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Yellow Protection Law - Challenges and opportunities: Perspective of YRCC

《黄河保护法》解读






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Background

《黄河保护法》出台的背景



On September 18, 2019, President Xi Jinping hosted a symposium on ecological protection and high-quality development in the Yellow River Basin in Henan Province

水利部黄河水利委员会



让黄河成为造福人民的

幸福河



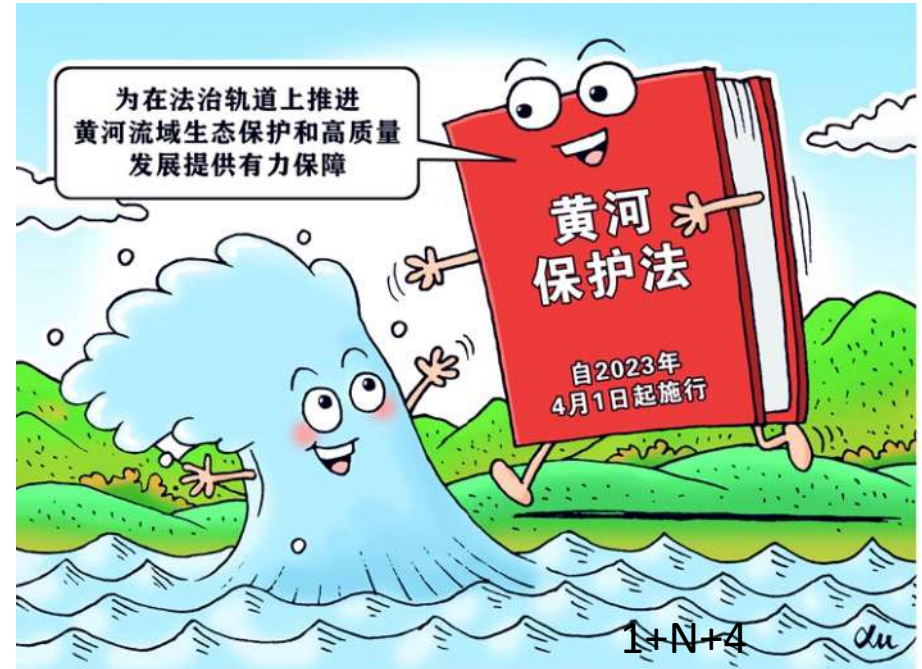
Master Plan Guidelines of Ecological Protection & High-quality Development in the Yellow River Basin

《黄河流域生态保护和高质量发展规划纲要》“要强化法治保障，将黄河保护治理中行之有效的普遍性政策、机制、制度等予以立法确认，以法律形式界定各方权责边界、明确保护治理制度体系，规范对黄河保护治理产生影响的各类行为，完善黄河流域生态保护和高质量发展的法治保障体系。



On October 30, 2022, the 37th session of the 13th National People's Congress Standing Committee voted to pass *the Yellow River Protection Law of the People's Republic of China*.

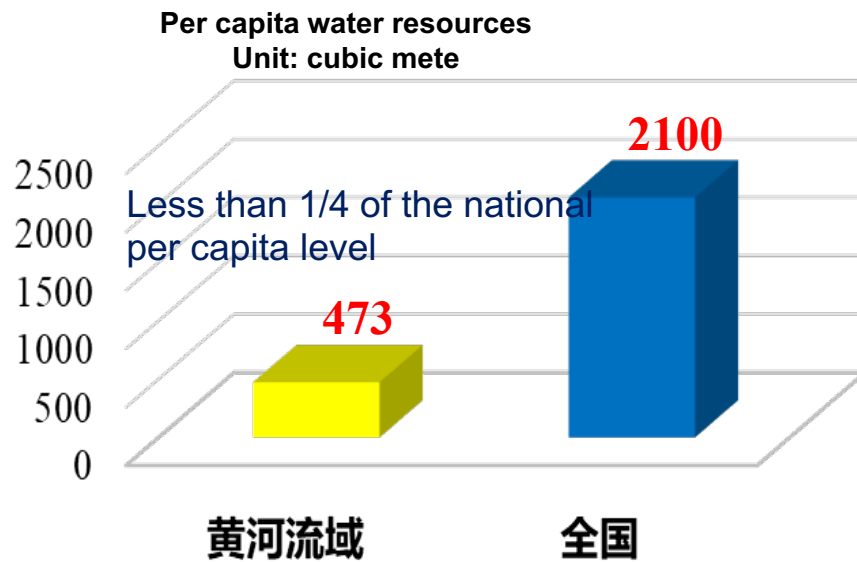
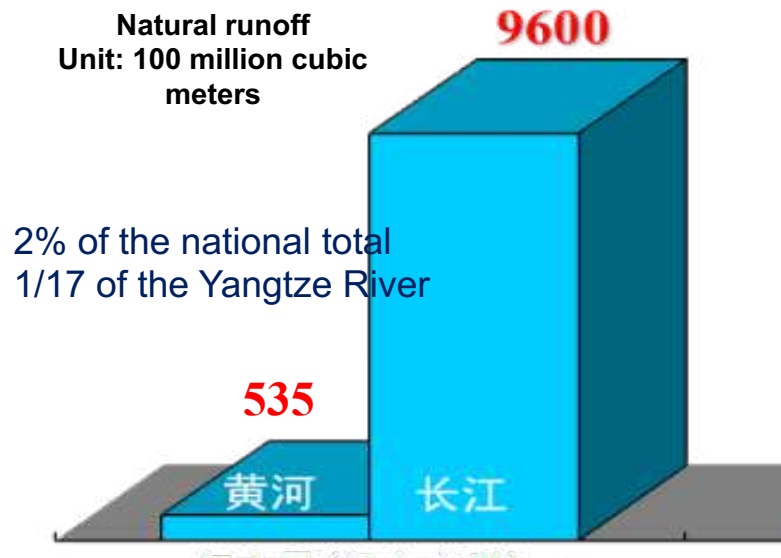
On the same day, President Xi Jinping signed the 123rd Order of the President to make it effect as of April 1st, 2023.



Yellow River's Outstanding Challenges

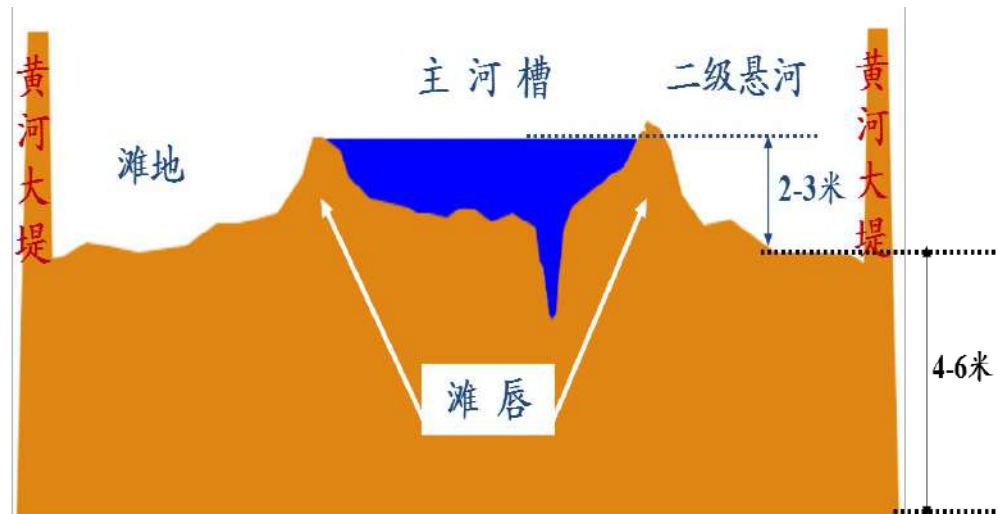
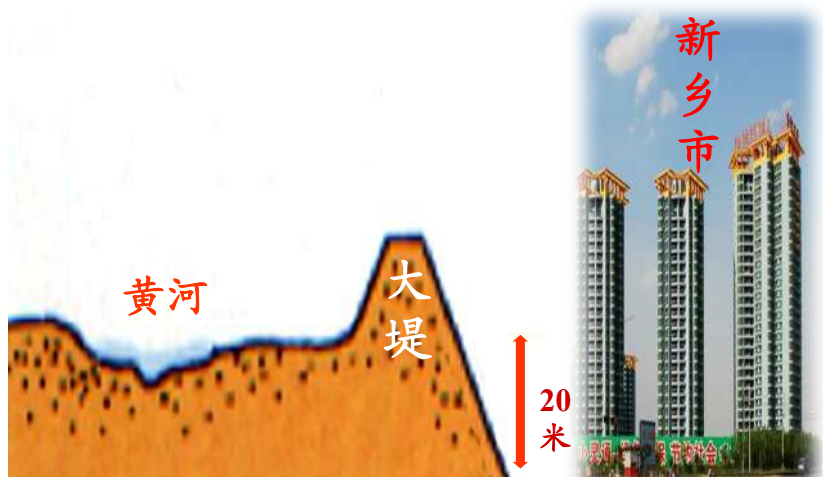
1 High Sediment laden River

水少沙多，水沙关系不协调



2 Hanging River due to Sedimentation

地上悬河



3 Frequent Flood Disasters in History

历史上洪涝灾害频发

Ancient Xuzhou: The Yellow River Ran Out of Control and Floods Overflowed



After the breach of the embankment, both water and sand flowed down, the river channels were silted up, and the fertile fields were desertified, making it difficult to restore the ecological environment for a long time.

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4 Fragile Ecological Environment

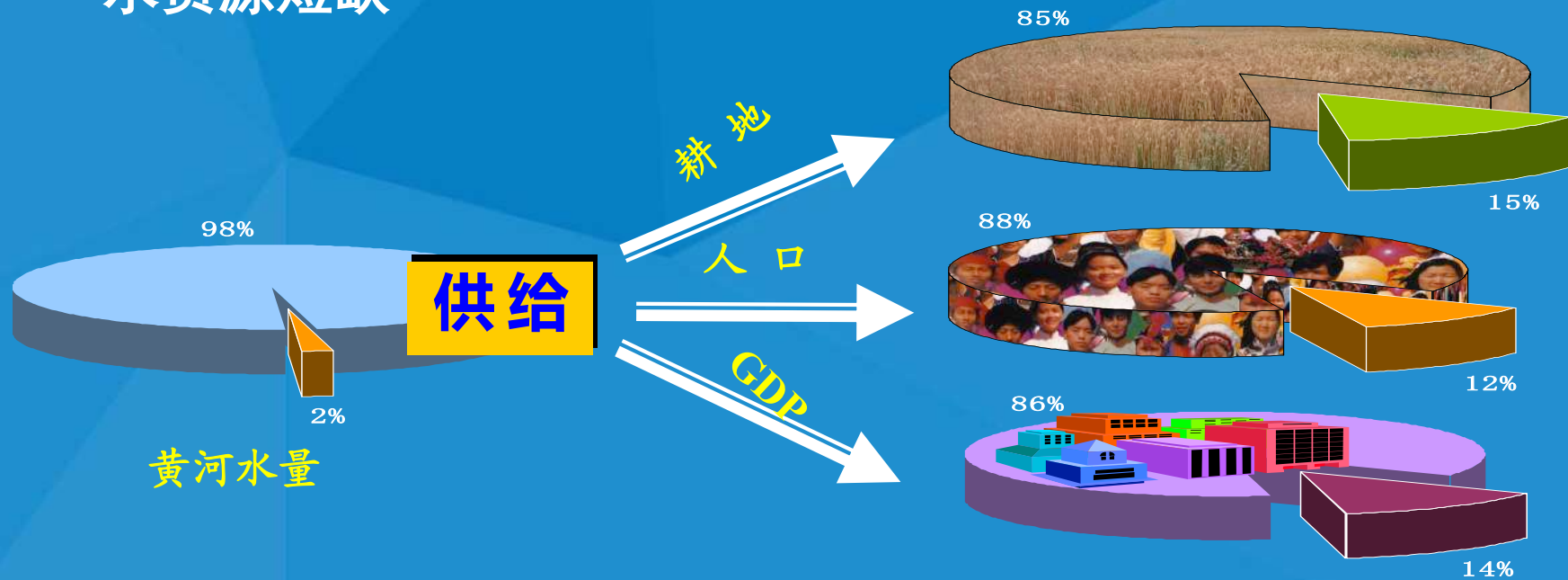
生态环境脆弱



The largest Loess Plateau in the world, with a total area of 640000 km² and a soil erosion area of 452000 km².



5 Water Scarcity 水资源短缺



黄河保护治理制度层面还需要进一步健全和完善



- The management system and mechanism of the Yellow River Basin need to be improved
- responsibility boundaries need to be further clarified
- planning coordination and linkage are insufficient, and control measures need to be strengthened
- strengthening ecological protection and restoration
- rigid constraints on water resources , water and sediment regulation and flood control safety
- pollution prevention and control need to be strengthened

制定黄河保护法，聚焦黄河流域突出问题，建立一整套充分反映流域特点的法律制度



Yellow River Protection Law

- To focus on prominent issues in the Yellow River Basin
- To establish a complete legal system that fully reflects the characteristics of the basin



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The Yellow River Conservancy Commission

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Framework of the Yellow River Protection Law

《黄河保护法》的框架

The Yellow River Protection Law consists of **11** chapters, **122** articles, and over 21000 words, with a main framework consisting of **6 aspects**

Administrative
Responsibilities

River Basin
Management

Management
Red lines

Supporting
Articles

Safeguard
measures

legal
responsibilities

夯实支撑基础

1 Administrative Responsibilities

界定管理责任

- The Yellow River Protection Law defines the boundaries of rights and responsibilities of all parties in the legal form, regulates various behaviors that have an impact on the protection and governance of the Yellow River,
- **84 articles** of relevant responsibilities of national and local governments at all levels, as well as supervisory responsibilities to the government, accounting for 68.8% of the total 122 responsibilities.
- **33 articles of** responsibilities for units and enterprises, ensuring correspondence between affairs and departments, supervision and departments, and responsibilities and departments.



2 River Basin Management Approach

突出流域管理

- **Yellow River Conservancy Commission** and its affiliated management institutions shall exercise the administrative supervision and management responsibilities of river basin water in accordance with the law
- implement unified regulation of river basin water and sediment, unified allocation of water resources, and unified regulation of water projects in mainstream and tributaries.
- ecological environment supervision and management institutions to carry out ecological environment supervision and management in accordance with the law
- highlighting the requirements for unified River Basin management.





3 Management Red lines

严格管理红线

17 Explicitly Prohibited

9 Not Allowed

16 Strict Control and
Restriction

- Rigid constraints
- Mandatory
- Unified
- Access list
- Negative list
- Elimination category

are all strict management red lines established for the protection and governance of the Yellow River





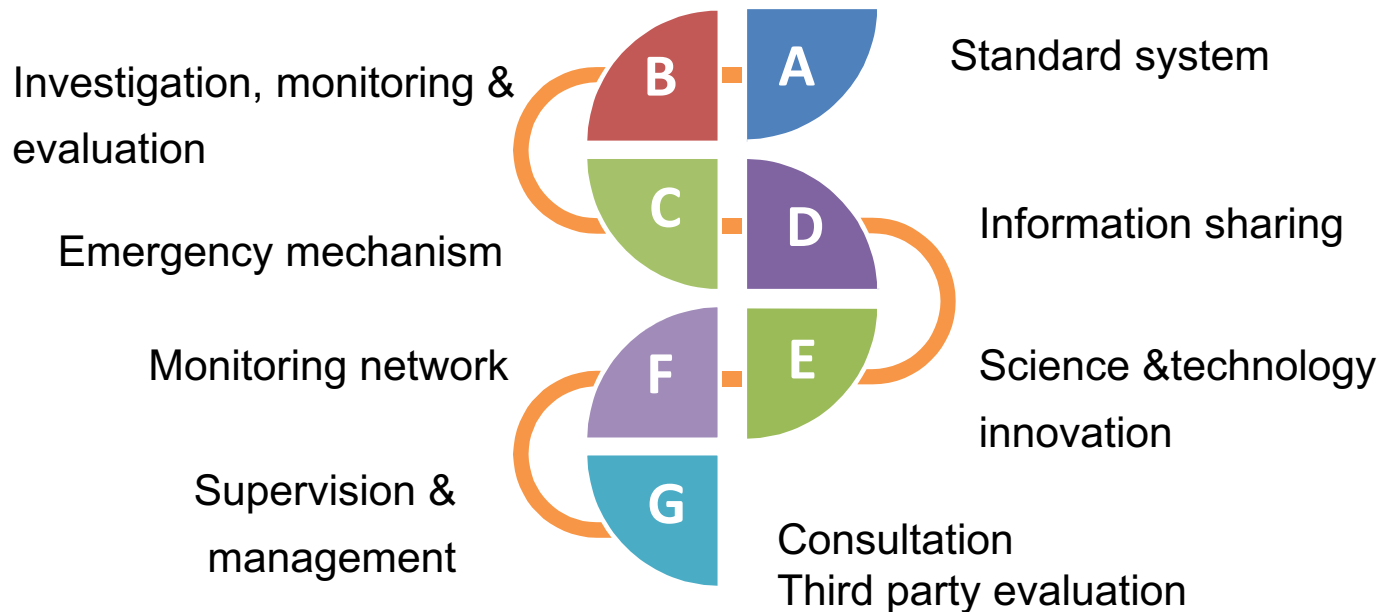
- **Article 6** : Provincial River and Lake Chiefs
- **Article 8** : a rigid constraint system for water resources
- **Article 34** : silt dams construction, management and operation system
- **Article 42** : Fishing ban system for key water areas
- **Article 52** : Water quota management system.
- **Article 54** : negative list of high water consumption industries.
- **Article 62**: a unified water and sediment regulation system
- **Article 69**: planning and licensing system for sand mining
- **Article 102**: ecological compensation mechanism





4 Capacity Building

夯实支撑基础





5 Safeguard System

健全保障制度

- support finance, taxation, pricing, and ecological protection compensation policies
- support market-oriented trading of water rights in the Yellow River Basin
- supervision by public opinion , supervision by society, law enforcement, commendation and rewards, government target responsibility assessment, interviews, and regular work reports





6 LEGAL LIABILITY

更严法律责任

Fill the Legal Gap

The legal responsibilities of (114) water intake units that exceed the mandatory water usage quota and fail to implement water-saving technology transformation within the prescribed time limit, such as (115) failure to install online measuring facilities, or (115) failure to meet the standards or abnormal operation of online measuring facilities, damage, and unauthorized occupation of silt dams (110), are first stipulated by the Yellow River Protection Law.

Strict Legal Responsibility

provisions on administrative sanctions against government staff. Strict legal responsibilities have been established for the failure of state personnel to perform their duties in accordance with the law, such as inaction, disorderly behavior, and slow behavior 108.

punishment articles is stricter. On the basis of the prescribed administrative liability, civil liability, public interest litigation, and criminal liability for illegal acts committed by enterprises, the upper limit of administrative penalties will be raised to 5 million yuan. Those who violate the regulations on soil and water conservation shall be fined 10 times more than the current Soil and Water Conservation Law.

Criminal responsibilities related to the Yellow River Basin drinking water source protection zone, core protection zone of natural reserves, wildlife protection, natural reserves, and exotic species have been added.





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The Yellow River Conservancy Commission

3

YRCC Perspectives

《黄河保护法》主要制度



管理体制机制的制度安排

A new mechanism for River Basin Management has been formed, which includes

- Central government Coordination
- Sectoral Ministry Collaboration
- River Basin Management
- Provincial governance
- Cities/Counties implementation





管理体制机制的制度安排

State Level Coordination Mechanism

- review major policies, plans, and projects in the Yellow River Basin
- coordinate major issues across regions and departments
- supervise and inspect the implementation of relevant important work

Sectoral Ministry collaboration

refer to the responsibilities of relevant government organizations, including 14 ministries and 2 river basin authority, involving 18 sectoral departments





管理体制机制的制度安排

Provincial, City and County Government's Responsibility

Refer to local government's responsibility, it is stipulated that river and lake Chiefs at all levels are responsible for the management and protection of rivers and lakes.

Yellow River Water Conservancy

- has 21 responsibilities to exercise administrative river basin Management
- implement unified planning, governance, management, and regulation of the river basin
- strengthen the functions of flood control, monitoring, regulating and supervision, and achieve full coverage of the mainstream and tributaries.





管理体制机制的制度安排

Collaborative Mechanism

- strengthen cooperation in the formulation, planning, and supervision of local regulations and government regulations
- improve inter-provincial river and lake chief joint meeting system
- establish law enforcement coordination mechanisms, carry out joint law enforcement in cross-administrative regions, ecologically sensitive areas
- promote collaborative cooperation between administrative law enforcement and judicial agencies.





生态保护与修复相关规定

- a holistic system of mountains, rivers, forests, fields, lakes, grass, and sand
- system governance, source governance, and comprehensive governance
- specialized systems have been tailored according to the “Three zones and one corridor” principle





生态保护与修复相关规定

Three Zones and One Corridor Policy 三区一廊道生态保护与修复制度

- **River Source Zone** : (article 30)
- **Loess Plateau Zone** : (article 32、 33、 34、 35) 。
- **Estuarine Zone** : (article 36)
- **River Corridor** : (article 37, 68-2)





生态保护与修复相关规定

Three Lines and One list Policy

“三线一单” 法治化

- Ecological protection red line
- Environmental quality bottom line
- Resource utilization line
- Access list





生态保护与修复相关规定

Special Issues 特殊问题

- Strictly control the construction of artificial waterscapes, i.e. artificial lakes, artificial wetlands, etc.
- Withdraw of small hydropower projects which do not meet ecological protection requirements.
- Natural Reserves should take river protection and flood management into consideration
- develop a comprehensive management plan for groundwater overexploitation areas.





水资源节约集约利用相关规定

Implement a Rigid Water Resources Constraints System in the Yellow River Basin 水资源刚性约束制度

- determining the city, land, people, and production according to the water quantity
- build a modern industrial system that is compatible with the carrying capacity of water resources

Establish Water constraint control indicators: 水资源强制性约束控制指标体系

Article 46 total surface water intake

Article 48 total groundwater intake and groundwater level control indicators

Article 37 ecological flow, and

Article 52 mandatory water usage quotas;

Article 46 main and tributaries,

Article 48 administrative regions, and

Article 49 water allocation for industries (agriculture, industry, daily life, and off river ecology).





水资源节约集约利用相关规定

Yellow River Water Allocation Scheme Article 46

水量统一配置制度

Integrated Yellow River Water Regulation Article 47

黄河流域水资源实行统一调度

Differentiated Water Resources Management Article 51

黄河流域实行水资源差别化管理





水资源节约集约利用相关规定

Water Abstraction Permits (Article 51, 54, 55)

强化了取水许可制度，明确了不予批准取水申请或者限批取水许可的情形

Strict regulations for Water Saving

(Article 8,52,55,56)

节约用水规定了严格的制度





水沙调控与防洪相关规定

Flood is the biggest threat to the Yellow River Basin, and the disharmony between water and sediment is the biggest characteristic of the Yellow River. To ensure the long-term stability of the Yellow River, it is necessary to firmly grasp the relationship between water and sediment.

The Yellow River Protection Law provides a specialized system for coordinating flood control and water sediment relations.





水沙调控与防洪相关规定

Empowered to construct water & sediment regulation and flood control projects in the Yellow River Basin (Article 60,61,71)

黄河流域组织建设水沙调控和防洪减灾工程体系，完善水沙调控和防洪防凌调度机制，保障防洪安全，使得建设有关工程有了法律依据。

Empower YRCC to make flood prevention plan, water allocation plan and sediment regulation plan in the Yellow River Basin (Article 63,64)

明确黄河防御洪水方案由水利部组织编制；黄河干流和重要支流、重要水工程的洪水调度方案由黄委组织编制；





水沙调控与防洪相关规定

Other Significant Issues

黄河流域河湖管理中特殊问题

Article 66 Inventory of Yellow River floodplain area

Article 67 prohibit to construct buildings that hinder flood discharge within the scope of river and lake

Article 68 river training of hanging river and wandering river

Article 69 prohibit to engage in river sand mining

Article 70 strengthen the management of key reservoirs and dam projects





污染防治、促进高质量发展和黄河文化保护传承弘扬

Pollution prevention and control

强化污染防治

Improve the system for promoting high-quality development

完善促进高质量发展制度

Improve the system for protecting, inheriting, and promoting the Yellow River culture

健全黄河文化保护传承弘扬制度





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The Yellow River Conservancy Commission

感谢各位聆听！

Thanks for listening !

