

# ***Study on the Exit Mechanism of the Coastline Resources of the Yangtze River***

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**Abstract**—The exit mechanism of the coastline resources of the Yangtze River is an indispensable system for the use and management of coastline resources along the Yangtze River. In order to promote the intensive use of coastline resources in the Yangtze River and standardize the management of the exit system of the coastline, it is necessary to study the exit system of the coastline resources of the Yangtze River. At present, there is a lack of unified legislation on the management of the Yangtze River coastline in China, and the enforcement and supervision of the exit mechanism are relatively vague. Therefore, it is necessary to solve this situation by perfecting the legislation, perfecting the concrete exit plan and strengthening the supervision.

**Keywords**—Yangtze River; coastline resources; exit mechanism; management

## I. INTRODUCTION

### A. Concept of the Yangtze River coastline resources

The resources of the Yangtze River coastline are comprehensive natural resources formed by the waters and land within the prescribed scope of the two sides of the Yangtze River, including river island, Bund Wei River and the main tributaries of the Yangtze River estuary. [1] It is an important foundation for supporting economic development in the area along the Yangtze River and plays an indispensable role in the industrial layout, urban construction, port development, water engineering and construction of inter-river facilities, ecological protection and tourism development in the areas along the Yangtze River. [2].

### B. Concept of exit mechanism

The "exit" of the Yangtze River coastline resources means that the right holders no longer have the right to use coastline resources. Exiting from the system can make the inefficient use of resources, the main body to exit from the market in an orderly manner, to better play the role of resources.

### C. Significance of the research

At present, there is no uniform legislation on the development, management, and protection of the resources of the Yangtze River. [3] It is of great significance to study the exit mechanism of the coastline resources in the Yangtze River for

our country to regulate the legislation related to the coastline resources and to protect the sustainable development of the coastline resources in the Yangtze River.

## II. CONTENT OF THE YANGTZE RIVER COASTLINE RESOURCES EXIT MECHANISM

### A. Exit types

Depending on the criteria, different categories of exit can be made. With time as a standard, it can be divided into expiry and exit during the period; to the will of relatives as a standard, it can be divided into voluntary exit and involuntary exit; to exit the reasons for the standard it can be divided into the natural exit, the negotiated exit and the compulsory exit.

This study focuses on the discussion on the exit category as the standard of exit.

- Natural exit. Natural exit is a way of exiting all kinds of goals set in entry. The right to get a term is the expiration of the time limit for the use of the right, and no violation or breach of contract is exited during the use of the right. At the time of natural exit, the rights of the parties concerned have been fulfilled, and their obligations have been fulfilled. There is no dispute about rights and obligations between them. It is the most ideal way to exit.
- Negotiation exit. Negotiation and exit refers to a kind of exit method based on the agreement of all parties on the premise that the various targets set in the entry are not realized. The right to get a term is the expiration of the time limit for the use of the right. In addition to the law prohibition, the parties agree to quit the related matters after exit. Consultative exit does not achieve the desired objectives, but there is no dispute between the rights and obligations between each other. It is a relatively ideal way of exit.
- Compulsory exit. Compulsory exit refers to a way of exit from the legal reasons or the right to use the right person to break the law, without considering the intention of the owner. This kind of exit is more complicated, such as the change of national law, the change of specific planning, and the failure of the

owner to fulfill the statutory and contractual obligations. Because the exit does not consider the right to use the wishes of the people and have a direct impact on their rights, most likely when the rights and obligations between the parties in dispute, exit system design should be paid, the reasons for exit statement must be clear and rigorous, there is no ambiguity.

#### *B. Exit reasons*

The right to use the resources of the Yangtze River coastline is obtained on the basis of the state license. The license and relevant documents clearly state the users of the coastline, the main construction contents of the project, the scope, and purpose of the coastline, the expiration date, and other matters and requirements. The reasons for the exit are more closely related to the listed items, mainly including:

- The owner of the right to apply the application voluntarily. Coastline use right for whatever reason offered to apply for refund of coastline use rights, should be based on consent; but this exit may lead to coastline use planning to smooth implementation caused by local economic losses, it is necessary to exit the responsibility to make arrangements in advance.
- The owner of the right of use loses the qualification of the main body. As the right to use the right of the shore, the organization's cancellation and the death of the natural person will not satisfy the qualification of the right owner of the shore line at the time of license, and the right to use the coastline should be returned.
- The term of the right to use expires. The right to use the right of the coastline is the right to use in a limited time. The law should provide the longest period of use, such as the normal use does not exceed 50 years, and the temporary use does not exceed 2 years. The license documents should determine the term of the right to use the coastline in specific projects within the scope prescribed by law. The expiration of the period for renewal or fails to apply for renewal is not approved, the right to use the right to use the loss.
- The intensity of input does not meet the requirements. The current legislation generally only takes 2 years or a specific time not to start construction as the reason for exit, which is not reasonable. If the construction or investment is insufficient, the utility of the coastline resources cannot be brought into play. Therefore, we should increase investment intensity and do not meet the requirements as the reason for exit. For example, according to the scheduled period of project construction, the minimum amount of investment needed for a year shall be stipulated, and the right to use the shore should not be invested on schedule and cannot be reformed as scheduled.
- Adjustment of shore line planning. Because of the adjustment of the coastline planning, the resources of the original licensed coastline cannot be used or not used according to the original purpose, and the

competent authorities shall recover the right to use the coastline according to law.

- National key construction projects need. Because of the need to use the licensed coastline resources, the competent authorities have the right to recover the right to use the coastline for the purpose of public interest. On the one hand, does not recommend the use of the public interest needs this kind of boundary is not clear words, to prevent the abuse of public power and state organs damage coastline use right to the interests of the people; on the other hand, the national key construction projects should be restricted, can be directly expressed as the national key construction projects of the State Council, the national development and Reform Commission approval, to ensure that can make accurate judgments.
- Berth and related facilities are approved to be discarded. After the abandonment of wharf and other facilities, the coastline occupied by the relevant facilities is idle. It cannot play its proper utility and can recover the right to use the resources of the Yangtze River coastline.
- It is illegal to obtain and use the right to use the coastline. The right of use in the application development, for providing false information, bribery and other illegal access to take use of the coastline right, once discovered will recover; in the use of the coastline in the process of the right to use, without change of coastline use function, use and scope of use of the project, or change the main content of the construction of the project, fails to achieve rectification the requirements, to recover the right to use.
- The owner of the right to use is in agreement with the competent department. No matter which party first puts forward the meaning of the negotiation, it does not change the nature of the exit. The difference between it and the active application is that exit is not a necessary option. That is to say, the right owner can continue to use the coastline resources, but on the whole, the exit is a more reasonable one.

#### *C. Exit the procedure*

To administrative license as a prerequisite, in the event of exit reasons, the exit process includes the following: (1) application or notice. In the case of natural exit and negotiated exit, Licensee shall fulfill its exit application procedure; in case of forced exit, Licensor shall perform the notification obligation and require Licensee to handle the exit formalities within the stipulated time, and shall specify that Responsibility for handling the exit procedure. (2) hand over or take over. The transfer is the licensee to return the license to the licensor as required by the license. The takeover is the licensee's right to recover the license directly by means of the state's compulsory license if the licensee fails to return the license. (3) cancellation of the permit. After the licensor recovers the right acquired by the license, it shall legally exit the "Permit" proving the existence of the right and cancel it according to the law so as to legally invalidate the right obtained by the permit. Dispute

resolution. The licensor can deprive a country-specific entity of the rights of a particular subject-based license, but exit based on the exit between the licensee and the licensor may give rise to disputes over rights and obligations, such as the legality of enforcing the right to recover and the reasonableness of the compensation. Wait. The Licensee may defend its rights through administrative reconsideration, administrative litigation, and other means; the permitting party can achieve the purpose of administration of applying to the court for enforcement.

#### *D. Exit the responsibility*

According to the different subject, the exit responsibility is divided into two kinds:

- Responsibility of the exit party. Exit Party (Licensee) because of illegal, default rights to use the license, in the case of mandatory exit may also bear legal responsibility. At this point exit system and legal liability system appeared related, should be based on the reasons for the illegal and set appropriate penalties. You can set property penalties and behavior penalties, such as: imposing a fine, limiting the time to enter a particular market and so on.
- Responsibility of the competent authority. There may be a compensation issue for the licensee if the exit is not due to the illegal act of the licensee. If both parties can agree on the compensation, there will be no dispute. If the compensation cannot be agreed, the compensation will need to be approved by the superior department or the court Confirm the size of the compensation liability. If there is an abuse of authority by the competent authority, the supervisors and those directly responsible may assume administrative responsibilities.

#### *E. Exit the compensation*

Exit compensation refers to the government for the exit of the right to use the original user to give certain financial assistance. Compensation only to fill the role of loss, not punitive. Obtaining compensation shall meet the following conditions: (1) Unilateral unwillingness based on the use of the coastline user results in the exit; (2) There is no illegal behavior during the use of the landline user in the coastline; (3) With the main qualifications. In accordance with the above conditions, may involve the exit of compensation, including: (1) exit by consensus; (2) planning to exit from the adjustment; (3) construction needs to exit. In practice, "negotiate prior loss as a reference to the market price" can be determined as the compensation standard.

### **III. STATUS QUO AND EXISTING PROBLEMS OF THE EXIT MECHANISM OF THE YANGTZE RIVER COASTLINE RESOURCES**

So far, China has not unified the legislation on the utilization and protection of coastline resources in the Yangtze River. In September 2016, China's Ministry of Water Conservancy and Land and Resources officially printed and distributed *Overall Plan for the Protection and Development of the Yangtze River's Coastline* and various provinces and

municipalities successively issued corresponding "plans" and "measures". In terms of legal validity, these "plans" and "measures" are normative documents and have a certain administrative effect. In terms of content, most of these normative documents focus on the protection and development of the resources along the Yangtze River's coastline, but there are few or no provisions on the exit mechanism. However, some "plans" that provided for the exit mechanism did not reasonably consider the actual situation in the area. The exit mechanism stipulated by the exit mechanism did not have certain operationalities. Therefore, there are many problems in the exit mechanism of the coastline of the Yangtze River in our country now and it needs to be solved urgently.

The current problems are:

#### *A. Lack of uniform and comprehensive legislation across the country*

So far, China only provides for the exit of the port line in *Measures for the Administration of the Examination and Approval of the Use of the Port Line*. However, the exit norms of the non-port coastlines still fall into the law. The absence of the upper-level law led to "no way to go" on the issue of exit mechanism, resulting in ambiguous chaos in the implementation and supervision of all localities. [4].

#### *B. Lack of specific plans for the exit mechanism of the Yangtze River coastline resources*

Although some local governments have promulgated the plan for the development, management, and protection of coastline resources along the Yangtze River in the area, the corresponding exit mechanism is not stipulated in the content. Even if the exit mechanism is stipulated, whether the mechanism is in line with the actual situation on the ground, whether the content of the mechanism is comprehensive, and how the mechanism is to be supervised are all worth considering.

#### *C. Lack of effective supervision of the exit mechanism of coastline resources*

Government-related management departments lack awareness of supervision, did not take the initiative, failing to conduct a comprehensive clean-up and rectification of the current development and utilization of coastline resources in the Yangtze River, and violating the law and confiscating the indiscriminate use and indiscriminate occupying and remaining acts are still very serious. [5]

### **IV. SUGGESTIONS TO IMPROVE THE EXIT MECHANISM OF THE YANGTZE RIVER COASTLINE RESOURCES**

#### *A. Improve the legal system*

China should conduct unified legislation on the management, development, and protection of the coastline resources of the Yangtze River. In the initial stage, it can be regulated by the way of administrative laws and regulations. When the Provisions are verified through practice and the perfection of exit mechanism of coastline resources can be

promoted, the legislation of the NPC can be enacted and passed as a single-line method.

In the legislation, the most important thing is about the contents of the exit procedure.

The law should provide for the following:

- According to the application for recovery of the right to use the coastline voluntarily give up the right to use the coastline situation, the main process should include: Application - Approve – Cancellation of warrants - Announcements.
- According to the agreement to recover the right to use the coastline people and the competent department consensus, the main process should include: Negotiation - Signing an agreement - Cancellation of warrants - Announcements.
- According to the government authority to recover the situations that apply to unilateral decisions of the administration, the main process should include: Decision - Cancellation of warrants - Notice.
- Legislation in the process of proceeding should provide a clear time limit
- For the period to recover the right to use of the coastline, not based on the reason of the right holders, it should be given adequate compensation, to protect the legitimate rights and interests of the right holders. Based on consultation and recover the right to use the coastline, it may be given certain compensation, and the specific amount of compensation is determined by the parties through consultation. To recover due to use the right people, regardless of whether there is illegal behavior, it should be considered to require the use right to undertake certain compensation (such as, a certain coastline use fee).

#### *B. Perfecting specific plans for the exit mechanism of the coastline resources of the Yangtze River*

When formulating corresponding plans for the utilization and protection of coastline resources in the Yangtze River, all local governments should consider not only the admission mechanism for coastline resources but also the formulation of a corresponding exit mechanism.[6] Moreover, when formulating the exit mechanism, the localities should also pay attention to combining with the actual situation on the ground and make comprehensive consideration and comprehensive formulation. It is necessary to take into account the type of exit, procedures and other rights and obligations, but also to consider the consequences of the exit of compensation for the corresponding responsibility.

#### *C. Strengthen supervision on the exit of coastline resources*

Relevant government departments should strengthen the supervision and management of enterprises that use coastline resources, promptly clean up non-compliant coastline

enterprises, establish a recycling mechanism for survival of the fittest, and promote intensive management of coastline resources. [7] If the coastline resources occupied by the enterprise fail to reach a certain standard with inefficiencies or are undeveloped and ineffective within a certain period of time, the government authorities have the right to recover the use rights of the coastline resources or auction them through the resource market. [8]

#### V. SUMMARY

The resources of the Yangtze River coastline have an indispensable significance to the development of the city along the river. Among them, the exit mechanism is a necessary system to standardize the intensive management of coastline resources and promote the sustainable development of coastline resources. The exit mechanism mainly includes five aspects: exit types, exit reasons, exit procedure, exit responsibility and exit compensation. The specific content of the clear exit mechanism can provide some reference for the formulation of relevant legislation in China. Considering our country for no uniform legislation management of the Yangtze River coastline resources, lack of specific plans for the exit mechanism of the Yangtze River coastline resources, lack of effective supervision of the exit mechanism of coastline resources therefore, our country should improve the legal system, improve the specific planning on the Yangtze River coastline resources exit mechanism, and strengthen the regulation of coastline resources, thus to enhance the efficiency in the use of coastline resources.

#### REFERENCES

- [1] Luo Bin., Reflections on the rational utilization of coastline resources in the Yangtze River, Disaster Prevention Expo, 2010 (2): 54-59.
- [2] Duan Xue-Jun, Zou Hui. Spatial Functions, Development Problems and Management Countermeasures of the Yangtze River Coastline, Geographic Science, 2016, 36 (12): 1822-1833.
- [3] Huang Heming, Li Gang, Considering the Management Legislation of the Changjiang River Estuary, The Yangtze River, 2012, 43 (17): 90-94.
- [4] Yin Xiang-yu, Ning Tao, Suggestions on Improving the Coastline Management System of the Yangtze River Ports, Water Transport Management, 2016, 38 (6): 16-17.
- [5] Feng Kai.,Status Quo of Coastal Line Management and Countermeasures, China Water Transportation, 2012 (7): 26-27.
- [6] Zhang Huijun, Ma Yuming , Analysis on the Role of Government in the Utilization of Coastline Resources in the Lower Reaches of the Yangtze River ,Statistics and Decision, 2012 (6): 51-54.
- [7] Xiang Hao, Zhou Lu., Study on Development and Utilization of Port Shore Line in Wuhan City from Intensive Management, Modern Management, 2015, 05 (3): 44-49
- [8] Yin Xiang-yu, Ning Tao. Suggestions on Improving the Coastline Management System of the Yangtze River Ports, Water Transport Management, 2016, 38 (6): 16-17.