual natural Accretion alters the boundary of that upland accordingly. When such augmentation occurs as a result of sudden avulsion or by accretion caused by the works of man, however, the boundary is not altered.")	Cal. Civ. Code § 1014 ("Where, from natural causes, land forms by imperceptible degrees upon the bank of a river or stream, navigable or not navigable, either by accumulation of material or by the recession of the stream, such land belongs to the owner of the bank, subject to any existing right of way over the bank."); Cal Civ. Code § 1015 ("If a river or stream, navigable or not navigable, carries away, by sudden violence, a considerable and distinguishable part of a bank, and bears it to the opposite bank, or to another part of the same bank, the owner of the part carried away may reclaim it within a year after the owner of the land to which it has been united takes possession thereof.")	Beach Colony II v. California Coastal Com., 199 Cal. Rptr. 195, 203 (Cal. Ct. App. 1984) ("We hold a property owner has a legal right to eject overflowing waters and to replace land lost through avulsion."); City of Long Beach mentioned in State of Cal. ex rel. State Lands Com. v. Superior Court, 900 P.2d 648, 665 (Cal. 1995) ("[A]vulsion, natural or unnatural, does not generally benefit the upland owner."). The Court also upheld California's artificial accretion rule, holding that when man-made action leads to accretion, the littoral owner should not benefit.

Connecticut	Yes	Roche v. Town of Fairfield, 442 A.2d 911, 914 (Conn. 1982) ("Where a change occurs suddenly and perceptibly by avulsion, however, boundaries and title to land are not affected.")	N/A	No significant developments.
Delaware	Unclear. Limited case law on accretion, avulsion, and reliction. Riparian rights extend to the low water mark.	State ex rel. Buckson v. Pennsylvania R. Co., 267 A.2d 455, 459 (Del. 1969) ("[A] riparian owner of land fronting upon a navigable river holds title to the low water mark.")	N/A	Martin v. Turner, No. 2314-MG, 2009 Del. Ch. LEXIS 275, at *14 (Del. Ch. Nov. 23, 2009) ("Because the riparian nature of waterfront property is considered at common law such a valuable component of the owner's rights in that property, under the doctrine of accretion, the riparian boundary follows the stream."); Hearn v. Abbott, No. CIV. A. 89C-11-001, 1992 WL 207270, at *1 (Del. Super. Ct. Aug. 6, 1992) ("If the original creek was navigable, then all the adjoining landowners, as riparian owners, would own the pond bed to the low-water mark of the creek in its natural state as a creek.")

Florida	Yes	Stop the Beach Renourishment, Inc. v. Fla. Dep't of Envtl. Prot., 560 U.S. 702, 709 (2010) ("In Florida, as at common law, the littoral owner automatically takes title to dry land added to his property by accretion; but formerly submerged land that has become dry land by avulsion continues to belong to the owner of the seabed.")	A number of Florida statutes are written with avulsion in mind. See, e.g., Fla. Stat. Ann. § 161.161(5). ("The board of trustees shall approve or disapprove the erosion control line for a beach restoration project. In locating said line, the board of trustees shall be guided by the existing line of mean high water, bearing in mind the requirements of proper engineering in the beach restoration project, the extent to which erosion or avulsion has occurred, and the need to protect existing ownership of as much upland as is reasonably possible.")	In Accardi v. Regions Bank, 201 So. 3d 743, 747 (Fla. Dist. Ct. App. 2016), the court reaffirmed Florida's adherence to the principle of avulsion. Id.
Georgia	Yes	No clear controlling case on avulsion, but recognition of the principle in past case law. James v. State, 72 S.E. 600, 601 (Ga. Ct. App. 1911) ("[A]n accretion on an ordinary river would leave the boundary between two states the varying center of the channel, and an avulsion would leave the boundary the center of the abandoned channel.") Controlling case on accretion is State v. Ashmore, 224 S.E.2d 334, 342 (Ga. 1976)	Ga. Code Ann. § 44-8-7(b) ("For all purposes, including, among others, the exclusive right to the oysters and clams but not other fish therein or thereon, the boundaries and rights of the owners of land adjacent to or covered in whole or in part by navigable tidewaters shall extend to the low-water mark in the bed of the water.")	State v. Rozier, 707 S.E.2d 100, 102 (Ga. 2011) (implying that avulsion that results in new islands would create land outside the state's line of title originating from the crown.)

Hawaii	Yes (but doesn't apply in the same way to land created by lava flows, which becomes public trust lands.)	State by Kobayashi v. Zimring, 566 P.2d 725, 734 (Haw. 1977) ("[I]n cases where there have been rapid, easily perceived and sometimes violent shifts of land (avulsion) incident to floods, storms or channel breakthroughs, preexisting legal boundaries are retained notwithstanding the fact that former riparian owners may have lost their access to the water.")	Haw. Rev. Stat. Ann. § 669-1(e) ("Action may be brought by any person to quiet title to land by accretion; provided that no action shall be brought by any person other than the State to quiet title to land accreted along the ocean after May 20, 2003, except that a private property owner whose eroded land has been restored by accretion may also bring such an action for the restored portion. The person bringing the action shall prove by a preponderance of the evidence that the accretion is natural and permanent and that the land accreted before or on May 20, 2003.")	Maunalua Bay Beach Ohana 28 v. State, 222 P.3d 441, 453 (Haw. Ct. App. 2009) (affirming that "land added to oceanfront property through avulsive lava extension belongs to the State.")
Illinois	Yes	Schulte v. Warren, 75 N.E. 783, 785 (Ill. 1905) ("Where there is a sudden or marked change in the shore line and the lands of the adjoining owner are flooded or the course of a stream changed, the adjoining owner is not thereby divested of his title."); Wall v. Chicago Park Dist., 37 N.E.2d 752, 760 (Ill. 1941) ("This destruction of land was an avulsion . . . not a gradual wearing away by erosion. An avulsion, it is settled, does not change the boundary line, irrespective of contractual provisions.)	N/A	See City of Waukegan, Ill. v. Nat'l Gypsum Co., 587 F. Supp. 2d 997, 1005 (N.D. Ill. 2008) ("[T]he general principles regarding avulsion announced by the Illinois Supreme Court in Schulte and the other Illinois cases cited are clear. The doctrine of avulsion is generally accepted as part of the common law throughout the United States."). Additionally, the former state capital, Kaskasia, was the site of a major avulsion in 1881.

Indiana	Yes	Bonewits v. Wygant, 75 Ind. 41, 44 (Ind. 1881) ("If the changes are made suddenly, without removing the intermediate soil, such as cut-offs, or the changing of the channel from one side of an island to the other, the riparian rights in the soil not moved by the water do not change with the thread of the stream."); Longabaugh v. Johnson, 321 N.E.2d 865, 867 (Ind. Ct. App. 1975) ("An avulsion has no effect on the title to land.")	N/A	Brief mention of Longabaugh's discussion of accretion and avulsion in Parkison v. McCue, 831 N.E.2d 118, 131 (Ind. Ct. App. 2005).
Louisiana	Yes (but recognizes a LA-specific version of avulsion)	Dickson v. Sandefur, 250 So. 2d 708, 718 (L. 1971) ("We recognize that the courts of other states and the federal courts have applied the terms 'avulsions' and 'cutoffs' in cases not too dissimilar to the present case. Of course we are not bound by these decisions.")	La. Civ. Code Ann. art. 502 ("If a sudden action of the waters of a river or stream carries away an identifiable piece of ground and unites it with other lands on the same or on the opposite bank, the ownership of the piece of ground so carried away is not lost. The owner may claim it within a year, or even later, if the owner of the bank with which it is united has not taken possession."); La. Civ. Code Ann. art. 504 ("When a navigable river or stream abandons its bed and opens a new one, the owners of the land on which the new bed is located shall take by way of indemnification the abandoned bed, each in proportion to the quantity of land that he lost.")	Hamel's Farm, L.L.C. v. Muslow, 43,475 (La. App. 2 Cir. 8/13/08), 988 So. 2d 882, 889 (Affirming Louisiana's statutory approach to riparian rights.)

Maine	Unclear	Absent case law to the contrary, Maine would appear to adopt Massachusetts's approach to avulsion based on the opinion in Bell v. Town of Wells, 557 A.2d 168, 175 (Me. 1989) ("The Maine common law rules defining the property interests in intertidal land come from the same Colonial Ordinance source as the Massachusetts common law rules on that subject, and the Maine case development on the subject has in no significant respect departed from that in Massachusetts.")	N/A	Limited available case law on accretion, reliction and avulsion. There's an unreported decision in Maine Superior Court that discusses avulsion. Bohnson v. Hamblet, No. CV-81-1324, 1986 Me. Super. LEXIS 28, *14 (Me. Super. Feb. 6, 1986). ("The common law principles regarding accretion, reliction and avulsion apply generally to lakes and ponds as well as rivers and streams, and they apply equally to waters in which title to the bed is in private ownership and to those in which title is in the State.")
Maryland	Yes	Dep't of Nat. Res. v. Mayor & Council of Ocean City, 332 A.2d 630, 638 (Md. 1975) (holding that land submerged due to gradual erosion or flooding would revert to the state, but land submerged due to an avulsion would remain with the property owner)	Md. Code Ann., Envir. § 16-201 ("A person who is the owner of land bounding on navigable water is entitled to any natural accretion to the person's land, to reclaim fast land lost by erosion or avulsion during the person's ownership of the land to the extent of provable existing boundaries. The person may make improvements into the water in front of the land to preserve that person's access to the navigable water or, subject to subsection (c), protect the shore of that person against erosion.")	Windsor Resort Inc. v. Mayor & City Council of Ocean City, 526 A.2d 102, 105 (Md. Ct. Spec. App. 1987) ("[A] sudden or violent change to the topography of the shoreline is an avulsion and has no effect on boundaries and ownership rights.")

Massachusetts	Unclear. Massachusetts follows the typical common law on accretion, but no case outside of land court that specifically addresses avulsion.	Allen v. Wood, 152 N.E. 617, 620 (Mass. 1926) ("It is well established, in the case of accretions to land along the seashore, that 'the line of ownership follows the changing water line.'")	N/A	Lorusso v. Acapesket Imp. Ass'n, Inc., No. 314-S, 1989 WL 1183738, at *6 (Mass. Land Ct. Mar. 24, 1989) ("Under the rule or doctrine of avulsion, which is followed by the great majority of jurisdictions, when a sudden or drastic change occurs in the boundary of a navigable body of water, then the boundaries of the abutting litoral land do not change. The boundaries will remain wherever they were just prior to the avulsion."); see also White v. Hartigan, 982 N.E.2d 1115, 1122 (Mass. 2013). ('"There is well-settled authority for the proposition that littoral (shoreline) boundaries are not fixed, because natural processes of accretion or erosion change them."')
Michigan	Yes	Klais v. Danowski, 129 N.W.2d 414, 423 (Mich. 1964) ("Application of the rules, then avulsions or erosions on the Great Lakes amounts to this that owners of lands, bordering on the navigable waters thereof, patented to their ancestors in title by the United States, gain by what comes through accretions or reliction but do not lose by erosion or evulsion that which they own under the patent.")	*See also* Mich. Comp. Laws Ann. § 324.32502	Peterman v. State Dep't of Nat. Res., 521 N.W.2d 499, 507-508 (Mich. 1994) (noting in passing that title to land formed by avulsive events adheres to the state).

Minnesota	Yes	State v. Longyear Holding Co., 29 N.W.2d 657, 667 (Minn. 1947) ("The drainage of the lake here was sudden and artificial . . . Under such circumstances, the doctrine of relictions would appear to have no application.")	N/A	Reads Landing Campers Ass'n, Inc. v. Twp. of Pepin, 546 N.W.2d 10, 13 (Minn. 1996) (reaffirming the general rule that avulsions do not change title to the land, but vests newly created land in the state)
Mississippi	Yes	Robinson v. Humble Oil & Ref. Co., 176 So.2d 307, 316-17 (Miss. 1965) ("The law is well established that when a stream is the boundary between properties, this boundary shifts with the gradual vagaries and changes in the stream, but that if there is a sudden or avulsive change in its course, the boundary remains fixed to the location of the stream prior to the avulsion."); see also Sharp v. Learned, 14 So. 2d 218, 220 (Miss. 1943)	N/A	Cox v. F-S Prestress, Inc., 797 So. 2d 839, 843 (Miss. 2001) ("When a stream is the boundary between properties, the boundary shifts with the gradual vagaries and changes in the stream, but if there is a sudden or avulsive change in its course, the boundary remains fixed to the location of the stream prior to the avulsion.")
New Hampshire	Unclear, limited case law.	No controlling case on avulsion. Historic cases on accretion though: Batchelder v. Keniston, 51 N.H. 496, 496 (N.H. 1872)	N/A	N/A

New Jersey	Yes	Garrett v. State, 289 A.2d 542, 546 (N.J. Super. Ct. Ch. Div. 1972); Ocean City Ass'n v. Shriver, 46 A. 690, 692-94 (N.J. 1900)	N/A	City of Long Branch v. Liu, 833 A.2d 106, 109 (N.J. Super. Ct. Law. Div. 2003) ("It is well established that land taken suddenly in this manner by force of nature or man remains in the ownership of the one from whom it was taken."); see also City of Long Branch v. Jui Yung Liu, 4 A.3d 542, 550 (N.J. 2010) ("An avulsion, which produces a sudden gain or loss of shoreline, does not result in a shifting of the property line.")
New York	Yes	City of New York v. Realty Assocs., 176 N.E. 171, 172 (N.Y. 1931) ("Assuming that land lost by erosion returns to the ownership of the state, we think that the same conclusion does not follow the effects of avulsion."); In re City of Buffalo, 206 N.Y. 319, 325 (N.Y. 1912); see also In re Point Lookout, Town of Hempstead, Nassau Cty., 144 N.Y.S.2d 440, 443 (N.Y. Sup. Ct. 1954)	N/A	Trustees of Freeholders & Commonalty of Town of Southampton v. Heilner, 375 N.Y.S.2d 761, 769 (N.Y. Sup. Ct. 1975) (finding that artificial avulsions resulting in submerged land do not divest a property owner of their title to that land.)
North Carolina	Yes	State v. Johnson, 179 S.E.2d 371, 385 (N.C. 1971) ("The avulsive reopening of a different inlet in 1944 at a point north of New Inlet's 1933 location worked no change in the location of that boundary line or in the legal title to the lands lying north and south of it.")	N.C. Gen. Stat. Ann. § 146-6	No significant developments.
Ohio	Yes	Limle v. Robison, 25 Ohio C.D. 313, 315 (Ohio Ct. App. 1915); Baumhart v. McClure, 153 N.E. 211 (Ohio Ct. App. 1926)	*See* Ohio Rev. Code Ann. § 1506.10	State ex rel. Merrill v. Ohio Dep't of Nat. Res., 955 N.E.2d 935, 949 (Ohio 2011) (mentioning principles of avulsion briefly)

Oregon	Yes	Tomasek v. State, 248 P.2d 703, 712 (Or. 1952); see also State By & Through State Land Bd. v. Corvallis Sand & Gravel Co., 582 P.2d 1352, 1364 (Or. 1978)	N/A	Sea River Properties, LLC v. Parks, 333 P.3d 295, 303 n.9 (Or. 2014) ("The process of sudden and perceptible shifts in water bodies and water courses causing changes to land is called avulsion. Generally, avulsion does not change property rights.") Hardy v. State Land Bd., 360 P.3d 647, 654 (Or. Ct. App. 2015) ("'avulsive' shifts are sudden, such as the result of flood, and do not affect ownership boundaries.")
Pennsylvania	Yes	Moon Twp. v. Findlay Twp., 553 A.2d 500, 503 (Pa. Cmwlth. Ct. 1989) ("Of particular importance to the instant case are the common law doctrines of avulsion and accretion, which are the law in Pennsylvania."); see also City of Allegheny v. Moorehead, 80 Pa. 118, 132 (Pa. 1876).	N/A	N/A
Rhode Island	Yes	Spouting Rock Beach Ass'n v. Garcia, 244 A.2d 871, 875 (R.I. 1968) ("It indicated to the court that the commissioners were aware that the ocean's roll together with the storms which would surely follow could change by the processes of accretion, avulsion or erosion the precise location of the shore.")	N/A	N/A
South Carolina	Unclear. Historic case law suggests that avulsion was recognized but there are no 20th century cases on the topic.	Spigener v. Cooner, 42 S.C.L. 301, 305 (S.C. App. L. 1855)	N/A	N/A

Texas	Yes	Coastal Indus. Water Auth. v. York, 532 S.W.2d 949, 952 (Tex. 1976); Maufrais v. State, 180 S.W.2d 144, 149 (Tex. 1944) ("the great weight of authority, as shown by the decisions in many cases, is to the effect that when avulsion occurs the line dividing the property of riparians remains according to the former boundaries, and not according to the boundaries created by the avulsion."); But see City of Corpus Christi v. Davis, 622 S.W.2d 640, 646 (Tex. App. 1981) ("There is a further reason that the judgment vesting title in the State should be affirmed. It is undisputed that not all the shoreline loss was attributable to sudden and obvious causes, although it is true that hurricanes and northers have been responsible for a substantial part of the total loss of the shoreline. Nevertheless, the evidence is that forces other than hurricanes and northers, such as summertime night winds and quick water action, are at work slowly shifting away the sands of North Beach. Such forces are classically erosive, not avulsive. The Davises failed to overcome the presumption that the State held title to the disputed acreage by proving that the total loss of the shoreline resulted from avulsive action.")	N/A	Reaffirmed in TH Investments, Inc. v. Kirby Inland Marine, L.P., 218 S.W.3d 173, 185 (Tex. App. 2007). Cf. Severance v. Patterson, 370 S.W.3d 705, 725 (Tex. 2012) ("[A] vulsive events such as storms and hurricanes that drastically alter pre-existing littoral boundaries do not have the effect of allowing a public use easement to migrate onto previously unencumbered property. This holding shall not be applied to use the avulsion doctrine to upset the long-standing boundary between public and private ownership at the mean high tide line.")

Virginia	Yes	Woody v. Abrams, 169 S.E. 915, 918 (Va. 1933) ("But where there is avulsion or sudden change from any cause, natural or artificial, by which a stream leaves its old bed and cuts for itself a new channel, the rule is otherwise, for title cannot be made to depend upon the meanderings of vagrant streams.")	See Va. Code Ann. § 28.2-1201 ("A. Except as otherwise provided in subsections B and C hereof, all ungranted islands which rise by natural or artificial causes from the beds of bays, rivers and creeks that are ungranted under § 28.2-1200 shall remain the property of the Commonwealth and shall be managed by the Commission as provided in Article 2 (§ 28.2-1503 et seq.) of Chapter 15 of this title. In case of any conflict between the provisions of this subsection and the common law of accretion, reliction and avulsion, such common law shall control.")	Lynnhaven Dunes Condo. Ass'n v. City of Virginia Beach, 733 S.E.2d 911, 916 (Va. 2012) (citing Stop the Beach Renourishment on avulsion)
Washington	Yes	Parker v. Farrell, 445 P.2d 620, 622 (Wash. 1968) ("If, however, the change of the stream is avulsive, the original boundary line remains."); Hirt v. Entus, 224 P.2d 620, 623 (Wash. 1950) ("[W]hen a stream, which is a boundary, from any cause suddenly abandons its old channel and creates a new one, or suddenly washes from one of its banks a considerable body of land and deposits it on the opposite bank, the boundary does not change with changed course of the stream, but remains as it was before.")	N/A	No significant developments in the case law, but avulsion gets cited later in several nuisance/pollution cases.

Wisconsin	Yes	Baldwin v. Anderson, 161 N.W.2d 553, 559 (Wis. 1968) ("A change in a water course by avulsion does not result in a change to the title of property so affected."); State v. Bowen, 135 N.W. 494, 496 (Wis. 1912) ("States and individuals alike are subject to the losses and gains of erosion and accretion; but neither can have the boundaries of his domain changed by avulsion, or by the diversion of the water effected by human agencies.")	N/A	No on point recent cases. Most cases confirm traditional common law principles of accretion and reliction. This would suggest that the state still follows the common law principle of avulsion.