

**ANALYSIS OF THE PRACTICE OF WATER POLLUTION
PUBLIC INTEREST LITIGATION: BASED ON CASES
HANDLED BY THE GUANGZHOU MARITIME COURT**

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INTRODUCTION

In December 2009, the Center of Environmental Resources and Energy Law and the Environmental Law Clinic at Sun Yat-Sen University School of Law researched and analyzed water pollution public interest cases (mostly arising from oil spills) decided by the Guangzhou Maritime Court. The research group, directed by the author, sought to explore the development of environmental public interest litigation, identify its existing problems, and improve the environmental public interest litigation system. Having screened 34 water pollution cases, the research group identified 14 cases of public interest litigation as the research object.

The research group used two standards to choose cases. The first standard is based on the type of plaintiff that initiated the case. Current law does not specify who can be a plaintiff in public interest litigation; however, observation of the judicial practice shows that cases are usually initiated by administrative authorities, prosecutors, and a small number of non-governmental organizations. Therefore, the research group focused on the cases involving such plaintiffs. The second standard is based on the type of claim at issue in the litigation. The purpose of public interest litigation is to remedy damage to national and public interests. Administrative agencies can file suit to protect the private interests of their sector. Thus, only those cases which claim compensation for damage to the national marine fisheries resources, the costs of eliminating marine pollution, and rehabilitation of the environment constitute public interest cases. The 14 selected cases are

civil cases of public interest litigation.¹ This article is based on the classification and analysis of the selected cases.

I. ANALYSIS OF PLAINTIFF STANDING

A. Types of Plaintiffs

An administrative authority filed 12 of the 14 public interest suits, while the prosecutors filed two. Of the 12 lawsuits filed by the administrative authority, the Oceanic and Fisheries Administrator of Guangdong Province filed eight. Other agencies that filed lawsuits include the Environmental Protection Agency (Zhuhai Municipal Environmental Protection Bureau), the Environmental Health Agency (Environmental Hygiene Department of Zhuhai), the Governmental Agency (Zhuhai Qiao Management District), and the Maritime Affairs Agency (Shantou Maritime Affairs Bureau). Some administrative authorities initiated legal proceedings according to explicit authorization by law. For example, the Administrator of the Oceanic and Fisheries Administration—a marine environmental protection, supervision, and management department—was delegated by law to claim compensation for the national oceanic resource losses from the responsible person on behalf of the State.² Other administrative authorities have a duty to file suit. These agencies undertake the responsibility of environmental supervision and management. When a third party pollutes waters, the agencies must take measures to eliminate the pollutant and therefore incur costs for clean-up and rehabilitation. According to the *Polluter Responsible* principle, the polluter is obliged to eliminate the hazard and remove obstacles.³ Therefore, the polluter should pay the clean-up cost. The administrators file claims to require the polluter to pay the clean-up cost and request that the polluter undertake the responsibility of cleaning up the pollution. Most of the suits filed by administrators include claims based on the *Polluter Responsible* principle. The two cases

1. No environmental public interest litigation case against government administrative decisions has been accepted by the court at this time.

2. This is according to Article 41 of the 1982 Marine Environmental Protection Law, later replaced by Article 90 of the 1999 Marine Environment Protection Law. Marine Environment Protection Law of the People's Republic of China (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 23, 1982, effective Mar. 1, 1983) 1983 CHINA LAW LEXIS 142, art. 41 (China); Marine Environment Protection Law of the People's Republic of China (promulgated by the Standing Comm. Nat'l People's Cong., Dec. 5, 1999, effective Apr. 1, 2000) LAWINFOCHINA, art. 90 (China).

3. Marine Environment Protection Law of the People's Republic of China (1999), art. 90.

initiated by the Procuratorate are claims to maintain public environmental safety and protect the public interest.

B. Argument of Plaintiff Standing

Of the 14 cases, the plaintiff's standing was challenged in nine cases (64.2% of total cases), standing was not challenged in two cases (14.2%), and there is no information on the issue of standing in the remaining three cases, which were settled by mediation (there are no explanations referring to standing disputes in the mediation decisions). The arguments against standing include: (1) the plaintiff is not entitled to file a suit for resource damages on behalf of the nation; (2) the plaintiff has no direct interest in the case, which is required by Article 108 of the Civil Procedure Law;⁴ (3) since the plaintiff, as an administrative department, is not an equal civil subject with the defendant, it is unfair to bring a civil suit against the defendant; and (4) the defendant is not authorized to exercise supervision and management of the marine environment. It is worth noting that the two public interest cases brought by the Procuratorate did not include challenges to the plaintiff's standing.

Regardless of whether there was a challenge, the court approved the plaintiff's standing in all fourteen cases. This indicates that the court has an open-minded attitude towards plaintiff standing. However, the court also carefully analyzed challenges to a plaintiff's standing raised by the defendant. The following discussion of three example cases shows how the court has given detailed attention to these issues.

In *Oceanic and Fisheries Administrator of Guangdong Province v. Shipping Co., Ltd., Taizhou, East China Sea, Fujian, China Marine Bunker (Petrol China), Co., Ltd.*, a marine pollution and damage compensation dispute, the court verified the oceanic and fisheries administrator's standing to file claims for compensation for marine resource damages.⁵ The court held: "The marine resources in the territorial sea of the People's Republic of China belong to the People's Republic of China. Local people's government, as the delegate of [the] nation in certain region[s], has the right

4. Civil Procedure Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong., Oct. 28, 2007, effective Apr. 9, 1991) LAWINFOCHINA, art. 108 (China).

5. *Guang Dong Sheng Hai Yang Yu Shui Chan Ting V. Tai Zhou Dong Hai Hai Yun You Xian Gong Si, Zhong Guo Chuan Bo Ran Liao Gong Ying Fu Jian You Xian Gong Si* (广东省海洋与水产业厅诉台州东海海运有限公司和中国船舶燃料供应福建有限公司) [Oceanic and Fisheries Adm'r of Guangdong Province v. Shipping Co., Ltd. Taizhou, East China Sea, Fujian, China Marine Bunker (Petrol China) Co., Ltd], No. 150 Writing Verdict of Marine Affairs of the Guangzhou Maritime Court (1999) (China).

and obligation to maintain national resource's property in the jurisdiction."⁶ The "Oceanic and Fisheries Administrator of Guangdong Provincial is the functional department of People's Government of Guangdong Province, in charge of the comprehensive management of marine [resources] and aquaculture. The administrator is responsible for the asset management of waters' and coastal zone natural resources, for the marine environmental protection and [for] safeguarding national maritime right and interest."⁷ Therefore, the court stated:

When the ownership of national resources has been infringed upon, the plaintiff, as [the] nation's regional representative, has the right and obligation to uphold [the] nation's ownership. The plaintiff has [a] direct interest in this case. The plaintiff's standing . . . complied with the law, and therefore, [the] Oceanic and Fisheries Administrator of Guangdong Provincial is eligible to be the plaintiff. . . .⁸ When the administrative authority is exercising direct coercive power, given by the nation, to [the] executive, from which the subordinate relationship of managing and being managed emerges[,] such subordinate relationship doesn't associate with their own property relations, in another word[s], their equal relationship in civil law. At that time, the plaintiff is the administrative subject. When the administrative authority is exercising ownership right[s,] given by the nation[,] by claiming for damage compensation, it is [a] right rather than [a] power. The civil property relationship is equal, having nothing to do with the administrative legal relationship. Therefore[,] the case is not coercive, and the purpose of reinstating the original right can only be achieved [by] equal negotiating or legal proceedings. The administrative authority is the civil subject in this time. There is no conflict between the public and the private law, instead, they each attend[] to their own duty, forming an organic whole. The integrity and seriousness [have] not been destroyed, on the contrary, [they have] been maintained.⁹

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

In *Environmental Protection Bureau of Guangdong Province, Zhuhai Municipality v. Shipping Co., Ltd. Taizhou, East China Sea, Fujian, China Marine Bunker (Petrol China), Co., Ltd.*, a marine pollution and damage compensation dispute arising from the same incident as in the previously discussed case, the court verified the Environmental Protection Agency's standing to file claims for compensation for marine resource damages.¹⁰ The court held that the responsibilities of the Environmental Protection Agency include the protection and management of the marine environment and the right to represent the nation to file claims for environmental damage within its jurisdiction.¹¹

In *People's Procuratorate of Haizhu District of Guangzhou Municipality v. Zhong-Ming Chen*, a water pollution and damage compensation dispute, the court verified the Procuratorate's standing to be the plaintiff.¹² Despite the party not formally challenging the prosecutor's standing, as noted above, the court chose to address the question because it is a significant contemporary legal issue. The court held that the water belongs to the nation.¹³ According to Article 73 of the General Principles of Civil Procedure Law of the People's Republic of China, the whole people shall own state property.¹⁴ State property is sacred and inviolable, and no organization or individual shall be allowed to seize, encroach upon, privately divide, retain, or destroy it.¹⁵ State owned water resources shall not be illegally abused or destroyed by any organization or individual.¹⁶ When water resources are abused or destroyed, the State is entitled to claim compensation from the violator in order to make up for the damages.¹⁷ The

10. Zhu Hai Shi Huan Bao Ju He Guang Dong Sheng Hai Yang Yu Shui Chan Ting Su Tai Zhou Dong Hai Hai Yun You Xian Gong Si He Zhong Guo Chuan Bo Ran Liao Gong Ying Fu Jian You Xian Gong Si Hai Yu Wu Ran Sun Hai Pei Chang Jiu Fen An (珠海市环保局和广东省海洋与水产厅诉台州东海海运有限公司和中国船舶燃料供应福建有限公司海域污染损害赔偿纠纷案) [Env'tl. Prot. Bureau of Guangdong Province, Zhuhai Municipality v. Shipping Co., Ltd. Taizhou, East China Sea, Fujian, China Marine Bunker (Petrol China), Co., Ltd.], No. 88 Writing Verdict of Marine Affairs of Guangzhou Maritime Court (1999) (China).

11. *Id.*

12. Guang Zhou Shi Hai Zhu Qu Ren Min Jian Cha Yuan Su Chen Zhong Ming Shui Yu Wu Ran Sun Hai Pei Chang Jiu Fen An (广州市海珠区人民检察院诉陈忠明水域污染损害赔偿纠纷案) [People's Procuratorate of Haizhu District of Guangzhou Municipality v. Zhong-Ming Chen], No. 382 Writing Verdict of First Instance of Guangzhou Maritime Court (2008) (China).

13. *Id.*

14. General Principles of the Civil Law of the People's Republic of China (promulgated by Nat'l People's Cong., Apr. 12, 1986, effective Jan. 1, 1987) LAWINFOCHINA, art. 73 (China).

15. *Id.*

16. *People's Procuratorate of Haizhu Dist.*

17. *Id.*

Procuratorate is the State's legal supervisory organ.¹⁸ The Procuratorate has the duty to protect national property and resources against illegal infringement, and the prosecutorial power to bring a lawsuit on behalf of the State when state property and resources are illegally infringed upon.¹⁹

The verifications of the plaintiffs' standing in the above cases illustrate the court's deep understanding and mastery of the statute and legal spirit of interested parties in public interest cases. These cases not only provide useful guidance for the judicial practice, but also provide a beneficial analysis perspective for the theory.

C. Analysis and Suggestions

The disputes over plaintiff standing in the analyzed cases illustrate that: (1) generally, people don't understand the necessity of the administrative authority's claim for compensation for national resource damage through a civil suit; (2) there are some disagreements over who can represent state environmental resources; (3) the provisions of the law are not clear enough; and (4) it is a litigation strategy of the defendant to challenge the plaintiff's standing.²⁰ Therefore, the following efforts should be implemented.

1. Clarifying the Justification for Administrative Authorities to Bring Public Interest Litigation

The State has a dual identity. First, it is the subject of the political power; second, it is the subject of state-owned property. Since the state-owned property is set for the public interest and the exercising of state-owned property is aimed to protect public interests, the protection of state-owned property, therefore, often resorts to the power of state government. As regime subject, the State is empowered to exercise administrative measures to protect the state-owned property, such as administrative examination and approval, administrative licensing, administrative authorization, administrative penalties, and administrative charges.²¹ These measures are aimed at regulating the operation,

18. *Id.*

19. *Id.*

20. Some defendants want to increase the plaintiff's difficulties or prolong the length of litigation by raising a standing dispute.

21. See XIANFA art. 89 (1), § 3 (1982) (China) (stating that the State Council exercises the power "to adopt administrative measures, [and] enact administrative regulations"); see also Law of the People's Republic of China on Administrative Penalties (promulgated by the Nat'l People's Cong. Mar. 17, 1996, effective Oct. 1, 1996) 1996 CHINA LAW LEXIS 595 (China) ("standardizing the creation and

management, usage, and processing of state-owned property, and preventing property from loss and damage. In addition, the measures are also aimed at enforcing penalties and providing remedies when property is damaged. When state-owned environmental resources are damaged, people tend to believe that those administrative measures—particularly the charging of fees for the rights to develop and utilize environmental resources—alleviate any need for additional compensation. The State also has the power to charge administrative fines, which can be seen as compensation.

However, an administrative remedy cannot provide complete and adequate relief for the loss of state-owned environmental resources because an administrative fine cannot substitute for civil compensation, and the environmental protection fee does not fully compensate for the loss of state-owned environmental resources. First, the administrative fine is an administrative, rather than a civil, penalty. When the violator infringes on an individual's personal property and belongings, the administrative penalty is not a substitute for civil compensation. Though the violator is subject to some monetary penalty, the amount of the fine is not based on the actual loss.²² Full compensation can only be sought by asserting a civil claim. Even if administrators want the violator to pay a fine, the applicable territorial and level of jurisdiction restrict this kind of penalty. If the infringement and the damaging consequences do not occur in the same place, then the administrative authority where the damaging consequences occur does not have the right to penalize the violator. Second, the environmental protection fee is not the full compensation for state-owned environmental resource loss. Nowadays, charges related to environmental protection in China include pollution charges, ecological compensation fees,

imposition of administrative penalties"); Decision of the State Council on Establishing Administrative License for Administrative Examination and Approval Items that Must Be Retained (promulgated by St. Council, June 29, 2004, effective July 1, 2004) 2004 CHINA LAW LEXIS 8100 (China) (discussing the importance of the administrative examination and approval system); Administrative License Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong. Aug. 27, 2003, effective July 1, 2004) 2004 CHINA LAW LEXIS 8408 ("regulat[ing] the establishment and implementation of administrative licenses"); Circular Cancelling Certain Enterprise-Involved Administrative Charges (promulgated by Ministry of Fin. Jan. 30, 2011, effective Jan. 30, 2011) 2011 CHINA LAW LEXIS 41 (canceling certain administrative charges to "strengthen the administration of enterprise-involved administrative charges").

22. Regulation on the Prevention of Pollution Damage to the Marine Environment by Land-based Pollutants (promulgated by St. Council, June 22, 1990, effective Aug. 1, 1990) MINISTRY OF ENVTL. PROT., art. 30 (China), available at http://english.mep.gov.cn/Policies_Regulations/regulations/Marine_Environment/200710/t20071022_111647.htm.

resource usage fees, or resource taxes. Even though some of these charges may be compensatory penalties rather than administrative fees, they may not cover all of the costs of environmental damage. For example, while the pollution charge takes the form of compensation, the charge is set based on management costs and takes account of polluters' capacity to pay. As such, these charges cannot fully account for the environmental damage.²³ Article 12, Paragraph 2 in the Regulations of Sewage Charges Collection and Use, promulgated by the State Council in 2003, clearly states that polluters pay pollution charges, but the payment does not exempt them from the responsibility to prevent pollution and compensate for losses, as well as the other responsibilities required by laws and administrative regulations.²⁴

Thus, there cannot be a perfect solution for the damage to state-owned environmental resources. The legal protection of property rights includes administrative remedies, civil remedies, and criminal sanctions.²⁵ None of them can provide complete protection; however, these three liabilities are designed to be complementary. Civil remedies for the damage to state-owned environmental resources are indispensable. If the subject of state property rights ignores these means, it does not completely fulfill its duty to protect state property rights. Civil remedies can be realized through judicial and non-judicial processes. When the problem cannot be solved through non-judicial processes, authorities may turn to legal channels. No law rules out the administrative authority's right to claim civil remedies through legal channels.

A civil remedy for environmental resource damage has several features, one of which is that the remedy corresponds with the loss and is not subject to the restriction of administrative jurisdiction and executive power. A civil remedy can make up for the deficiency of administrative measures and is especially applicable to sudden, unpredictable, or trans-jurisdictional

23. For instance, according to the 2004 Green National Economic Accounting Report of China, which was co-issued by the State Environmental Protection Bureau and the State Statistical Bureau on September 9, 2006, the total loss caused by environmental pollution in 2004 was 511.8 billion yuan. According to the 2004 Annual Report on Environmental Statistic, which was issued by the State Environmental Protection Bureau, the total collected pollution fees were only 9.4 billion yuan, less than 1.84% of the total pollution loss. WANG JINNAN ET AL., CHINA GREEN NATIONAL ECONOMIC ACCOUNTING STUDY REPORT 2004, at 11 (2006), available at <http://www.caep.org.cn/english/paper/China-Environment-and-Economic-Accounting-Study-Report-2004.pdf> (co-issued by State Environmental Protection Bureau and State Statistical Bureau).

24. *Pai Wu Fei Zheng Shou Shi Yong Guan Li Tiao Li* (《排污费征收使用管理条例》第12条第2款) [Regulations of Pollution Fee's Collection and Usage] (promulgated by State Council, Jan. 30, 2002, effective July 1, 2003) Article 12, paragraph 2 (China), available at <http://www.people.com.cn/GB/shizheng/16/20030117/909481.html>.

25. Discussion of the role of criminal sanctions is beyond the scope of this paper.

circumstances. A civil remedy treats state-owned resources and environmental resources of other subjects as having the same status, which helps address the problems of the unfettered encroachment upon, unreasonable use of, and lack of care towards natural resources.

At present, China's Mineral Resources Law, Forest Law, Grassland Law, Marine Environmental Protection Law, and other legislation have stated that one who destroys state environmental resources must compensate for the State's loss.²⁶ In addition, according to Article 41 of the Environmental Protection Law, "a unit that has caused an environmental pollution hazard shall have the obligation to eliminate it and make compensation to the unit or individual that suffered direct losses."²⁷ The article also includes regulations on compensation for state-owned environmental loss because the "units and individuals" include all legal subjects.²⁸

2. Clarifying the Subject Representing State Environmental Resources and Interests

In accordance with the Chinese Law, the State is the only subject of state-owned environmental resources.²⁹ There is no classification of ownership, but the management of state assets will apply the principle of unified policy and management at different levels.³⁰ Management at different levels is, in fact, exercising state ownership through all local governments and their authorized agencies. In other words, they participate in civil and management activities as owners. Undoubtedly, the representative of the state's environmental resources should be the government and its administrative departments. The problem is resolving which sector of government should represent the resources. Can the same department represent economic and ecological values? If not, which other

26. Mineral Resources Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong., Aug. 29, 1996, effective Oct. 1, 1986) LAWINFOCHINA, art. 39 (China); Forest Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong., Apr. 29, 1998, effective Jan. 1, 1985) LAWINFOCHINA, art. 39 (China); Grassland Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong., Dec. 28, 2002, effective Mar. 1, 2003) LAWINFOCHINA, art. 63 (China); Marine Environment Protection Law of the People's Republic of China (1999), art. 90.

27. Environmental Protection Law of the People's Republic of China (promulgated by President of the People's Republic of China, Dec. 26, 1989, effective Dec. 26, 1989) LAWINFOCHINA, art. 41. (China).

28. *Id.*

29. *Id.*

30. Environmental Protection Law of the People's Republic of China, art. 7.

department can represent these values? Furthermore, which levels of government in the region can represent these interests?

The Marine Environmental Protection Law is the only law stating which agency can represent the State's claim for compensation of environmental resource damages. Article 90, Paragraph 2 states that:

For damages to marine ecosystems, marine fishery resources and marine protected areas which cause heavy losses to the State, the department invested with power by the provisions of this law to conduct marine environment supervision and administration shall, on behalf of the State, put forward compensation demand to those held responsible for the damages.³¹

According to the Marine Environmental Protection Law, Article 5, the competent administrative departments in charge of environmental protection under the State Council include the State Oceanic Administrative Department, the State Administrative Department in Charge of Maritime Affairs, the State Fishery Administrative Department, the Environmental Protection Administrative Department, and the Environmental Protection Department of the Armed Forces; all hold certain responsibilities for the supervision and administration of marine resources.³² With so many marine environment supervision and administration departments, it is still unclear who can represent the State's marine environmental resources.

The management of China's natural resources is based on the natural resource's classification.³³ The department in charge of the resource, as a special administrative body, exercises the competent management function. But the government functions as a general administrative body, and other administrative departments function as auxiliary natural resource management departments that also have some relevant responsibilities. Corresponding to its jurisdictional level, each administrative body has a hierarchical local management institution, which creates a complicated relationship between resource management administrative agencies. Each resource has many related management agencies. It is quite difficult to determine the civil rights subject of the resources in judicial practice.

31. Marine Environment Protection Law of the People's Republic of China (1999), art. 90.

32. *Id.* art. 5.

33. See Environmental Protection Law of the People's Republic of China, art. 7, 9–11 (outlining the different State administrative departments, classified by natural resource type, competent to manage China's natural resources).

State environmental resources can be divided into three categories: (1) resources transformed into productive assets, which become state-owned “private property” and, thus, appear to be similar to other forms of private property; (2) resources including land, minerals, water, forests, et cetera under the administration of related departments;³⁴ and (3) state-owned environmental resources with a significant public property feature, which are not attributed to any independent agency. Such resources include the air and oceans.

When state environmental resources are damaged, three kinds of subjects can claim civil remedies. The first kind of subject is the organization using and managing state-owned environmental resources. Some of the state-owned resources have been transformed into business assets, such as transferred land, permitted exploitation of mineral resources, and leased water areas.³⁵ They are occupied, operated, and managed by specific agencies, enterprises, and institutions. These specific agencies, enterprises, and institutions have rights and interests in—and undertake obligations towards—the resources they use and manage that are equivalent to the rights they would have if they owned those resources. The subjects also have the right to occupy, use, and dispose of the resources in their possession. When these resources are infringed upon, the subjects can claim compensation for losses in the same way that a private property subject can. The only difference is that they are the subjects of *jus in re aliena* of the resources, not the subject of ownership, i.e., they hold usufructuary rights in, not ownership of, the resources. The agencies are not eligible to represent the State in civil claims. However, since their rights and interests are closely related to the condition of the environmental resources, when they bring a claim to protect their rights, they also protect the State environmental resources.

The second kind of subject is the environmental resource management department. China has yet to form an integrated management system for environmental resources. Environmental resources are often managed based on different categories, which are determined by the different types of resources, such as forests, wildlife, minerals, grasslands, land, fisheries, and aquatic resources. These resources are managed by the Agencies of Forestry,

34. Grassland Law of the People's Republic of China, art. 22–24; Forest Law of the People's Republic of China, art. 13; Resources Law of the People's Republic of China (promulgated by Standing Comm. Nat'l People's Cong., Aug. 29, 1996, effective Oct. 1, 1986) LAWINFOCHINA, art. 11 (China).

35. See Mike Koehler, *The Unique FCPA Compliance Challenges of Doing Business in China*, 25 WIS. INT'L L.J. 397, 416 (2007) (discussing State's role in and high profitability of resource extraction industry).

Agriculture, Mining, Land Management, and Fisheries Management, respectively.³⁶ These agencies are obligated to manage and protect their resources and to develop the resources on behalf of the State. They shall supervise users' behavior, protect the resource's function, and promote sustainable development. When a particular resource is damaged and the responsible agency is identified, the agency shall assert a civil claim on behalf of the State.

The third subject is the government or department responsible for supervision and management of the quality of environmental resources. When the environmental quality of a specific area is damaged, it is difficult to strictly distinguish the damage to various resources, and the claim is expensive and difficult to separate. Supervision and management responsibilities, such as environmental capacity and environmental quality, have not been clarified on some resources. If responsibility has not been delegated, then the regional authorities responsible for environmental quality would be more appropriate subjects. Article 16 of the Environmental Protection Law stipulates that "[t]he local people's governments at various levels shall be responsible for the environment[al] quality of areas under their jurisdiction and take measures to improve the environment[al] quality."³⁷ The article clearly defines the regional authorities responsible for environmental quality. The government must have a certain right to take the responsibility. Rights and obligations are unified. Besides the basic right, the State can claim environmental decision-making rights, environmental management rights, environmental coordination rights, and the right to comprehensively restore the environment. When public environmental resources are contaminated, the government shall have the right to claim losses on behalf of the State. The local government may authorize the environmental protection department at the same level to file claims for compensation.

36. Forest Law of the People's Republic of China, art. 14; Law of the People's Republic of China on the Protection of Wildlife (promulgated by the State Council, Aug. 28, 2004, effective Aug. 28, 2004) 2004 CHINA LAW LEXIS 8860, art. 7 (China); Mineral Resources Law of the People's Republic of China, art. 11; Grassland Law of the People's Republic of China, art. 8; Land Administration Law of the People's Republic of China (promulgated by the Standing Comm. of the Nat'l People's Cong., Aug. 28, 2004, effective Jan. 1, 1999), 1999 CHINA LAW LEXIS 872, art. 5 (China); Fisheries Law of the People's Republic of China (promulgated by the Standing Comm. of the Nat'l People's Cong., Aug. 28, 2004, effective July 1, 1986), 1986 CHINA LAW LEXIS 139, art. 7 (China); Water Law of the People's Republic of China (promulgated by the Standing Comm. of the Nat'l People's Cong., Aug. 29, 2002, effective Oct. 1, 2002), 2002 CHINA LAW LEXIS 2433, art. 7 (China).

37. Env'tl. Prot. Law of the People's Republic of China, *supra* note 27 at art. 16.

3. Clarifying the Functions of Administrative Authorities and Prosecutors on Behalf of the State's Interest in Court

When state environmental interests are harmed, the government departments shall be the first plaintiff. When national environmental resources or public environmental interests are jeopardized, such as when state-owned rivers, oceans, natural fisheries, wildlife, or land resources are polluted, the public institutions are obligated to take relevant administrative and judicial measures to protect state resources and national interests; otherwise, it is a dereliction of duty.³⁸ Prosecutorial and government departments are both public agencies, but they function differently. The government environmental protection and management departments are the direct bearers of public functions and should first provide relief. The Procuratorate is the legal supervisory organ. When prosecutors find problems, they can redirect those problems to the corresponding administrative authorities and urge them to take action. If the prosecutor acts first, then they will have meddled in other agencies' affairs by exceeding their prosecutorial duties, which could lead to lazy habits in administrative agencies. Only when the corresponding administrative authorities do not respond or respond inappropriately may the prosecutor file a claim for compensation.

Public institutions shall undertake their responsibilities according to the law. Otherwise, an abuse of power may occur. This applies in situations when prosecutors and governmental departments choose which matters can be sued for and what suit can be initiated—only within the law can they file public interest litigation, and presently such opportunities are limited. Therefore, legislation should be passed as soon as possible to clarify and expand the circumstances when these agencies bring public interest cases.

4. Making Rules and Procedures that Ensure Fair Lawsuits

Through the analysis of the study cases, we can see that defendants have a lot of concerns when facing litigation filed by administrative authorities and the prosecutor. They generally understand that these departments are backed by public power and have the advantage in court, as well as in evidence extraction and investigation. In addition, they might hold an unequal position with other parties in terms of the civil subject relationship. Further, when these departments claim civil compensation,

38. *Id.* at art. 45.

there may be a conflict between both the public and private right. Though it is not always the case, the defendant's concerns are reasonable to some extent.

A plaintiff's standing is an important theoretical issue, but people have no concept of it. In the study cases with disputes over a plaintiff's standing, all defendants had professional counsel. Surprisingly, there was no dispute of standing in the two public interest cases filed by the Procuratorate, which is an argument that could be expected, given the extensive debate amongst academics and practitioners about the role of the Procuratorate in public interest litigation. There may be several reasons for this: the defendant does not have professional counsel; the Procuratorate and the Environmental Protection Agency have conducted a joint investigation and have solid evidence so the defendant thinks there is no need to argue; or the defendant is scared by the Procuratorate's power and does not dare to fight against it.

Therefore, the Supreme People's Court or the High People's Court should develop appropriate provisions for public interest litigation procedure because it is necessary to protect both the plaintiff's and the defendant's substantive and procedural rights equally in such public interest litigation.

II. CONSIDERATIONS OF CLAIM AND REMEDIAL MEASURES

A. Kinds of Claims

Claims are normally classified into three categories: claims for compensation, claims for rehabilitation, and claims for cessation of infringement. Claims for compensation can be further divided into four main sub-categories depending on the different kinds of damages. The first sub-category is damages for existing losses in national environmental resources, including damages for losses in national fishery, aquatic, agricultural, and ecological resources. The second is damages for medium- and long-term loss. It embodies damages for reduction of natural aquatic products, damages for loss in natural fishery resources during the period of environmental restoration, and damages for the restoration costs. The third sub-category is clean-up costs and administrative expenses, which include compensation for oil spill cleanup and pollution costs. In general, these costs provide for cleaning tools, facilities, and labor. The final sub-category is damages for investigation costs. This includes investigation expenses paid by administrative departments and expenses for accident monitoring,

evaluation, investigation, and tracking, which are paid by other institutions entrusted by the administrative departments.

Claims for the removal of obstacles are common in many cases, especially in disputes over oil pollution damage resulting from vessel crashes.³⁹ However, the claim for the removal of obstacles is, in practice, presented as a claim for cleaning costs, which is different from other civil cases. Oil pollution accidents resulting from vessel crashes are considered to be local emergencies. Once they happen, some relevant executive agencies should respond to it immediately through operations such as disaster relief and pollution cleanup.⁴⁰ Therefore, administrative departments carry the burdens of both action and costs. However, according to the polluter pays principle, the polluter should be responsible for the final consequences of remedying the environmental damage.⁴¹

Claims to cease infringement and to restore original conditions have seldom been made. For instance, a claim for restoration to the original condition only arose in one out of the 14 cases. However, in some cases, a claim for compensation for the medium- and long-term loss and the costs of environmental restoration is the equivalent of a restoration claim in terms of the two claims' characters. A claim to stop infringement was only made in one case when an illegal emission happened where an inland waterway connected with the sea. This phenomenon is related to the characteristics of the pollution incidents, such as the suddenness of oil pollution resulting from vessel crashes.

B. The Court's Position on Certain Claims

Comparing the claims and the judgments, it is possible to draw the following conclusions. First, the court has normally allowed a claim for compensation, including existing losses in national fishery resources, losses to the economic value of the environment, and the cleanup costs. The value of national fishery resources usually needs to be estimated by professional institutions because they are even more difficult to accurately assess than for farming fisheries. The plaintiffs, in most circumstances, submitted their own evaluation reports in an attempt to support their claim. The court usually admitted the plaintiff's claim if the defendant did not rebut it or if the rebuttal evidence did not stand.

39. "Claims for removal of obstacles" is a particular type of remedy available under Chinese civil procedure law. Civil Procedure Law of the People's Republic of China, *supra* note 4, at art. 76.

40. Marine Env't Prot. Law of the People's Republic of China (1999), *supra* note 2, at art. 41.

41. *Id.* at art. 73.

Second, the court did not admit most of the claims for medium- and long-term loss. Such a claim was made in seven out of 14 lawsuits. Of these seven cases, it was admitted in two, overruled in four, and undeterminable in one.⁴² The reasons for overruling the claim include lack of evidence and valid contrary proof provided by the defendant. Even when the claim was admitted, the court restricted the scope of compensation.

Third, investigation expense claims are always admitted if the plaintiff made the claim with adequate evidence. Because external assessors must be used to monitor, investigate, and evaluate the accidents, plaintiffs are responsible for the costs of hiring them. The court held that these reasonable and necessary expenses of hiring evaluation institutions resulted from the pollution. Therefore, the defendant should be liable to compensate these losses. However, in some specific cases, the court overruled compensation claims made by administrations to recover the expenses incurred by implementing their duties on the basis that these costs should be borne by the government.

C. Distribution of Damages

The plaintiff received compensation in seven out of 14 lawsuits studied, but compensation was not awarded in six of the lawsuits. The remaining suit was withdrawn because the plaintiff did not pay the court fee and, as such, it is unknown whether compensation would have been awarded or not. In cases where the receiver of payment and the plaintiff were different, the damages were submitted to the State Treasury, including damages for direct economic loss in national aquatic products and the loss of interests incurred, damages for loss in natural fishery resources and loss of interests incurred, and damages for loss and costs caused by environmental pollution.

Public interest litigation aims to remedy the loss inflicted on national and public interests. Therefore, the damages, apart from compensating the administrations' costs, should be distributed to remedy the loss inflicted on the country. Submitting the damages to the State Treasury could serve as a way to achieve the goals of public interest litigation.

42. This case was settled by mediation.

D. Analysis and Suggestions

1. Improving the Means and Extending the Scope of Remedies

Oil pollution resulting from vessel crashes poses two kinds of damage to both the national and the public interests. The first is loss in national environmental resources, such as natural fishery resources, algae and mangroves in the coastal sediment habitats, birds, and landscape resources. The second is environmental quality damage, such as seawater quality deterioration, temporary or permanent disappearance of various functions, and reduction of wildlife habitats. In addition to losses in resources caused by pollution, plaintiffs are also gradually bringing claims related to ecological damage, such as marine and coastal pollution, water quality deterioration, sediment pollution, and depletion of tidal flats.

Plaintiffs also described and proved the damage specifically. However, claims for damages were limited to the loss in fishery resources. Although the claim for damages for the medium- and long-term loss presented in some cases required assessment of long-term influence of environmental damage, damage to natural fishery resources was still regarded as the criterion. The main reason was that only the Regulation of the Calculation Method of Fishery Damage in Water Pollution Accidents⁴³ clearly regulated the estimation criteria. The estimated damage to national fishery resources in a polluted water area should be a minimum of three times the loss of direct aquatic production. Cleanup costs normally only include the actual costs incurred by cleaning the surface oil. Except for specific cases, the administrative organs do not claim compensation for ecological restoration. Therefore, there has always been a huge gap between the claim made by the plaintiff and the actual damages to public and national interests.

The court overruled petitions for compensation for ecological damage for the following reasons: the law is still undefined; the lack of a scientific standard of estimation; and the lack of scientific methods of appraisal. Under the General Principles of Civil Law, Property Law, and Tort Law, the scope of damages should include direct loss and indirect loss.⁴⁴ However,

43. Shui Yu Wu Ran Shi Gu Yu Ye Sun Shi Ji Suan Fang Fa Gui Ding (水域污染事故渔业损失计算方法规定) [Regulation of the Calculation Method of Fishery Damage in Water Pollution Accidents] (promulgated by Agriculture Ministry, Oct. 8, 1996) No.14 Document on Fishery (China).

44. See General Principles of Civil Procedure Law of the People's Republic of China, *supra* note 14, at, art. 117, 119 (stating that parties that infringe upon property or cause personal injury must pay or reimburse those affected for cost of the damages and any other great damages, i.e., indirect losses).

there is a lack of an unified understanding about what counts as indirect loss in relation to natural resources damage. While compensation for environmental damage should theoretically be one of the available civil remedies, damage to natural resources is within the scope of damages under Article 91 of the Marine Environment Protection Law.⁴⁵ In addition, calculating environmental damage is also a challenge for the judiciary and governmental agencies because it involves a very large range. As we can see from worldwide legislation (e.g., the Environmental Liability Directive of the European Union, German Environmental Damage Liability Act, and the United States' Comprehensive Environmental Response, Compensation, and Liability Act), there has been a trend to recognize and regulate the damage to the environment itself within the scope of damages.⁴⁶ Additionally, many countries have increased their efforts to improve the assessments and standards of the damage to the environment itself. Therefore, making relevant laws and drawing up guidelines is an urgent task.

The idea that environmental damage involves "medium- and long-term loss" is not understood as a legal term. It is difficult to place the idea within existing definitions of damages. Currently, the courts and administrative organs have different understandings of this idea in practice. Therefore, it is recommended that this term be defined in the law.

2. Treating Investigation Costs Differently

Under Article 5 of the Marine Environment Protection Law of the People's Republic of China, the administrative departments of environmental protection, such as oceanic, maritime, and fishery affairs departments, all have certain responsibilities to supervise and control pollution of the marine environment, as well as investigate and treat ocean pollution accidents.⁴⁷ The administrative departments have a statutory duty

45. Marine Env't Prot. Law of the People's Republic of China *supra* note 2, at art. 91.

46. Directive 2004/35/CE, of the European Parliament and of the Council of 21 April 2004 on Environmental Liability With Regard to the Prevention and Remedying of Environmental Damage, art. 1, 3, 2004 O.J. (L 143/56) 2-3, 5; Environmental Liability Act, Dec. 10, 1990, BGBl. I at 2634 (as amended) (Ger.), *translated at* http://www.utexas.edu/law/academics/centers/transnational/work_new/german/case.php?id=1396;

Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607 (2006).

47. Marine Env't Prot. Law of the People's Republic of China, *supra* note 2, at art.

5. The specific provisions of article 5 are as follows:

The administrative department in charge of environment protection under the State Council, as the department to exercise unified supervision and control over the nation-wide environment protection work, shall guide, co-ordinate and

to investigate and treat pollution accidents; that is paid for by the government, not the polluters. Thus, it is critical to differentiate the two kinds of claims concerning compensation for the costs spent on investigation: compensation for the losses incurred by the administrative departments' investigation versus the compensation for the costs of technical services provided by the third parties that were hired by the administrative departments. The former should not be imposed on the violator, but the latter, so long as they are reasonable, can be shifted to the violator.

3. Improving the Regulation of Damages Distribution

A proper system for regulating the distribution, management, and use of damages should be developed and legally identified in order to prevent the administrative departments from abusing and embezzling the damages. In an attempt to compensate the depletion, reduction, and devaluation of the resources owned by the state, the damages should be submitted to the State Treasury. The damages for environmental restoration should be used for

supervise the nation-wide marine environment protection work and be responsible for preventing and controlling marine pollution damages caused by land-based pollutants and coastal construction projects.

The State oceanic administrative department shall be responsible for the supervision and control over the marine environment, organize survey, surveillance, supervision, assessment and scientific research of the marine environment and be responsible for the nation-wide environment protection work in preventing and controlling marine pollution damages caused by marine construction projects and dumping of wastes in the sea.

The State administrative department in charge of maritime affairs shall be responsible for the supervision and control over marine environment pollution caused by non-military vessels inside the port waters under its jurisdiction and non-fishery vessels and non-military vessels outside the said port waters, and be responsible for the investigation and treatment of the pollution accidents. In the event of a pollution accident caused by a foreign vessel navigating, berthing or operating in the sea under the jurisdiction of the People's Republic of China, inspection and treatment shall be conducted on board the vessel in question. Where the pollution accident caused by a vessel results in fishery damages, the competent fishery administrative department shall be invited to take part in the investigation and treatment.

The State fishery administrative department shall be responsible for the supervision and control over the marine environment pollution caused by non-military vessels inside the fishing port waters and that caused by fishing vessels outside the fishing port waters, be responsible for the protection of ecological environment in the fishing zones, and shall investigate and handle the fishery pollution accidents other than those specified in the preceding paragraph.

Id.

future control and restoration work. In general, the local administrative departments, which are responsible for environmental quality, should organize all projects and earmark specified amounts of money to be spent on particular projects. To better manage the money, the local administrative departments should establish an environmental protection fund for receiving and controlling fines and compensatory damages.

III. OBSERVATION OF THE BURDEN OF PROOF AND DAMAGE EVALUATION

A. Allocation of the Burden of Proof

Regarding the allocation of the burden of proof in the pollution cases, the way that the Maritime Court applies the law is relatively appropriate. The court strictly adhered to the relevant regulations in handling all of the 14 cases.

1. The Burden of Proof Regarding Causation Between the Act of Pollution and Damage

The court adopts the doctrine of the presumption of causal relation with regard to the proof rule on causation between the act and damage. In the cases of oil pollution, it is comparatively easy to find a causal relationship between the pollution and damage. The damage caused by oil leakage is visible and can be assessed by various means. Therefore, a defendant needs only to demonstrate the fact that there has not been oil leakage to disclaim his responsibility. As a matter of course, most of the disputes arise not from the causation between the pollution and the damage, but from the pollution and the severity of damage caused by the pollution.

However, in cases where pollution happened in inland waterways connected with the sea, the issue of causation is not as conspicuous as in other cases. In these cases, the court adopts the doctrine of the presumption of causal relation, where the defendant has the burden of showing there is no causal relationship between the act and the pollution. If the defendant fails to meet this burden, then causation is established. The court applies the third paragraph of Article 4 of some Provisions of the Supreme People's Court on Evidence in Civil Procedures, which asserts that the burden of proof lies upon the tortfeasor to prove the existence of legal exemptions or to show there is no causal relationship between the act and the resulting

damage.⁴⁸ Hence, those defendants who fail to disclaim the causation relating their acts of pollution and the damages have to bear the unfavorable result.⁴⁹

2. The Burden of Proof Regarding Damages

In oil pollution cases, as an exception to the general rule, the allocation of the burden of proof inverts regarding causation. However, in other aspects, these cases abide by the general principle of the Civil Procedure Law where the burden of proof lies upon the party asserting the claim.

In the Number 150 Writing Verdict of the Marine Affair of Guangzhou Maritime Court of 1999, the court decided that, according to Article 74 of Some Opinions of the Supreme People's Court on Applying Civil Procedure Law of People's Republic of China, the defendant does not have the burden of proving the actual composition of the damages.⁵⁰ For this reason, unless expertise is needed to assess the actual composition of damages, the plaintiff should be responsible for proving their claim.

Nine out of the 14 cases involved the evaluation of damages to the marine environment, in which the plaintiff offered a commissioned evaluation report. Defendants have always questioned the validity of this report, which is made by a qualified institution (not the plaintiff itself). In very few cases, defendants also render their own report. In such a circumstance, the court has to rule based on the facts and the authority of the institutions that have made the reports. The court will recognize a report as proof of oil-polluting damage if a competent institution makes the report upon a sound scientific basis, unless there are sufficient facts to prove otherwise.

In cases in which the plaintiff introduces a supporting report, the defendant often refutes the report as not qualified on the ground that the claimants and the institutions have common interests. Under these circumstances, the court will admit the report as adequate proof if it

48. Some Provisions of the Sup. People's Ct. on Evidence in Civil Procedures (promulgated by Judicial Comm. of the Sup. People's Ct., Dec. 21, 2001, effective Apr. 1, 2002) LAWINFOCHINA, art. 4 (China).

49. See People's Procuratorate of Haizhu Dist. of Guangzhou Municipality v. Zhong-Ming Chen, (Guangzhou Mar. Ct. 2008) (China), No. 247 Writing Verdict of first instance of Guangzhou Maritime Court (2009). The court made this decision based upon Article 4 of Some Provisions of the Sup. People's Ct. on Evidence in Civil Procedures (promulgated by Judicial Comm. of the Sup. People's Ct., Dec. 21, 2001).

50. Some Opinions of the Sup. People's Ct. on Applying Civil Procedure Law of People's Republic of China, (promulgated by Sup. People's Ct. Dec. 21, 2001, effective Apr. 1, 2002), available at http://www.law-lib.com/law/law_view.asp?id=54915.

considers that the defendant, not the experts themselves, failed to present sufficient rebuttal evidence.

On the other hand, for cases in which both the plaintiff and defendant introduce an evaluation report, the court utilizes the following methodology to choose the most persuasive report. The court sets priority for the report with the most clarity and the most reasonable evaluation methods, and then it will take into consideration the rank and prestige of the evaluating institutions.

On balance, owing to the immense amount of liability for damages resulting from marine pollution, it would be unfair and detrimental to the defendant if the court wrote its verdict totally based on the report the plaintiff introduced. It is terribly difficult to collect evidence during the trial because of the temporary character of most of the pollution. Therefore, the defendant should actively preserve the evidence and entrust a qualified evaluation institution to appraise the pollution immediately after the pollution occurs. On the other hand, third parties, such as governmental departments managing the marine environment, should carry out their duty to participate in the investigation concerning the pollution so they can assist the court in collecting evidence during the trial. It is understood that evidence provided by third parties, judicial identification centers, is credible. In the end, if there are obvious inconsistencies among the reports provided by the plaintiff, then the defendant, and the third parties should be commissioned to review the plaintiff's report and issue their authentic Opinion on the Review of Judicial Identification.⁵¹ Although this methodology is based on the plaintiff's report, it could protect the defendant's rights, to some extent, by scrutinizing the validity of that report.

B. The Evaluation of Damage

Of the 14 cases chosen, eight involved evaluation institutions, three were closed by mediation, and the other three cases were claims for cleansing and investigation fees. We can conclude the following after the analysis of these cases.

1. The Evaluation Institutions and the Plaintiff Have a Close Relationship

The survey revealed that most of the institutions commissioned by the plaintiff are environmental monitoring centers or institutes of

51. Some Provisions of the Sup. People's Ct. on Evidence in Civil Procedures, *supra* note 48 at art. 64-66.

environmental science, some of which are directly subordinate to the administration and some of which are not subordinate but still have intimate relations with the administration. Moreover, they provide technical services for the maritime resources administrative department. The defendant seldom commissions these institutions. If they do, most of the institutes used are not local or have no relationship with the local administration, which demonstrates the defendants' suspicion towards local institutions.

2. There are Many Disputes Over the Evaluation's Findings

Defendants in six out of the eight cases involving the evaluating institutions raised an objection to the evaluation report, so the rate of dissent is 75%. In one case, the defendant neither appeared in court to respond to the lawsuit nor objected to the evaluation. Only one case failed to raise an objection at all. Among those dissents, three complained about the methodology of evaluation, three complained about the objectivity of the institutions, and two questioned the validity of the report.

3. The Plaintiff's Report Has Priority

Three reports offered by the plaintiff were fully recognized and five were partially recognized. All of the defendants' reports failed to serve as sufficient rebuttal evidence, and, in a few cases, they merely partially rebutted some of the plaintiff's claims. The plaintiff commissions evaluation institutions to investigate and monitor because these reports are instantaneous and impartial. Additionally, the reports always outweigh the defendants' reports in terms of particularity and adequacy. Therefore, the court is inclined to admit them.

C. Analysis and Suggestions

1. Enhancing the Rules and Methodology of Evaluation

Damages regarding aquaculture products (short-term and long-term loss of natural fishing resources) have been evaluated by the fishery environmental monitoring institution entrusted by the Fishery Administration. The commissioned institutions have a close relationship with the plaintiff, which leads to skepticism concerning their credibility because their evaluation reports often exaggerate the loss, and the reports themselves are similar for different cases. The identification of damages is always time-limited; therefore, the report commissioned by the court, in varying situations, is very hard to magnify as qualified evidence to rebut an

opposing report. But if the plaintiff's report is not recognized, then there is no basis upon which the court can render its judgment regarding damages. A dilemma arose thereafter as to whether the court can recognize the monitoring report as the foundation for evaluating damages.

By far, it would seem to be impossible to deploy a third party's evaluation. In order to ensure the objectivity of the evaluation, some changes can be made, such as improving the rules and methods for evaluations. Therefore, the government should make rules regulating the ways in which environmental damages are evaluated, thus instructing and supervising the conduct of evaluation.

2. Exploring the Establishment of Specific Institutions for Evaluating Environmental Damages

The existing institutes that evaluate and monitor environmental pollution are varied in their qualifications. For instance, some are only qualified to monitor the environment and some are only qualified to appraise the loss to fisheries. Owing to the particularity of environmental damage, it is necessary to establish professional environmental damage evaluation institutions to carry out the task of supporting remedies for environmental damage.

CONCLUSION

Environmental pollution public interest litigation is a crucial step toward the modernization of China's environmental law. Confronted with immature legislation and the absence of related regulations, judges who hear these kinds of cases should have great courage and innovative spirit. That way, China's environmental public interest litigation will reflect the emergence of judicial activism in the courts. The Guangzhou Maritime Court's interpretive identification of the plaintiff's standing is of judicial and legislative referential significance, especially in terms of the innovation of the remedy for public interest infringement. In the meantime, judicial practice of environmental public interest litigation exposes some defects and obstacles in legislation and environmental law theory. Since the ownership of environmental resources and the representative of environmental public interests are not clear, the subject of a remedy for environmental damage is always absent or in a state of disorder. Because the law regulating the scope of damage and the methodology to identify the loss are vague, the public interest of the environment has not been fully protected by law. Because rules on environmental public interest litigation

are too obscure, litigation has rendered itself an obstacle for common citizens and environmental protection groups seeking a remedy.

Above all, society is still afraid of defying the authority of the government, which leads to citizens' reluctance towards bringing administrative lawsuits to defend their environmental interest. Therefore, we need to further inform the public of the functions and the significance of environmental public interest litigation. To earn credibility among the public, we should fully explore the possibility of filing more public interest litigation based on the current regulations and legal system.

Therefore, from a long-term perspective, we must amend the related laws and regulations with the following goals in mind: establish environmental rights for every citizen as the basis of public interest litigation legislation; ensure the representation of environmental public interests as the basic premise of the legislation; and improve public interest litigation legislation in different levels to include the Constitution, laws, judicial interpretations, and other legal regulations.