

中国检察机关运用公益诉讼方式保护生态环境司法实践

China's Judicial Protection of Environment through Environmental Public Interest

Litigations (EPIL) from Prosecutors

——长江流域栖息地及物种保护案例分享



Sharing of cases on habitat and species protection in Yangtze river basin

湖北省人民检察院

行政诉讼监督处处长 申鸿雁

2018年10月





中国对生态环境等公共利益的保护有多种方式，
如行政管理、刑事司法等。

提起民事或行政诉讼是探索完善公益保护的一种新方式。

There are multiple ways to protect the public interests such as the environment, administrative and judicial measures included.

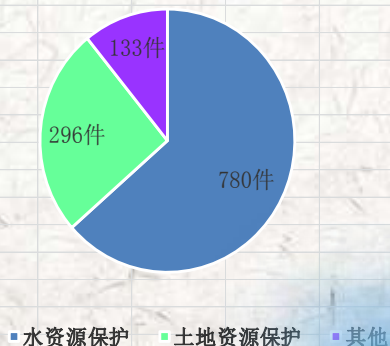
Bringing a civil or administrative prosecution against environmental completes the system as a new approach.



中国湖北检察机关生态环境和资源保护公益诉讼案件情况

EPIL from Procuratorial Organs in Hubei Province

About 1209 cases relating to environment and resources have been handled



办理动植物物种保护案件61件

- ◆ 野生动物、珍稀动物保护14件
- ◆ 非法捕捞47件

61 cases relating to wildlife and plants have been handled, of which

- 14 are related to wildlife and endangered animals
- 47 related to illegal fishing

中国湖北检察机关通过公益诉讼保护生态环境取得的成效

Progress in Environmental Protection through EPIL from Hubei Procuratorial Organs

- ▶ 督促治理恢复被污染水域面积 5563 公顷;
被污染土地面积 402.7 公顷;
- ▶ 保护野生、珍稀动植物 49 种;
- ▶ 督促赔偿生态恢复费用 1423.8 万元;
没收违法所得 100 万元;

- ▶ 5563 hectare of polluted waters
402.7 hectare of polluted land have been treated and recovered
- ▶ 49 types of wilflife and endangered animals have been protected
- ▶ 1.4238 million yuan was paid for ecological restoration
1 million yuan of ill-gotten proceeds were forfeited

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【案例一】

荆州·沙市：长江流域非法捕捞

刑事附带民事公益诉讼案

Case #1

Shashi Jinzhou: Criminal and Civil EPIL Case
with illegal fishing in Yangtze river basin



长江：世界第三长河，
重要的淡水水库和生物基因库，
拥有水生生物4300余种。

Yangtze River: The 3rd longest river in the world

An important freshwater reserve and biological gene pool

Home to over 4,300 types of aquatic life



电捕鱼的危害

Harms of electro-fishing

对鱼类等水生生物的危害

On aquatic life including fish

1

1) 扩散电流无选择性，危害面广；

Indiscriminate current detrimental to a wider area

2) 影响种群繁衍，造成生长畸形；

Causing growth abnormalities hence affecting the species reproduction

3) 对浮游生物、无脊椎动物等造成致命伤害。

Lethal effect on plankton and invertebrates

对生态系统环境的危害

On ecological environment

2

1) 危害水体安全——水生生态系统食物链遭受破坏，物质、能量流动受到阻遏；

Harming water body- aquatic food chain disrupted and the flow of matter and energy interrupted

2) 造成水环境污染——遭电击死亡但未捞取的水生物沉入水底，腐败变质；

Polluting the water- aquatic life dead from electrocution sinking to the river bed and decomposing

3) 增加外来物种入侵风险——土著鱼类数量减少，导致生态空缺。

Increasing risk of invasive species- native fish resource depleted and ecological gap created

起舞弄轻影
何似在人前



“5.19”陈俊非法捕捞水产品案示意图

Sketch Map of 5.19 Illegal Fishing Case





1

委托专业机构评估
A specialized agency
was hired to make
assessment

2

提起刑事公诉、
刑事附带民事
公益诉讼
Criminal and
civil public
interest case
was brought

3

非法捕捞水产品罪
判处陈某有期徒刑
The offender,
Chen, was
sentenced to
imprisonment
for illegal
fishing

4

投放成鱼鱼苗
承担评估费用
Chen was
ordered to
put in adult
and juvenile
fish and pay
for the
assessment



启示 Lessons

生态保护无小事。

生态是一个有机整体

壹



1. Ecology is an organic unity and its protection is all-important

危害巨大。

电捕鱼行为，

贰



2. Electro-fishing can cause harm to a wide area

公益诉讼，可以有效维护受损公益。

检察机关提起刑事附带民事公

叁

3. Bringing criminal and civil prosecutions at the same time can efficiently protect the damaged public interest



【案例二】

Case 2#

宜昌·西陵：三峡海事局不依法履职
行政公益诉讼案

Xiling, Yichang: Administrative public interest case with the
Maritime Bureau of Three Gorges failing to perform its
duties in accordance with the law



CCTV 10
科教

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6m

10m

30m



长江中华鲟研究所专家意见：

Expert's Comments from the Research Institute of Chinese Sturgeon in Yangtze River

不利于产卵场原生态保护
It's detrimental to the ecology of the spawning site.

01

船只停靠会
驱散鱼群
Anchoring ships
scatter the fish.

02

产生的噪音等污
染会降低环境适宜
度
Noises among other
pollutions generated
by ships make the
environment less
agreeable.



1

已下达
《责令改正通知书》
Order of Correction
was issued

2

相对人未作答复或整改
该局未采取其他监管措施
The receiving
individual or the
authority failed to
take other supervision
measures

3


向该局发出
检察建议
The
procuratorate
issued pre-
prosecution
advice to the
receiving
authority

4

协同其他单位
成功拖离船只
The ship was
finally towed
away by the
collaboration
of multiple
departments.



「 启示 」 Lessons

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- 检察机关作为国家法律监督机关，通过履行法律监督职责，督促行政机关依法履行职责
 - As legal supervision organs in China, procuratorates shall fulfill their duties by urging the competent administrative organs to perform their duties.
 - 通过诉前检察建议程序，促进相关行政主体主动履职纠错
 - Self-correction on the part of the competent administrative organs shall be encouraged through the advice-before-prosecution procedure
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