

International Journal of Judicial Law

Law enforcement in the mining of sand material

Maskawati

Department of Law Science, Institut Agama Islam Negeri Bone, Indonesia

* Corresponding Author: **Maskawati**

Article Info

ISSN (online): xxxx-xxxx

Volume: 01

Issue: 05

September-October 2022

Received: 01-10-2022;

Accepted: 18-10-2022

Page No: 12-15

Abstract

Exploration, construction, mining, management, refining, transportation and sale of C sand mining in Bōne Regency liar development harms the environment and community morale are part of research, management and exploitation frameworks. The number of illegal sand mining operations increased from 2013 to 2015 despite efforts by Bōne Regency legal authorities to eradicate them. There was no legal process in several cases of illegal sand mining in Bōne Regency. This study was conducted to establish law enforcement against those involved in illegal sand mining in Dua Boccoe District, Bōne Regency and to determine the extent of government's role in controlling it. Direct study at the researched site or locality falls under the category of field research. There needs to be more discussion about the community implications of sand mining in Bōne Regency and the impact of such mining, and efforts should be made to catch those involved in such mining rather than taking preventive measures.

Keywords: Law Enforcement, Sand Mining

1. Introduction

Man plays an important role in the environment and influences his surroundings. Both meet the necessities of life such as food, clothing and shelter. The growth and development of human thinking is related to technological development, which can negatively and positively affect the environment. Indeed, Indonesians have a duty to protect and improve the environment so that it can continue to be a source of life for Indonesians (Salim HS 2005). Exploitation of the natural potential in any region is possible for anything and anyone, but rules and standards must be followed and agreed upon. Excavated C is a mined material usually used for infrastructure development and private, private and government buildings (Andriana 2021; Siburian 2016; Surya 2019). Mined rocks, also referred to as C-class minerals, are key to infrastructure development, especially for the establishment of road infrastructure facilities, the construction of family houses and the construction of office buildings. The rise of sand mining by community members can have a positive or negative impact; small scale miners still need to pay attention to geological and legal aspects as much of small scale mining does/doesn't pay attention to this matter. For example, many related legal aspects in the form of permits, spatial or regional arrangements, including zoning, land, control, pollution and reclamation policies, as well as customary law. This must be done by everyone in the mining business to protect and preserve the environment. Chapter 65 point (1) of Act No. 4 of 2009 on the mining of minerals and coal, that business entities, cooperatives and individuals who will carry out mining must meet administrative, technical, ecological and financial requirements.

In accordance with regional laws or other regulations, local governments issue permits that serve as evidence of legality and permit holders to conduct specific commercial or recreational activities (Y. Sri Pudyatmoko 2009). In the Law No. 4 of 2009 on the mining of minerals and coal, we can find different types of permits in the form; Mining Activity Permit (IUP), Exploration IUP, Production Operations IUP, Human Mining Permit (IRP), Special Mining Activity Permit (IUPK), Exploration IUPK and Mining Activity IUPK. Dua Boccoe sub-district has various wealth of natural resources that has various potentials to increase the Regional Indigenous Income (PAD) through efforts to exploit potential natural resources (SDA), namely minerals. By increasing revenue for the area and exploring potential sources of regional revenue in the area of regional taxation, it is possible to finance the implementation of regional self-government and improve community services. Dua Boccoe sub-district has various mineral resources scattered in several areas, mainly sand and stone.

Due to the significant C potential of the Dua Boccoe sub-mineral area, both private and corporate entities have engaged in numerous mining-related activities. Mining operations carried out must be permitted.

This does not exclude that illegal mining often escapes the attention of the government as the party authorized to issue permits. One of the specific examples of mining C comes from the village of Pakkasalo, Dua Boccoe District, Bōne Regency. In this village, all C minerals are explored and managed by the private sector. Management by the private sector certainly brings income for the region, directly related to the locality and self-government. Those directly connected to the excavation site feel this as an advantage.

Since the location of Trench C in this area is very close to community (village) settlements, the administrator usually provides livelihood opportunities to the surrounding village community by working as unskilled "sand collectors" in Trench C. Established Article 41 number 4c of Regional Regulation no. 2 of 2013 regarding the Regional Land Use Plan of Bōne Regency reads: "Commodities of natural sandy gravel sand are established in parts of Sibulue District, Ajangale Sub-District, part of Palakka District and part of Kajuara District." It was stated that among the several sub-districts in Bōne Regency, there is no Dua Boccoe included as an area/area that is allowed to mine non-metallic minerals, so business entities should not be allowed to mine C in Dua Boccoe District, as the regional regulation clearly states in which areas mining of mineral C, commodity sand gravel is allowed.

The problem that then arose out of the mining business in Pakkasalo Village, Dua Boccoe District was the damage to the road where the road was the main road for drivers to be traversed by the vehicle transporting the C pit from the mine site to the consumer; it was due to the capacity of the communication before the presence of cutting C in the extraction area. This area is still covered with rough asphalt (not Hotmik) so it cannot withstand the load of large trucks passing through it daily, so the only road to the village where Excavation C is located is badly damaged. In addition, the environmental impacts of mining must also be taken into account, as there have been many cases of damage around the mining area. The conditions in the area also inherently include the fact that the mining activity is carried out without any regulation of environmentally friendly mining, both in the mining sector and in the surrounding community. So the risk of geological disasters that will be caused is very high, such as landslides. Minimize the impacts of mining activity without a permit. carried out by the community, the government has the power to enforce the law by referring to Article 158 of Act No. 4 of 2009 on Mineral and Coal Mining, which reads "anyone who operates a mining activity without an IUP, IPR or IUPK as referred to in Article 37, Article 40 para. 3, Article 48, Article 67 paragraph 1, Article 74 paragraph 1 or 5 shall be punished by imprisonment for up to 10 years and a fine of not more than Rp. 10,000,000,000.00 (ten billion)". With the intention that the state and society of the Dua Boccoe Subdistrict area will not be permanently damaged by the actions of people or groups of perpetrators of illegal sand mining, which saves the country from the threat of economic losses and increases its dignity of the country.

Research Method

Method comes from the Greek methods and consists of two words, meta, which means to go, though, and to follow. Hodos is at the same time a path, a path and a direction. Thus, the meaning of the word Methodos is a scientific method that does something according to specific rules (Juliansyah Noor 2014). For example, when preparing a research that uses

several of the following methods: This study used field research, where the researchers directly collected information from interviewees or respondents who had something to say about law enforcement. Against the mining of mineral sand C in Dua Boccoe District, Bōne Regency under Law No. 4 of 2009 in Bōne Regency. Based on the problems studied by the author, the research method used is legally empirical. The method of empirical legal research is carried out by looking at reality in practice. This approach is also known as a sociological approach, carried out directly in the field (Soekanto, Soerjono 2009).

Result and discussion

Natural resources are found in every district and region of the Unitary State of the Republic of Indonesia. Oil, coal, tin, gold, sand and minerals are the basis of wealth. Government controls and owns wealth for the benefit of its citizens (Adrian Sutedi 2012). Based on the 1945 Constitution of the Republic of Indonesia, optimizing the wealth of natural resources on land and sea has the potential for economic progress and the betterment of the Indonesian nation. Mineral extraction is the extraction of minerals from rocks or seeds that does not involve the use of geothermal energy, natural gas, or groundwater. The Republic of Indonesia is a country rich in natural resources and contains a number of minerals. Based on Article 1 of Government Regulation No. 27 of 1980 on the classification of minerals, they are classified into 3 groups, namely:

1. Group A or strategic minerals included in these minerals are petroleum, liquid bitumen, natural wax, natural gas, solid bitumen, asphalt, anthracite, coal, uranium, radium, thorium and other radioactive minerals such as nickel, coal, tin.
2. Group B or vital minerals included in these minerals are iron, manganese, molybdenum, chromium, tungsten, vanadium, titanium, bauxite, copper, lead, zinc, gold, platinum, silver, mercury, diamond, arsenic, antimony, bismuth, yttrium, ruthenium, cerium and other rare metals.
3. Group C or minerals that do not include minerals A and B; nitrates, phosphates, rock salt (halite), asbestos, talc, mica, graphite, magnesite, jarosite, leucite, alum, ochre, precious stones, semi-precious stones, quartz sand, kaolin, feldspar, gypsum, pumice, bentonite, tras, obsidian, perlite, diatom, Fullers earth, marble, slate, limestone, dolomite (Salim 2012).

Anyone running a mining business must obtain a permit from the relevant authority. Without such a permit, a person operating a mining activity may be qualified as illegal mining. Perpetrators of mining crimes can be charged in Article 158 of the Law No. 4 of 2009 on the Mining of Minerals and Coal, which reads as follows "anyone who carries out mining activities without an IUP, IPR or IUPK, as specified in Article 37, Article 40 paragraph (5) shall be punished by imprisonment with an upper limit of the criminal rate of 10 years and a fine with an upper limit of the criminal rate of Rp. 10,000,000,000.00 (Ten Billion Rupees).

1. The Government's Role in Controlling Illegal Sand Mining in Indonesia's Dua Boccoe District, Bōne Regency
Licensing is one of the administrative tools used as a means of preventing and controlling environmental pollution. Licensing in the mining sector is linked to the granting of mining permits. Pursuant to Article 2 of Government

Regulation No. 32 of 1969, mining authorization is granted in the form of:

A. Mining Ordinance, namely the mining permit granted by the Minister to government agencies to carry out mining activities.

b. People's mining permit, namely a mining permit granted by the minister on a small scale and with a minimum area.

C. Decree on the granting of a mining license, specifically a mining license granted by the Minister to state-owned enterprises, regional companies, other midwives or individuals to carry out mining activities (Suparto 2005, 32). The granting of authority to regions (districts/municipalities) is confirmed by the existence of chapter IV: regional authority, but chapter III of Act No. 32 of 2004 on regional administration authorizes the division of government affairs, is regulatory rather than recognition, although Article 10(1) states that "local governments shall carry out government affairs under their authority unless the government affairs are designated as government affairs by this Act". Indonesia is one of the world's countries with many natural resources, both renewable and non-renewable. Examples of non-renewable types of natural wealth are natural resources in the form of mining. There are many types of mining materials in Indonesia, including sand. When conducting sand mining control to avoid deviations in the performance of tasks, organizational structure and a clear division of functions and tasks are essential factors that can reduce the occurrence of irregularities. Control policies, especially in the field of sand mining, can take the form of written or unwritten provisions. However, in order for the performance of supervisory duties to go well, it is better if the implementation details are done in writing. This is to facilitate the evaluation of work implementation as there is written evidence.

5. Implementation of law enforcement against illegal sand mining entities in Dua Bocoe District, Bone Regency

Progress in completing the law as it is, overseeing its application so that it is not violated, and in the event of a violation, restoring the right that has been violated so that it can be enforced again. However, due to the numerous influencing factors, law enforcement is not always straightforward. These factors are as follows:

A. the legal factor itself, in which it is limited to law only

b. Law enforcement factors, namely the parties that make and enforce the law.

C. Facility or facility factors that support law enforcement

d. Community factors, specifically the environment in which the law is enforced or applied

E. Cultural factors, namely works of creativity and taste based on human initiative in social life (Suparto 2005). The goal of law enforcement is to oversee the correct application of the law and ensure that it is not violated. After the WP designation, the mining area has mineral and coal potential and is not limited by state administrative boundaries, which are part of the national spatial arrangement. The emergence of the term industrial minerals for group C minerals is due to the fact that, from a psychological point of view, minerals belonging to group C are not considered strategic and vital. According to their functions and uses, group C minerals can be divided into:

A. Excavated construction materials, namely those that are fully utilized as fill and construction materials. Includes: sand, gravel, limestone, andesite, granite, quartz sand and marble

b. Industrial minerals, namely minerals that become

industrial raw materials. Contains: zeolites, semi-precious stones, bentonite and okr.

The state has the legal authority to manage the land, water and natural resources found there, including mining. As a result, anyone planning to engage in mining operations must first seek permission from the state or government. From this definition, it can be deduced that sand mining is an act prohibited by law and that anyone who violates the ban by operating a mining activity, specifically by mining sand without permission from the government and damaging the surrounding environment, will face threats (sanctions) in the form of specific criminal acts. The form and organization of mining companies through "People's Mining" is not specified in the Mining and Coal Act. However, it is stated in § 5 letter h) of the Mining Act. In addition, community mining is described in Article 11 of Law Number 11 of 1967 on Basic Provisions on Mining, namely:

Conclusion

Licensing is one of the administrative tools used as a means of preventing and controlling environmental pollution. Licensing in the mining sector is linked to the granting of mining permits. On the basis of Article 2 of the Government Regulation, No. 32 of 1969 Granting authority to regions (regions/municipalities is) recognition, which is confirmed by the existence of Chapter IV: Regional Authority, but Chapter III of Act No. 32 of 2004 on Regional Administration entitled Division of Government Affairs, is regulatory rather than recognition, although Article 10(1) states that "local governments shall carry out governmental affairs under their authority unless the governmental affairs are designated as governmental affairs by this Act". In the implementation of the control of sand mining, so that there are no deviations in the performance of tasks, the organizational structure and the clear division of functions and tasks are essential factors that can reduce the occurrence of deviations. Control principles can take the form of written or unwritten provisions, particularly in relation to sand mining. The goal of law enforcement is to enforce the law as it is, to monitor its application so that it is not violated, and if it is, to modify the law so that it can be enforced again. The goal of law enforcement is to oversee the correct application of the law and ensure that it is not violated. There would be further attempts to restore the corrupt institution. There will be further attempts to restore the broken law. A mining area, hereafter referred to as WP, is an area of coal and mineral potential that is not limited by the administrative boundaries of a government and is part of a national arrangement.

Reference

1. Adrian Sutedi. 2012. *Hukum Pertambangan*. Jakarta: Sinar Graphics.
2. Andriana, Apep. 2021. "Penegakan Hukum Terhadap Kegiatan Tambang Galian C Ilegal Di Kabupaten Wakatobi." *Sultra Research of Law* 3(2): 37–44.
3. Ashraf, Muhammad et al. 2011. "Sand Mining Effects, Causes and Concerns: A Case Study from Bestari Jaya, Selangor, Peninsular Malaysia." *Scientific Research and Essays* 6: 1216–31.
4. Ashraf, Muhammad Aqeel, Mohd Jamil Maah, Ismail Yusoff and Abdul Wajid. 2011. "Sand Mining Effects, Causes and Concerns: A Case Study from Bestari Jaya, Selangor, Peninsular Malaysia." 6(6): 1216–31.
5. Dwiyan, Achmad Hartanto and Suyoto. 2017.

- “Penanganan Kasus Penambangan Galian C Ilegal Di Kawasan Pegunungan Kendeng Selatan Dan Pegunungan Kendeng Utara Di Kabupaten Pati.” In *Proceeding Seminar Nasional Publikasi Hasil-Hasil Penelitian Dan Pengabdian Masyarakat*, 107–22.
6. Gavriletea, Marius Dan. 2017. “Environmental Impacts of Sand Mining. Analysis of the sand market.
 7. Juliansyah Noor. 2014. *Research Methodology*. Jakarta: Kencana.
 8. Salim. 2012. *Mineral Hukum Pertambangan & Batu Bara*. Jakarta: Sinar Graphics.
 9. Salim HS. 2005. *Hukum Pertambangan Di Indonesia*. Jakarta: Rajawali Press.
 10. Siburian, Nova Yanti. 2016. “Penegakan Hukum Terhadap Pertambangan Pasir Bahan Galian c Di Kabupaten Kuantan Singingi Based on Undang-Undang Nomor 4 Tahun 2009 Tentang Pertambangan.” *JOM Fakultas Hukum* 3(2): 1–15.
 11. Soekanto, Soerjono, Sri Mamudji. 2009. *Penelitian Hukum Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.
 12. Suparto, Wijoyo. 2005. *Hukum Lingkungan Kelembagaan Pengelolaan Lingkungan Di Daerah*. Surabaya: Airlangga University Press.
 13. Surya, Ahmad. 2019. “Penegakan Hukum Terhadap Pertambangan Galian C Tanpa Izin Di Kabupaten Bener Meriah.” *RESAM Jurnal Hukum* 5(2): 126–40.
 14. Y. Sri Pudyatmoko. 2009. *Perizinan, The Problem of Dan Upaya Pembahan*. Jakarta: Gramedia Wediasarana Indonesia.