

# Explore the Legal Issues of Ecological Protection Lifeline

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## Abstract

The legal system of ecological protection lifeline is an innovative system made in combination with the national conditions of China's environmental protection. It is based on the legal basis, takes the ecological environment as the research object, and takes the environmental protection law as the basis. Through data analysis, comparative analysis, theory and practice, interdisciplinary research methods, the concept, theoretical basis, legislative status, and analysis of ecological protection lifeline are analyzed and studied. In recent years, with the rapid development of China's economy, problems related to ecological environmental protection have followed. In this regard, China is still in a state of imperfect legislation, incomplete implementation, incomplete protection and inadequate supervision, which makes us lag behind the development of society in the legal system of environmental protection. This paper explores the legal issues related to the lifeline of ecological protection from different perspectives and proposes solutions.

## Keywords

The lifeline of ecological protection; legislative recommendations; legal liability; governance measures.

## 1. Concept of Ecological Protection Lifeline

The new 'Environmental Protection Law' clearly lists the basic principles and regional scope of the ecological protection lifeline, but there is no specific definition concept. Therefore, how to scientifically and specifically define the new ecological governance concept of the ecological protection lifeline is debated in the legal community. The lifeline of ecological protection mentioned in this article is not the line that the state constantly mentions in the top-level design, but a 'bottom line' that we protect the ecological environment in the legal system from various angles, different aspects, and the implementation of various administrative acts and legal acts. This bottom line thinking tells us what we should do and what we should not do, not necessarily a fixed, rigid and rigid regulation, because our economy is a market economy system. It is spontaneous and flexible, and our law is inherently lagging behind. If the legal provisions are still rigid, it will only run counter to the legal system and social development and environmental protection, so we can't go the old way, so we need a new method and new regulations, so as to create a new ecological system in environmental protection. The ecological protection lifeline is an internal ecological space protection field or scope. It is a scientific standard control boundary for the country to delimit ecological function protection areas, fragile areas, development areas and other ecological areas. Similar to a 'line' that can be seen physically. The other is in a broad sense. The scientific society is constantly developing, so the connotation area of the ecological protection lifeline is also constantly updated. Therefore, the concept identification and theory of the ecological protection lifeline are not limited to the initial ecological space protection field. It should also gradually expand to the three aspects of environment, resources and ecosystems, and should also reach the management level in the system. Therefore, the lifeline of ecological protection should include the lifeline of ecological function, the lifeline of environmental quality safety, and the lifeline of natural resource utilization. In this way, the ecological protection

lifeline can form a huge and perfect ecological protection network, and we can also continue to explore and improve the ecological protection lifeline system, and promote the institutionalization, modernization and scientification of national governance ecological issues.

## 2. Explore the Legislative Issues of Ecological Protection Lifeline

### 2.1. The system is not perfect

As we all know, the law of the country is composed of many different departments of the legal integration, coupled with a variety of basic laws and ultimately form a complete, orderly and mutually have a certain internal logic of the legal system, and the ecological protection of the lifeline of the department itself is not perfect, on the other hand is the system is not perfect, the system is not perfect. The theory of value hierarchy in jurisprudence tells us that the lower law needs to obey the higher law. Due to the problem of the system, the legal provisions of the ecological protection lifeline often need to give way to other higher legal provisions, thus losing its original meaning in essence. Therefore, due to the problem of the system, the protection of the lifeline is always a 'castle in the air' phenomenon. This is not all because the legal provisions are not detailed, but more because the system is not perfect and cannot make it play a real role. There is no special legislation for a specific lifeline area, which is due to the degree of development of the ecological protection lifeline itself. [Li Huiling, Wang Feiwu: 'Research on Legislation of Ecological Protection Lifeline System in China', 'Journal of Henan University of Finance, Economics and Law', 2015] No matter from which aspect, the ecological lifeline system is not yet mature, so the environmental law only has the most basic ecological protection lifeline, and there is no relevant specific laws and regulations. Without a perfect special law to maintain the lifeline of ecological protection, it will be difficult to implement the requirements of national environmental governance and promote economic development. The lifeline system of ecological protection will not be able to exert its effective value, and ecological problems will be difficult to achieve effective governance. Therefore, it is an urgent problem for legislation to formulate a special legislation to regulate the lifeline of ecological protection.

### 2.2. The legislative content is not specific

What types of ecological protection lifelines are included in law The "Guidelines for the Delimitation of Ecological Protection Lifeline" issued by the National Development and Reform Commission initially stipulates that ecological protection lifelines include ecological function guarantee baselines, environmental quality safety bottom line, and natural resource utilization. However, the later 'Environmental Protection Law' and 'Guide' only included the ecological function guarantee area when explaining the ecological protection lifeline in a narrow sense, so the provinces and cities also operated in this way. In fact, the natural resources within the ecological protection lifeline, the service function of the ecology itself, the diversity of animals and plants, the safety of the human living environment, and so on are all interrelated and inseparable. Therefore, it will bring confusion to the legislature, law enforcement agencies, judicial institutions, and whether the ecological protection lifeline protects the other two lifelines.

The typical problem that the legislative content is not specific is: 'how to unify a division of the lifeline of ecological protection'. For the problem of dividing the lifeline, there have been many voices in our country. Because there are different situations in different places, the problem of dividing the lifeline is actually a very urgent and difficult problem. For example, how to draw, how to draw, how much to draw and so on. This not only requires legislators to have sufficient theoretical knowledge and professional understanding, but also needs to have a profound understanding and comprehensive grasp of the actual situation in different parts of the country.

### 2.3. Supervision is not enough

The monitoring and supervision mechanism of ecological environment is not perfect. Supervision and inspection is the last threshold and the most important link in the whole process guarantee of ecological protection lifeline. If there is no strict supervision and management mechanism to monitor the implementation of ecological protection at all times, then all the efforts made in the past will be lost as ' castles in the air '. At present, China 's supervision of the ecological protection lifeline is not strict. It can be said that there are no small loopholes from all angles. This requires us to establish and improve a complete and strict supervision mechanism in the supervision link to guarantee the lifeline.

Regulators ' thoughts are still backward. Supervision not only requires a detailed and complete system, but also requires the specific implementation of regulatory behavior. In many of our regulatory authorities, there is still a perception that the importance of supervision of ecological environment protection is not as important as that of other industries, such as food safety supervision and management, industrial production supervision and management. This idea leads to poor supervision and lax supervision in the actual work. This requires our government to achieve the comprehensiveness of ideological work in the training stage of regulators, and to cultivate the ideological quality of regulators to fundamentally improve our supervision and management effect.

## 3. Put Forward The Corresponding Countermeasures to Solve The Legislative Problems

With the rapid development of economy and the improvement of people 's living standards, people not only meet the material enjoyment, but also pay more attention to spiritual entertainment, a beautiful living environment, fresh air, green streets, clear lakes and so on. It is the need of the people 's mainstream. The improvement of people 's happiness index must build a green and harmonious ecological environment to realize the new development model of politics, economy and culture. For this reason, I put forward some legislative suggestions on the ecological protection lifeline system.

### 3.1. Improve the laws and regulations related to ecological protection lifeline

As an innovative system in China 's environmental governance and the basic legal system of " Environmental Protection Law, " the ecological protection lifeline plays an important role in the governance of environmental problems and the construction of ecological civilization. Of course, there is no experience that can be used for reference in foreign countries. We need to explore and explore ourselves. In view of the legislative model of ecological protection lifeline, we can adopt a comprehensive legislative model. This legislative model is based on the characteristics of ecological protection lifeline. The combination of oath legislation and separate laws and regulations is used for ecological protection. The comprehensive legislative model is the most common institutional model in modern environmental law legislation, such as the environmental impact assessment system.

For the improvement of the laws and regulations related to the ecological protection lifeline, we should not be too hasty, because environmental problems need a certain amount of time to test the results. Green hills can not be built overnight, so in my opinion, our legislation on the ecological environment should be divided into three steps : the first step should be led by the State Council to set up certain administrative regulations, which should have the advantages of both authority and flexibility. Secondly, on the basis of the established administrative regulations, the local people 's congresses can formulate local regulations, and formulate measures in line with their own local development according to the diversity of each place. The third step is to incorporate the general legislative spirit into the constitution by the National

People's Congress after the local construction of the basic framework, and play a macro-control role.

### 3.2. Establish and improve the ecological protection lifeline system

The designated area of China's ecological protection lifeline has always been limited to the ecological space, which is far from the theory. Therefore, it is very important to determine the specific types of lifelines. According to the data, the ecological protection lifeline should be divided into three categories: the first type of ecological function lifeline. There are already provisions in the environmental protection law, which is defined at the national level, indicating the ecological protection area and the government's environmental protection object. The second type of environmental quality safety bottom line. This is the minimum value for strict control of the basic water, air and soil quality needed for human production and life. The third type of natural resource utilization is on the line.

Mainly from three aspects to establish the responsibility problem: (1) civil liability. The act of destroying the ecological environment and polluting the environment should be applied to the 'tort liability law'. For the illegal act of destroying the ecological environment, it is necessary to bear the general responsibility to stop the infringement, eliminate the obstruction, eliminate the danger, and compensate for the loss. In addition, the actor also bears the responsibility for ecological restoration, which is the responsibility to adapt to the neighborhood of the judicial trial of the ecological environment. It refers to the judicial organs. In addition to the civil liability, administrative liability and criminal liability of the illegal actor, it is also necessary to bear the responsibility of removing pollutants and repairing ecological functions. For example; in addition to fines, administrative detention, and compensation for losses, the offender is also required to plant trees in person. (2) Administrative responsibility. We need to expand the scope of the subject of responsibility for the exploration and judgment of many environmental cases. There is a territorial management responsibility in the 'opinions'. Local governments and party committees at all levels have the responsibility to manage the lifeline of ecological protection. Therefore, when the government's behavior exceeds the lifeline, it should bear administrative responsibility in addition to political responsibility.

## 4. Summary

Based on the above research and argumentation, it can be concluded that by continuously improving and constructing the legal system for environmental protection, establishing relevant supervision and management systems, and increasing legal attention and rule improvement in the field of environmental protection, a series of legal issues related to environmental protection can be effectively improved and resolved.

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