

This is an unofficial translation of China's Supreme People's Court Interpretation on Several Issues Regarding the Application of Law in Environmental Civil Public Interest Litigation, compiled by the U.S.-Asia Partnership for Environmental Law at Vermont Law School for the convenience of international observers. The U.S.-Asia Partnership for Environmental Law at Vermont Law School takes no liability for any errors in this translation.

最高人民法院关于审理环境民事公益诉讼案件适用法律若干问题的解释

The Supreme People's Court Interpretation on Several Issues Regarding the Application of Law in Environmental Civil Public Interest Litigation

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《最高人民法院关于审理环境民事公益诉讼案件适用法律若干问题的解释》已于2014年12月8日由最高人民法院审判委员会第1631次会议通过，现予公布，自2015年1月7日起施行。

最高人民法院

2015年1月6日

The Supreme People's Court Interpretation on Several Issues Regarding the Application of Law in Environmental Civil Public Interest Litigation was adopted by the 1631st meeting of the Adjudication Committee of the Supreme People's Court on December 8, 2014, is hereby announce and shall come into force on January 7, 2015.

Supreme People's Court

January 6, 2015

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（2014年12月8日最高人民法院审判委员会第1631次会议通过自2015年1月7日起施行）

(It was adopted by the 1631st meeting of the Adjudication Committee of the Supreme People's Court on December 8, 2014 and shall come into force on January 7, 2015.)

为正确审理环境民事公益诉讼案件，根据《中华人民共和国民事诉讼法》《中华人民共和国侵权责任法》《中华人民共和国环境保护法》等法律的规定，结合审判实践，制定本解释。

This interpretation is formulated incorporating with trial practice and in accordance with the Civil Procedure Law of the People's Republic of China, the Environmental Protection Law of the People's Republic of China, the Tort Liability Law of the People's Republic of China and the Marine Environment Protection Law of the People's Republic of China for the purpose of properly hearing environmental civil public interest litigation cases.

第一条 法律规定的机关和有关组织依据民事诉讼法第五十五条、环境保护法第五十八条等法律的规定，对已经损害社会公共利益或者具有损害社会公共利益重大风险的污染环境、破坏生态的行为提起诉讼，符合民事诉讼法第一百一十九条第二项、第三项、第四项规定的，人民法院应予受理。

Article 1 Where organs and related organizations provided for by law file suits in accordance with the provisions of Article 55 of the Civil Procedure Law, Article 58 of the Environmental Protection Law or other laws, against actions polluting the environment or destructing the ecology that have already harmed the public interest or have a significant risk of harming the public interest; and where the case meets provisions of article 119(2) and 119(3) of the Civil Procedure Law; the people's courts shall accept it.

第二条 依照法律、法规的规定，在设区的市级以上人民政府民政部门登记的社会团体、民办非企业单位以及基金会等，可以认定为环境保护法第五十八条规定的社会组织。

Article 2 Social organizations that are registered with the civil affairs departments in accordance with the provisions of laws and regulations; such as social groups, private non-enterprise units, and foundations; may be considered "relevant organizations" as provided for by Article 55 of the Civil Procedure Law.

第三条 设区的市，自治州、盟、地区，不设区的地级市，直辖市的区以上人民政府民政部门，可以认定为环境保护法第五十八条规定的“设区的市级以上人民政府民政部门”。

Article 3 People's government Civil Administration departments of sub-districted municipalities, autonomous prefectures, leagues, regions or prefecture-level cities without sub-districts, or districts of direct-controlled municipalities or higher may be considered "people's government civil affairs departments at or above the sub-districted municipality level" as provided for in Article 58 of the Environmental Protection Law.

第四条 社会组织章程确定的宗旨和主要业务范围是维护社会公共利益，且从事环境保护公益活动的，可以认定为环境保护法第五十八条规定的“专门从事环境保护公益活动”。

社会组织提起的诉讼所涉及的社会公共利益，应与其宗旨和业务范围具有关联性。

Article 4 Social organizations whose articles of incorporation identify the primary objectives and scope of business to be protection of the social public interest, and have engaged in environmental protection public interest activities, shall be considered as an organization "specializing in environmental protection public interest activities" stipulated in Article 58 of the Environmental Protection Law.

The public interest involved in the lawsuit brought by a social organization should be relevant with its objectives and business scope.

第五条 社会组织在提起诉讼前五年内未因从事业务活动违反法律、法规的规定受过行政、刑事处罚的，可以认定为环境保护法第五十八条规定的“无违法记录”。

Article 5 A social organization that has not been under administrative or criminal penalty for violation of laws or administrative regulations during the five years before it brings an action in the court shall be affirmed as “no offence records” stipulated in Article 58 of the Environmental Protection Law.

第六条 第一审环境民事公益诉讼案件由污染环境、破坏生态行为发生地、损害结果地或者被告住所地的中级人民法院管辖。

中级人民法院认为确有必要的，可以在报请高级人民法院批准后，裁定将本院管辖的第一审环境民事公益诉讼案件交由基层人民法院审理。

同一原告或者不同原告对同一污染环境、破坏生态行为分别向两个以上有管辖权的人民法院提起环境民事公益诉讼的，由最先立案的人民法院管辖，必要时由共同上级人民法院指定管辖。

Article 6 The first instance of environmental civil public interest litigation case shall be under the jurisdiction of the people’s court of intermediate level or above where the conducts of environmental pollution and ecological destruction occurred or the place where their harmful consequences occurred, or where the defendant’s residency is.

Where an Intermediate People’s Court determines there is a real need, after applying for approval to the High People’s Court, it may rule that the first instance civil environmental public interest case over which it has jurisdiction, to a basic level people's court.

Where the same plaintiff or different plaintiffs filed environmental civil public interest litigation against the same behaviors of environmental pollution and ecological destruction to two or more People’s Courts that have jurisdictions, the first People’s Court that accepted the case has jurisdiction, the higher People’s Court should designate jurisdiction when necessary.

第七条 经最高人民法院批准，高级人民法院可以根据本辖区环境和生态保护的实际情况，在辖区内确定部分中级人民法院受理第一审环境民事公益诉讼案件。

中级人民法院管辖环境民事公益诉讼案件的区域由高级人民法院确定。

Article 7 Upon approval from the Supreme People’s Court, High People’s Courts may, on the basis of the actual situation of environmental and ecosystem protection in their jurisdictions, determine certain Intermediate People’s Courts in their jurisdiction to accept environmental civil public interest cases.

The jurisdiction regions for which the Intermediate People’s Courts handle environmental civil public interest cases are determined by the High People’s Court.

第八条 提起环境民事公益诉讼应当提交下列材料：

- （一）符合民事诉讼法第一百二十一条规定的起诉状，并按照被告人数提出副本；
- （二）被告的行为已经损害社会公共利益或者具有损害社会公共利益重大风险的初步证明材料；
- （三）社会组织提起诉讼的，应当提交社会组织登记证书、章程、起诉前连续五年的年度工作报告书或者年检报告书，以及由其法定代表人或者负责人签字并加盖公章的无违法记录的声明。

Article 8 When an environmental civil public interest lawsuit is brought, the following materials shall be filed:

- (1) A statement of complaint in conformity with the provisions of Article 121 of the Civil Procedure Law, and copies of statement shall be provided according to the number of defendants;
- (2) Initial supporting materials proving that the action of the defendant has infringed upon public interest or has great risk of harming public interest.

When a social organization brings an action, it shall submit to the people's court its registration certificate, articles of incorporation, annual work reports or annual inspection reports in the past consecutive years before the proceeding, and a statement of non-violation records signed by its legal person or person in charge, with the company's stamp.

第九条 人民法院认为原告提出的诉讼请求不足以保护社会公共利益的，可以向其释明变更或者增加停止侵害、恢复原状等诉讼请求。

Article 9 After examination and verification of the litigation request raised by the plaintiff, The people's court deems that the litigation requests raised by the plaintiff are not enough to protect public interest, it may clarify to the plaintiff and ask for modification or add claims such as stopping infringement and restoring to original status.

第十条 人民法院受理环境民事公益诉讼后，应当在立案之日起五日内将起诉状副本发送被告，并公告案件受理情况。

有权提起诉讼的其他机关和社会组织在公告之日起三十日内申请参加诉讼，经审查符合法定条件的，人民法院应当将其列为共同原告；逾期申请的，不予准许。

公民、法人和其他组织以人身、财产受到损害为由申请参加诉讼的，告知其另行起诉。

Article 10 The people's court shall send a copy of the complaint to the defendant within five days after docketing the case of environmental civil public interest litigation, and issue a public notice on the acceptance of the case.

If an organ or a relevant organization that has authority to file a suit files a request to participate in the proceedings within 30 days after the public notice, and examination and verification shows all conditions

are met, the people's court shall list it as co-plaintiff. If they fail to file the request within the specified time, the request shall not be granted.

Citizens, legal persons and other organizations file request to participate in the proceedings for personal or property damage, they shall be informed to otherwise initiate another action.

第十一条 检察机关、负有环境保护监督管理职责的部门及其他机关、社会组织、企业事业单位依据民事诉讼法第十五条的规定，可以通过提供法律咨询、提交书面意见、协助调查取证等方式支持社会组织依法提起环境民事公益诉讼。

Article 11 Procuratorate, department with the duty of environmental protection supervision and management and other organs, social organizations, enterprises and institutions who in accordance with Article 15 of Civil Procedure Law, may support social organizations to file environmental civil public interest lawsuit by providing legal consultation, filing written opinions, coordinating with investigation and evidence collection and other methods.

第十二条 人民法院受理环境民事公益诉讼后，应当在十日内告知对被告行为负有环境保护监督管理职责的部门。

Article 12 After accepting an environmental civil public interest lawsuit, the People's Court shall, within ten days, notify the governmental department responsible for environmental protection supervision and management of the defendant.

第十三条 原告请求被告提供其排放的主要污染物名称、排放方式、排放浓度和总量、超标排放情况以及防治污染设施的建设和运行情况等环境信息，法律、法规、规章规定被告应当持有或者有证据证明被告持有而拒不提供，如果原告主张相关事实不利于被告的，人民法院可以推定该主张成立。

Article 13 The plaintiff requests the defendant to provide environmental information such as the names of major pollutants, the means of discharge, the concentration and total load of pollutants discharged, whether the defendant discharges pollutants exceeding the discharge standard, and the construction and operation of pollution prevention and control facilities. If law, regulations and rules stipulate that the defendant should have the information or there is evidence proving that the defendant has the information but refuses to provide it, and the plaintiff claims that the relevant information is not in favor of the defendant, the people's court may infer that the assertions of the plaintiff have been established.

第十四条 对于审理环境民事公益诉讼案件需要的证据，人民法院认为必要的，应当调查收集。

对于应当由原告承担举证责任且为维护社会公共利益所必要的专门性问题，人民法院可以委托具备资格的鉴定人进行鉴定。

Article 14 Where the people's court considers the evidence necessary for the trial of the environmental civil public interest case, the people's court shall investigate and collect it.

If the people's court deems necessary that the special issues that the plaintiff bears the burden of proof and for the purpose of protecting social public interest, the people's court may retain a credentialed appraiser to conduct the appraisal.

第十五条 当事人申请通知有专门知识的人出庭，就鉴定人作出的鉴定意见或者就因果关系、生态环境修复方式、生态环境修复费用以及生态环境受到损害至恢复原状期间服务功能的损失等专门性问题提出意见的，人民法院可以准许。

前款规定的专家意见经质证，可以作为认定事实的根据。

Article 15 Where parties apply to have an expert with special knowledge to testify in trial to comment on the appraisal opinions or give opinions to special issues such as causation, methods to restore ecological environment, ecological restoration costs and damages of interim losses of ecological functions between actual ecological damage and restoration; the people's court should approve.

Expert opinions provided in the previous provision that have been cross examined can be admitted as evidence.

第十六条 原告在诉讼过程中承认的对己方不利的事实和认可的证据，人民法院认为损害社会公共利益的，应当不予确认。

Article 16 Where, during the course of legal proceedings, the plaintiff affirms evidence or concedes adverse facts and the people's court finds it harmful to public interests; it may withhold confirmation of that evidence or facts.

第十七条 环境民事公益诉讼案件审理过程中，被告以反诉方式提出诉讼请求的，人民法院不予受理。

Article 17 Where in the course of environmental civil public interest lawsuit trials, the defendant submits a claim as a counterclaim, the people's courts will not accept it.

第十八条 对污染环境、破坏生态，已经损害社会公共利益或者具有损害社会公共利益重大风险的行为，原告可以请求被告承担停止侵害、排除妨碍、消除危险、恢复原状、赔偿损失、赔礼道歉等民事责任。

Article 18 For behavior that pollutes environment and destructs ecosystems, causing harm to public interest, the people's courts may require the polluters to bear civil liabilities such as cessation of the infringement, removal of the obstacles, elimination of the danger, restitution, compensation for losses, formal apologies, etc.

第十九条 原告为防止生态环境损害的发生和扩大，请求被告停止侵害、排除妨碍、消除危险的，人民法院可以依法予以支持。

原告为停止侵害、排除妨碍、消除危险采取合理预防、处置措施而发生的费用，请求被告承担的，人民法院可以依法予以支持。

Article 19 Where plaintiffs request a cessation of the infringement, removal of the obstacles, elimination of the danger, so as to prevent the occurrence or expansion of ecological or environmental harm; people's courts may support it according to law.

第二十条 原告请求恢复原状的，人民法院可以依法判决被告将生态环境修复到损害发生之前的状态和功能。无法完全修复的，可以准许采用替代性修复方式。

人民法院可以在判决被告修复生态环境的同时，确定被告不履行修复义务时应承担的生态环境修复费用；也可以直接判决被告承担生态环境修复费用。

生态环境修复费用包括制定、实施修复方案的费用和监测、监管等费用。

Article 20 Where the plaintiff requests for restoration to the original state, people's courts may require the polluters to restore the environment to the condition and function before the harm happened. In case that complete restoration is not feasible, the people's courts may allow substitutive ways of restoration.

The people's courts that order defendant to restore environment may determine the cost of restoration when the defendant fails to implement its restoration obligations at the same time, or directly issue judgment on the ecological environmental restoration costs that the defendant should bear.

Ecological environmental restoration costs include the cost of designing and implementing restoration projects and the cost of monitoring supervision.

第二十一条 原告请求被告赔偿生态环境受到损害至恢复原状期间服务功能损失的，人民法院可以依法予以支持。

Article 21 Where plaintiff requests defendant to afford damage of interim losses of service functions during the recovery of ecological environment, people's courts should support it according to law.

第二十二条 原告请求被告承担检验、鉴定费用，合理的律师费以及为诉讼支出的其他合理费用的，人民法院可以依法予以支持。

Article 22 Where plaintiff requests defendant to afford testing and appraisal fees, reasonable attorney fees and other reasonable costs related to the litigation, people's courts should support it according to law.

第二十三条 生态环境修复费用难以确定或者确定具体数额所需鉴定费用明显过高的，人民法院可以结合污染环境、破坏生态的范围和程度、生态环境的稀缺性、生态环境恢复的难易程度、防治污染设备的运行成本、被告因侵害行为所获得的利益以及过错程度等因素，并可以参考负有环境保护监督管理职责的部门的意见、专家意见等，予以合理确定。

Article 23 Where ecological environmental restoration costs are difficult to determine or where the amount of the requisite appraisal costs are clearly excessive to determine the specific amount, the people's court may combine factors such as the scope and extent of environmental harm and ecological

damage, ecological scarcity, the difficulty of ecological restoration, the costs of running the pollution prevention facilities and the benefits gained by the defendant due to their infringements and the degree of fault, and may also consult departments that are responsible for environmental supervision and management and experts opinions, to make a reasonable determination.

第二十四条 人民法院判决被告承担的生态环境修复费用、生态环境受到损害至恢复原状期间服务功能损失等款项，应当用于修复被损害的生态环境。

其他环境民事公益诉讼中败诉原告所需承担的调查取证、专家咨询、检验、鉴定等必要费用，可以酌情从上述款项中支付。

Article 24 When the people's court rules that the defendant affords the ecological environment restoration costs and damages of interim loss of service functions during the recovery of ecological environment, payments for those costs should be used to restore the damaged ecological environment.

The payments prescribed in the previous provision may support some necessary costs of investigation, expert consultation, testing and appraisal fees and others incurred by losing plaintiffs in other environmental civil public interest litigation.

第二十五条 环境民事公益诉讼当事人达成调解协议或者自行达成和解协议后，人民法院应当将协议内容公告，公告期间不少于三十日。

公告期满后，人民法院审查认为调解协议或者和解协议的内容不损害社会公共利益的，应当出具调解书。当事人以达成和解协议为由申请撤诉的，不予准许。

调解书应当写明诉讼请求、案件的基本事实和协议内容，并应当公开。

Article 25 Where parties of environmental civil public interest litigation reach a mediation agreement through mediation or reach a settlement agreement by themselves, the people's court shall make a public notice on content of the agreement. The period of public notice shall not be less than 30 days.

After the public notice period, the people's court reviews and finds that the contents of the mediation agreement or settlement agreement does not harm social public interest, the people's court should issue mediation statement. Where parties apply for withdrawal on the basis of reaching a mediation agreement or a settlement, the people's court should not grant it.

A mediation statement should have claims, basic facts of the cases and contents of the agreement and should be made public.

第二十六条 负有环境保护监督管理职责的部门依法履行监管职责而使原告诉讼请求全部实现，原告申请撤诉的，人民法院应予准许。

Article 26 Where the department responsible for environmental protection supervision and management have performed its supervision duty according to law, thus all the litigious claims of the plaintiff have been realized, and the plaintiff apply for withdrawal; the people's court should approve it.

第二十七条 法庭辩论终结后，原告申请撤诉的，人民法院不予准许，但本解释第二十六条规定的情形除外。

Article 27 Where the plaintiff applies for withdrawal after the conclusion of courtroom debate, the people's court shall not approve it, except for the circumstance prescribed in the Article 26 of this Interpretation.

第二十八条 环境民事公益诉讼案件的裁判生效后，有权提起诉讼的其他机关和社会组织就同一污染环境、破坏生态行为另行起诉，有下列情形之一的，人民法院应予受理：

（一）前案原告的起诉被裁定驳回的；

（二）前案原告申请撤诉被裁定准许的，但本解释第二十六条规定的情形除外。

环境民事公益诉讼案件的裁判生效后，有证据证明存在前案审理时未发现的损害，有权提起诉讼的机关和社会组织另行起诉的，人民法院应予受理。

Article 28 After the judgment of environmental civil public interest litigation case has taken into effect, other organs and social organizations that have authority to file suits initiated another action against the same environment pollution and ecological destruction action, and under any of the following circumstances, the people's court shall accept the case:

(1) The case brought by the plaintiff of the previous case was rejected;

(2) The plaintiff of the previous case applied for a withdrawal and was granted, except for the circumstance prescribed in the Article 26 of this Interpretation.

After the judgment of environmental civil public interest litigation case has taken into effect, there is evidence proves harms that were not discovered in the adjudication of the previous case, organs and social organizations that have authority to file suits initiated another action, the people's court should accept it.

第二十九条 法律规定的机关和社会组织提起环境民事公益诉讼的，不影响因同一污染环境、破坏生态行为受到人身、财产损害的公民、法人和其他组织依据民事诉讼法第一百一十九条的规定提起诉讼。

Article 29 Where the organs and relative organizations prescribed by law bring environmental civil public interest litigation, it will not affect citizens, legal persons and other organizations who have suffered personal damage and property loss for the same environmental pollution and ecological destruction conduct to initiate civil litigations according to the provisions of Article 119 of the Civil Procedure Law.

第三十条 已为环境民事公益诉讼生效裁判认定的事实，因同一污染环境、破坏生态行为依据民事诉讼法第一百一十九条规定提起诉讼的原告、被告均无需举证证明，但原告对该事实有异议并有相反证据足以推翻的除外。

对于环境民事公益诉讼生效裁判就被告是否存在法律规定的不承担责任或者减轻责任的情形、行为与损害之间是否存在因果关系、被告承担责任的大小等所作的认定，因同一污染环境、破坏生态行为依据民事诉讼法第一百一十九条规定提起诉讼的原告主张适用的，人民法院应予支持，但被告有相反证据足以推翻的除外。被告主张直接适用对其有利的认定的，人民法院不予支持，被告仍应举证证明。

Article 30 Plaintiffs and the defendants in civil litigation initiated under Article 119 of the Civil Procedure Law do not need to prove for the facts already confirmed by the effective judgment of the environmental civil public interest litigation arising from the same environmental pollution or ecological destruction conducts, except that the plaintiff has objection and has contrary evidence sufficient to overturn the original fact.

Of the effective judgment of the environmental civil public interest litigation, the ascertaining whether the defendant has circumstances of assuming no liability or mitigated liability according to law, whether there is causal link between conducts and damages, and the extent of liability the polluter shall bear, which are applicable for the claims of the plaintiff who initiates civil litigation according to the provisions of Article 119 of the Civil Procedure Law for the same environmental pollution and ecological destruction conducts, the people's court shall support them. If the defendant claims to directly apply the ascertaining that are advantageous to the defendant, the people's court shall not support the claim, and the defendant shall still present evidence to prove it.

第三十一条 被告因污染环境、破坏生态在环境民事公益诉讼和其他民事诉讼中均承担责任，其财产不足以履行全部义务的，应当先履行其他民事诉讼生效裁判所确定的义务，但法律另有规定的除外。

Article 31 The defendant who was held liable for environmental pollution and ecological destruction by environmental civil public interest litigation and other civil litigation, whose assets was not enough to perform all the obligations under the judgments, the defendant shall perform obligations under other civil litigation judgment except as otherwise provided by law.

第三十二条 发生法律效力的环境民事公益诉讼案件的裁判，需要采取强制执行措施的，应当移送执行。

Article 32 The judgment of environmental civil public interest litigation case that has taken into effect and if compulsive execution measures are needed, the people's court shall transfer for execution.

第三十三条 原告交纳诉讼费用确有困难，依法申请缓交的，人民法院应予准许。

败诉或者部分败诉的原告申请减交或者免交诉讼费用的，人民法院应当依照《诉讼费用交纳办法》的规定，视原告的经济状况和案件的审理情况决定是否准许。

Article 33 Where plaintiffs truly have difficulty to turn in litigation fee and applies to defer the payment of the litigation fee, the people's court shall permit it.

Where plaintiffs who lost or partially lost the case apply to reduce or waive the litigation fee, the people's court shall decide regarding the economic situation of the plaintiff and the trial of the case.

第三十四条 社会组织有通过诉讼违法收受财物等牟取经济利益行为的，人民法院可以根据情节轻重依法收缴其违法所得、予以罚款;涉嫌犯罪的，依法移送有关机关处理。

社会组织通过诉讼牟取经济利益的，人民法院应当向登记管理机关或者有关机关发送司法建议，由其依法处理。

Article 34 Where social organizations have sought economic interest by accepting properties of others through litigation, the people's court shall judge to confiscate their illegal earnings and impose on fine in accordance with the seriousness of the case, where a crime is constituted, the matter shall be referred to judicial authorities for investigation.

For social organizations seeking economic interest through litigation, the people's court shall send judicial suggestions to its administrative authority or registration bureau, and the relative authority shall give punishment in accordance with law.

第三十五条 本解释施行前最高人民法院发布的司法解释和规范性文件，与本解释不一致的，以本解释为准。

Article 35 The judicial interpretations and regulative documents by the Supreme People's Court before the implementation of this interpretation that are not in consistent with this interpretation, this interpretation shall prevail.