

Recent Development of Using Citizen Suits Against Solid and Hazardous Waste in China



Zhuoshi Liu
Director, China Program; Staff Attorney

Environmental Law Institute

Environmental Public Interest Litigation as a new enforcement tool

- Every year, China produces 100 million tons of hazardous waste and 40 million tons of industrial hazardous waste.



Environmental Public Interest Litigation as a new enforcement tool

- “Environmental protection is the weak link in the efforts towards ecological civilization, and hazardous waste is the weakest part of this weak link.” – Chen Ying, Solid Waste Technical Center, MEE.

Environmental Public Interest Litigation as a new enforcement tool

- In 2015, the designed treatment capacity was 53 million tons. The actual capacity was 15 million tons. Only 15% of the hazardous waste could be actually treated.
- Short supply of treatment capacity leads to high prices. Some companies committed environmental crimes to cut \$160 / ton treatment expense to \$50 / ton by illegal means.

Environmental Public Interest Litigation as a new enforcement tool

- 40% of environmental crimes involve hazardous waste.
 - 以邻为壑 (“Yi Lin Wei He”, beggar-thy-neighbor)
 - interprovincial transportation and dumping of waste is rising.

Environmental Public Interest Litigation as a new enforcement tool

- May be filed by NGOs against polluters, authorized by the Environmental Protection Law of 2015
- Also, may be filed by prosecutors against polluters and government agencies, authorized by the Civil Procedures Law and Administrative Procedures Law amended in 2017

Cases on solid and hazardous waste

- Procuratorate of Jinghu District, Wuhu v. Li Chuang et al. (2018) – Prosecutors filed criminal and civil actions against individuals that dumped toxic industrial mud into Yangtze River.
- Corporate Responsibility Promotion Center v. Dongxing Co., Ltd. et al. (2016) – NGO sued against interprovincial transportation of hazardous solid waste.

Procuratorate of Jinghu District, Wuhu v. Li Chuang et al. (2018)

- Facts:
 - Disposal of industrial waste mud requires trained professionals and licenses.
 - Certain individuals, unqualified for the disposal of industrial waste mud, purchased waste mud with low price from waste water treatment plants and other facilities (corporate defendants) in Jiangsu and Zhejiang provinces.
 - They dumped 2,526 tons to Yangtze River in Anhui Province, causing serious water pollution.
 - Direct loss caused by these violations was RMB 13 million (\$2 million).

Procuratorate of Jinghu District, Wuhu v. Li Chuang et al. (2018)

- Outcome:
 - The Procuratorate filed criminal charges against the individuals dumped the waste and public interest civil charges against the individuals and the companies that sold the waste to them.
 - In the criminal case, all defendants were convicted and sentenced to jail (1 year to 6 years) and fines.
 - In the civil public interest case, the defendants were ordered to pay RMB 13 million for repairing the contaminated site, emergency response, and expert witnesses.

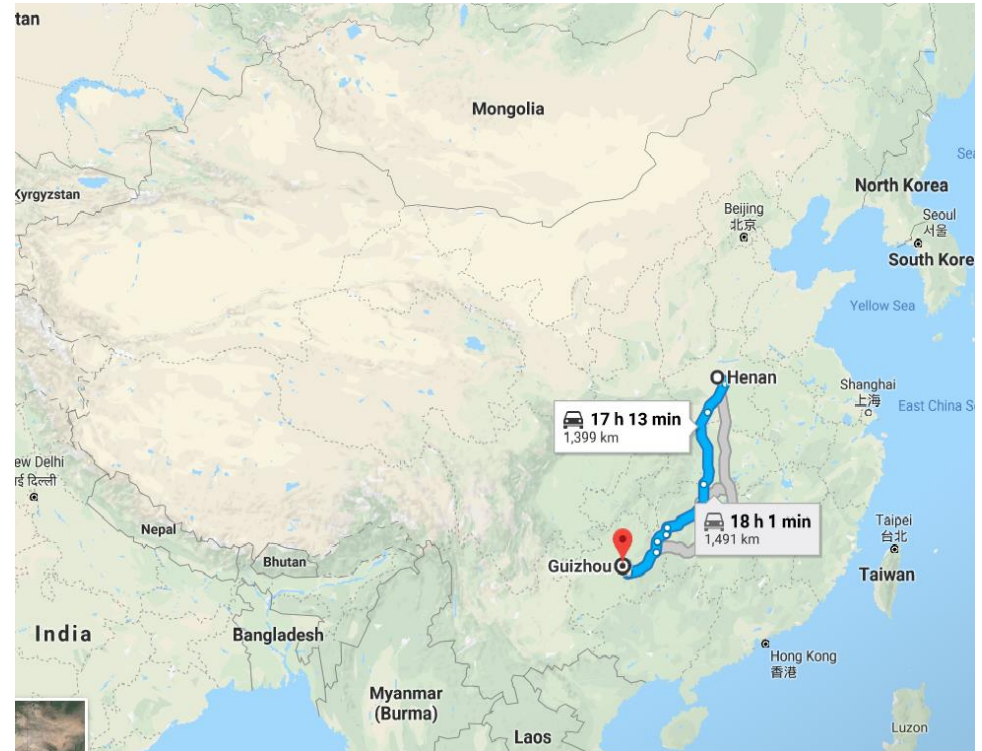


Corporate Responsibility Promotion Center v. Dongxing Co., Ltd. et al. (2016)

- Facts:
 - A producer of mineral product in Guizhou generated waste mercury catalyst. It contracted a waste disposal company to dispose the waste catalyst.
 - Known to the producer and the waste disposal company, an unqualified transport company was contracted by them to transport the waste.
 - The transportation company transported the waste to Henan Province, 800 miles away, and dumped 39 tons of mercury catalyst without any protection at a remote village.
 - The NGO sued the producer, the waste disposal company, and the transportation company for causing soil contamination.

Corporate Responsibility Promotion Center v. Dongxing Co., Ltd. et al. (2016)

800 miles is almost the distance between Washington, DC and Montgomery, Alabama!



Corporate Responsibility Promotion Center v. Dongxing Co., Ltd. et al. (2016)

- Outcome:
 - Local Bureau of Environmental Protection officials testified against the defendants.
 - The court ordered the producer to pay RMB 480,000 (\$72,000) for repairing the contaminated site or clean up the contaminated site by replacing the polluted soil with unpolluted soil.
 - The waste disposal and transportation companies were held to be with joint and several liabilities.
 - The owner of the transportation company was convicted of environmental crime and sentenced 30 months in a separate criminal enforcement case.

Zhuoshi Liu
Staff Attorney
Environmental Law Institute
(202) 939-3809
liu@eli.org

