The realistic dilemma of environmental interest subject of legal responsibility  
——Based on the perspective of law and economics

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Abstract. As the important environmental interests subject, enterprises, public and government should assume the corresponding responsibility of pollution control and environmental protection. However, in the aspect of environment, there are failure existing in performing government responsibility, the financial expense and investment our government has participated in the aspects of pollution control and environmental protection are serious insufficient. In the meantime, in spite of the clear definition of the range and principles of enterprises’ environmental responsibility according to some corresponding law documents, in view of our country’s condition, enterprises always fail to assume their own environmental responsibility, and there are cases existing in pollution control and environmental protection that the investment is insufficient and the treatment effect is not obvious. In addition, it is especially outstanding in our country that the awareness of public environmental rights is pretty weak. The issues of ecological damage and environmental pollution get worse and worse and the total environmental interests get injured seriously because of the failure and vacancy of environmental responsibility of different subjects of right.

1. Introduction
The development and changes of modern society make the environmental interest subject grow diversified increasingly, and the environmental interest also shows the features of diversity and multi-level nature at the same time. According to the differences between the parties of the right configuration, the environmental interest subject can be divided into government, enterprises and the public. In general, these three environmental interest subjects - the government, enterprises and the public - still follow the rational person identity to make decisions when participating in the economic affairs of environment benefits, and many different subjects of rights are always pursuing their own long-term promotion and maximum of environment benefits, pursuing sustainable development. However, this non-differentiation of environmental benefit promotion goal is not equal to the non-differentiation of environmental right to assume between the government, enterprises and the public. From the situations of our country, the situations that failure or absence of environmental rights to assume and the weak awareness of environmental rights, which exist in different interest subjects, have become the dilemmas of Chinese environmental interest subject of legal responsibility of failure.

2. The failure of government environmental responsibility
State Environmental Protection Administration (SEPA) takes the most basic and important
responsibility for environmental protection which is the specialized agent of environmental protection in accordance with Chinese environmental basic law, however, with the condition getting worse and worse on ecology environment and pollution, more and more requirements from environmental benefit are increasing for each interest subject, the SEPA’s capability to improve environmental condition is limited by labors, resources and communication with other environmental agencies, in general, administrative capacity is insufficient for SEPA [1].

Nowadays, as GDP is the main index on official performance assessment mechanism, on the one hand, local governments, as a rational person, are always willing to combine with the enterprises and become interest group with whom can make a lot of job opportunities and productive profit but may cause very serious pollution and life-threatening condition to region. Perhaps so as to they can achieve the improvement of local economic indicators such as GDP growth, employment rate raising and people’s income increasing and so on [2]. On the other hand, environmental benefit is a public good based on its external feature, in principle, government should provide it as fiscal expenditure, in detail, the governmental spending on energy saving and environmental protection projects during 2007 to 2012 is shown as table 1:

| year | Local energy-saving expenditure in environmental protection in RMB (billion) | Local energy-saving expenditure in environmental protection / Local fiscal expenditure in environmental protection |
|------|-----------------------------------------------------------------|-------------------------------------------------|
| 2007 | 961.23                                                          | 2.51%                                           |
| 2008 | 1385.15                                                         | 2.81%                                           |
| 2009 | 1896.13                                                         | 3.11%                                           |
| 2010 | 2372.5                                                          | 3.21%                                           |
| 2011 | 2566.79                                                         | 2.77%                                           |
| 2012 | 2899.81                                                         | 2.71%                                           |
| 2013 | 3383                                                            | 2.42%                                           |

As it is shown in the table 1, the local energy-saving expenditure in environmental protection shows an increasing trend in total, but the local energy-saving expenditure in environmental protection accounts for the proportion of local fiscal expenditure in environmental protection shows a downward trend in general. Among them, the energy-saving expenditure in environmental protection in 2013 was 554.9 billion dollars, accounting for 2.42% of the total expenditure. Compared with other items of fiscal expenditure, the proportion of energy-saving expenditure in environmental protection is relatively low. From the research reporting the SEPA published in 2006, severe shortage of investment in environmental protection in China has pointed out that China needs to spend 13.5 trillion dollars to clean up all of the industrial pollutants and waste household appliances, but the actual investment was only 23.8 billion dollars. From the reality in our country, the government hasn’t been able to undertake the environmental responsibility yet, existing serious phenomenon in ecological civilization construction [3].

3. The serious vacancy of enterprises environmental responsibility

Zijin Mining Group Co., Ltd. is a large-scale mineral group based on gold and other non-ferrous metal mineral resources survey and development. Started from 1993, after more than 10 years of development, it became a well-known domestic gold mining and key high-tech enterprise. But with the high-speed development of Zijin Mining, environmental pollution problems occurred frequently. July 3rd, 2010, a sewage leakage accident occurred at Zijinshan copper mine wet plant, located in Fujian Shanghang County. 9100 cubic meters of sewage leaked into Tingjiang, resulting in a serious pollution and a large number of fish was killed. February 1st, 2011, Zijin Mining announced that the accident was guilty of
major environmental pollution accident and sentenced to 4.75 million dollars fine, the other five defendants were sentenced to 3 years to 3 years and 6 months imprisonment.

At present, our country has made clear legal regulations for environmental responsibility of enterprises. For example, the special legislation of environmental protection has stipulated that the range of undertaking of enterprises environmental responsibility consists of location, design, construction, production, etc., but for these enterprises who have already caused environmental pollution are supposed to follow the principle that anyone who created pollution should be responsible to control it and undertake their own environmental responsibility. Moreover, the legal document of environmental pollution control of single item which is specialized in particular pollutants such as Water Pollution Control Law, Marine Environmental Protection Law, Air Pollution Prevention and Control Law, Water Law, Sand Prevention and Control Law and so on, also definite the demands of the environmental responsibility of enterprises to undertake and the enterprises’ responsibility to decline environmental pollution [4].

Nevertheless, although the range and principle of enterprises environmental responsibility have already been defined in corresponding legal document, in view of the reality of our country, enterprises are always losing responsibility of undertaking their own environmental responsibility. And there is always lack of investment and not obvious effects in environmental protection and environmental pollution control. Specifically, we can see from the view of China's industrial pollution control investment during 2000 to 2012:

![Figure 1. Industrial pollution of investment in China (2000–2012).](image)

View from status of industrial enterprise on figure 1, total investment of industrial pollution treatment increased markedly in 2012 comparing with 2000, but the proportion of competitive amount among industrial total profit went down in the mass. According to the statistic data from the people's Republic of China Ministry of environmental protection, total competitive investment of industrial pollution treatment was 7928 million dollars, separatedly, the treatment cost were 2223.1 million dollars, 4082.6 million dollars, 392.1 million dollars and 18.4 million dollars on waste water, waste gas, waste solid and noise. Although total investment increased 10% comparing with 2011 and 110% addition comparing with 2000, but it only held 0.81% of total industrial output value, it is still a lower level investment on industrial pollution treatment [5].

As is mentioned above, current investment of industrial pollution treatment in our country still keeps in a lower level. Oppositely, the situation of industrial pollution is getting worse and worse. Based on the
recent five years’ data of waste gas emissions, the emissions of waste gas appear an increasing trend. Details as below figure 2:

![Figure 2. Total industrial emissions of China (2007~2012).](image)

As one of important environmental interest subjects, enterprises benefit directly from environmental benefits. On the one hand, they gain profits by natural environment and resource, on the other hand, their productive activities will destroy ecology and cause environmental pollution, so they should take the related responsibilities for environment. For enterprises, environmental protection, waste treatment and emission reduction are their specific social responsibilities in environmental protection field, and are also detailed method of performance based on environmental law. Enterprises should take their environmental responsibilities in the aspect of law by improving productive technology, upgrading productive facilities and other methods while they are seeking for maximum profits so as to insure ecology environment protected, saving natural resource and maintaining public environmental benefits. Nevertheless, in our country, the actual situation is that enterprises never really took their bounden duty on environment, and environmental pollution caused by enterprises is still an urgent issue to be solved in the present stage.

4. The weak awareness of public environmental rights

At the point of its property, environmental benefit is a type of public benefit corresponding to private benefit, public - all unspecific - all benefit from it, the indivisible feature it has becomes the realistic block to achieve a balanced environmental benefit between different subjects of right [6].

Actually, the environmental benefit is always lacking of the protection of law and system. And because of this, on the one hand, the public have not built the awareness of environmental benefit yet; on the other hand, the public can not gain the benefit relief via effective methods when they are under average. In this case, whether the government blowdowns directly or processes of polluting substances before blowing down, the public would become the weak subjects finally and face the risks of losing environmental benefits under the situation that they can’t have any economic benefits.

As is shown in the figure 3 above (where NPC refers to the National People's Congress and CPPCC refers to the Chinese People's Political Consultative Conference), from the conditions of national environmental letter visits from 1995 to 2012, people did not realize that environmental benefit is a legal right they should have in nature due to public feature of environmental benefits under the lack of effective legal system, more often, people only treat environmental benefits as an auxiliary effect of their economic and social activities, in another word, it is a positive external effect. In parallel, economic benefits almost pass through all human activities, it is first and the premise and foundation of other benefits in the real life. The public haven’t built the awareness of environmental rights yet as the important subject of environmental benefits, and they are lacking of motivation to defend their
environmental benefits actively, on the other hand, it is often difficult for the public to express their demands regarding environmental benefits because of limited open channels [7].

![Figure 3. Conditions of national environmental letter visits (1995~2012).](image)

5. Conclusion
As the important environmental interests subject, enterprises, public and government should assume the corresponding responsibility of pollution control and environmental protection. However, in the aspect of environment, there are failure existing in performing government responsibility, the financial expense and investment our government has participated in the aspects of pollution control and environmental protection are serious insufficient. The administrative capacity is insufficient for SEPA, and compared with other items of fiscal expenditure, the proportion of energy-saving expenditure in environmental protection is relatively low. From the reality in our country, the government hasn’t been able to undertake the environmental responsibility yet, existing serious phenomenon in ecological civilization construction. In the meantime, in spite of the clear definition of the range and principles of enterprises’ environmental responsibility according to some corresponding law documents, but in view of our country’s condition, enterprises always fail to assume their own environmental responsibility, and there are cases existing in pollution control and environmental protection that the investment is insufficient and the treatment effect is not obvious. For enterprises, environmental protection, waste treatment and emission reduction are their specific social responsibilities in environmental protection field, and are also detail method of performance based on environmental law. Nevertheless, in our country, the actual situation is that enterprises never really took their bounden duty on environment, and environmental pollution caused by enterprises is still a urgent issue to be solved in the present stage. In addition, it is especially outstanding in our country that the awareness of public environmental rights is pretty weak. Actually, the environmental benefit is always lacking of the protection of law and system. And because of this, on the one hand, the public have not built the awareness of environmental benefit yet; on the other hand, the public can not gain the benefit relief via effective methods when they are under average. The public haven’t built the awareness of environmental rights yet as the important subject of environmental benefits, and they are lacking of motivation to defend their environmental benefits actively, on the other hand, it is often difficult for the public to express their demands regarding environmental benefits because of limited open channels. The issues of ecological damage and environmental pollution get worse and worse and the total environmental interests get injured seriously because of the failure and vacancy of environmental
responsibility of different subjects of right.

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