

## **Litigation Regarding Environmental Assessments**

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### Abstract

The *Environmental Impact Assessment Act of 1997* mandates the use of environmental assessments as tools to allow businesses to take rational decisions bearing ecological issues in mind. However, there may be instances where a business acts illegally despite an environmental assessment been conducted in accordance with statutory procedures. For example, regardless of an assessment, if permission is granted for a disposition that observes the potential for a serious impact, the order may be deemed unlawful even if there is a legal basis for it. In addition, in the more plausible situation where an assessment marks the possibility of a minor impact, there may be significant problems with regard to the information provided due to a procedural irregularity (e.g. starting an investigation before determining its methods) or a material misconduct (e.g. evaluating something predicted to have a major impact as minor). In such cases, the action may be termed illicit, since it can be reasonably concluded that these illegalities would affect the outcomes of the disposition if it was deemed appropriate. However, since the Act was enacted, there have been many pending lawsuits resulting from insufficient and faulty assessments. Recent cases that have captured attention with regard to environmental impact assessments include 1) those that take direct issue with environmental assessment procedures and 2) those that disagree with environmental assessment procedures that assume the discretionary judgement of government agencies. The lawsuits belonging to the first category may be civil actions for an injunctive order, lawsuits for damages, suits by residents as an administrative case litigation, or substantive party lawsuits. Court complaints belonging to the second type are actions for the revocation of the original administrative disposition.

In this paper, it will consider these various forms of legal actions and court cases and will also contemplate the effectiveness of legal actions on environmental assessments based on the merits and demerits of each form of legal action.