

Enforcement of Legal Sanctions for Performers of Illegal Mineral and Brain Mining C (Sand) in The Serayu River (Case Study of Sand Mining in Kaliori Village, Kalibagor District, Banyumas Regency)

Risky Dewi Amalia

Universitas Muhammadiyah Purwokerto

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ABSTRACT

Indonesia is a country with abundant natural resources, including the potential sand mining industry. Mining on a large scale is good for economic growth, but the opposite is true for the environmental impacts. Environmental damage due to exploitation also occurs in Kaliori Village, Kalibagor, Banyumas. Environmental damage due to sand mining has caused problems that must be claimed by all parties. This research examines how the impact caused by sand mining activities on the surrounding environment and how sanctions for parties involved in illegal sand mining. This type of research uses normative juridical and legislative approaches and the data sources used by the author in the research use secondary data sources regarding illegal mining of excavation C. Based on the results of the research, law enforcement against illegal mining that occurs is not in accordance with the applicable laws in law enforcement, the apparatus only makes preventive efforts while the community in Kaliori Village has factors such as lack of legal awareness, economic factors and education. Therefore, there is a need for research on environmental impact assessment, both physical and socio-economic sand mining activities in Kaliori Village, in order to obtain an overview of the environmental impacts that occur or will occur. Later, this research will become a consideration in making policies related to sand mining issues.

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Corresponding Author:

Risky Dewi Amalia

Faculty of Law, Universitas Muhammadiyah Purwokerto

Jl. KH. Ahmad Dahlan, Kembaran, Banyumas, Jawa Tengah 53182, Indonesia

I. INTRODUCTION

Indonesia is a Unitary State of the Republic of Indonesia located in Southeast Asia which is crossed by the equator. Indonesia is very rich in natural resources (SDA) which are abundant both biological and non-biological. In addition, Indonesia is an archipelago with a variety of islands, seas or beaches, rivers, swamps, and other waters. With so many natural resources available, including the potential sand mining industry. Mining on a large scale is good for economic growth, but on the contrary, the environmental impact is quite large. Environmental damage due to exploitation also occurs in Kaliori Village, Kalibagor, Banyumas. Environmental damage due to existing sand mining creates problems that must be claimed by all parties.

Mining is an activity of taking deposits of valuable and economically valuable minerals from within the earth's skin, either mechanically or manually, on the earth's surface, below the earth's surface and below the water surface. With the action or activity in mining that is excessive in taking minerals or minerals will have a very bad

impact on the environment. The rise of actions or activities that have an impact on the environment can damage the function of the environment, both in the mining environment or production sites supported by natural resources or in the scope and conservation that has long existed before. Damage that occurs due to mining by business actors who do not comply with mining procurement rules, whether individually licensed or not. Business actors should understand and follow the sustainability of the mining environment so that what will be done does not damage the environment.

Based on the description above with the rampant sand mining carried out in Indonesia. With this, researchers conducted a survey that there is illegal sand mining in the Serayu River Basin, Banyumas Regency, which in fact has an impact on the environment around mining. Especially on the land or gardens of residents who are located not far from the illegal sand mining site are affected because the land is eroded by river water due to sand mining with tools to suck sand, causing the surrounding land to cause landslides that are getting bigger in volume of water. With various kinds of problems in sand mining, it triggers to conduct research and examine the activities that occur in the process of taking sand.

II. RESEARCH PROBLEMS

1. How is the Enforcement of Legal Sanctions for Perpetrators of Illegal Sand Mining in the Serayu River Flow, Kaliori Village, Kalibagor District, Banyumas Regency?
2. How is the Effectiveness of Central Java Province Regional Regulation Number 10 of 2011 on the Implementation of Law in Illegal Sand Mining in the Serayu River Flow Area, Banyumas Regency?

III. RESEARCH METHODS

This research examines how the impact of sand mining activities on the surrounding environment and how sanctions for parties involved in illegal sand mining. The approach of this research is to use a qualitative approach. The type of legal research used is normative juridical legal research. In normative juridical legal research, this research uses secondary data. The data collection technique used is document study or The data collection technique used is document study or literature study which includes books, laws and regulations, journals, and articles related to the issues raised.

IV. RESULT AND DISCUSSION

1. First Research Problem Discussion

Banyumas Regency is a regency located in Central Java Province, Indonesia. The capital is Purwokerto City, the regency is bordered by Brebes Regency to the north; Purbalingga Regency, Banjarnegara Regency, and Kebumen Regency to the east, and Cilacap Regency to the south and west. Mount Slamet, the highest mountain in Central Java, is located at the northern end of the regency. Banyumas Regency is part of the Banyumasan cultural region, which developed in the western part of Central Java. The language spoken is Banyumasan, which is one of the oldest varieties of Javanese that is quite different from the standard dialect of Javanese. People from other languages and regions often nickname it "ngapak language" because of the characteristic /k/ sound that is fully read at the end of words, a remnant of the Old Javanese language (in contrast to the Mataram dialect which is read as a glottal stop).

Banyumas Regency has one of the rivers, the Serayu River, which has a length of about 300 km southeast of the capital city of Jakarta. Stretching from northeast to southwest for 181 km, the river crosses five regencies, namely Wonosobo Regency, Banjarnegara Regency, Purbalingga Regency, Banyumas Regency, and empties into the Indian Ocean in Cilacap Regency. The Serayu River has many benefits for the community, both for irrigation, tourism, dams and also mining class C minerals, namely sand. With the various benefits of the Serayu River, there is one misuse such as illegal sand mining that is widely carried out along the Serayu River, especially in Kaliori Village, Kalibagor District, Banyumas Regency. Not a few mining activities carried out either have a permit or do not have a permit to carry out mining activities.

Mining, which is an activity carried out, has a continuous influence and impact with mining activities, especially on the mining environment. With an action or activity in mining that is excessive in taking minerals or excavated material or what is commonly called sand, it will have a very bad impact on the environment. The rise of actions or activities that have an impact on the environment can damage the function of the environment, both in the mining environment or production sites supported by natural resources or in the scope and conservation that has long existed before. Damage that occurs due to mining by business actors who do not comply with mining procurement rules, whether individually licensed or not. Business actors should understand and follow the sustainability of the mining environment so that what will be done does not damage the environment.

Many business actors do not understand and follow the sustainability of the mining environment so that what will be done does not damage the environment. In addition, mining business actors do not have a business license to carry out mining activities, it happens because of the lack of business actors in understanding the impact

and applicable laws. business actors who do not have a business license in carrying out mining activities in an area can get legal sanctions.

Law Enforcement in the criminal act of sand mining without a license should be carried out optimally and firmly. And criminal penalties given to perpetrators of unlicensed sand mining crimes should be able to provide a deterrent effect so that the perpetrators do not repeat it, for legal apparatus and agencies authorized for mining to explain the entirety of the law, so that people understand and understand. So that the problems faced about the crime of digging sand without a license can be overcome. Sanctions that can be imposed on the perpetrators of illegal sand mining such as:

1. Criminals Sanctions

Criminal sanctions that can be imposed on legal subjects have been determined in pasal 158 sampai dengan pasal 160 Undang-Undang Nomor 4 Tahun 2009 concerning mineral and coal mining. There are three types of criminal sanctions that can be imposed on individual perpetrators, namely imprisonment, fines and additional punishment. Meanwhile, there are seven types of criminal acts that can be imposed on legal subjects of persons, which include:

- a. Conducting mining business without IUP, IPR or IUPK
- b. Submitting Incorrect Reports or False Information
- c. Conducting exploration activities without having an IUP or IUPK
- d. Having an Exploration IUP but carrying out production operation activities
- e. Accommodating, utilizing, processing, refining, transporting, selling minerals and coal that are not from holders of IUP, IUPK or IUPK.¹

Legal sanctions for violating one of the ten articles above are:

- a. Criminal sanctions, a maximum of ten (10) years in prison
- b. Fines, at most Rp 10,000,000,000.00 (ten billion rupiah)

2. Civil Sanctions

Based on Article 145 Paragraph (1) of the Mineral and Coal Law states that the community directly affected by the negative impact of mining business activities has the right:

- a. Obtain appropriate compensation due to errors in the exploitation of mining activities in accordance with the provisions of laws and regulations.
- b. File a lawsuit with the court against losses due to mining operations that violate the provisions. Ayat(2), it is stated that the provisions regarding community protection as referred to in Ayat (1) are stipulated based on the provisions of laws and regulations.

3. Administrative Sanctions

Administrative Sanctions are imposed or enforced directly by authorized government agencies without waiting for a court order. In Indonesia it is assumed that the imposition of administrative sanctions requires a pre-existing link, such as a business license issued by a government agency to conduct business. Administrative sanctions may be based on the violation of one or more conditions required by the license.²

2. Effectiveness of Central Java Province Regional Regulation Number 10 of 2011 on Legal Implementation in illegal Sand Mining in the Serayu River Basin area of Banyumas Regency.

Legal effectiveness is the success of law in achieving its objectives. Effectiveness is defined as something or a condition in which it is in accordance with the target or goal to be pursued or expected. The law is said to be effective if citizens behave as expected or desired by the law. Judging from Law Number 3 of 2020 concerning Minerals and Coal, Mining Business License, IUP is a license to carry out Mining Business called IPR is a license to carry out Mining Business in community mining areas with limited area and investment.³ Production License for reclamation is also explained in the Minerba Law Number 3 of 2020. Mining Area, hereinafter referred to as WP, is an area that has Mineral and/or Coal potential and is not bound by government administrative boundaries which are part of the national spatial planning. Mining Business Area, hereinafter referred to as WUP, is part of the WP that has the availability of data, potential, and/or geological information.

Production license for reclamation is also an important requirement in applying for mining license. Reclamation is an activity carried out throughout the stages of Mining Business to organize, restore, and improve the quality of the environment and ecosystem so that it can function again according to its designation. Licensing in Pasal 28 Ayat (2) of the Regional Regulation of Central Java Province Number 10 of 2011 concerning Mineral and Coal Mining Management in Central Java Province, the following are the requirements for obtaining a mining business license:

¹ Riswandi, *Settlement of Illegal Sand Mining Cases (Case Study of Sand Mining in Gowa Regency)*. UIN Alauddin Makassar

² H.Salim HS, S.H., M.S., *Mineral and Coal Mining Law*, p. 267. 267.

³ Law Number 3 of 2020 concerning Minerals and Coal.

1. **ADMINISTRATIVE REQUIREMENTS:**
 - a. Application letter with a stamp duty of Rp6,000,-
 - b. Deed of establishment of the business entity along with authorization from the authorized official
 - c. Deed of amendment of business entity and ratification from the authorized official
 - d. Business entity profile
 - e. A copy of the Taxpayer Identification Number (NPWP) of the business entity
 - f. A copy of the Trading Business License (SIUP)
 - g. Company Registration Certificate (TDP)
 - h. Certificate of Domicile of the business entity
 - i. The composition of the board of directors of the business entity by attaching a photocopy of the Identity Card (KTP) and Taxpayer Identification Number (NPWP) of each board member
 - j. List of shareholders
 - k. Supply plan of mineral or coal mining commodities that will be processed and/or refined by attaching a memorandum of understanding with the Holders of IUP/IUPK/People's Mining Permit Production Operation/Coal Mining Company Work Agreement/Contract of Work of Mineral or Coal Origin.
2. **TECHNICAL REQUIREMENTS:**
 - a. Construction and development plan documents for facilities and infrastructure supporting Special Production Operation activities for Processing and/or Refining evaluated by the technical agency.
 - b. Curriculum vitae and statement letters of mining experts or metallurgical experts with at least three years of experience, diplomas, and legalized certificates
 - c. Feasibility study documents of mineral or coal processing and/or refining activities that have been approved by the governor with his authority evaluated by the technical service office
 - d. Memorandum of understanding or cooperation agreement in the context of processing and/or refining mineral or coal mining commodities
 - e. Sale and purchase cooperation agreements with domestic and/or foreign buyers.
3. **ENVIRONMENTAL REQUIREMENTS:**
 - a. Copy of environmental document approval (Amdal/UKL-UPL)
 - b. Statement of ability to fulfill the provisions of laws and regulations in the field of environmental protection and management signed by the director on a stamp duty.
4. **FINANCIAL REQUIREMENTS:**
 - a. Last year's financial statements with public accountant audit results
 - b. Financing plan and investment plan
 - c. Statement of ability to comply with the provisions of laws and regulations relating to the benchmark price of mineral and coal sales with a stamp duty of Rp6,000.
 - d. Reference of government banks and/or private banks
 - e. Annual Income Tax Return (SPT) for corporate income tax and employee income tax for the last two years.⁴

In relation to the implementation of laws and regulations, what is meant by the effectiveness of the implementation of regional regulations is a measure of achieving the objectives specified in the regional regulations. However, this understanding is not in line with sand miners, most of whom only take personal benefits without thinking further about the consequences. Illegal sand mining basically does have a positive impact, especially in terms of meeting material needs for development, apart from cheaper prices, time efficiency is also a positive impact on the surrounding community, on the other hand, the negative impacts felt by the community are more. Because the illegal sand mining business can cause environmental damage in the form of landslides or land cliffs or make basins on the banks of the river, damage to access roads, especially those close to the road to the riverbank, the condition of the quantity (debit) of river water fluctuates between the rainy and dry seasons to become a problem for river crossing service providers, shallow well water during the dry season, and noise pollution caused by the noise of the sand suction machine.

V. CONCLUSION

The conclusion in this study is that in Law Enforcement Against Illegal Sand Mining in Banyumas Regency against the crime of illegal excavation material sand mining in Banyumas Regency is still not maximally implemented, because the efforts made by law enforcement officials are only limited to preventive efforts, namely prevention, besides that there are obstacles in dealing with Sand Mining such as lack of legal awareness in society, economic factors, and educational factors. This right is concerned with the ineffectiveness of Central Java

⁴ Investment and One-Stop Integrated Service Office of Central Kalimantan Province

Regional Regulation Number 10 of 2011 on the Implementation of Law in illegal Sand Mining in the Banyumas Regency area.

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