

Environmental and Resources Adjudication in China

(2016-2017)

**The Supreme People's Court of the People's Republic of China
July 2017, Beijing**

Since July 2016, People's Courts at all levels in China have thoroughly implemented the policies and plans of the Central Committee of the Communist Party of China (CPC) on strengthening ecological civilization construction and green development. Focusing on the central task and serving overall interests, the courts have developed a modern environmental judicial philosophy of strict law enforcement, protecting rights and interests, focusing on prevention, giving priority to restoration and ensuring public participation. They have continued to strengthen, promote and innovate on environmental and resources adjudication, and have achieved new progress with each task.

I. Giving Full Play to the Functional Role of Environmental and Resources Adjudication

In accordance with their judicial duties, People's Courts at all levels have given full play to the functional role of criminal, civil and administrative adjudication of environmental and resources cases. They heard various cases under law and actively assumed the important responsibilities of protecting the national ecological security and the environmental rights and interests of the people.

(1) Criminal Adjudication of Environmental and Resources Cases

In accordance with laws and judicial interpretations, People's Courts at all levels adhered to the principle of "*no penalty without a law*" and strengthened efforts against crimes related to environmental pollution and ecological destruction, thereby protecting the national ecological environment and ensuring natural resources security. In line with the criminal policy of balancing leniency with severity, People's Courts at all levels have worked to ensure that punishment is based on evidence and severity of the crime. They considered aspects of both education and prevention in criminal adjudication, seeking to deter potential polluters and damagers of ecological environment and natural resources, as well as to educate and guide the public towards active protection of the ecological environment and reasonable use of natural resources.

From July 2016 to June 2017, People's Courts at all levels filed a total of 16,373

criminal cases related to environment and resources, of which 13,895 cases were closed and 27,384 offenders were awarded penalties. Among them, 1,687 cases involved the crime of environmental pollution, among which 1,293 cases were closed and 3,054 offenders were awarded penalties. The courts tried a total of 389 cases involving the crime of illegal hunting and killing of precious and endangered wild animals, of which 324 cases were closed and 2,338 offenders were awarded penalties. A total of 963 cases were tried involving the crime of illegal purchase, transport and sale of precious and endangered wild animals and their products, of which 824 cases were closed and 1,433 offenders were awarded penalties. A total of 1,282 cases were tried involving the crime of illegal hunting, of which 1,184 cases were closed and 2,074 offenders were awarded penalties. A total of 1,058 cases were tried involving the crime of illegal mining, of which 792 cases were closed and 1,983 offenders were awarded penalties. A total of 998 cases were tried involving the crime of illegal felling and destruction of plants under state protection, of which 890 cases were closed and 3,730 offenders were awarded penalties. A total of 2,483 cases were tried involving timber theft were tried, of which 2,243 cases were closed and 4,157 offenders were awarded penalties. A total of 161 cases were tried involving crime of illegal purchase and transport of stolen and indiscriminate felling of timber, of which 138 cases were closed and 220 offenders were awarded penalties. Finally, a total of 36 cases were tried involving the illegal occupation of farmland, among which 29 cases were closed and 47 offenders were awarded penalties.

In November 2016, the Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) jointly issued the *Interpretations¹ on Several Issues concerning Law Application in Hearing Criminal Cases Relating to Illegal Mining and Destructive Mining*, which specifies “severely damage[ing] ecology and environment” as the aggravated circumstance of the crime of illegal mining. It makes provisions for the determination of mining without license, the nature of illegal sand mining and the value of illegally mined products, which provides effective judicial protection on the reasonable exploration and exploitation of mineral resources as well as the ecological and environmental security mining areas and their peripheries. In December 2016, the

¹ In Chinese legal practice, judicial interpretations are issued by the Supreme People's Court or Supreme People's Procuratorate and have binding influence on judges' interpretation of legislation.

SPC and the SPP jointly issued the *Interpretations on Several Issues concerning Law Application in Hearing Criminal Cases Relating to Environmental Pollution*. It includes “severely damage[ing] ecology and environment” into the specific criteria for determining crimes and penalties for the crime of environmental pollution. It also makes further provisions on key issues such as the principle of concurrent management of the crime of environmental pollution, rules for dealing with joint offenses, the determination and accountability for the falsification of environmental impact assessments (EIA) and destruction of environmental quality monitoring system. The interpretation plays a significant role in further clarifying the standards for determining crimes and penalties for cases related to environmental pollution, in addition to enhancing the impact of criminal punishments for the crime of environmental pollution. In December 2016 and June 2017, the SPC issued two batches of 11 typical cases related to environmental pollution. In the case of environmental pollution by Ningxia Mingsheng Dyeing Co., Ltd. (Mingsheng Co.) and Lian Xingzhong, heard by the Shapotuo District People’s Court of Zhongwei City, Ningxia Hui Autonomous Region, Mingsheng Co. disposed of industrial wastewater through a lime neutralization method in the Tengger Desert on the eastern side of the plant without subjecting its wastewater treatment measures to EIA or going through the process for declaration, registration and approval. The Ningxia Environmental Monitoring Center Station sampled the wastewater on the site and found that numerous pollutants discharged were above national emission standards. The court held that Mingsheng Co. violated relevant state provisions on environmental protection, illegally discharged and disposed of toxic substances, and severely polluted the environment. In addition, Lian Xingzhong, as the directly responsible party, was accountable for the environmental pollution caused by MingshengCo.. Therefore, Mingsheng Co. and Lian Xingzhong both violated criminal laws and committed the crime of environmental pollution. This was the first criminal case related to environmental pollution announced after the Tengger Desert pollution incident. The People’s Court, in strict accordance with relevant laws and judicial interpretations, punished these offenders for their act of paving hidden pipelines to discharge and dump toxic and hazardous substances, severely polluting the ecology and environment of the Tengger Desert. This case has played an important role in

encouraging similar enterprises to carry out production under the law and improve their clean production processes and discharge control methods, thereby achieving green development.

In the case of illegal lead smelting and environmental pollution by Tian Jianguo et. al., heard by the Yulong District People's Court of Xuzhou City, Jiangsu Province, Tian Jianguo leased a lead smelting plant and produced lead by restoring used lead-acid battery through a thermo-metallurgy process. This was done without obtaining an operating license of hazardous substances or undertaking pollution prevention and control measures. The court held that Tian Jianguo illegally purchased waste lead-acid batteries and used the thermo-metallurgy process to produce lead. In his illegal disposal, a significant quantity of waste gas and wastewater was generated and directly discharged without processing, spilled dust was collected with makeshift cloth bags, and the lead ingots produced through the process were stacked in the open air. This caused severe pollution and therefore Tian Jianguo committed the crime of environmental pollution. In this case, the court comprehensively considered factors such as duration of pollution, operation scale, scope of pollution and the amount of discharged pollutants. It held that the defendants' actions were done "*with particularly severe consequences*" and specified the standard for assessing the severity of environmental pollution. This ruling has an important guiding role on similar future cases.

In the criminal case with incidental civil action against He Jianqiang and six other persons for their crimes of illegally killing precious and endangered wild animals and illegally hunting, heard by the People's Court of Yueyanglou District, Yueyang City, Hunan Province, He Jianqiang et. al. poisoned 63 swans, Eurasian spoonbills, gray herons and other protected migrant birds in the Hunan Dongting Lake National Nature Reserve. The court held that He Jianqiang et. al. committed the crimes of illegally hunting and illegally killing precious and endangered wild animals. The court also found that their criminal actions led to damage to national wild animal resources and resulted in loss of state property. The defendants were thus held liable for damages amounting to RMB 44,617. This case is a criminal case with incidental civil action relating to illegally hunting and killing precious and endangered wild animals. With the

procuratorial authority bringing a public criminal prosecution, the competent administrative authority of environment and resources filed the incidental civil action. Defendants were charged with criminal liability for killing wild migrant birds as well as the civil liability for compensation of damages to national wild animal resources as a result of their crimes. It serves as a good example for concurrently dealing with criminal and civil liability in environmental and resources cases.

(2) Civil Adjudication of Environmental and Resources Cases

Adhering to the principle of “*polluter pays*” and full compensation for environmental damages, People’s Courts at all levels protected personal rights, property rights and environmental rights of natural persons, juridical persons and other organizations under law. They investigated the civil liability for environmental pollution, ecological destruction and natural resources contamination, in order to promote ecological and environmental restoration as well as the reasonable development and exploitation of natural resources.

From July 2016 to June 2017, People’s Courts at all levels filed a total of 187,753 civil cases related to environment and resources, among which 151,152 were closed. Among these, 2,162 cases involved disputes over liability for polluting the environment, of which 1,737 cases were closed. A total of 789 cases involved disputes over liability for polluting seas and waters connecting seas, of which 232 cases were closed. A total of 28 cases involved dispute over damages caused by vessel pollution, of which 13 cases were closed. A total of 1,219 cases involved disputes over land use rights for construction, among which 835 cases were closed. A total of 111 cases involved disputes over easement rights, among which 78 cases were closed. A total of 78 cases involved disputes over maritime exploration and exploitation, of which 41 cases were closed. A total of 68 cases involved disputes over water intake rights, of which 62 cases were closed. A total of 750 cases involved disputes over mining rights, property rights and contracts, of which 520 cases were closed. A total of 69,345 cases involved disputes over contracts for supplying water, power, gas and heat, of which 62,457 were closed. A total of 17 cases involved disputes over contracts for Sino-foreign cooperation in exploring and exploiting natural resources, of which 11 cases were closed. Finally, a total of 13,161 cases involved disputes over contracts for agriculture,

forestry, fishery and animal husbandry, of which 10,096 cases were closed.

In February 2017, the Judicial Committee of the SPC deliberated and approved the *Interpretations on Several Issues concerning Law Application in Hearing Cases of Disputes over Mining Rights*. The interpretation clearly stipulates provisions on the validity of contracts for assigning, transferring, leasing, contracting, cooperating on and pledging of mining rights and the relevant legal consequences thereof. It also contains provisions on disposition of exploration and mining without license or across borders, judicial review of the validity of mining contracts in special regions, and environmental public interest litigation (EPIL) related to mining resources. The interpretation is of great significance in ensuring the reasonable development and effective exploitation of mining resources and optimizing the market allocation of mining resources. It also plays a role in strengthening the protection of property rights of relevant stakeholders and protecting the ecological security of mining areas and their peripheries.

In June 2017, the SPC issued four typical civil cases related to environment and resources. In the case of Lv Jinkui and 78 others vs. Shanhaiguan Shipbuilding Industry Co., Ltd. (SSI Co.) for dispute over damage liability caused by maritime pollution, heard by the Higher People's Court of Tianjin Municipality, LvJinkui and another 78 litigants who had bred scallops in the Laolongtou sea areas of Shanhaiguan suffered losses caused by maritime pollution. Based on the monitoring report of Qinhuangdao Environmental Protection Bureau and appraisal opinion issued by the Maritime Judicial Appraisal Center of Dalian Maritime University, Lv Jinkui and other litigants argued that SSI Co. discharged pollutants and requested the court to compensate them for the losses incurred. The court found that the appraisal was supported by other evidence, showing that SSI Co. discharged wastewater containing high levels of iron into the ocean. They found that scallop breeding areas of Wang Lirong and 20 other plaintiffs were polluted, and identified a causal link between the pollution by SSI Co. and the losses of the 21 plaintiffs. However, taking into account the fact that the breeding activities of these 21 plaintiffs were not in compliance with the law, while the iron substances discharged by SSI Co. among three pollutants determined in the appraisal opinion caused the most severe pollution to the water quality, the court ordered SSI Co. to compensate 40% losses suffered by the 21 plaintiffs, amounting to RMB

1,377,696. This case established a judicial rule that “*pollutants*” in environmental pollution liability cases should be defined as any substance that might cause environmental damage, and emission of substances that are not included in the environmental standards can also be addressed through environmental pollution torts. This decision regulated enterprises’ production under law and set a good example for the adjudication of similar cases.

In the case of Ni Xulong vs. Dandong Haiyanghong Wind Power Generation Co., Ltd. (Haiyanghong Co.) for dispute over environmental pollution infringement, heard by the Higher People’s Court of Liaoning Province, Haiyanghong Co. established a large-scale wind power generator unit in villages around the soft-shell turtle farm of Ni Xulong, causing the death of a large number of his soft-shell turtles. Ni Xulong sued Haiyanghong Co. for compensation. The court found that damage had occurred, and that the noise, light and electromagnetism produced by the wind power generation of Haiyanghong Co. led to environmental pollution. Soft-shell turtles are highly sensitive to fluctuations in noise and light. Furthermore, the nearest distance between the wind power generator unit and the farm is only 100 meters, not in compliance with regulations. Haiyanghong Co. failed to show a lack of causation² between the death of soft-shell turtles and its implementation of wind power generation and should be held correspondingly liable. The court found Haiyanghong Co. liable for 80% of damages related to the death of the soft-shell turtles, amounting to RMB 1,310,327.8. In the absence of an expert appraisal on the damages, the court held that there was causation between the noise, light and electromagnetism produced by wind power generation and the death of those soft-shell turtles, taking into account the features of new types of pollutions caused by noise, light and electromagnetism produced by wind power generation, the distance between the wind power generator unit and the farm, the relevant regulations on the ecological construction of wind power plants, and the behavior of soft-shell turtles. This case underscores the specialized nature of environmental and resources adjudication, and has a certain demonstration effect on the precise determination of causation between pollution and damages.

In the case of Jiangxi Xingguang Modern Ecological Agriculture Development Co., Ltd.

² Under Chinese law, burden of proof is reversed in environmental tort cases.

(Xingguang Co.) vs. Jiangxi Yingpeng Chemicals Co., Ltd. (Yingpeng Co.) for disputes over air pollution liability, heard by the Higher People's Court of Jiangxi Province, Yingpeng Co. leaked waste gas during its production and caused damage to the leaf surface of seedlings of Xingguang Co. and the latter claimed for loss to its seedlings according to an asset evaluation report. The court held that Yingpeng Co., as the infringer, should be liable for the infringement. The total damages of Xingguang Co. can be calculated according to the asset evaluation determined in the evaluation report, and by considering the *Investigation Report, Registration Form of Investigation into Damage to Seedlings* issued by the Huichang County Forestry Bureau and the *Breakdown of Asset Evaluation of Seedlings* issued by the evaluation institution. The court therefore ordered Yingpeng Co. to indemnify Xingguang Co. for the loss caused to seedlings at a total of RMB 1,363,217.29. Based on the assessment report and the survey data of the forestry bureau, this case made an active exploration in calculating the amount of loss caused by environmental infringement in line with the principle of balancing the interests of both parties.

(3) Administrative Adjudication of Environmental and Resources Cases

People's Courts at all levels have fully understood the important role of administrative adjudication in the rational development and exploitation of natural resources, as well as the prevention of environmental pollution and ecological damage. They have encouraged administrative authorities to carry out their administrative supervisory duties in a timely manner and in accordance with the law, investigated and dealt with illegal actions that have led to ecological destruction and environmental pollution, protected the public's right to know and right to supervise, and boosted public enthusiasm in participating in the protection of environment and resources.

From July 2016 to June 2017, People's Courts at all levels filed a total of 39,746 administrative cases related to environment and resources, of which 29,232 were closed. Among these, 1,216 cases involved the administration of environmental protection, of which 889 cases were closed. A total of 25,856 cases involved land administration, of which 18,753 cases were closed. A total of 374 cases involved the administration of geological minerals, of which 248 cases were closed. A total of 3,816

cases involved the administration of forestry, of which 2,974 cases were closed. A total of 174 cases involved the administration of grassland, of which 113 cases were closed. A total of 60 cases involved the administration of energy, of which 54 cases were closed. A total of 2,917 cases involved the administration of other natural resources, of which 2,316 cases were closed. Finally, 5,333 cases involved the administration of urban planning, of which 3,885 cases were closed.

Since April 2016, when the SPC established that administrative cases with competent environmental protection authorities as defendants should be heard by the Environmental and Resources Tribunal, it has filed a total of six administrative cases related to environment and resources, of which four cases were closed. In the retrial application case of Wang Shushen vs. the State Forestry Administration (SFA) on its administrative review decision, the plaintiff applied to the Three-North Shelter Forest Construction Bureau (TNSFCB) of the SFA for publicizing government information regarding the “*boundaries and area of the Three-North Shelter Forest and public welfare forest within Erdaogoumeng Village, Xiaoying Man Township, Luanping County*”. The Bureau replied that it had no such information and advised Wang Shushen to submit an application to the Hebei Luanping Forestry Bureau. Wang Shushen was dissatisfied with this reply and petitioned to the SFA for an administrative review. The SFA confirmed that the TNSFCB had not performed its duty to publicize information within the statutory time limit, which is illegal; however, it had informed Wang Shushen of the authority that actually had publicized the information. Wang Shushen sued and requested the court to order the SFA to process his application for administrative review again. Both courts of first instance and second instance dismissed his request. The SPC held that the government information that Wang Shushen requested to publicize fell under the scope of information that to be publicized by a People’s Government at county level. The TNSFCB replied to Wang Shushen’s application for publicity of government information and advised him that he should apply to Hebei Luanping Forestry Bureau to obtain such government information according to the provisions on government information publicity level, and that no improper act had been committed. The determination of the SFA on the legality of the reply related to the government information disclosure was based on facts and laws.

The SFA found that the TNSFCB exceeded the statutory time limit in disclosing government information and, considering there was no need to remand the decision of the TNSFCB, it confirmed in the administrative review that the response to the request for government information disclosure was not done in accordance with the law. This review decision was thus in compliance with relevant legal provisions, and reduced burden of the litigants. The SPC therefore dismissed Wang Shushen's retrial petition. This case established a rule that a citizen should correctly exercise the right to apply for information disclosure under the law, and has guiding significance for similar cases.

In June 2017, the SPC issued two typical administrative cases related to environment and resources. In the case of Hainan Sangde Water Co., Ltd. (Sangde Co.) vs. Hainan Danzhou Ecological and Environmental Protection Bureau (Danzhou EPB) over an administrative punishment on environmental protection, heard by the People's Court of Danzhou City, Hainan Province, Danzhou EPB made an administrative punishment decision to Sangde Co. based on a monitoring report issued by Hainan Environment Monitoring Center Station. After review, the Danzhou Municipal People's Government sustained the punishment decision. The court held that sampling was a necessary procedure for monitoring according to Article 34 of the *Measures for Environmental Administrative Punishment*. However, Danzhou EPB failed to provide evidence, such as sampling records or sampling process, to show that the sampling procedure was done in accordance with the law. Therefore, the authenticity of the samples could not be verified, which had a direct effect on the authenticity of the monitoring results. In the absence of conclusive evidence to confirm the authenticity and reliability of the sample source, Danzhou EPB relied exclusively on the monitoring report issued by the Hainan Environment Monitoring Center Station to argue that Sangde Co. had discharged wastewater beyond the prescribed limit. With key evidence missing, the court repealed the administrative punishment decision of Danzhou EPB. This case has established a rule that an administrative body should provide ample evidence to show the legality of its law enforcement procedures. It discourages environmental authorities to simply "*focus on results rather than procedures*" in environmental law enforcement. It is also useful in regulating the exercise of administrative punishment powers and

encouraging administration and law enforcement bound by law.

Separately, in the case of Chen Delong vs. Chengdu Chenghua District Environmental Protection Bureau (Chenghua EPB) over an administrative punishment, heard by the People's Court of Chenghua District, Chengdu City, Chenghua EPB found out during an inspection that Delong Processing Plant (Delong Plant) had set up hidden pipelines to discharge sewage. After case filing and investigation, Chenghua EPB ordered Chen Delong to immediately remove the hidden pipelines and imposed a fine of RMB 100,000. The court held that although the monitoring report of Chenghua District Environmental Monitoring Station found that sewage discharged by Delong Plant met relevant standards of sewage discharge, the hidden pipelines built by Delong Plant without approval discharged sewage in violation of relevant provisions set out in the *Water Pollution Prevention and Control Law*. Delong Plant was awarded administrative punishment as it had “*put on operation without applying for EIA procedures and completing the acceptance of its environmental protection facilities*”, and because this was its second violation. Therefore, the court held that it was appropriate for Chenghua EPB to issue the administrative punishment of fining Delong Plant RMB 100,000 and dismissed Chen Delong's petition. This case clearly established the rule that a polluting enterprise should be punished if it has in any way attempted to avoid regulation by the environmental law enforcement department, such as through the construction of hidden pipelines without approval, whether or not the pollutants it discharged were within threshold and whether or not the discharge caused any actual environmental impact. This case is significant in uncovering the veil of environmental violations that evade supervision and investigation. In addition, the case is also a valuable reference for competent environmental protection departments.

II. Adjudicating EPIL Cases and Ecological and Environmental Damage Compensation Litigation (EEDCL) Cases Filed by Provincial Governments Under Law

In accordance with laws and regulations, People's Courts at all levels have conscientiously implemented the pilot reform requirements of the CPC Central Committee and the Standing Committee of National People's Congress (NPC). They

have actively and consistently promoted civil and administrative adjudications of EPIL cases filed by social organizations and procuratorial authorities in pilot areas. They also explored procedural rules for EEDCL cases filed by provincial governments. They made full efforts toward remedying environmental rights and interests, limiting public power, resolving conflicts and disputes and the formation of public policies. The courts have continuously improved on the rules of judicial procedure, and heard a number of major and typical cases.

(I) Adjudicating Civil EPIL Cases Brought by Social Organizations Under Law

People's Courts at all levels opened channels of litigation, accepted civil EPIL cases that met statutory conditions in a timely and lawful manner, and established procedures and supporting mechanisms to facilitate social organizations in filing EPIL cases. Over the past year, civil EPIL cases filed by social organizations saw a geographic expansion, with increasingly diversified litigants, more extensive environmental public interest protection and increased public involvement. People's Courts at all levels accepted a total of 153 civil EPIL cases filed by social organizations from July 2016 to June 2017 and closed 85 of them; up by 116% and 89% respectively from the previous year. Social organizations filed civil EPIL cases in 27 provinces, autonomous regions and municipalities, including Beijing, Tianjin, Hebei, Inner Mongolia, Liaoning, Jilin, Jiangsu, Zhejiang, Anhui, Fujian, Shanxi, Shandong, Henan, Hubei, Hunan, Guangdong, Hainan, Sichuan, Guizhou, Yunnan, Chongqing, Gansu, Ningxia, Shaanxi, Guangxi, Jiangxi and Xinjiang, an increase of seven from the previous year. Major regions such as the Beijing-Tianjin-Hebei Region and the Yangtze River Economic Belt have been fully covered. In terms of litigants, as many as 25 social organizations have thus far filed civil EPIL cases, an increase of 11 from the previous year. In addition to the traditional environmental elements such as ambient air, water and soil, EPIL cases filed by social organizations have also addressed other environmental factors such as climate change, endangered plants, wetlands, nature reserves and artificial environment. People's Courts at all levels have been effective in encouraging the public to participate in environmental governance by promoting the involvement of people's assessors in the hearing of EPIL cases, publicizing mediation agreements, introducing third party supervision and implementation mechanisms, and permitting delayed or

reduced payment of litigation fees.

The SPC continued to promote improvement of procedural rules for social organizations in filing civil EPIL cases. In March 2017, the SPC formulated the *Work Specifications on Adjudication of EPIL Cases (Trial)*, making specific provisions for civil EPIL cases filed by social organizations on filing and acceptance of cases, preparation before trial and court hearing, along with adjudication and enforcement. In March and June 2017, the SPC issued eight typical cases of civil EPIL filed by social organizations. In the civil EPIL case of All-China Environment Federation vs. Zhenhua Co., Ltd. of Shandong Dezhou Jinhua Group (Zhenhua Co.) for air pollution, heard by the Intermediate People's Court of Dezhou City, Shandong Province, Zhenhua Co. discharged pollutants which exceeded the prescribed limit and seriously affected citizens living in the vicinity. Although being criticized by the Ministry of Environmental Protection (MEP) and having been punished by the competent environmental protection department in Shandong Province several times, the company continued to discharge pollutants. The court held that either Zhenhua Co. did not have desulfurization, denitrification and dust treatment facilities in place, or the processing capacity of such facilities was insufficient, the result of which was that the company repeatedly discharged sulfur dioxide and other pollutants beyond prescribed limit into the atmosphere, thereby damaging the environmental and ecological value-added function of the atmosphere. Zhenhua Co. is liable for restoring the ecology and environment and compensating for the loss of ecological service function during restoration, and to make a formal public apology. The court ordered Zhenhua Co. to pay RMB 21.9835 million for recovery of environmental quality and to apologize on a media outlet at the provincial level or higher. It was the first EPIL case to address air pollution affecting the Beijing-Tianjin-Hebei Region³ and its periphery accepted by the people's court after the promulgation of the new *Environmental Protection Law*. This case established that anyone who discharges excessive sulfur dioxide, nitrogen oxides and dust will affect the ecological services function of the atmosphere and should be held legally liable. The virtual cost for controlling air pollution can be calculated as per the controlling cost of entities discharging sulfur dioxide, nitrogen

³Shandong Province borders Hebei and has an impact on the Beijing-Tianjin-Hebei air shed.

oxides and dust. It is a reasonable method for calculating compensation for ecological and environmental damage. The court responded to the case in a timely manner, thereby addressing public concerns about air pollution control in the Beijing-Tianjin-Hebei Region and its surrounding areas, and made a useful and practical exploration of regional air pollution control.

In the civil EPIL case of Chongqing Green Volunteers' Federation vs. Hubei Enshi Jianshi Huangchangping Mining Co., Ltd. (Huangchangping Co.) for reservoir pollution, heard by the Wanzhou District People's Court of Chongqing City, Huangchangping Co. started production without revising its feasibility report according to the requirements set out in the safety evaluation report of the mine tailings project. The company discharged wastewater and tailing minerals into the nearby natural wetland with karst caves and funnels without processing them and thus caused pollution to the Qianzhangyan Reservoir, the main local water source. The court held that the illegal production of Huangchangping Co. polluted the reservoir, destroyed the local ecology and caused difficulties in drinking water for surrounding residents. At the same time, potential pollution risks and actual environmental damage coexisted, since the site of Huangchangping Co. was exposed to the risk of polluting underground water, and pollution control facilities were not constructed. Huangchangping Co. was therefore ordered to cease its infringement immediately, to fulfill its obligation to reapply for EIA, and not to continue production until the approval of the competent environmental protection department is obtained and environmental protection facilities are inspected and accepted. The court also ordered the company to specify the restoration plan for the wetland soil and restore it, or pay RMB 991,000 for restoration if it fails to perform its obligation within the time limit or the restoration fails to meet the standards for protecting ecological and environmental public interest. Lastly, the courts ordered Huangchangping Co. to make an apology on national media. Combined with the needs of pollution prevention and control, this case was innovative in its method of assigning civil liability, specifying that ceasing infringement would require reapplication for EIA and that production must not be carried out without the approval of the competent environmental protection department as well as the inspection and acceptance of environmental protection facilities. The court integrated administrative

and judicial powers to make the judgement more enforceable, while realizing prompt cessation of illegal production and effective protection of public interest.

In the civil EPIL case of Jiangsu Zhenjiang Ecological and Environmental Public Interest Protection Association vs. Jiangsu Yoli Optical Glasses Company (Yoli Co.) for solid waste pollution, heard by the Intermediate People's Court of Zhenjiang City, Jiangsu Province, Yoli Co. produced resin glass powder in its production of resin glasses and caused environmental pollution by giving five tons of the powder to truck drivers to dump at a clearance area. The court held that the resin glass powder concerned in the case was not included in the *National Directory of Hazardous Wastes*, and it was confirmed by experts that such wastes were not hazardous and could be comprehensively utilized by third party or incinerated in a non-hazardous way. Yoli Co. was ordered to dispose of the wastes as general wastes under the supervision of the competent environmental protection department. While determining the property of the solid waste in question, the court fully considered the influence of determination and management of such wastes on the industry production mode. Through judicial recommendations, the court promotes, encourages and supports local governments and industry organizations in taking centralized disposal measures for such solid wastes in a way that is conducive to protecting the environment and promotes development of clean production and circular economy. This case serves as a good example of giving full play to the function of EPIL in promoting the formulation of public policies.

(II) Adjudicating Civil and Administrative EPIL Cases Brought by Procuratorial Authorities Under Law

The SPC intensified supervision and guidance of the People's Courts in pilot areas⁴ to ensure correct hearing of EPIL cases brought by procuratorial authorities. Over the past year, the number of EPIL cases filed by procuratorial authorities significantly increased under the guidance of the SPC and the active promotion of People's Courts in the pilot areas.

From July 2016 to June 2017, People's Courts in pilot areas filed a total of 71 civil EPIL cases brought by procuratorial authorities and closed 21 of them, an increase of 4.5 and

⁴On the basis of a program under the NPC, People's Procuratorates in 13 pilot regions are able to file civil EPIL cases against polluters or administrative EPIL cases against the competent administrative authorities.

4.6 times respectively from the previous year. They filed a total of 720 administrative EPIL cases brought by procuratorial authorities and closed 360 of them, an increase of 25 and 23 respectively from the previous year. From July to December 2016, the courts filed 35 civil EPIL cases and closed three of them. In addition, the courts filed 117 administrative EPIL cases and closed 50 of them. From January to June 2017, the courts filed 36 civil EPIL cases and closed 18 of them; during the same period, they filed 603 administrative EPIL cases and closed 310 of them.

The SPC paid great attention to the unique characteristics of the EPIL cases brought by procuratorial authorities. It carried out in-depth investigations and studies, and explored relevant procedural rules. In February 2017, the SPC held a seminar on People's Courts' hearing of EPIL cases brought by procuratorial authorities to exchange experiences, analyze problems and research new procedural rules. The *Work Specifications on Adjudication of EPIL Cases (Trial)* made specific provisions on the general rules for People's Courts to hear EPIL cases brought by procuratorial authorities, and special rules for administrative and civil EPIL cases.

In March 2017, the SPC issued three typical EPIL cases brought by procuratorial authorities. In the civil EPIL case of Xuzhou People's Procuratorate of Jiangsu Province vs. Xuzhou Hongshun Papermaking Co., Ltd. (Hongshun Co.) for water pollution, heard by the Intermediate People's Court of Xuzhou City, Jiangsu Province, Hongshun Co. used hidden pipelines to discharge wastewater with chemical contents exceeding the limits to the Subeiti River connecting the Beijing-Hangzhou Grand Canal. The court found that Hongshun Co. discharged pollutants and should be held legally liable. Based on the environmental pollution, Hongshun Co. being at fault and other relevant factors, the court ordered Hongshun Co. to compensate a total of RMB 1,058,200 for environmental restoration and the loss of ecological service functions. This case is one of the first civil EPIL cases filed by the People's Court since the NPC Standing Committee authorized procuratorial authorities to initiate public interest litigations. Experts were invited to attend the court hearing to provide their opinions on professional and technical issues regarding environmental protection, resolving the integration of science and impartiality of environmental and resources cases. By taking into account the defendant's subjective fault, concealment of emissions, environmental

damage and other factors, the court attempted to determine punitive cost for ecological and environmental restoration and to increase cost of polluting enterprises for violating the law.

In the administrative EPIL case of the Liuzhi Special Zone People's Procuratorate of Liupanshui City, Guizhou Province vs. the Dingqi Town People's Government of Zhenning Buyi and Miao Autonomous County, Guizhou Province (Dingqi Government), heard by the Qingzhen People's Court of Guizhou Province, the Dingqi Government used approximately 0.82 acres of ground behind the land used by former Longyan Airplane Plant on the border of Zhenning County and Liuzhi Special Zone as a temporary municipal solid waste dump for Dingqi Town. In addition, the village committees under its jurisdiction also dumped household wastes from the villages nearby. The procuratorate issued a judicial recommendation, and the Dingqi Government did not reply within prescribed time limit. The court held that the site selection by Dingqi Government was not specified by the competent environmental sanitation administrative department and no corresponding preventive and controlling measures were available on the dump site, which caused serious environmental pollution. The Dingqi Government still did not take rectification measures after the procuratorial suggestion. It started to perform its duties after the lawsuit was filed, but failed to significantly improve the ecological environment. The court confirmed that the administrative act of Dingqi Government in selecting the dump site violated the laws, and that it should continue to take remedial measures according to expert opinions within the specified time frame in order to improve the regional ecology and environment. This case was the first EPIL case initiated by procuratorial authority and heard by the people's court with cross-regional jurisdiction. It has a positive effect on overcoming local protection, supervising the administrative organs to perform their duties under laws, and protecting the ecology and environment.

In the case of Baishan People's Procuratorate vs. Baishan Jiangyuan District Health and Family Planning Bureau and Baishan Jiangyuan District Chinese Medicine Hospital (Jiangyuan Hospital), which was an administrative EPIL case with incidental civil action and heard by the Intermediate People's Court of Baishan City, Jilin Province, the hospital's new comprehensive building was put into operation without installing

sewage treatment facilities in compliance with environmental requirements. The hospital discharged medical sewage through infiltration wells and pits. The sampling test of the surrounding soil proved that indicators, such as chemical oxygen demand, exceeded the prescribed national limits. The court held that it was illegal for the Health and Family Planning Bureau to approve the license of Jiangyuan Hospital in the absence of an EIA report. The hospital illegally discharged sewage and caused significant environmental pollution risk to the surrounding groundwater and soil. Therefore, the court found that the hospital should be liable for the infringement. The court further held that the bureau did not promptly stop the hospital's violation, itself in violation of the law. The judgement confirmed that the administrative act of the bureau in verifying the license of Jiangyuan Hospital violated the law and ordered the bureau to perform its regulatory duties and supervise the hospital in rectifying its medical sewage treatment facilities in three months. In addition, the judgement ordered Jiangyuan Hospital to cease medical sewage discharge immediately. In this case, the court filed the administrative and civil EPIL cases separately, heard the two cases as a whole and made separate judgements by the same trial organization. The court took hospital as a third party in the administrative procedure and fully ensured the right of the administrative counterpart to be heard, while determined the civil liability of the hospital in the civil procedure at the same time. This case has exemplary significance in properly coordinating the administrative and civil liabilities caused by the same polluting activities.

(3) Exploring Adjudication of EEDCL Cases Filed by Provincial Governments

The SPC explored and promoted EEDCL cases filed by provincial governments in accordance with the *Reform Pilot Program for the Ecological and Environmental Damage System* and the *Report on the Launch of Reform Pilot of Ecological and Environment Damage System in Some Provinces*. As of June 2017, People's Courts in pilot areas accepted three EEDCL cases filed by provincial governments and closed one of them.

The case of Environmental Protection Department of Guizhou Province vs. Xifeng Chengcheng Labor Service Co., Ltd. and Guiyang Kailing Fertilizers Co., Ltd. for

judicial confirmation on ecological and environmental damages, heard by the Qingzhen People's Court of Guizhou Province, is the first judicial confirmation case regarding ecological and environmental damages filed by a provincial government. The court examined the mediation agreement entered into by relevant functionary department designated by the provincial government and the responsible person on ecological and environmental damages after consultation under laws, and confirmed the legal effect of the mediation agreement after implementation of the publicity procedure. This case is a good example of negotiation on ecological and environmental damages and improving rules for compensation litigation.

The EEDCL case of the People's Government of Jiangsu Province and Jiangsu Environmental Protection Federation vs. Dy Star (Nanjing) Fuel Co., Ltd., heard by the Intermediate People's Court of Nanjing City, Jiangsu Province, is the first EEDCL case filed by a provincial government in the capacity of compensation obligee. The case is currently under trial. The case of Chongqing People's Government vs. Cangjing Company on dispute over environmental pollution liability, heard by the First Intermediate People's Court of Chongqing City, is also in process.

Under the guidance of the SPC and taking into account local realities, People's Courts in pilot areas actively explored rules for EEDCL cases filed by provincial governments. The Higher People's Court of Shandong Province formulated the *Opinions on Several Issues concerning the Hearing of EEDCL Cases Filed by the People's Government of Shandong Province*, regulating 10 issues, namely plaintiff qualification, jurisdiction of courts, composition of trial organization, scope of cases, lawsuit materials to be submitted, mediation and reconciliation, relationships between EEDCL and other litigations, admission of appraisal assessment results, scope and method of undertaking responsibilities and litigation fees. This was an important effort in exploring and improving the rules for provincial governments to file EEDCL cases.

III. Continuously Promoting the Construction of Specialized Environmental and Resources Adjudication System

According to the unified requirements and deployment of the SPC, People's Courts at all levels have continuously promoted the establishment of specialized institutions for

environmental and resources adjudication, as well as the centralized and converged adjudication of environmental and resources cases. They constructed diversified co-governance mechanism and continuously upgraded the specialization of environmental and resources adjudication.

(1) Continuously Promoting the Development of Specialized Environmental and Resources Adjudication Institutions

The SPC strengthened supervision and guidance on the establishment of environmental and resources adjudication institutions. As of June 2017, People's Courts at all levels set up a total of 976 environmental and resources courts, collegial panels and circuit courts. These are composed of 344 specialized tribunals, 589 collegial panels and 43 circuit courts. In particular, in February 2017, the Intermediate People's Court of Yushu City, Qinghai Province established Sanjiangyuan Environmental Protection Court, providing an important judicial assurance for strengthening the Sanjiangyuan regional environmental governance and protecting the region as the so-called "China Water Tower". Compared with the same period last year, the number of environmental and resources adjudication institutions at courts nationwide increased by 418, an increase of 74.91%. Currently, 21 Higher People's Courts have established environmental and resource tribunals, namely Guizhou, Fujian, Hainan, Jiangsu, Hebei, Shandong, Guangxi, Jiangxi, Henan, Guangdong, Chongqing, Yunnan, Hunan, Sichuan, Jilin, Qinghai, Gansu, Xinjiang, Inner Mongolia, Shaanxi and Tibet. The Higher People's Courts of Shaanxi and Inner Mongolia have obtained approval for setting up environmental and resources tribunals. Other Higher People's Courts have designated specialized organs or established specialized collegial panels responsible for environmental and resources adjudication. Fujian, Henan, Guizhou, Jiangsu, Hainan and Chongqing have set up a three-level environmental and resources trial organization system. At the lower levels, 162 intermediate People's Courts and 160 grassroots People's Courts have set up specialized environmental and resources tribunals.

(2) Continuously Promoting Centralized Jurisdiction and Converged Adjudication for Environmental and Resources Cases

Promoting Centralized Jurisdiction for Environmental and Resources Cases.

Under the guidance of the SPC, People's Courts at all levels actively explored reform of the jurisdiction system for environmental and resources cases according to the ecological and environmental protection needs within their respective jurisdictions. The Higher People's Court of Shanghai Municipality made changes to the jurisdiction of environmental and resources protection cases of first instance. The cases that used to be heard by all intermediate People's Courts of Shanghai were centralized under the jurisdiction of its Third Intermediate People's Court. In addition, civil and commercial cases of first instance related to environmental and resources protection that were previously under the jurisdiction of grassroots People's Courts were brought under the centralized jurisdiction of the Railway Transport Court. The Higher People's Court of Henan Province designated the Intermediate People's Court of Zhengzhou City to exclusively hear all significant pollution cases in the east region along the Yellow River, the Intermediate People's Court of Luoyang City to hear all significant pollution cases in the mountainous areas of west and north Henan, and the Intermediate People's Court of Xinyang City to hear all significant pollution cases in south Henan, Dabieshan Mountain, Tongbai Mountain, Huanhe River Basin, and water sources of the South-to-North Water Diversion Project. The Mining Area People's Court of Gansu Province, as a specialized environmental and resources court, now exclusively hears all environmental and resources cases across the province. With the administrative division of the estuary as the standard, the Higher People's Court of Hainan Province is seeking to designate five courts, namely the First Intermediate People's Court of Hainan Province, the Second Intermediate People's Court of Hainan Province, the Intermediate People's Court of Haikou City, the Intermediate People's Court of Sanya City, and the People's Court of Lingshui Li Autonomous County, to exclusively hear environmental and resources cases in cities and counties through which five river basins flow. In addition, it is seeking to designate the Second Intermediate People's Court of Hainan Province as the court of exclusive jurisdiction over environmental and resources cases in two national natural reserves, namely Yinggeling and Bawangling. By division of ecological zones, the Higher People's Court of Guangdong Province made its attempt to designate one grassroots court under each of the Intermediate People's Courts of Guangzhou, Chaozhou, Maoming, and Qingyuan, to implement

actualized exclusive jurisdiction over EPIL cases and cross-regional environmental civil litigation cases in the Zhujiang Delta Region and east, west and north Guangdong. The Higher People's Court of Jiangsu Province designated Xuzhou Railway Transport Court to exclusively hear all environmental and resources cases of first instance that were used to be heard by grassroots People's Courts of Xuzhou City. The Higher People's Court of Yunnan Province designated six intermediate People's Courts, namely the Intermediate People's Courts of Kunming, Yuxi, Qujing, Honghe, Dali and Diqing, to exclusively hear cross-regional civil EPIL cases. The Higher People's Court of Jiangxi Province designated Wuning County People's Court of Jujiang City to exclusively hear cross-regional environmental and resources cases in the Xiuhe River Basin. The Yongtai County People's Court of Fujian Province set up the first "Water Conservation Circuit Tribunal" in Fujian at the Water Conservancy Bureau. In addition, it designed a "river chief system" to hear cases and dispatched ecological judges to handle cases in the bureau to exclusively adjudicate on disputes arising from the system across the county. In September 2016, the Higher People's Courts of Beijing, Tianjin and Hebei signed the *Framework Agreement on Collaboration in Environmental and Resources Adjudication* and established a leading collaboration group to jointly explore and improve the mechanism for hearing environmental and resources cases. In this way, it promoted exclusive jurisdiction, designated jurisdiction, specialized jurisdiction and higher-level jurisdiction over environmental and resources cases in the Beijing-Tianjin-Hebei Region.

Promoting Converged Adjudication of Environmental and Resources Cases. The diversified judicial function of environmental and resources adjudication, compound features of integration of their high professionalism, public laws and private laws, as well as intersection of public interests and private interests require the adjudication of environmental and resources cases, including criminal, civil, and administrative cases, should be exclusively adjudicated by a single tribunal. Based on the implementation of "two-in-one" converged adjudication of civil and administrative cases related to environment and resources, the SPC has been practicing "three-in-one" converged adjudication of criminal, civil and administrative cases in the same area, using an adjudication team at the Third Circuit Court, since 2017. Under SPC's guidance, 12 of

the 21 Higher People's Courts with a specialized environmental and resources tribunal have been implementing converged adjudication of cases as of June 2017. Among these 12 Higher People's Courts, Guizhou, Henan and Qinghai implemented "two-in-one" converged adjudication mode to hear civil and administrative cases, while Fujian, Jiangsu, Hebei, Chongqing, Hainan, Sichuan, Xinjiang and Shaanxi implemented "three-in-one" converged adjudication mode to hear criminal, civil and administrative cases. Meanwhile, Yunnan implemented "three plus one" converged adjudication mode to hear criminal, civil, administrative and EPIL enforcement cases. While implementing the "two-in-one" converged adjudication mode, the Higher People's Court of Henan Province has explored joint guidance for criminal cases related to environment and resources by environmental and resources adjudication institutions and criminal adjudication institutions. The Higher People's Court of Hainan Province formulated the *Opinions on Implementation of "Three-in-One" Converged Adjudication of Environmental and Resources Cases at Certain Courts (Trial)*. The document aims at implementing the "three-in-one" mode at the Higher People's Court of Hainan Province, five intermediate People's Courts and three grassroots People's Courts. Some higher People's Courts that have not implemented converged adjudication have also started exploring the mode at intermediate and grassroots People's Courts. Appointed by the Higher People's Court of Jiangxi Province, the Intermediate People's Court of Jiujiang City has issued a Pilot Work Plan for "three-in-one" Environmental and Resources Adjudication and attempted to implement the mode at the Intermediate People's Court of Jiujiang City and the Wuning County People's Court. The Higher People's Court of Yunnan Province formulated the *Scope of Environmental and Resources Cases filed in Yunnan Province (Trial)*, which specifies that criminal cases relating to environment and resources consist of 31 causes of four categories, namely the crime of endangering public security involving ecological protection, the crime of damaging socialist market economy order involving ecological protection, the crime of impeding social management order involving ecological protection, and the crime of abusing official duties involving ecological protection. Moreover, civil cases related to environment and resources consist of 29 causes of five categories, namely civil EPIL, EEDCL filed

provincial governments, infringement disputes relating to natural resources, contracts disputes relating to natural resources, and property right disputes relating to natural resources. In addition, administrative cases relating to environment and resources consist of four causes, including administrative EPIL. It has made a helpful exploration in specifying the scope of environmental and resources cases subject to converged adjudication.

(3) Continuously Promoting Diversified Governance Mechanisms

Thoroughly implementing the *Opinions on Establishment of Unified and Regulated National Ecological Civilization Pilot Zones* issued by the General Office of the CPC Central Committee and the General Office of the State Council and its implementation plan, the SPC formulated the *Opinions on Supporting Fujian Province to Speed up the Key Deployment of Building National Ecological Civilization Pilot Zones*, guiding the Higher People's Courts of Fujian, Jiangxi and Guizhou to maximize the role of the judiciary in protecting the construction of ecological civilization pilot zones and promoting modernization of national governance system and capacity of these zones.

In September 2016, the SPC and the SFA formed a joint research group to research legal issues of forest rights in Sichuan. In November and December 2016, the SPC and the SPP jointly issued two important judicial interpretations, namely the *Interpretations on Several Issues concerning Law Application in Handling Criminal Cases Relating to Illegally Mining and Destructive Mining* and the *Interpretations on Several Issues concerning Law Application in Handling Criminal Cases Relating to Environmental Pollution*. In March 2017, six government institutions, including the SPC, the SPP and the MEP, formed a joint research team to survey the pilot reform of the ecological and environmental damages system in Shandong and Jiangsu Provinces. The SPC and the MEP jointly promoted the construction of environmental administrative law enforcement and judicial information sharing platform. They also established a coordination and collaboration mechanism for environmental and resources justice and administrative law enforcement.

People's Courts at all levels actively promoted the establishment of working mechanisms to integrate with the public security authorities, procuratorial authorities, judiciary and the competent departments of environmental and resources protection,

providing institutional basis and policy support for the reform measures of environmental and resources adjudication. The Higher People's Court of Fujian Province and nine other institutions in Fujian Province, including the procuratorial authority and the public security authority, jointly issued the *Opinions on Establishment of Seamless Integration Mechanism between Administrative Law Enforcement and Criminal Justice Relating to Ecological, Environmental and Resources Protection in Fujian Province* and other normative documents. They established and improved on systems for the referral of clues, evidence conversion, collaboration and cooperation, and supervision. They explored the establishment of inter-basin and cross-regional collaborative protection, three-dimensional protection and all-around protection mechanisms. Moreover, they established and improved the joint meeting mechanism with the provincial government on the construction of ecological civilization that provided favorable external environment for promoting environmental and resources adjudication. The Higher People's Court of Henan Province and six other institutions in Henan Province, including the procuratorial authority and the public security authority, jointly issued the *Opinions on Establishment and Implementation of Joint Work Mechanism for Environmental and Resources Justice and Law Enforcement*. They established joint meeting system and liaison system between environmental and resources judiciary and administrative law enforcement department, joint mediation mechanism for disputes over environment and resources, and joint investigation mechanisms for violations. The Higher People's Court of Chongqing Municipality established a communication mechanism with the procuratorial authority, the public security authority and the competent departments of environmental protection. It formulated the *Guiding Opinion on Evidence Issues When Handling Violations and Crimes of Environmental Pollution*, realizing the effective integration of administrative law enforcement and criminal justice related to environmental protection. In addition, the court drafted the *Provisions on Handling EPIL Cases*, which specifies the job descriptions and collaboration and cooperation mechanism of People's Courts, procuratorial authorities and competent environmental protection departments in handling civil EPIL cases. The Higher People's Court of Guangxi Province, the procuratorial authority, the public security authority, the

judiciary authority and the competent environmental protection departments held a joint meeting of environmental law enforcement to discuss cases of illegal disposal of hazardous wastes and other related issues. The Higher People's Court of Hainan Province and other seven units, including the procuratorial authority and the public security authority, jointly developed the *Opinion on Establishment of a Unified Judicial Appraisal Institution for Environmental Damages, List of Appraisers, and Pool of Environmental and Resources Experts in Hainan (Trial)*, regulating judicial appraisal on environmental damages within the jurisdiction of Hainan Province.

IV. Endeavoring to Improve Legal Protection on Environment and Resources

People's Courts at all levels have conducted in-depth research on environmental and resources adjudication theories and actively participated in environmental and resources legislation. Moreover, they have actively promoted implementation of the principle of public participation in all aspects of environmental and resources adjudication, expanded the international horizon and deepened foreign cooperation to enhance the service and protection capacity for ecological civilization construction and green development.

(1) Actively Participating in Environmental and Resources Legislation

Adhering to a problem-oriented approach, the SPC made pragmatic and effective opinions and suggestions on the formulation of relevant laws and administrative regulations on environment and resources. It promoted the use of effective experience in judicial practice into laws and realized organic integration of justice with legislation and administrative law enforcement to contribute to the strengthening of scientific and democratic legislation and improve the quality of legislation. Through provision suggestions, seminar discussions and opinion replies, the SPC, in conjunction with the legislature and relevant administrative authorities, participated in the formulation of laws and administrative regulations on ecological and environmental protection and green development, including the *General Principles of Civil Law*, the *Water Pollution Prevention and Control Law*, the *Soil Pollution Prevention and Control Law*, the *Nuclear Safety Law* and the *Administrative Regulations on Environmental Protection in Offshore Oil Exploration and Exploitation*. Article 9 of the *General Principles of*

Civil Law, which was deliberated and adopted at the 5th Session of the 12th NPC in March 2017, established the green principle as the fundamental principle of civil activities. It prescribes: “*Civil subjects shall engage in civil activities in a manner that helps save resources and protect ecology and environment.*” The SPC actively communicated and cooperated with the procuratorial authorities and, in conjunction with the SPP, submitted special reports on legislative amendments to the NPC Legislative Affairs Commission to promote the legislation of the public interest litigation system of procuratorial authorities. In June 2017, the NPC Standing Committee amended the *Civil Procedure Law* and the *Administrative Procedure Law*, and added the provisions on civil and administrative EPIL cases filed by procuratorial authorities in Article 55 and Article 25 respectively, providing legal basis for launching public interest litigation system of the procuratorial authorities nationwide.

(2) Launching In-Depth Theoretical Research

Based on the rich resources of Environmental and Resources Judicial Research Center and the Theoretical Research Base, the SPC actively promoted innovation in environmental and resources adjudication theory. In July 2016, the SPC held a seminar to promote environmental and resources adjudication. It was attended by SPC President Zhou Qiang who summarized and reviewed the adjudication work on environment and resources and put forward the objectives and requirements for working the future. In November 2016, the SPC set up a research base at Tianjin University for judicial expertise of environmental damage and held a seminar on theory and practice of judicial expertise of environmental damage, with the aim of facilitating an in-depth discussion on the theory and practice of judicial expertise of environmental damages, the theory of environmental health and other forefront issues. In February 2017, the Wuhan University Base of the Environmental and Resources Judicial Theory Research of the SPC held the *Seminar on Judicial Protection on Environment and Resources in the Yangtze River Basin* to discuss judicial protection of environment and resources in the Yangtze River Basin. In April 2017, the Renmin University Base of the Environmental and Resources Judicial Theory Research of the SPC held seminars on the theory and practice of forest rights and EPIL successively to discuss the theory and

practice issues of judicial protection on forest rights and EPIL. In May 2017, the SPC held the 2017 regular meeting of the Environmental and Resources Judicial Research Center and its Academic Committee to review and summarize the research work and plan the next phase of research work.

The SPC sought to maximize the advantages of the Judicial Practice Base of Environment and Resources and guided the combination of theory and practice in environmental and resources adjudication. The Intermediate People's Court of Longyan City, Fujian Province and the Wuhan Maritime Court issued the guiding opinions on the construction of practice bases and specified the priority of judicial services so that environmental justice can better serve the construction of ecological civilization. The Forestry Intermediate People's Court of Heilongjiang Province held the *Seminar on Judicial Protection on Environment and Resources of Forestry Courts*, while the Intermediate People's Court of Zhangzhou City, Fujian Province held the fifth *Seminar on Ecological Civilization and Assurance of Rule of Law*, which effectively enhanced the capacity of environmental and resources adjudication teams. Based on colleges, universities and scientific research institutions, courts in all regions actively explored theory and practice research on environmental and resources adjudication. The Higher People's Court of Fujian Province made full use of the platform of *Seminar on Judicial Exchanges Between Fujian and Taiwan*, continued to expand exchange and cooperation on ecological justice on both sides and actively strengthened the cooperation with Tianjin University, Central China Normal University and other domestic key colleges, universities and scientific research institutions. Based on Zhengzhou University and North China University of Water Resources and Electric Power, the Higher People's Court of Henan Province established separately the Theory Research Base of Environmental and Resources Judicature and the Theory Research Base of Judicial Expertise and Restoration of Environmental and Resource Damage, and engaged experts and scholars in relevant fields as researchers. The Higher People's Courts of Beijing, Tianjin and Hebei jointly organized the training course of adjudication work of environmental and resources protection to enhanced the capacity of environmental and resources judicature.

In paying close attention to judicial reform and optimizing the regional advantages of

circuit courts, the SPC carried out investigation and research on key issues of environmental and resources adjudication. In June 2017, the SPC held the symposium on ecological judicial protection in the Yangtze River Basin in Jiujiang City, Jiangxi Province, where is under jurisdiction of its Third Circuit Court. It was attended by courts from 19 provinces, autonomous regions and municipalities in the Yangtze River Basin. In-depth study was made on strengthening judicial protection on ecological civilization construction and green development in the Yangtze River Basin.

Over the past year, the SPC has published a series of books on environmental and resources adjudication, including the *Adjudicating Thoughts and Ruling Method of Mineral Resources Cases* and *Guidance on Environmental and Resources Adjudication*. It has also published a series of articles regarding adjudication of mining rights adjudication, EPIL adjudication and comparative studies on environmental justice in *People's Justice, Law Application and People's Court Daily*. The Research Center of Environmental and Resources Judicature issued the *Report of Judicial Specialization*. The Research Base at Wuhan University published several theoretical books on environmental and resources adjudication in the form of *Library of Environmental Judicature*. The Qingzhen People's Court of Guizhou Province organized and drafted the *Theoretical and Practical Exploration on Civil EPIL* by summarizing its experience on adjudicating civil EPIL cases. In-depth theoretical research provided an effective intellectual support for the People's Courts to formulate judicial interpretations, study judicial policies and correctly hear significant and classic cases.

(3) Continuously Deepening Public Participation

People's Courts at all levels paid high attention to the extensive implementation of the principle of public participation, and continued to promote the selection of people's assessors and the construction of experts pool of environmental and resources adjudication. They extensively carried out circuit adjudication, strengthened online publicity of adjudicative documents and publication system of EPIL cases acceptance and mediation, in order to protect the public's right to know. In July 2016, the SPC issued the first white paper on environmental and resources adjudication to comprehensively and systematically introduce the environmental and resources adjudication of China. Around the Environment Day on 5 June 2017, People's Courts

at all levels launched promotional and educational campaigns with rich contents in diversified forms. The SPC held an exhibition on environmental and resources adjudication, titled *“Lucid Waters and Lush Mountains are Invaluable Assets”*, at China’s Court Museum. It had seven sections, namely *“Environmental and Resources Adjudication Rolls Out”*, *“Giving Full Play to the Functional role of Adjudication”*, *“Promoting Construction of Environmental and Resources Adjudicating Institutions”*, *“Exploring Working Mechanism of Environmental and Resources Adjudication”*, *“Improving Rules of Environmental and Resources Adjudication”*, *“Strengthening Theory Innovation of Environmental and Resources Adjudication”* and *“Improving Professional Capacity of Adjudication Teams”*. It fully exhibited major achievements attained by the People’s Courts on environmental and resources adjudication since the opening-up and reform, especially since the 18th National Congress of the CPC. The exhibition was attended by tens of thousands of people at home and abroad, including Deputy Secretary General of the United Nations and Executive Director of the United Nations Environment Program, Chairman of the Constitutional Council of France, Chief Justice and President of the Supreme Court of Thailand, and Grand Justice of the Supreme Court of Nepal. The Higher People’s Court of Hebei Province worked in tandem with relevant departments, including the procuratorial authority, the public security authority, the justice authority and lawyers associations, to promote legal publicity on environmental protection. The Higher People’s Court of Henan Province held unveiling ceremony of the Theory Research Base of Judicial Expertise and Restoration of Environmental and Resource Damage and Seminar on EPIL. The Higher People’s Courts of Jiangsu Province and Yunnan Province, the Chongming District and Qingpu District People’s Courts of Shanghai and other courts issued their white papers or green papers on environmental and resources adjudication. On 5 June 2017, the Environment Day on, courts in all regions held a total of 26 press conferences, released 16 white papers on environmental and resources adjudication and issued 123 typical environmental and resources cases. These efforts effectively improved public awareness on environmental protection and expanded the influence of environmental and resources adjudication.

(4) Actively Launching Foreign Cooperation

Global environmental issues are becoming increasingly prominent, and climate change, transboundary pollution and transfer of pollutants have become major challenges facing all countries. Therefore, we must work together to strengthen international cooperation. Bearing in mind the philosophy of community with common future, community of common interests and community with common responsibilities, People's Courts at all levels enforced the domestic legal system of environment and resources, while fully respected and applied international conventions and treaties approved by China. They actively undertook international responsibilities and obligations and applied their ideas, principles and rules when adjudicating specific cases, in order to ensure the implementation of such international conventions and treaties and protect national environmental interests and global ecological security. They exhibited the international view of openness and inclusiveness in environmental and resources adjudication.

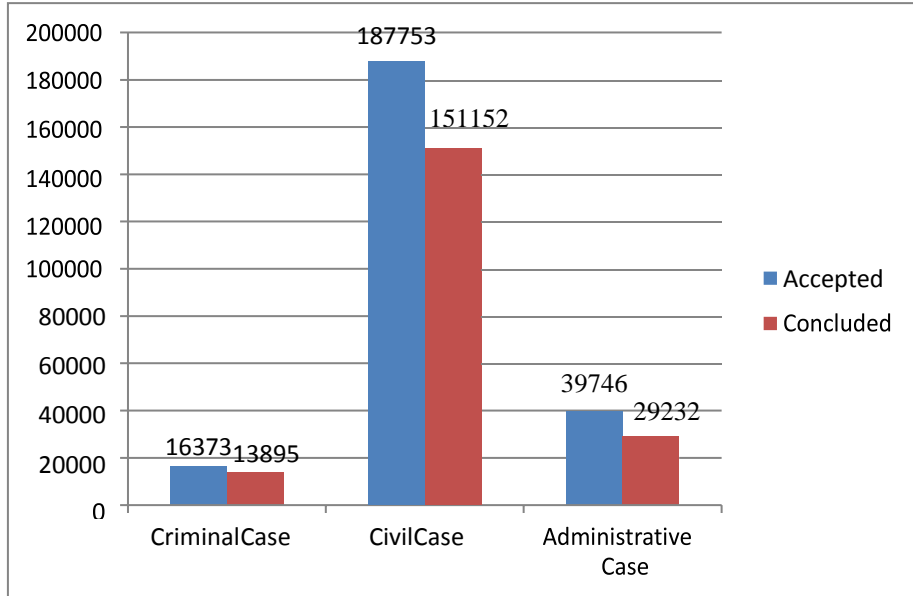
People's Courts at all levels strengthened the research of international environmental law and comparative environmental law as well as the exchange of environmental and resources judicial cases. They drew upon proven experience of foreign environmental judicial theories and practice for promoting the development of domestic environmental and resources adjudication practice. In June 2017, SPC President Zhou Qiang met Erik Solheim, Deputy Secretary General of the United Nations and Executive Director of the United Nations Environment Program. They had in-depth discussion on the cooperation between the SPC and the United Nations Environment Program. With the way of "going out and bringing in", the SPC selected environmental and resources judges to study abroad while invited foreign experts and scholars to give lectures at home. In September 2016, the SPC sent representatives to the Philippines to attend the third Asia-Pacific Regional Environmental Judges Seminar. In November 2016, a delegation of judges was sent to the United Kingdom and Sweden to exchange on environmental and resources adjudication. From January to March 2017, five judges were dispatched to the United States to be trained under the topic of *Environmental and Resources Law and Judicial Practice*. In March 2017, the SPC sent representatives to India to attend the World Environment Conference 2017. In May 2017, the SPC sent representatives to Brazil to attend the second Global Environmental Justice Research Conference. These foreign exchange activities have

played a positive role in enhancing communication between China and the outside world in terms of environmental and resources adjudication, expanding the international horizon of environmental and resources judges, building professional adjudication teams and enhancing international influence of China's environmental and resources adjudication.

Over the past year, China's environmental and resources adjudication saw a huge progress with the joint effort of People's Courts at all levels. However, we are fully aware that environmental and resources adjudication of China is still facing many problems, such as uneven and uncoordinated regional development, inability of work mechanism and adjudication capability to meet requirements for modern, professional and international adjudication. We still have a long way to go. In the process of promoting ecological civilization construction and green development in China, People's Courts at all levels will continue to thoroughly implement the guiding principles of the 18th National Congress of the CPC and the third, fourth, fifth and sixth plenary meetings of the 18th CPC Central Committee. They will pursue the new philosophy of innovative, coordinated, green, open and shared development, while fully implement the cardinal national policy of resource conservation and environmental protection. Adhering to the objective of "*letting the people feel fairness and justice in every judicial case*", the courts will firmly uphold the cardinal line of justice for the people and ensure judicial fairness, so as to strive for realizing green development, building a beautiful China and protecting our shared home.

**Appendix 1: Environmental and Resources Cases Filed by Courts Nationwide
from July 2016 to June 2017**

Unit: Case



Appendix 2: Establishment of Environmental and Resources Institutions at Courts Nationwide

Establishment of Environmental and Resources Institutions at Courts Nationwide

Province/Region	Environmental and Resources Tribunals	Environmental and Resources Collegial Panels	Environmental and Resources Circuit Courts
Beijing	1	10	0
Tianjin	0	3	0
Hebei	25	62	0
Shanxi	1	2	0
Inner Mongolia	3	1	0
Liaoning	0	7	0
Jilin	2	12	0
Heilongjiang	0	1	0
Shanghai	5	1	0
Jiangsu	14	32	0
Zhejiang	7	0	1
Anhui	1	103	2
Fujian	73	12	13
Jiangxi	8	27	1
Shandong	10	11	0
Henan	30	100	8
Hubei	5	123	0
Hunan	14	2	0
Guangdong	8	16	2
Guangxi	1	0	2
Hainan	8	1	2
Chongqing	11	0	0
Sichuan	58	14	10
Guizhou	29	0	0
Yunnan	18	3	0
Tibet	2	0	0
Shaanxi	4	28	0
Gansu	1	14	1
Qinghai	3	0	1
Ningxia	0	1	0
Xinjiang	1	3	0
Corps	0	0	0
Military	0	0	0
SPC	1	0	0
Subtotal	344	589	43
Total	976		

Environmental and Resources Tribunals of Local People's Courts at Different Levels

Province/Region	Grassroots	Intermediate	Higher	Total
Beijing	1	0	0	1
Tianjin	0	0	0	0
Hebei	16	8	1	25
Shanxi	0	1	0	1
Inner Mongolia	0	2	1	3
Liaoning	0	0	0	0
Jilin	0	1	1	2
Heilongjiang	0	0	0	0
Shanghai	4	1	0	5
Jiangsu	4	9	1	14
Zhejiang	4	3	0	7
Anhui	0	1	0	1
Fujian	11	61	1	73
Jiangxi	6	1	1	8
Shandong	6	3	1	10
Henan	20	9	1	30
Hubei	0	5	0	5
Hunan	8	5	1	14
Guangdong	3	4	1	8
Guangxi	0	0	1	1
Hainan	3	4	1	8
Chongqing	5	5	1	11
Sichuan	36	21	1	58
Guizhou	19	9	1	29
Yunnan	11	6	1	18
Tibet	0	1	1	2
Shaanxi	2	1	1	4
Gansu	0	0	1	1
Qinghai	1	1	1	3
Ningxia	0	0	0	0
Xinjiang	0	0	1	1
Corps	0	0	0	0
Military	0	0	0	0
Total	160	162	21	343

Environmental and Resources Tribunals at Higher People's Courts

S/N	Court	Name	Converged Adjudication Mode of Environmental and Resources Cases
1	The Higher People's Court of Guizhou Province	Ecological Protection Tribunal	Civil and administrative cases
2	The Higher People's Court of Fujian Province	Ecological and Environmental Tribunal	Criminal, civil and administrative cases
3	The Higher People's Court of Hainan Province	Environmental and Resources Tribunal	Criminal, civil and administrative cases
4	The Higher People's Court of Jiangsu Province	Environmental and Resources Tribunal	Criminal, civil and administrative cases
5	The Higher People's Court of Hebei Province	Environmental Protection Tribunal	Criminal, civil and administrative cases
6	The Higher People's Court of Shandong Province	Environmental and Resources Tribunal	Civil cases
7	The Higher People's Court of Guangxi Zhuang Autonomous Region	Environmental and Resources Tribunal	Civil cases
8	The Higher People's Court of Jiangxi Province	Environmental and Resources Tribunal	Civil cases
9	The Higher People's Court of Henan Province	Environmental and Resources Tribunal	Civil and administrative cases
10	The Higher People's Court of Guangdong Province	Environmental and Resources Tribunal	Civil cases
11	The Higher People's Court of Chongqing City	Environmental and Resources Tribunal	Criminal, civil and administrative cases
12	The Higher People's Court of Yunnan Province	Environmental Protection Tribunal	Criminal, civil, administrative, and enforcement cases
13	The Higher People's Court of Hunan Province	Environmental and Resources Tribunal	Civil cases
14	The Higher People's Court of Sichuan Province	Environmental and Resources Tribunal	Criminal, civil and administrative cases
15	The Higher People's Court of Jilin Province	Environmental and Resources Tribunal	Civil cases
16	The Higher People's Court of Qinghai Province	Environmental and Resources Tribunal	Civil and administrative cases
17	The Higher People's Court of Gansu Province	Environmental and Resources Protection Tribunal	Civil cases

18	The Higher People's Court of Xinjiang Uygur Autonomous Region	Environmental and Resources Tribunal	Criminal, civil and administrative cases
19	The Higher People's Court of Tibet Autonomous Region	Environmental and Resources Tribunal	Not yet determined.
20	The Higher People's Court of Inner Mongolia Autonomous Region	Environmental and Resources Tribunal	Not yet determined.
21	The Higher People's Court of Shaanxi Province	Environmental and Resources Tribunal	Criminal, civil and administrative cases

Appendix 3: Judicial Interpretations and Normative Documents concerning Environment and Resources (2016-2017)

	Title	No.	Issued on	Effective from
Judicial Interpretations	Interpretations of the SPC and the SPP on Several Issues concerning Law Application in Handling Criminal Cases Relating to Illegal Mining and Destructive Mining	Fa Shi [2016] No. 25	November 28, 2016	December 1, 2016
	Interpretations of the SPC and the SPP on Several Issues concerning Law Application in Handling Criminal Cases Relating to Environmental Pollution	Fa Shi [2016] No. 29	December 23, 2016	January 1, 2017
	Interpretations of the SPC on Several Issues concerning Law Application in Hearing Cases of Disputes over Mining Rights	To be released soon.		
Normative Documents	Opinions of the SPC on Supporting Fujian Province to Expedite the Key Deployment of Building National Ecological Civilization Pilot Zones	Fa [2016] No. 443	December 21, 2016	December 21, 2016
	Work Specifications of the SPC on Hearing EPIL Cases (Trial)	Fa [2017] No. 83	March 23, 2017	April 1, 2017 (trial)

Appendix 4: Catalogue of Typical Environmental and Resources Cases Issued by the SPC

I. On December 26, 2016, the SPC issued eight typical cases of environmental pollution crimes.

Case 1: Case of Environmental Pollution by Liu Zuqing

Case 2: Case of Environmental Pollution by Tian Jianguo and Li Enguo

Case 3: Case of Environmental Pollution by Zhejiang Huidelong Chemicals Co., Ltd. and others

Case 4: Case of Environmental Pollution by Wang Qiuwei et. al.

Case 5: Case of Environmental Pollution by Huzhou Industrial and Medical Wastes Disposal Center Co., Ltd.

Case 6: Case of Environmental Pollution by Jiantao (Hebei) Coking Co., Ltd.

Case 7: Case of Environmental Pollution by Bai Jialin and Wu Shuqin

Case 8: Case of Environmental Pollution by Zhejiang Jinfanda Chemicals Co., Ltd. et. al.

II. On March 7, 2017, the SPC issued 10 typical EPIL cases.

Case 1: Civil EPIL case of Jiangsu Taizhou Environmental Protection Association vs. Taixing Jinhui Chemical Co., Ltd. et. al. for water pollution

Case 2: Series of civil EPIL cases of China Biodiversity Conservation and Green Development Foundation vs. Ningxia Ruitai Technology Co., Ltd. for pollution in Tengger Desert

Case 3: Civil EPIL case of All-China Environment Federation vs. Zhenhua Co., Ltd. of Shandong Dezhou Jinhua Group for air pollution

Case 4: Civil EPIL case of Chongqing Green Volunteers' Federation vs. Hubei Enshi Jianshi Huangchangping Mining Co., Ltd. for reservoir pollution

Case 5: Civil EPIL case of All-China Environment Federation vs. Jiangsu Jiangyin Changjing Liangping Pig-Farming Cooperative for breeding pollution

Case 6: Civil EPIL case of Beijing Chaoyang District Friends of Nature Environmental Institute vs. Shandong Jinling Chemicals Co., Ltd. for air pollution

Case 7: Civil EPIL case of Jiangsu Zhenjiang Ecological and Environmental Public Interest Protection Association vs. Jiangsu Yoli Optical Glasses Company for solid waste pollution

Case 8: Civil EPIL case of Jiangsu Xuzhou People's Procuratorate vs. Xuzhou Hongshun Papermaking Co., Ltd. for water pollution

Case 9: Administrative EPIL case of the Liuzhi Special Zone People's Procuratorate of Liupanshui City, Guizhou Province vs. the Dingqi Town People's Government of Zhenning Buyi and Miao Autonomous County, Guizhou Province

Case 10: Administrative EPIL case with incidental civil action of Baishan People's Procuratorate vs. Baishan Jiangyuan District Health and Family Planning Bureau and Baishan Jiangyuan District Chinese Medicine Hospital

III. On June 22, 2017, the SPC issued 10 typical criminal, civil and administrative cases related to environment and resources.

Case 1: Case of Zhongwei Shapotou District People's Procuratorate of Ningxia Hui Autonomous Region vs. Ningxia Mingsheng Dyeing Co., Ltd. and LianXingzhong for environmental pollution

Case 2: Criminal case with incidental civil action of Lianyungang Lianyu District People's Procuratorate vs. Yin Baoshan et. al. for illegal finishing

Case 3: Criminal case with incidental civil action of Hunan Yueyanglou District People's Procuratorate vs. He Jianqiang et. al. for illegally killing and hunting precious and endangered wild animals

Case 4: Case of LvJinkui and 78 others vs. Shanhaiguan Shipbuilding Industry Co., Ltd. for dispute over damage liability caused by maritime pollution

Case 5: Case of Ni Xulong vs. Dandong Haiyanghong Wind Power Generation Co., Ltd. for dispute over environmental pollution infringement

Case 6: Case of Jiangxi Xingguang Modern Ecological Agriculture Development Co., Ltd. vs. Jiangxi Yingpeng Chemicals Co., Ltd. for dispute over air pollution liability

Case 7: Civil EPIL case of All-China Environment Federation vs. Tan Yaohong and Fang Yunshuang for environmental pollution

Case 8: Case of Deng Shiyong vs. Guangxi Yongkai Candy Wrapper Co., Ltd. and other five companies for dispute over damage liability caused by polluting waters connecting the seas

Case 9: Case of Hainan Sangde Water Co., Ltd. vs. Hainan Danzhou Ecological and Environmental Protection Bureau over an administrative punishment on environmental protection

Case 10: Case of Chen Delong vs. Chengdu Chenghua District Environmental Protection Bureau over an administrative punishment on environmental protection