# SPP Guiding Case No. 184: Administrative Public Interest Litigation Urging Remediation of Idle State-Owned Land (Yangzhou Economic and Technological Development Zone, Jiangsu)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

## Keywords

Administrative public interest litigation, pre-litigation procedure; grant of state-owned land use rights; idle land; classified disposition.

## Holding

For circumstances such as idle land following the grant of state-owned land use rights and the violation of the agreed purpose of land grant contracts, the procuratorial organ may, through administrative public interest litigation, urge the administrative organ bearing supervision duties to perform its duties in accordance with the law. Where multiple administrative organs, multiple counterparties, and multiple types of illegal acts are involved, the procuratorial organ may adopt different case-handling methods for classified disposition.

## Basic Facts

From September 2009 to September 2014, five companies in the Yangzhou Economic and Technological Development Zone of Jiangsu Province (hereinafter the "Development Zone") — Company A (power generation), Company B (solar energy), Company C (lighting), Company D (automation) and Company E (optoelectronics) — obtained a total of 326 mu of state-owned land use rights but never commenced development or commenced production, resulting in idle land.

## Procuratorate Performance of Duties

In October 2021, after discovering the above leads in the performance of its duties, the People's Procuratorate of the Yangzhou Economic and Technological Development Zone (hereinafter the "Development Zone Procuratorate") conducted a preliminary investigation into the historical causes of the idle land, the business conditions of the enterprises, and the performance of duties by the administrative organs, and ascertained that the causes of the 326 mu of idle land were relatively complex and that the five companies A, B, C, D and E still had no specific intention of use. The state-owned land use right grant contracts signed between the land-using enterprises and the administrative organs all contained clauses on liability for breach of the land administration laws and regulations and the grant contracts, the application of law, and dispute resolution, but the relevant administrative organs failed to conduct supervision and administration of the enterprises' land use in accordance with the laws, regulations and contracts.

In November 2021, the Development Zone Procuratorate concluded that, with respect to the 326 mu of idle land, although the causes of the idle land were relatively complex — involving land planning, adjustments of state policy, as well as the enterprises' own reasons — the relevant administrative organs had failed to perform their supervision duties in accordance with the Land Administration Law and failed to initiate investigation procedures in accordance with the measures for the disposition of idle land, which could be characterized as illegal omission. On December 10, 2021, the Development Zone Procuratorate filed the case as administrative public interest litigation. Through investigation, it was ascertained that, in accordance with the Land Administration Law of the People's Republic of China, the Land Administration Regulations of Jiangsu Province, and the relevant provisions on the allocation of duties of the Development Zone Working



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Committee and Administrative Committee, the investment promotion department of the Development Zone was responsible for project negotiation and attraction, the natural resources department was responsible for supplying land to enterprises, and the industry and information technology department was responsible for serving enterprises. After land was supplied, the natural resources department bore the supervision duty of establishing credit supervision and dynamic inspections together with the investment promotion and industry and information technology departments and of strengthening supervision of land supply transactions and post-supply development and utilization; the investment promotion department and the industry and information technology department bore the duty of follow-up management, establishing integrity files, and cooperating with the natural resources department in disposing of idle land. However, the above functional departments failed to fully perform their follow-up supervision duties over the enterprises' land use and failed to form a joint supervision force, resulting in the long-term idling of land resources.

On February 11, 2022, the Development Zone Procuratorate issued procuratorial recommendations to the natural resources, investment promotion, industry and information technology, and other departments, urging the natural resources department to initiate investigation procedures over the 326 mu of idle land, and urging the investment promotion and industry and information technology departments to actively cooperate with the natural resources department in carrying out the investigation and to strengthen dynamic monitoring and supervision of the land market.

In April 2022, the Development Zone Procuratorate successively received written replies from the relevant departments: the idle-land investigation procedures had been initiated, and the idling of the 326 mu of land in the case was formed by the superposition of multiple factors involving the market, enterprises and the government, meeting the conditions for recovery by agreement, and the natural resources department and the local government and other relevant administrative organs had begun negotiations with the holders of the state-owned land use rights. In May of the same year, the local government signed a Compensation Agreement for the Recovery of Idle Land with Company E and a Framework Agreement for the Revitalization (Disposition) of Economical and Intensive Land Use with Company B. In September of the same year, the local government signed a Compensation Agreement for the Recovery of Existing State-Owned Land with Company D, and the above three parcels of land were subsequently recovered. In October of the same year, Company A and Company C formulated reinvestment and development plans, and the relevant projects had commenced implementation. At this point, the disposition of the five parcels of idle land totaling 326 mu in the case was completed.

To establish and improve a mechanism for the timely discovery and rectification of idle state-owned land following grant, the procuratorial organ and the relevant administrative organs worked together to promote the Administrative Committee of the Development Zone in issuing normative documents to improve the quality and efficiency of industrial land use, unifying and refining land disposition standards, and establishing a special work team for the disposition of idle industrial land involving 23 units, including the natural resources and investment promotion departments, thereby forming a long-term supervision mechanism for idle land.

## Guiding Significance

(1) In handling public interest litigation cases in the field of the grant of state-owned land use rights, procuratorial organs should pay attention not only to the collection of land grant proceeds but also to the illegal problems in land use. Land resources are scarce, and promoting the optimal allocation and economical and intensive use of land resources is a basic land-use system that China has long adhered to. After the grant of state-owned land use rights, idling has become a prominent problem constraining the high-quality development of local economies. In the course of handling public interest litigation cases in the field of the grant of state-owned land use rights, procuratorial organs should, while focusing on whether the collection of land grant proceeds is in place, also pay attention to problems such as idling and illegal changes of purpose in the use of state-owned land after grant.



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(2) For the complex problem of idle state-owned land with complex illegal circumstances, procuratorial organs may adopt different case-handling methods for classified disposition. The idling of state-owned land is formed by the superposition of multiple factors involving the market, enterprises and the government, and some cases may involve multiple administrative organs, multiple counterparties, and multiple types of illegal and breach-of-contract acts. Procuratorial organs should adhere to the rule of law in thinking, distinguish between circumstances, and carry out classified disposition. Where the idling of land is caused by both government reasons — such as land planning adjustments, adjustments of state policy, and the failure to deliver land on schedule due to demolition — and the enterprises' own reasons, the procuratorial organ may urge the administrative organ to perform its supervision duties in accordance with the law by issuing procuratorial recommendations, and may initiate administrative public interest litigation where the conditions for filing suit are met; where the relevant enterprises have the willingness to rectify, the procuratorial organ may consult with the administrative organ and guide the enterprises to actively rectify.

## Relevant Legal Provisions

Administrative Litigation Law of the People's Republic of China (amended in 2017), Article 25, paragraph 4.

Land Administration Law of the People's Republic of China (amended in 2019), Articles 3 and 56.

Regulations for the Implementation of the Land Administration Law of the People's Republic of China (amended in 2021), Article 50.

Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Procuratorial Public Interest Litigation Cases (amended in 2020), Article 21.

Measures for the Disposition of Idle Land (revised in 2012), Articles 2, 4, 8 and 12.

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