

To hold that a non-engineer should somehow intuit that the government has planted a type of vegetation that will armor the opposite bank is a gross mischaracterization of the protections that were set in place by this Court in *Dickinson*, and in the later cases of *Banks* and *Boling*.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Petition for Writ of Certiorari be granted. The "situation" either has not yet become "stabilized" or did not until 2012 – either way, rendering this lawsuit timely.

As the *Boling* court noted, the *Dickinson* opinion stands for the proposition that "accrual principles should not be rigidly applied in cases involving environmental takings," due to the difficulties facing property owners when the government leaves "the taking to physical events" and puts the onus on the owners to determine the decisive moment in the process to bring suit. 220 F.3d at 1372 (citing *Dickinson*, 331 U.S. at 748). Indeed, in *Boling* the Federal Circuit criticized the lower court for holding that "the claim stabilizes once any small portion of land has been taken," noting that such a holding is inconsistent with *Dickinson*. *Id.*

The instant case is on all fours with *Dickinson* and its progeny. Petitioner demonstrated that she filed her complaint within the statute of limitations. Petitioner respectfully requests that this Court reverse the lower courts' decisions and remand for trial.


Respectfully submitted,

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