We consider a claim that the decision of a State's court of last resort took property without just compensation in violation of the Takings Clause of the Fifth Amendment, as applied against the States through the Fourteenth, see *Dolan v. City of Tigard*, 512 U.S. 374, 383-384, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994).

I

A


FN1. Many cases and statutes use “riparian” to mean abutting any body of water. The Florida Supreme Court, however, has adopted a more precise usage whereby “riparian” means abutting a river or stream and “littoral” means abutting an ocean, sea, or lake. *Walton Cty. v. Stop the Beach Renourishment, Inc.*, 998 So.2d 1102, 1105, n. 3 (2008). When speaking of the Florida law applicable to this case, we follow the Florida Supreme Court's terminology.

[3] Littoral owners have, in addition to the rights of the public, certain “special rights” with regard to the water and the foreshore, *Broward*, 58 Fla., at 407, 50 So., at 830, rights which Florida considers to be property, generally akin to easements, see *ibid.; Thiesen v. Gulf, Florida & Alabama R. Co.*, 75 Fla. 28, 57, 78, 78 So. 491, 500, 507 (1918) (on rehearing). These include the right of access to the water, the right to use the water for certain purposes, the right to an unobstructed view of the water, and the right to receive accretions and relictions to the littoral property. *Id., at 58-59, 78 So., at 501; Board of Trustees of Internal Improvement Trust Fund v. Sand Key Assoc., Ltd.*, 512 So.2d 934, 936 (Fla.1987). This is generally in accord with well-established common law, although the precise property rights vary among jurisdictions. Compare *Broward, supra*, at 409-410, 50 So., at 830, with 1 J. Lewis, Law of Eminent Domain § 100 (3d ed.1909); 1 H. Farnham, Law of Waters and Water Rights § 62, pp. 278-280 (1904) (hereinafter Farnham).

At the center of this case is the right to accretions and relictions. Accretions are additions of alluvion (sand, sediment, or other deposits) to waterfront land; relictions are lands once covered
by water that become dry when the water recedes. F. Maloney, S. Plager, & F. Baldwin, Water Law and Administration: The Florida Experience § 126, pp. 385-386 (1968) (hereinafter Maloney); 1 Farnham § 69, at 320. (For simplicity's sake, we shall refer to accretions and relictions collectively as accretions, and the process whereby they occur as accretion.) In order for an addition to dry land to qualify as an accretion, it must have occurred gradually and imperceptibly—that is, so slowly that one could not see the change occurring, though over time the difference became apparent. Sand Key, supra, at 936; County of St. Clair v. Lovingston, 23 Wall. 46, 66-67, 23 L.Ed. 59 (1874). When, on the other hand, there is a “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,” the change is called an avulsion. Sand Key, supra, at 936; see also 1 Farnham § 69, at 320.

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 (usually the State). See, e.g., Sand Key, supra, at 937; Maloney § 126.6, at 392; 2 W. Blackstone, Commentaries on the Laws of England 261-262 (1766) (hereinafter *2599 Blackstone). Thus, regardless of whether an avulsive event exposes land previously submerged or submerges land previously exposed, the boundary between littoral property and sovereign land does not change; it remains (ordinarily) what was the mean high-water line before the event. See Bryant v. Peppe, 238 So.2d 836, 838-839 (Fla.1970); J. Gould, Law of Waters § 158, p. 290 (1883). It follows from this that, when a new strip of land has been added to the shore by avulsion, the littoral owner has no right to subsequent accretions. Those accretions no longer add to his property, since the property abutting the water belongs not to him but to the State. See Maloney § 126.6, at 393; 1 Farnham § 71a, at 328.

In 1961, Florida's Legislature passed the Beach and Shore Preservation Act, 1961 Fla. Laws ch. 61-246, as amended, Fla. Stat. §§ 161.011-161.45 (2007). The Act establishes procedures for “beach restoration and nourishment projects,” § 161.088, designed to deposit sand on eroded beaches (restoration) and to maintain the deposited sand (nourishment). §§ 161.021(3), (4). A local government may apply to the Department of Environmental Protection for the funds and the necessary permits to restore a beach, see §§ 161.101(1), 161.041(1). When the project involves placing fill on the State's submerged lands, authorization is required from the Board of Trustees of the Internal Improvement Trust Fund, see § 253.77(1), which holds title to those lands, § 253.12(1)....

In 2003, the city of Destin and Walton County applied for the necessary permits to restore 6.9 miles of beach within their jurisdictions that had been eroded by several hurricanes. The project envisioned depositing along that shore sand dredged from further out. See Walton Cty. v. Stop the Beach Renourishment, Inc., 998 So.2d 1102, 1106 (Fla.2008). It would add about 75 feet of dry sand seaward of the mean high-water line (to be denominated the erosion-control line). The Department issued a notice of intent to award the permits, App. 27-41, and the Board approved the erosion-control line, id., at 49-50.

The petitioner here, Stop the Beach Renourishment, Inc., is a nonprofit corporation formed by people who own beachfront property bordering the project area (we shall refer to them as the Members). It brought an administrative challenge to the proposed project, see id., at 10-26, which was unsuccessful; the Department approved the permits. Petitioner then challenged that action in state court under the Florida Administrative Procedure Act, Fla. Stat. § 120.68 (2007). The District Court of Appeal for the First District concluded that, contrary to the Act's preservation of “all common-law riparian rights,” the order had eliminated two of the Members' littoral rights: (1) the right to receive accretions to their property; and (2) the right to have the contact of their property with the water remain intact. Save Our Beaches, Inc. v. Florida Dept. of
Environmental Protection, 27 So.3d 48, 57 (2006). This, it believed, would be an unconstitutional taking, which would "unreasonably infringe on riparian rights," and therefore require the showing under Fla. Admin. Code Rule 18-21.004(3)(b) that the local governments owned or had a property interest in the upland property. It set aside the Department's final order approving the permits and remanded for that showing to be made. 27 So.3d, at 60. It also certified to the Florida Supreme Court the following question (as rephrased by the latter court):

"On its face, does the Beach and Shore Preservation Act unconstitutionally deprive upland owners of littoral rights without just compensation?" fn1 998 So.2d, at 1105 (footnotes omitted).

The Florida Supreme Court answered the certified question in the negative....

Petitioner sought rehearing on the ground that the Florida Supreme Court's decision itself effected a taking of the Members' littoral rights contrary to the Fifth and Fourteenth Amendments to the Federal Constitution. fn4 The request *2601 for rehearing was denied. We granted certiorari, 557 U.S. ----, 129 S.Ct. 2792, 174 L.Ed.2d 290 (2009).

IV

[14] We come at last to petitioner's takings attack on the decision below. At the outset, respondents raise two preliminary points which need not detain us long. The city and the county argue that petitioner cannot state a cause of action for a taking because, though the Members own private property, petitioner itself does not; and that the claim is unripe because petitioner has not sought just compensation. Neither objection appeared in the briefs in opposition to the petition for certiorari, and since neither is jurisdictional, fn10 we deem both waived. See this Court's Rule 15.2; cf. Oklahoma City v. Tuttle, 471 U.S. 808, 815-816, 105 S.Ct. 2427, 85 L.Ed.2d 791 (1985).

FN10. Petitioner meets the two requirements necessary for an association to assert the Article III standing of its Members. See Food and Commercial Workers v. Brown Group, Inc., 517 U.S. 544, 555-557, 116 S.Ct. 1529, 134 L.Ed.2d 758 (1996). And the claim here is ripe insofar as Article III standing is concerned, since (accepting petitioner's version of Florida law as true) petitioner has been deprived of property.

[15] Petitioner argues that the Florida Supreme Court took two of the property rights of the Members by declaring that those rights did not exist: the right to accretions, and the right to have littoral property touch the water (which petitioner distinguishes from the mere right of access to the water). fn11 Under petitioner's theory, *2611 because no prior Florida decision had said that the State's filling of submerged tidal lands could have the effect of depriving a littoral owner of contact with the water and denying him future accretions, the Florida Supreme Court's judgment in the present case abolished those two easements to which littoral property owners had been entitled. This puts the burden on the wrong party. There is no taking unless petitioner can show that, before the Florida Supreme Court's decision, littoral-property owners had rights to future accretions and contact with the water superior to the State's right to fill in its submerged land. Though some may think the question close, in our view the showing cannot be made.

FN11. Petitioner raises two other claims that we do not directly address. First, petitioner tries to revive its challenge to the beach restoration project, contending that it (rather than the Florida Supreme Court's opinion) constitutes a taking. Petitioner's arguments on this score are simply versions of two arguments it makes against the Florida Supreme Court's opinion: that the Department has replaced the Members' littoral property rights with versions that are inferior because statutory; and that the Members previously had the right to have their property contact the water. We reject both, infra, at 2612 - 2613, and n. 12. Second, petitioner attempts to raise
a challenge to the Act as a deprivation of property without due process. Petitioner did not raise this challenge before the Florida Supreme Court, and only obliquely raised it in the petition for certiorari. We therefore do not reach it. See Adams, 520 U.S., at 86-87, 117 S.Ct. 1028.

[16] Two core principles of Florida property law intersect in this case. First, the State as owner of the submerged land adjacent to littoral property has the right to fill that land, so long as it does not interfere with the rights of the public and the rights of littoral landowners. See Hayes v. Bowman, 91 So.2d 795, 799-800 (Fla.1957) (right to fill conveyed by State to private party); State ex rel. Buford v. Tampa, 88 Fla. 196, 210-211, 102 So. 336, 341 (1924) (same). Second, as we described supra, at 2598 - 2599, 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. See Bryant, 238 So.2d, at 837, 838-839. The issue here is whether there is an exception to this rule when the State is the cause of the avulsion. Prior law suggests there is not. In Martin v. Busch, 93 Fla. 535, 112 So. 274 (1927), the Florida Supreme Court held that when the State drained water from a lakebed belonging to the State, causing land that was formerly below the mean high-water line to become dry land, that land continued to belong to the State. Id., at 574, 112 So., at 287; see also Bryant, supra, at 838-839 (analogizing the situation in Martin to an avulsion). "'The riparian rights doctrine of accretion and reliction,'" the Florida Supreme Court later explained, "'does not apply to such lands.'" Bryant, supra, at 839 (quoting Martin, supra, at 578, 112 So., at 288 (Brown, J., concurring)). This is not surprising, as there can be no accretions to land that no longer abuts the water.

[18] Thus, Florida law as it stood before the decision below allowed the State to fill in its own seabed, and the resulting sudden exposure of previously submerged land was treated like an avulsion for purposes of ownership. The right to accretions was therefore subordinate to the State's right to fill. Thiesen v. Gulf, Florida & Alabama R. Co., suggests the same result. That case involved a claim by a riparian landowner that a railroad's state-authorized filling of submerged land and construction of tracks upon it interfered with the riparian landowners' rights to access and to wharf out to a shipping channel. The Florida Supreme Court determined that the claimed right to wharf out did not exist in Florida, and that therefore only the right of access was compensable. 75 Fla., at 58-65, 78 So., at 501-503. Significantly, although the court recognized that the riparian-property owners had rights to accretion, see *2612 id., at 64-65, 78 So., at 502-503, the only rights it even suggested would be infringed by the railroad were the right of access (which the plaintiff had claimed) and the rights of view and use of the water (which it seems the plaintiff had not claimed), see id., at 58-59, 78, 78 So., at 501, 507.

The Florida Supreme Court decision before us is consistent with these background principles of state property law. Cf. Lucas, 505 U.S., at 1028-1029, 112 S.Ct. 2886; Scranton v. Wheeler, 179 U.S. 141, 163, 21 S.Ct. 48, 45 L.Ed. 126 (1900). It did not abolish the Members' right to future accretions, but merely held that the right was not implicated by the beach-restoration project, because the doctrine of avulsion applied. See 998 So.2d, at 1117, 1120-1121. The Florida Supreme Court's opinion describes beach restoration as the reclamation by the State of the public's land, just as Martin had described the lake drainage in that case. Although the opinion does not cite Martin and is not always clear on this point, it suffices that its characterization of the littoral right to accretion is consistent with Martin and the other relevant principles of Florida law we have discussed.

What we have said shows that the rule of Sand Key, which petitioner repeatedly invokes, is inapposite. There the Florida Supreme Court held that an artificial accretion does not change the right of a littoral-property owner to claim the accreted land as his own (as long as the owner did not cause the accretion himself). 512 So.2d, at 937-938. The reason Martin did not apply, Sand Key explained, is that the drainage that had occurred in Martin did not lower the water level by "'imperceptible degrees,'" and so did not qualify as an accretion. 512 So.2d, at 940-941.
The result under Florida law may seem counter-intuitive. 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. Perhaps state-created avulsions ought to be treated differently from other avulsions insofar as the property right to accretion is concerned. But nothing in prior Florida law makes such a distinction, and Martin suggests, if it does not indeed hold, the contrary. Even if there might be different interpretations of Martin and other Florida property-law cases that would prevent this arguably odd result, we are not free to adopt them. The Takings Clause only protects property rights as they are established under state law, not as they might have been established or ought to have been established. We cannot say that the Florida Supreme Court's decision eliminated a right of accretion established under Florida law.

Petitioner also contends that the State took the Members' littoral right to have their property continually maintain contact with the water. To be clear, petitioner does not allege that the State relocated the property line, as would have happened if the erosion-control line were landward of the old mean high-water line (instead of identical to it). Petitioner argues instead that the Members have a separate right for the boundary of their property to be always the mean high-water line. Petitioner points to dicta in Sand Key that refers to “the right to have the property's contact with the water remain intact,” 512 So.2d, at 936. Even there, the right was included in the definition of the right to access, ibid., which is consistent with the Florida Supreme Court's later description that “there is no independent right of contact with the water” but it “exists to preserve the upland owner's core littoral right of access to the water,” 998 So.2d, at 1119. Petitioner's expansive interpretation of the dictum in Sand Key would cause it to contradict the clear Florida law governing avulsion. One cannot say that the Florida Supreme Court contravened established property law by rejecting it. FN12

FN12. Petitioner also argues that the Members' other littoral rights have been infringed because the Act replaces their common-law rights with inferior statutory versions. Petitioner has not established that the statutory versions are inferior; and whether the source of a property right is the common law or a statute makes no difference, so long as the property owner continues to have what he previously had.

V

Because the Florida Supreme Court's decision did not contravene the established property rights of petitioner's Members, Florida has not violated the Fifth and Fourteenth Amendments. The judgment of the Florida Supreme Court is therefore affirmed.

It is so ordered.