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Law of The People's Republic of China on Water and Soil Conservation

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(adopted on June 29, 1991)

ORDER OF THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA NO. 49

The Law of the People's Republic of China on Water and Soil Conservation, adopted at the 20th Meeting of the Standing Committee of the Seventh National People's Congress of the People's Republic of China on June 29, 1991, is hereby promulgated and shall enter into force as of June 29, 1991. Yang Shangkun President of the People's Republic of China June 29, 1991

Chapter I General Provisions

Article 1 This Law is formulated for the purpose of the prevention and control of soil erosion, the protection and rational utilization of water and soil resources, the mitigation of disasters of flood, drought and sandstorm, the improvement of ecological environment and the development of production.

Article 2 As used in this Law, the term "water and soil conservation" means preventive and rehabilitative measures taken against soil erosion which is caused by natural factors or human activities.

Article 3 All units and individuals shall have the obligation to protect water and soil resources, prevent and control soil erosion, and also have the right to report against and unit or individual that damages water and soil resources and causes soil erosion.

Article 4 The state shall, in relation to the work of water and soil conservation, implement the policy of prevention first, overall planning, comprehensive prevention and control, adoption of measures suited to local conditions, strengthening management and stress on beneficial results.

Article 5 The state council and the local people's government at various levels shall regard the work of water and soil conservation as an important duty, and adopt measures to ensure the prevention and control of soil erosion.

Article 6 The department of water administration under the State Council shall be in charge of the work of water and soil conservation throughout the country. The departments of water administration under the local people's governments at or above the county level shall be in charge of the work of water and soil conservation in areas under their respective jurisdiction.

Article 7 The department of water administration under the State Council and those under the local people's governments at or above the county level shall, on the basis of investigation and assessment of water and soil resources, draw up water and soil conservation plans in conjunction with other departments concerned. Such water and soil conservation plans shall be subject to the approval by the people's government at the corresponding levels. Any water and soil conservation plan approved by the local people's government at or above the county level shall be submitted to the department of water administration under the people's government at the next higher level for the record. Any modification to be made to an approved water and soil conservation plan shall be re-submitted for approval to the original approving department. The people's governments at or above the county level shall incorporate the tasks specified in the water and soil conservation plans into their respective plans for national economic and social development, allocate special funds therefor and organize the implementation thereof. The people's government at or above the county level shall, in line with the actual conditions of soil erosion, designate key areas on which preventive and rehabilitative efforts against soil erosion shall be focused.

Article 8 Units and individuals engaged in production and construction activities which may cause soil erosion must adopt measures, and construction activities which may cause soil erosion must adopt measures to protect the water and soil resources, and shall be responsible to take rehabilitative measures against the soil erosion resulted from their production and construction activities.

Article 9 The people's government at various levels shall intensify the publicity of and education in water and soil conservation, and popularize scientific knowledge concerning water and soil conservation.

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Article 10 The state shall encourage the research in and raise the level of science and technology of water and soil conservation, popularize the advanced technological personnel in the field of water and soil conservation.

Article 11 Units and individuals that have made outstanding achievements in the prevention and control of soil erosion shall be awarded by the people's government.

Chapter II Prevention

Article 12 The people's governments at various levels shall organize every citizen to engage in afforestation and encourage the planting of grass, thereby enlarging forest-covered areas and increasing vegetation.

Article 13 The local people's governments at various levels shall, in light of respective actual conditions, organize agricultural collective economic organizations as well as state-owned agricultural, forest, and livestock farms to plant firewood forests, forage and green manure crops, and to conduct in a planned way the closing of hillsides for facilitating afforestation and growing grass and the rotation of closing and grazing periods, so as to check winds, fix drifting sand and preserve vegetation. Destroying forest or burning vegetation for land reclamation and stripping vegetation and digging up tree stumps on steep hill slopes or in arid regions shall be prohibited.

Article 14 Reclamation of hillsides with a slope of over 25 degrees for cultivation of crops shall be prohibited. The people's governments of provinces, autonomous regions and municipalities directly under the Central Government may, in line with the actual conditions of the areas under their respective jurisdiction, prescribe the reclamation-forbidden slope of below 25 degrees. The specific area of the reclamation-forbidden slope shall be determined and announced by the local people's government at the county level. Anyone who has conducted reclamation for cultivation of crops on the reclamation-forbidden slopes before the entry into force of this Law shall, on the basis of capital farming construction and in the light of the actual conditions, gradually stop the cultivation and, instead, plant trees, grow grass and restore the vegetation, or build terraced fields thereon.

Article 15 Anyone who reclaims waste hillsides with a slope of above 5 degrees but under the prescribed reclamation -- forbidden degrees must obtain prior approval from the department of water administration under the people's government at the county level. Anyone who intends to reclaim waste hill slopes owned by the state may apply to the people's government at or above the county level for going through the procedures for land reclamation only after obtaining approval from the department of water administration under the people's government at the county level.

Article 16 Felling of forest trees must be carried out in a rational manner and in line with the local conditions, and clear felling shall be strictly controlled. Preventive measures against soil erosion shall be adopted in the felling areas and on skid trails, and reforestation shall be accomplished in good time after the felling. With respect to protective forests such as those for water supply conservation, water and soil conservation, windbreak and sand -- fixation, felling shall only be permitted for tending and regeneration of forests. For any felling in a forest area, water and soil conservation measures, for the felling area, worked out in accordance with the provisions of the preceding paragraph, must be included in the felling plan thereof. After the felling plan is approved by the department of forestry administration, the water and soil conservation measures for the felling area shall be implemented under the supervision of the departments of water administration and forestry administration.

Article 17 Water and soil conservation measures must be adopted to prevent soil erosion when preparations for afforestation, tending of young growth, and cultivation of commodity trees such as oil-tea camellia and tung tree are done on hillsides with a slope of above 5 degrees.

Article 18 In the construction of a railway, highway or water project, the disturbance of vegetation shall be minimized; waste sand, rocks and earth thus created must be disposed of in an area specially designated for the purpose, and shall not be dumped out into any river, lake, reservoir or any ditch or canal other than the specially designated area; slope protection must be built or other land management measures adopted on hill slopes within the frontage of the railway and highway; after the project is completed, trees must be planted and grass grown on the earth-fetching area, excavated land surface and the exposed land surface for the disposition of waste sand, rock and earth, in order to prevent soil erosion. In the establishment of a mining or electrical power enterprise or any other large or medium-sized industrial enterprise the abandoned stripped topsoil, waste rock, tailings and residues must be disposed of in a specially designated area, and shall not be dumped out into any river, lake, reservoir or any ditch or canal other than the specially designated area. If the vegetation is damaged on account of the mining or construction, measures must be taken to rehabilitate the topsoil and vegetation, thereby preventing soil erosion.

Article 19 When the construction of a railway, highway or a water project is carried out, a mining or electrical power enterprise or any other large or medium-sized industrial enterprise is established in a mountainous, hilly or sandstorm area, the environmental impact statement for the project must include a water and soil conservation programme approved by the department of water administration. The water and soil conservation programme shall be drawn up in accordance with the provisions of Article 18 of this Law. Where a township collective mining enterprise is to be set

up or an individual is to apply for mining, in accordance with the provisions of the Law on Mineral Resources, in a mountainous, hilly or sandstorm area, a water and soil conservation programme approved by the department of water administration under the people's government at or above the county level must be submitted before the application for going through the approving procedures for mining operation is made. Water and soil conservation facilities in a construction project must be designed, constructed and put into operation simultaneously with the principal part of the project. When a construction project is completed and checked for acceptance, the water and soil conservation facilities shall be checked for acceptance at the same time, with personnel from the department of water administration participating.

Article 20 The local people's governments at various levels shall take measures to strengthen the control over such production activities as mining, earth-fetching, sand-digging and quarrying, so as to prevent soil erosion. Earth-fetching, sand-digging and quarrying shall be prohibited in areas in danger of land-collapsing or land-sliding or where mudrock flow is liable to occur. The scope of such areas shall be determined and announced by the local people's governments at or above the county level.

Chapter III Rehabilitation

Article 21 The people's governments at or above the county level shall, in accordance with the water and soil conservation plans, organize competent administrative departments and units concerned to engage in a planned way in the rehabilitation of soil erosion.

Article 22 In a water-eroded region, by taking a small river basin comprising the natural ravines and flanking hill slopes as a unit, a comprehensive system for the prevention and control of soil erosion shall be set up on the basis of overall planning and comprehensive rehabilitation. In a wind-eroded region, such measures as exploitation of water resources, water diversion for sand removal, planting of trees and growing of grass, installation of artificial sand-break and forest network shall be adopted to build a protective system for windbreak and sand-fixation, thereby controlling hazards of sand storms.

Article 23 The state shall encourage the agricultural collective economic organizations and farmers in soil-eroded regions to carry out rehabilitation of soil erosion, and shall also practice a policy of giving support as to fund, energy, grain, taxation, etc.; the specific measures thereof shall be prescribed by the State Council.

Article 24 The local people's governments at various levels shall organize agricultural collective economic organizations and farmers to manage in a planned way the cultivated land with a slope of above 5 degrees but under the reclamation-forbidden degrees, by taking in line with different conditions such water and soil conservation measures as regulating drainage systems, building terraced fields, and practicing a method of cultivation conducive to water and soil conservation.

Article 25 In soil-eroded regions, any individual who contracts for the use of land owned by the collective shall include the responsibility of rehabilitating soil erosion in the contract.

Article 26 The rehabilitation of soil erosion on barren hills, waste valleys, barren hillocks and desolated beaches may be contracted to agricultural collective economic organizations, individual farmers or lease-holding household groups. Where the rehabilitation of soil erosion on barren hills, waste valleys, barren hillocks or desolated beaches are contracted out, contracts for the rehabilitation of soil erosion shall be concluded according to the principle of the benefits derived therefrom to be enjoyed by the contractors for the rehabilitation. The trees planted on account of the contracted rehabilitation and the fruits yielded therefrom shall belong to the contractors; and the land expanded as a result of the contracted rehabilitation shall be used by the contractors. The state shall protect the lawful rights and interests of the parties to a contract for rehabilitation. Within the term of the contracted rehabilitation, if a contractor dies, his or her successor(s) may, in accordance with the agreements stipulated in the contract, continue to undertake the contract.

Article 27 Any enterprise or institution must, in the course of construction or production, adopt water and soil conservation measures, and shall be responsible for the rehabilitation of the soil eroded. If an enterprise or institution is unable to carry out the rehabilitation, the department of water administration shall undertake the task, and the cost thus entailed shall be borne by the enterprise or institution that has caused the soil erosion. The expenses for the prevention and control of soil erosion arising in the course of construction shall be allocated from the capital construction investment; the expenses for the prevention and control of soil erosion arising in the course of production shall be allocated from the production cost.

Article 28 The people's governments at or above the county level shall organize departments concerned to inspect for acceptance the water and soil conservation facilities built and the trees and grass planted in soil-eroded regions. The management and protection of water and soil conservation facilities, experimental sites, trees and grass planted and other rehabilitation achievements shall be strengthened.

Chapter IV Supervision

Article 29 The department of water administration under the State Council shall establish a monitoring network for water and soil conservation, so as to conduct monitoring and prediction of the nation-wide soil erosion developments and publicly announce the results thereof.

Article 30 Personnel in charge of supervision over water and soil conservation in the departments of water administration under the people's governments at or above the county level shall have the right to carry out on-the-spot inspection on the situations of soil erosion and the prevention and control thereof in areas under their respective jurisdiction. Units and individuals that are being inspected must truthfully report the situations and provide necessary working conditions for the inspection.

Article 31 Any dispute arising among regions over the prevention and control of soil erosion shall be solved through consultation; if no settlement is reached through consultation, the case shall be handled by the people's government at the next higher level.

Chapter V Legal Responsibility

Article 32 In the case of any violation of the provisions in Article 14 of this Law by cultivating crops on reclamation-forbidden hill slopes, the department of water administration under the people's government at the county level shall order the cessation of the reclamation and the adoption of remedial measures, and may also impose a fine.

Article 33 Where any enterprise, institution, or agricultural collective economic organization, without approval of the department of water administration under the people's government at the county level, reclaims waste hillsides with a slope of above 5 degrees but under the reclamation-forbidden degrees, the department of water administration under the people's government at the county level shall order the cessation of the reclamation and the adoption of remedial measures, and may also impose a fine.

Article 34 In the case of earth-fetching, sand-digging or quarrying in areas in danger of land-collapsing or land-sliding or where mud-rock flow is liable to occur, as designated by the local people's government at or above the county level, the department of water administration under the people's government at or above the county level shall order the cessation of the above law-breaking acts and the adoption of remedial measures, and shall also impose a fine.

Article 35 In the case of tree-felling in forest areas without adopting water and soil conservation measures, thus causing serious soil erosion, the department of water administration shall report thereon to the people's government at or above the county level for a decision to order a rectification within a fixed period of time and the adoption of remedial measures, and shall also impose a fine.

Article 36 Any enterprise or institution that causes soil erosion in the course of construction or production and fails to carry out rehabilitation may, in light of the harmful consequences thus entailed, be punishable with a fine or be instructed to suspend its business for rehabilitation; the responsible persons concerned shall be subjected to administrative sanctions by the unit where they work or by the competent departments at higher levels. The imposition of a fine shall be subject to a decision by the people's government at the county level on a report submitted by the department of water administration under the people's government at the county level. The decision on ordering the suspension of business for rehabilitation shall be made by the people's government at the municipal or county level; the suspension of business for rehabilitation for an enterprise or institution directly under the Central Government or a people's government at the provincial level shall be reported to the State Council or the provincial people's government for approval. Any individual who engages in mining causes soil erosion and fails to carry out rehabilitation shall be punished in accordance with the provisions of the preceding two paragraphs.

Article 37 Whoever hinders, by use of violence or threat, the performance of duty according to Law by personnel in charge of supervision over water and soil conservation shall be investigated for criminal responsibility according to law; those who refuse to accept or hinders the performance of duty by personnel in charge of supervision over water and soil conservation, but without resorting to violence or use of threat, shall be punished by the public security organ in accordance with the Regulations on Administrative Penalties for Public Security.

Article 38 If any party is not satisfied with the decision on administrative sanctions, it may, within 15 days after the receipt of the notice of sanctions, apply for reconsideration to the organ at the next higher level over the one that has made the decision. The party may also directly bring a suit in a people's court within 15 days after the receipt of the said notice. The reconsideration organ shall, within 60 days after the receipt of the application for reconsideration, make a reconsideration decision. If the party concerned is not satisfied with the reconsideration decision, it may, within 15 days after the receipt of the reconsideration decision, bring a suit in a people's court. If the reconsideration organ fails to make a reconsideration decision within the time limit, the party may, within 15 days after the expiration of the term for reconsideration, bring a suit in a people's court. If a party neither applies for reconsideration, nor brings a suit in a people's court within the time limit, nor complies with the decision on sanctions, the organ that has made the decision may apply to a people's court for compulsory execution.

Article 39 Any individual or unit that causes damage from soil erosion shall bear the responsibility of removing the damage, and shall compensate the units and individuals that have directly suffered the damage. Any dispute over the liability or amount of compensation may, upon the request by a party, be dealt with by the department of water administration; if the party is not satisfied with the decision thus made, it may bring a suit in a people's court. The party may also directly bring a suit in a people's court. In case of irresistible natural disasters, if damage from soil erosion cannot be avoided despite of taking reasonable measures promptly, the individual or unit concerned shall be exempted from responsibility.

Article 40 In case a person in charge of supervision over water and soil conservation derelicts his or her duty or abuses his or her power and thus brings losses to the public property or the interests of the state and the people, administrative sanctions shall be enforced by the unit to which the offender belongs or by the competent department at a higher level; if the offence constitutes a crime, the offender shall be investigated for criminal responsibility according to law.

Chapter VI Supplementary Provisions

Article 41 The State Council shall formulate the implementing regulations in accordance with this Law. The standing committees of the people's congresses of the provinces, autonomous regions and municipalities directly under the Central Government may, in accordance with this Law and in the light of the respective actual conditions, formulate measures of implementation.

Article 42 This Law shall enter into force as of the date of promulgation. The Regulations on the Work of Water and Soil Conservation promulgated by the State Council on June 30, 1982 shall be annulled on the same date.

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