

Implementation of the Authority of the Aceh Government in Issuance of Iron Ore Mining Business License (Case Study of Ksu Tiega Manggis in South Aceh)

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Abstract

Background Back: Rise Decision Head Service Investment and _ Service Integrated One Door Number. 540/DPMPPTSP/1687/2020 dated 11 June, 2020 regarding Agreement Extension First Mining Business License Operation Production (IUP-OP) of Commodities Ore Iron DMP KSU Tiega Manggis located in Villageintersection Two Subdistrictmiddle Kluet, South Aceh Regency, covering an area of 200 Ha, has been cause issue law in society , because Mining Business License Operation Production the considered no in accordance with aspect authority , aspect procedure and aspect regulated substance in legislation. Besides that extension Mining Business License Operation Production the contain disabled juridical because obligation repayment income national non-tax (non-tax national income) by KSU Tiega Mangosteen Cooperative yet implemented, only make letter statement commitment repayment non-tax national income payment so that indicated violate rule law.

Material and Method: In writing journal law this will use method study juridical normative and juridical empirical , and ingredients that will analyzed that is Constitution Number 11 of 2006 concerning Aceh Government, Law Number 4 of 2009 which was amended with Constitution Number 3 of 2020 concerning Mineral and Coal Mining, Aceh Qanun Number 15 of 2013 amended with Aceh Qanun Number 15 of 2017 concerning Management Mineral and Coal Mining, Aceh Qanun Number 5 of 2009 concerning Investment and Mining license KSU Tiega Manggis Number: 540/DPMPPTSP/687/2020 dated 11 June 2020.

Results: First, the aspect of authority ,related to the issuance of the Decree of the Head of the Investment Office and One Stop Integrated Services Number. 540/DPMPPTSP/1687/IUP-OPI/2020 dated 11 June 2020 concerning Approval for the First Extension of Mining Business Permit (Mining license) for Commodity Production Operations Ore Iron DMP KSU Tiega Manggis located inVillageintersection Two, Observing Subdistrict Central Kluet, South Aceh Regency.**second,**Aspects of the procedure, the essence of the requirements for an environmentally sound mining business will definitely have an important impact on the environment, among others: changing the landscape, ecology and hydrology. The negative impact that will occur that is damage environment like Avalanche and flood, as well problem health caused _ by mining process and use mercury. By looking at the enormous negative impact that will be caused by the mining business, how is it going to be? outlined above, then requirements worthy environment (study) amdal and / or UKL and upl) becomes essential conditions _ and Required fulfilled , before permission effort mining operation production (Mining license-OPI) granted to body business, cooperative and individuals who will embed capital in field mineral mining and coal .**third,**Aspect of Substance, in consideration of the Decree of the Head of the Office of Investment and One Stop Integrated Services Number. 540/DPMPPTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval of the First Extension of Mining license for Production Operation of Iron Ore Commodity DMP KSU Tiega Manggis located in SimpangDua Village, Menggamatmiddle Kluet District, South Aceh Regency covering an area of 200 Ha, also does not appear to be a philosophical consideration that underlies the urgency or importance and benefits for regional development in the broad sense of activities in the iron ore mining sector proposed by KSU Tiega Manggis.

Conclusion:Aspects of authority, aspects of procedures, aspects of substance.The issuance of the Decree of the Head of the Office of Investment and One-Stop Integrated Services Number. 540/DPMPPTSP/687/2020 dated June 11 , 2020 regarding Agreement Extension First Mining license Operation Production Commodity Ore Iron DMP KSU Tiega Mangosteen in the District middle Kluet, South Aceh Regency , covering an area of 200 Ha, has been cause issue law even already sued by Institution Environment Living Indonesia (Walhi) Aceh Executive to Banda Aceh State Administrative Court (PTUN Banda Aceh with Case Number . 35/G/2029/PTUN.BNA on November 10, 2020.

Keywords: Authority, Mining Business Permit/Application, Authority, Mining Business Permit.

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I. Introduction

Aceh government through Head Service Investment and Service Integrated One Door has publish permission effort mining operation production Number. 540/DPMPSTSP/1687/2020 dated June 11 , 2020 regarding Agreement Extension First Mining Business License Operation Production Commodity Ore Iron DMP KSU Tiega Manggis located in village intersection Two, District middle Kluet, South Aceh Regency, covering an area of 200 Ha, has been cause issue law, because Mining Business License Operation Production on moment issued considered no in accordance with aspect authority, aspect procedure and aspect substance, other than that KSU Tiega Mangosteen has been cause loss country because obligation repayment reception country non-tax (non-tax national income) not yet implemented, only make letter statement commitment repayment payment reception country no tax, no pay off deposit three year last, not yet have analysis about impact environment on moment production, refining and post production, as well as not yet have letter permission borrow use area forest from minister forestry and environment live, so indicated violate rule law.

II. Materials And Methods

The research method used is a combination of normative juridical methods with empirical juridical methods, namely research that seeks to analyze legal provisions or legal regulations governing investment and investment law, especially mining, associated with the application of legal rules or regulations. the law in practice in the field, so that it can provide an overview and explanation of how the law is made at the theoretical level and how the law is when it is practiced or carried out in the field.

1. Types of Legal Research:

The type of legal research used is descriptive analytical, which is trying to describe the facts found by describing the problems contained in the issuance of the Decree of the Head of the Capital Services Office. And One Stop Service Number: 540/DPMPSTSP/687/IUP-OPI/2020 dated 11 June 2020 concerning Approval for the First Extension of Mining license Production Operation Iron Ore Community DMP KSU Tiega Manggis in middle Kluet District, South Aceh Regency covering an area of 200 Ha.

2. Legal Material:

The type of material used by the author is secondary data. Secondary data is data obtained from various existing sources. Secondary data obtained through literature study. Literature study is the collection of data sourced from books, literature, and the opinions of legal experts related to this research, or other sources in the field to support the success and effectiveness of research, namely by separating the outline between primary and secondary data. secondary data. Secondary data is obtained by studying and analyzing legal materials. Secondary data in this study includes and is grouped into 3 (three) legal materials, namely:

a. Primary Legal Materials:

Legislation regulations that are closely related to the problems studied in order to obtain a theoretical basis for compiling legal writing. The regulations used are:

- (1) The 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3) "Earth and water and the natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people".
- (2) Law Number 11 of 2006 concerning the Government of Aceh Article 156 paragraph (1) "The Aceh Government and Regency/Municipal Governments manage natural resources in Aceh both on land and outside Aceh in accordance with their respective authorities".
- (3) Law Number 23 of 2014 concerning Regional Government Article 14 paragraph (1) "The implementation of forestry, marine affairs as well as energy and mineral resources is divided between the central government and the provincial government".
- (4) Law Number 3 of 2020 on Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, Article 38 "Mining license is granted to a. Business entity, b. Cooperatives, and c. Individual.
- (5) Aceh Qanun Number 15 of 2017 Article 8 paragraph (1) concerning Mineral and Coal Management, "Mining license is granted by the Governor based on applications submitted by Business Entities, Cooperatives and Individuals".
- (6) Aceh Qanun Number 5 of 2009 Article 20 paragraph (1) concerning Investment, "The Aceh Government and Regency/City Government grant permits related to investment, both domestic investment and foreign investment".

- (7) Decree of the Head of the Office of Capital Services And One Stop Service Number: 540/DPMPPTSP/687/IUP-OPI/2020 dated 11 June 2020 concerning Approval for the First Extension of Mining license Production Operation Iron Ore Community DMP KSU Tiega Manggis in middle Kluet District, South Aceh Regency covering an area of 200 Ha.
- (8) Decree of the Head of the Aceh Energy and Mineral Resources Office Number: 640/325/KDESDM/2019 dated August 5, 2019 concerning Approval of Mining Area Reserves for the Extension of Mining license for Production Operations of DMP Iron Ore to KSU Tiega Manggis covering an area of 200 Ha which It is located in SimpangDua Village, middle Kluet District, South Aceh Regency.

b. Secondary Legal Materials:

Secondary legal materials, namely legal materials that are the work of scholars related to primary legal materials and can provide an explanation of primary legal materials consisting of:

- (1) The results of research or scientific work.
- (2) Writings or legal opinions from scholars.
- (3) Books compiled by legal experts.

c. Tertiary Law Materials:

Supporting or reference materials to clarify primary and secondary materials, consisting of: Legal Dictionary, Big Indonesian Dictionary and Encyclopedias.

d. Collection of Legal Materials:

The data collection method used in this research is the first literature study, which is a technique to obtain secondary data through documents related to the problem, objectives and benefits of the research.

e. Interview:

Interviews were conducted with informants with the aim of digging deeper information about various aspects related to the problems being studied. The informants are: Village Head, Camat, Legislative, Legal Observer and environmental activist.

f. Legal Material Analysis:

This study uses qualitative data analysis techniques, qualitative data analysis, namely data obtained through library research to obtain legal documents, as well as interviews and field observations, then compiled systematically and then analyzed qualitatively to achieve clarity of issues to be discussed. The data is then analyzed interpretively using theory and positive law that has been outlined and then inductively drawn conclusions to answer the existing problems.

III. Results

Aspects of Authority, Related to the issuance of the Decree of the Head of the Investment Service and One Stop Service Number. 540/DPMPPTSP/1687/IUP-OPI/2020 dated 11 June 2020 concerning Approval of the First Extension of Mining license for Production Operation of Iron Ore Commodity DMP KSU Tiega Manggis located in SimpangDua Village, MenggamatmiddleKluet District, South Aceh Regency covering an area of 200 hectares that have been issued by the Aceh Government through the Aceh One Stop Investment and Service Office is correct and correct, because the Aceh Government has been given the authority clearly and firmly regulated in Aceh Qanun Number 15 of 2017 concerning Mineral and Coal Mining Management.**second**,Aspects of the procedure, the essence of the requirements for an environmentally sound mining business will definitely have an important impact on the environment, among others: changing the landscape, ecology and hydrology. The negative impacts that will occur are environmental damage such as landslides and floods, as well as health problems caused by the mining process and the use of mercury. By looking at the enormous negative impact that will be caused by the mining business as described above, the environmental requirements (amdal study and/or UKL and UPL) are essential requirements and must be met, prior to the production operation mining business permit. given to business entities, cooperatives and individuals who will invest their capital in the mineral and coal mining sector. **third**,Aspect of Substance, in consideration of the Decree of the Head of the Office of Investment and One Stop Integrated Services Number. 540/DPMPPTSP/1687/IUP-OPI/2020 dated 11June 2020 concerning Approval of the First Extension of Mining license for Production Operation of Iron Ore Commodity DMP KSU Tiega Manggis located in SimpangDua Village, MenggamatmiddleKluetDistrict, South Aceh Regency covering an area of 200 Ha, also does not appear to be a philosophical consideration that underlies the urgency or importance and benefits for regional development in the broad sense of activities in the iron ore mining sector proposed by KSU Tiega Manggis.

IV. Discussion

The Aceh Government has issued an investment permit through the Head of the Investment Service and One Stop Service Number. 540/DPMPPTSP/687/2020 dated 11 June 2020 concerning Approval of the First Extension of Mining Business Permit for Production Operation of Iron Ore Commodity DMP KSU Tiega

Manggis which is located in SimpangDua Village, middle Kluet District, South Aceh Regency covering an area of 200 Ha.

The investment permit obtained by KSU Tiega Manggis is valid for 10 (ten) years from 11 June 2020 to 11 June 2030, and the investment permit also regulates rights, obligations and prohibitions that must be fulfilled, complied with and implemented by the government. KSU Tiega Manggis Cooperative, as follows;

a. Right:

1. Carry out Production Operation Mining license activities (construction, mining, processing and/or refining as well as transportation and sales) in its WIUP in accordance with the provisions of laws and regulations.
2. Possessing minerals including associated minerals, or coal that has been produced after meeting the production fee, except for radioactive minerals.
3. Submit application for temporary suspension of Mining license Production Operation activities (construction, mining, processing and/or refining as well as transportation and sales) in accordance with the provisions of the legislation.
4. Build facilities and/or infrastructure to support Mining license Production Operation activities (construction, mining, processing and/or refining as well as transportation and sales).
5. Selling minerals or coal, including selling abroad after domestic needs are met in accordance with the provisions of laws and regulations.
6. Obtain land rights in accordance with the provisions of the legislation.

b. Obligation:

1. Choose the jurisdiction of the District Court where the WIUP is located.
2. Establish a representative office in the location where the WIUP is located.
3. Reporting investment plans.
4. Carry out all Production Operation Mining license activities (construction, mining, processing and/or refining as well as transportation and sales) in accordance with the provisions of laws and regulations.
5. Prepare and submit the Annual RKAB no later than 90 (ninety) calendar days and no later than 45 (forty five) calendar days before the end of the calendar year for the Annual RKAB in the following year, for approval.
6. Applying good mining methods in accordance with the laws and regulations.
7. Submit a written report on a scaled basis on the Annual RKAB as well as the implementation of mining business activities carried out, including the implementation of cooperation with IUJP holders.
8. Provide guidance to mining service companies in the application of good mining techniques.
9. Applying the principles of propriety, transparency and fairness in using mining service companies holding IUJP.
10. Prioritizing the fulfillment of domestic mineral and coal needs and complying with production and sales control.
11. Formulate and implement reclamation and/or post-mining plans in accordance with the approved reclamation and/or post-mining plans and place post-mining reclamation guarantees in accordance with the provisions of the legislation regarding reclamation and post-mining.
12. Manage finances in accordance with the Indonesian accounting system.
13. Increase the added value of mineral or coal mining results in the country in accordance with the provisions of the legislation.
14. Prepare, implement and submit reports on the implementation of community development and empowerment programs in accordance with the provisions of laws and regulations.
15. Comply with environmental carrying capacity tolerance limits.
16. Ensuring the application of environmental quality standards and standards in accordance with the characteristics of an area.
17. Maintain the preservation of the function and carrying capacity of the relevant water resources in accordance with the provisions of the legislation.
18. Placing a boundary sign on the Production Operation WIUP.
19. Comply with the technical provisions of mining operations.
20. Applying competency standards for mining workers.
21. Submit all data obtained from the results of the activities of the Production Operation stage to the Governor cq. Head of the Aceh Energy and Mineral Resources Office.
22. Administering every implementation of mining business activities.
23. Prioritizing the use of local labor, domestic goods and services in accordance with the provisions of laws and regulations.

24. Involving local entrepreneurs around the WIUP in carrying out Production Operation activities in accordance with the provisions of laws and regulations.
25. Paying financial obligations in accordance with the provisions of laws and regulations.
26. Settle land rights with rights holders in accordance with the provisions of the legislation.
27. Settlement of rights to supporting facilities and infrastructure in accordance with statutory regulations if there are facilities and infrastructure supporting mining activities in the WIUP that will be utilized.
28. Submit a complete exploration report if there are additions and changes to resources based on the results of further exploration.

c. Prohibition:

1. Selling mining products abroad before processing and/or refining domestically in accordance with the provisions of laws and regulations.
2. Selling mining products that are not from their own mining.
3. Carry out coal mixing activities (blending) originating from the holder of Production Operation Mining license, Production Operation IUPK or People's Mining Permit, without the approval of the Governor.
4. Processing and/or refining mining products that do not have an IUP, People's Mining Permit or IUPK.
5. Involving subsidiaries and/or affiliates engaged in the mining services business in the implementation of mining business activities without the approval of the Director General on behalf of the Minister.
6. Have a People's Mining Permit, Special Production Operation Mining license for processing and/or refining, Production Operation Mining license specifically for transportation and sales, and IUPJ.
7. Guarantee the Mining license and/or mining community to other parties.
8. Carry out construction, mining, processing and/or refining activities, as well as transportation and sales, including further exploration activities before the Annual RKAB of the Production Operation Mining license is approved.
9. Carry out mining business activities in places that are prohibited in accordance with the provisions of laws and regulations, and.
10. Transferring the Mining license to another party without the approval of the Governor.

The issuance of the investment permit has created legal issues in the community, so that the investment permit is considered invalid because it is not in accordance with the authority, procedural and substance aspects.

To assess the validity of the investment permit, the author will examine using the normative juridical study method and empirical study, whether the issuance of an investment permit by the Head of the Investment and One Stop Service Office Number. 540/DPMP/TSP/687/2020 dated June 11, 2020 concerning Approval of the First Extension of Mining Business Permit for Production Operation Iron Ore Commodity DMP KSU Tiega Manggis which is located in Simpang Dua Village, middle Kluet District, South Aceh Regency covering an area of 200 Ha, in accordance with the authority aspect, procedural aspect as well as the aspect of substance. And whether the granting of a production operation mining business permit does not result in a juridical deficiency, namely the non-fulfillment of material and essential requirements for the issuance of a production operation mining business permit and the non-fulfillment of these requirements is a violation of the law.

1. Authority Aspect:

According to Huisman and P. De. Hann theoretically, the authority that comes from the laws and regulations is obtained in three (3) ways, namely; Attribution, Delegation and Mandate, which are defined as follows: a) Attribution is the granting of government authority by legislators to government organs. b) Delegation is the delegation of government authority from one government organ to another government organ. c) Mandate occurs when a government organ allows its authority to be exercised by another organ on its behalf.

Based on the explanation of the theory of authority described above, the authority of the Aceh Government in this case the Governor who has issued the extension of the production operation mining business permit to KSU Tiega Manggis has been regulated clearly and firmly in Aceh Qanun Number 15 of 2017 concerning Management of Mineral and Coal Mining in particular in Article 8 paragraph (1) which states that "Mining license is granted by the Governor based on applications submitted by Business Entities, Cooperatives and Individuals".

Furthermore, Article 20 paragraph (1) of Aceh Qanun Number 5 of 2009 concerning Investment also states "The Aceh Government and Regency/City Government grant permits related to investment, both domestic investment and foreign investment". Paragraph (2) states "Investors who will carry out business activities are required to obtain a permit from the Aceh Government or Regency/City Government in accordance with their respective authorities". And paragraph (3) states "Permits are granted by the Governor/Regent/Mayor through

one-stop integrated licensing services at provincial and district/city integrated one-stop licensing service agencies/offices after obtaining technical considerations from the investment and promotion agency.

In relation to the issuance of the Decree of the Head of the Office of Investment and One Stop Integrated Services Number. 540/DPMPSTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operation of Iron Ore Commodities DMP KSU Tiega Manggis located in SimpangDuavillage, middle Kluet District, South Aceh Regency covering an area of 200 hectares has been issued by the Aceh Government through the Aceh One Stop Service Investment and Integrated Service Office which has fulfilled the aspect of authority, because the Aceh Government has been given the authority clearly and firmly regulated in Article 8 paragraph (1) Aceh Qanun Number 15 of 2017 concerning Mineral and Coal Mining Management .

2. Procedure Aspect:

Issuance of Production Operation Mining Business Permit Number. 540/DPMPSTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operations for Iron Ore Commodities DMP KSU Tiega Manggis located in SimpangDuavillage, middle Kluet District, South Aceh Regency covering an area of 200 ha, has violated the procedural aspects, on the grounds:

First: in consideration of letter e based on the Decree of the Regent of South Aceh Number 325 of 2019 dated May 2, 2019 concerning the Stipulation of Environmental Permits for DMP Iron Ore Mining Activities in SimpangDua Village, middle Kluet District, South Aceh Regency, where the environmental permit is for DMP iron ore mining activities. , does not include processing and refining activities as stated in the second dictum of the Decree of the Head of the Office of Investment and One-Stop Integrated Services Number; 540/DPMPSTSP/240/IPPKH/2019 dated 11 June 2020, while the environmental permit for processing and refining activities has only just announced an AMDAL. by the KSU Tiega Manggis Cooperative on July 10, 2020, the procedure is that the EIA permit must first be obtained by KSU Tiega Manggis, then the KSU Tiega Manggis investment permit is issued by the Aceh Government or the Governor.

Second: in the consideration of the letter h based on the Letter of the Head of the Office of State Assets and Auction Jakarta V Regional Office DJKN DKI Jakarta Directorate General of State Assets Ministry of Finance of the Republic of Indonesia Number: S-1078/WKN.07/KNL.05/2020 dated 28 April 2020 , KSU Tiega Manggis Cooperative has paid the first installment of KB non-tax national income Royalty on April 16, 2020 in the amount of Rp. 204,173.00 (two hundred four million one hundred seventy three thousand four hundred and seventy eight rupiah).The installment payment made by KSU Tiega Manggis has violated the mandatory provisions stipulated in Article 45 paragraph (2) letter b of Government Regulation Number 1 of 2017 concerning the Fourth Amendment to Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities which states "Complete proof of payment of fixed fees and production fees for the last 3 (three) years". However, the fact is, KSU Tiega Manggis has not paid the fixed fees and production fees for the last 3 (three) years, even though KSU Tiega Manggis has previously carried out production operations, but only made payments in installments to the government. The government as the policy holder should be firm so as not to be disadvantaged from in terms of state revenue from the mining sector.

Third: in the preamble, considering letter j based on the Commitment to Repayment of non-tax national income Royalty KSU Tiega Manggis through a letter addressed to the Head of the Office of State Assets and Auction Jakarta V Regional Office of DJKN DKI Jakarta Directorate General of State Assets Ministry of Finance of the Republic of Indonesia Number: 002 /KSU-TM/II/2020 dated February 19, 2020 regarding the Application for the Value of Ability to Pay KB Royalty non-tax national income. With the letter, KSU Tiega Manggis has caused state losses, in this case losses to the Aceh government because KSU Tiega Manggis has only paid part of the obligation for non-tax state revenues (non-tax national income), and only submitted a letter of commitment to settle non-tax national income. This fact shows that KSU Tiega Manggis has caused losses to the state, especially to the Aceh Government, even though the Aceh Government has issued the KSU Tiega Manggis investment permit. The Aceh government should take a firm stance against mining companies that are in arrears of non-tax national income, because mining is one of the sectors that contributes to the state's largest revenue from non-tax national income. The Directorate General of Mineral and Coal stated that the total arrears of non-tax revenues from the mining sector reached Rp.4.9 trillion, of which the arrears consisted of claims in 2017 of Rp.2.6 trillion and claims in previous years of around Rp.2.3 trillion. The company's obligation to pay off non-tax national income is expressly regulated in Article 20 of Law Number 20 of 1997 concerning non-tax national income which states "Companies that do not submit reports of Non-Tax National Income payable or submit reports of non-tax national income that are owed but are not true/incomplete/attach information that is not true/ Failure to attach correct information resulting in loss of state revenue shall be punished with imprisonment for a maximum of one year and a fine of not more than twice the amount of non-tax national income owed.

Fourth: the location of iron ore mining carried out by KSU Tiega Manggis is in a protected forest area, so it is obliged to have a borrow-to-use forest area permit, as referred to in Article 4 paragraph (2) based on IPPKH. This is explicitly regulated in the Regulation of the Minister of Environment and Forestry Number: P.7/Menlhk/Setjen/Kum.I/2/2019 concerning Amendments to the Regulation of the Minister of Environment and Forestry Number: P.27/Menlhk/Setjen/kum. I/7/2018 concerning Guidelines for Borrowing and Using Forest Areas. The fact is that up to now, KSU Tiega Manggis has not obtained a permit for borrowing to use protected forest areas from the ministry of environment and forestry. Thus, the issuance of the Decree of the Head of the Office of Investment and One Stop Integrated Services Number. 540/DPMPTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operations for Iron Ore Commodities DMP KSU Tiega Manggis located in SimpangDuavillage, middle Kluet District, South Aceh Regency covering an area of 200 hectares, there has been a violation or procedural error in issuing the extension of the investment permit to KSU Tiega Manggis.

Regarding the technical requirements, especially the map of the mining business area (WUP) as regulated in Law Number 4 of 2009 as amended by Law Number 3 of 2020 concerning Mineral and Coal Mining, where the Department of Energy and Mineral Resources of the Province of Aceh has issued Decree of the Head of the Aceh Energy and Mineral Resources Office Number: 540/325/KDESDM/2019 concerning Approval of Reserved Mining Areas for Extension of Mining license for Production Operations of DMP Iron Ore Commodities, Region Code: 21 1101 2 33 2019 002 with an Area of An area of 200 ha, where the area is suspected of overlapping with the mining business area (WUP) of other companies or even being in a protected forest area, so that to be used as a mining business area it must first obtain a use or borrow-to-use permit from the Minister of Forestry, as mandated in Article 38 of Law Number 41 Ta Law of 1999 concerning Forestry in conjunction with Government Regulation No. 24 of 2010 concerning Use of Forest Areas in conjunction with Government Regulation No. 61 of 2012.

The overlapping investment permits of KSU Tiega Manggis with other mining companies, namely PT. The PSU (Pinang SejatiUtama) covering an area of 200 hectares located in SimpangDua Village, middle Kluet District, South Aceh Regency has not yet received a Clear and Clean status, meaning that it is not clear and not clear. As a result of the many overlapping investment permit issues, out of a total of 11,000 IUPs, only 6,000 have received Clear and Clean status. This means that only about 55 percent of IUPs are clear and clear. Meanwhile, the remaining 5,000 IUPs or 44 percent are still unclear on their status.

Furthermore, regarding environmental requirements, especially related to the approval of environmental documents, in accordance with the provisions of Article 121 of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) and Regulation of the State Minister of the Environment Number 14 of 2010 concerning Environmental Documents for Business and / or Activities That Already Have Business Permits and / or Activities But Do not Have Environmental Documents where KSU Tiega Manggis does not yet have an environmental evaluation document (DELH) for activities / businesses that require compiling an analysis of environmental impacts (AMDAL), or management documents or environmental management document (DPLH) for activities/businesses that are required to prepare environmental management efforts (UKL) and environmental monitoring efforts (UPL), as regulated in the provisions of UUPPLH and the above ministerial regulations. To compile an environmental evaluation document (DELH) or an environmental management document (DPLH) is not something that is easy and simple because it must be made by a person who has a special certification for it and the preparation process takes a relatively long time, and is submitted to the environmental agency. area (BLH).

Looking at the area of the mining business area (WUP) as well as the production operation mining business permit of KSU Tiega Manggis, which is 200 ha, it is certain that before applying for a production operation mining business permit, the KSU Tiega Manggis cooperative must prepare First, a complete environmental evaluation document (DELH), because this document is the main requirement for the issuance of a production operation Mining license for Iron Ore. However, the fact is that the KSU Tiega Manggis cooperative does not yet have a complete environmental impact analysis (AMDAL) document, thus the issuance of the Decree of the Head of the One Stop Investment and Integrated Services Agency Number. 540/DPMPTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operations for Iron Ore Commodities DMP KSU Tiega Manggis located in SimpangDuavillage, middle Kluet District, South Aceh Regency covering an area of 200 hectares, there has been a juridical deficiency, namely the non-fulfillment of material and essential requirements for the issuance of a production operation Mining license, and non-fulfillment of these requirements constitutes a violation of law, as explained in Article 22-23 UUPPLH, PP No.27 1999 concerning AMDAL, Minister of Environment Regulation Number 11 of 2006 concerning Types of Business Plans and/or Activities Required to Be Completed with Environmental Impact Analysis, and Minister of Environment Regulation Number 14 of 2010 concerning Environmental Documents for Businesses and/or Activities That Have a Business Permit and /or Activities But Do Not Have Environmental Documents.

Starting from February 2012, as a prerequisite for obtaining a business and/or activity permit, an Amdal or UKL-UPL must first have an environmental permit, as explained in Government Regulation No. 27 of 2012 concerning Environmental Permits. The essence of the environmentally sound requirements of mining businesses will definitely have an important impact on the environment, among others: changing the landscape, ecology and hydrology. The negative impacts that will occur are environmental damage such as landslides and floods, as well as health problems caused by the mining process and the use of mercury.

By looking at the enormous negative impact that will be caused by the mining business as described above, the environmental requirements (amdal study and/or UKL and UPL) are essential requirements and must be met, prior to the production operation Mining license. given to business entities, cooperatives and individuals who will invest their capital in the mineral and coal mining sector.

3. Aspect Substance:

Substantially, the content of the Decree of the Head of the Investment and One Stop Service Office Number. 540/DPMPTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operations for Iron Ore Commodities DMP KSU Tiega Manggis located in Simpang Dua village, middle Kluet District, South Aceh Regency covering an area of 200 hectares, there are errors, both in the weighing considerations and in the errors in the dictum.

In the preamble, considering letter k, it is stated that based on the results of the evaluation of the Application for Mining license for the Production Operation of the Iron Ore Commodity DMP submitted by the Head of KSU Tiega Manggis, it is in accordance with and meets the requirements as stipulated in Government Regulation No. 23 of 2010 concerning the Implementation of Mineral and Coal Mining as amended several times, most recently by Government Regulation No. 8 of 2018 concerning the Fifth Amendment to Government Regulation Number. 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities. Whereas the requirements for obtaining a production operation Mining license have not been met as described above.

Likewise, in the preamble considering letter b which reads that based on the Decree of the Regent of South Aceh Number 214 of 2010 concerning the Approval of Boundaries and Areas of Mining license for Iron Ore Production Operations DMP KSU Tiega Manggis, it should be noted that based on Law Number 23 In 2014 concerning Regional Governments, the issuance of Mining license became the authority of the central government and provincial governments, this is regulated in Article 14 paragraph (1) which states that "The implementation of forestry, marine affairs as well as energy and mineral resources is divided between the central government with the provincial government".

Based on the article, it can be concluded that district/city governments are no longer authorized to deal with all matters related to forestry, marine affairs as well as energy and mineral resources, all are under the authority of the central government and provincial governments. This law also does not regulate the authority of district/city governments in the issuance of Mining license, thus the Decree of the Regent of South Aceh Number 214 of 2010 concerning Approval of Limitations and Areas of the Mining Business Permit of KSU Tiega Manggis which has been included in the preamble, considering that the letter b is neither true nor correct. It would be more appropriate for a decision on the approval of the boundary correction and the area of the mining business permit to be issued directly by the provincial government through the Aceh energy and mineral resources office.

In the preamble to the Decree of the Head of the Office of Investment and One Stop Services No. 540/DPMPTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval of the First Extension of Mining license for Production Operation of Iron Ore Commodity of DMP KSU. Tiega Manggis in Simpang Dua Menggamat village, middle Kluet District, South Aceh Regency, covering an area of 200 hectares, also does not appear to be philosophical, sociological and ecological considerations that underlie the urgency or importance and benefits for regional development in the broad sense of activities in the field of iron ore mining proposed by KSU Tiega the Mangosteem.

According to Maria Farida Indrati Soeprapto, in her book, "The Science of Legislation; The Process and Technique of Its Formation", explained "The Philosophical Foundation is a consideration or reason that illustrates that the regulations formed take into account the views of life, awareness and legal ideals which include the spiritual atmosphere and philosophy of the Indonesian nation which are sourced from Pancasila and the Preamble to the 1945 Constitution. Sociological is a consideration or reason that illustrates that regulations are formed to meet the needs of the community in various aspects. The sociological basis actually concerns empirical facts regarding the development of problems and needs of society and the state.

The same thing was also stated by the Head of middle Kluet Sub-district who stated, "Regarding the benefits of KSU Tiega Manggis which received a mining business permit for production operations of 200 hectares located in Simpang Dua village, middle Kluet District, South Aceh Regency, it has not shown any real benefits to development, especially in South Aceh as the host area, we do not get data or do not have definite

data, how many local workers work in the mine?, are they contract workers, casual daily workers and or experts?”.

Syarbunis, an activist with the Aceh Walhi and YGHL stated "The Aceh government should consider carefully and carefully the ecological conditions in the 200 ha mine site of KSU Tiega Manggis, Amdal is a mandatory requirement that must be met before processing and refining is carried out by KSU Tiega Manggis. The 200 ha mine was damaged post-mining, so the surrounding community will bear the burden in the future”.

In addition to the preamble issues as described above, the Decree of the Head of the One-Stop Integrated Service and Investment Service No. 540/DPMPSTSP/1687/IUP-OPI/2020 dated June 11, 2020 concerning Approval for the First Extension of Mining license for Production Operations for Iron Ore Commodities DMP KSU Tiega Manggis in SimpangDua village, middle Kluet District, South Aceh Regency, substantially covering an area of 200 Ha / Material does not yet have executorial power, because the production operation Mining license area is 200 ha, part of which is in a protected forest location, so a permit from the forestry minister is required.

Village head SimpangDua District of middle Kluet stated "KSU Tiega Manggis Cooperative has not yet fully operated, they only work inside the mine site, transportation has not been carried out, the information has not been issued with a transportation permit, and the information is that the mine site is also in the forest area. protected area, and there is no permission from the relevant minister yet”.

V. Conclusion

The Aceh government should revise Mining license Investment Number ;540 /DPMPSTSP/1687/IUP-OP/2020 dated June 11 , 2020 so that Fulfill aspect procedure and aspect substance .

Reference

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