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## ENVIRONMENTAL ASPECTS AS A REQUIREMENT FOR GRANTING A BUSINESS PERMIT FOR COMMUNITY MINING IN MINERAL AND COAL MINING

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**ABSTRACT:** Indonesia is a country that is very rich in natural resources nature , which can be used as one Supporter development national , to provide and achieve welfare for Indonesian society . One of the sources of support development in Indonesia thanks to from riches nature is mining . Mining is one of the field very effort Lots in demand by the Indonesian people.

**Keywords-** Indonesia, Development, Field, Society.

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### I. INTRODUCTION

Indonesia is a country that is very rich in natural resources nature , which can be used as one Supporter development national , to provide and achieve welfare for Indonesian society . One of the sources of support development in Indonesia thanks to from riches nature is mining . Mining is one of the field very effort Lots in demand by the Indonesian people .

Until moment location mine coal the largest in Indonesia is located in several regions of Indonesia, such as mining Batubaru on Sumatra Island which has 55.08 billion tons of natural resources coal with the amount the backup amounting to 12.96 billion tons. Coal mines are also located on the island of Kalimantan which contains 62.1% of total potential reserves and resources coal in Indonesia . This makes Kalimantan Island is known as an area producer coal the largest in Indonesia until currently . Mining Coal in Kalimantan itself has 88.31 billion tons of resources coal with its reserves amounting to 25.84 billion tons. Java Island also has resource potential coal with a total of 58.5 million tons of resources coal with reserves as much as 7.23 million tons. Other islands that have resource potential coal are the Nusa Tenggara Islands , Sulawesi and Papua.<sup>1</sup>

Resource management nature itself in Indonesia has rules, that holder mastery towards resources nature that exists throughout the territory of the unitary state The Republic of Indonesia is a country. The state's control over natural resources natural regulated in the provisions of Article 33 paragraph (3) of the Constitution of the Republic of Indonesia which regulates that Earth , water and wealth nature contained therein controlled by the state and resources nature is used for the greatest benefit prosperity Indonesian people . <sup>2</sup>The country that is given authority based on the law, the state is also obliged to make arrangements to resource utilization nature in Indonesia .

One of regulations on the use of resources nature in Indonesia is regulated in the provisions of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining . The purpose of issuing the Mineral and Coal Mining Law is to remember that mining that currently exists in Indonesia has important role in national economic growth and development area in a way sustainable . The provisions of the

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<sup>1</sup> <https://www.titaninfra.com/daftar-lokasi-tambang-batubara-di-indonesia/> , Accessed March 10, 2025.

<sup>2</sup> Athari Farhani & Ibn Sina Chandranegara , 2019, “ State Control of Utilization of Resources Natural Room “Space According to the 1945 Constitution of the Republic of Indonesia”, Constitutional Journal , VolXVI /No-2/ June /2019, p. 237.

law also regulate that in preparing the management plan mine coal must take into account one of the impacts analysis environment .<sup>3</sup>

Based on the background description , then This writing will discuss and review aspects environment as condition giving permission business mining people in mining in Indonesia.

**A. Formulation of the problem**

The problem formulation in this writing is,

1. What importance aspect environment as condition giving permission business mining people in mining in Indonesia?
2. How consequence law No notice aspect environment in giving business mining people ?

**B. Objective**

As for what is the purpose of This writing is

1. To know importance aspect environment as condition giving permission business mining people in mining in Indonesia.
2. For know as well as understand consequence law No notice aspect environment in giving business mining people

**CHAPTER II  
DISCUSSION**

**A. Literature review**

**1. Aspect Review Environment**

Aspect environment is analysis to consequences that arise on the environment as a result from planning the implementation of a business or activities in the environment . Aspects environment becomes a formal requirement that is the same as the requirements administrative , technical and financial .<sup>4</sup>According to Nicholas in the book entitled " Production Clean : Strategy Management Environment ; Nature preventive and integrated , Implemented Continuously , Reducing Risk To Man and the Environment ", meaning aspect environment as an interaction that occurs from activities in the environment with impacts environment as part of these consequences.

Nicholas thinks that consequence from interaction between activities in the environment and aspects environment will result in impact environment to air , water, land , and resources other nature and other living things that depend on the environment .<sup>5</sup>In identifying aspect environment 4 steps required that is :

1. Identification in a way comprehensive activity from an activity using a table
2. Identification aspect environment from the activities carried out as much as possible
3. Identification the impact that arises based on aspects that have been determined
4. Conducting an evaluation to significant impact .<sup>6</sup>

**2. People's Mining Business Permits**

Definition of business license mining people as regulated in the provisions of Article 1 number (10) of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining , which formulates that mining permits people or called IPR is a permit given to carry out an activity business mining in a mining area people , with the rule that area and investment from the mine is limited .

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<sup>3</sup> Suriani , Hafis Elfian Parawu & Riskasari , 2024, " Implementation Policy Granting of Mining Business Permits Excavation Class C in Regency Kolaka ", Pujia Journal Unismuh , VolIV /No-3/ June /2024, pp. 575-577.

<sup>4</sup> Yuli Adha Hamzah, 2017, " Legal Relationship Between Mining Business Permit Holders and Land Rights Holders Above Them ", Jurnal Al Hikam , VolII /No-1/2017, p. 120.

<sup>5</sup> Indrasti , Nastiti , Fauzi & Anas Miftah, 2009, Production Clean : Strategy Management Environment ; Nature preventive and integrated , Implemented Continuously , Reducing Risk To Man and the Environment ., IPB Press: Bogor, p . 234.

<sup>6</sup> Suparto Wijoyo , 2017, Law Protection Environment Life ., Airlangga University Press: Surabaya, p . 47

Mining Law also regulates related to the types or groups of mining activities that can be carried out , such as metal mineral mining , non- metal mineral mining and also mining rocks . As for what is obligatory from mining permit holder People are required to carry out mining activities in areas that have been granted permits, no later than 3 months after the mining permit is issued. published . Mining permit holders the people are also obliged to obey regulation legislation , managing environment , pay contributions , and are also required to submit reports to the Minister regarding business activities . mining people in a way periodically .

**3. Mineral and Coal Mining Review**

Article 1 number 4 of the Mineral and Coal Mining Article formulates that Mineral Mining is Mining Mineral collection in the form of ore or rocks , outside hot earth , oil and natural gas , and groundwater . Article 1 number 5 of the Mineral and Coal Mining Law formulates that which is called mining coal as mining sediment carbon in the earth , including solid bitumen , peat , and also rocks asphalt . As for mining coal set up in the provisions of Article 83 regarding the conditions the area is 50,000 Ha for 1 region, and the term the time is 7 years.

**B. Theoretical basis**

As for runway the theory used by writing to study as well as analyze in more detail related to aspects environment as condition giving permission business mining people in mining in Indonesia , namely Theory Enforcement Law . Enforcement law according to Satjipto Rahardjo that is implementation law in a way good and also right in life public .<sup>7</sup> Enforcement law functioning For do arrangement to aspects life society in order to realize mark justice , certainty law and also benefits law .

**C. Analysis**

**1. Importance Aspect Environment As Condition Giving People's Mining Business Permit in Mineral and Coal Mining in Indonesia**

Mining is A activity extraction and processing coal , which includes series exploration , processing , and also marketing product mine coal . Activities mining is activities that are under surface earth . This is make activity mining coal must need permission from government as holder power highest on earth , water, space space as well as riches nature contained in the territory of the Unitary State Republic of Indonesia.<sup>8</sup>

In Indonesia the implementation mineral and coal mining has set up in the a number of provision regulation legislation like Constitution Number 3 of 2020 and Regulation of the Minister of Energy and Mineral Resources Number 26 of 2018 concerning Implementation Rules Good Mining and Supervision Mineral and Coal Mining . Regulation related implementation activity business mining inside Constitution Number 3 of 2020 in provision Article 1 number 16 regulates that in plan do mining required existence stages activity business mining For get information and data in Details from all over existing aspects the relationship in the determine eligibility economic and technical business mining , including analysis about impact environment as well as planning mining .

Article 1 number (14) of the Minister of Energy and Mineral Resources Regulation also formulates that document environment life become document important in the implementation rules good mining that is functioning For get related data analysis impact environment live . Some the settings that have been explained show that in the implementation or giving permission business mining , aspects environment become things to do For be noted . Aspects environment that becomes important in the giving permission business mining people specifically in the mining is start from management environment living in mining , reclamation and post-mining areas .<sup>9</sup>

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<sup>7</sup> Satjipto Rahardjo , 2008, Legal Science ., Citra Aditya Bakti : Bandung, p. 191.

<sup>8</sup> <https://www.esdm.go.id/id/media-center/arsip-berita/pengelolaan-pertambangan-harus-perhatikan-sebagai-Aspek-lingkungan> , Accessed March 11, 2025.

<sup>9</sup> Fadjri Bachdar , 2016, " Mining Conducted by the Community According to Constitution Number 4 of 2009 Concerning Mineral and Coal Mining ," Jurnal Lex Privatum, VolIV /No-3/ 2016, p . 67

a. **Stage Management Environment**

Aspect environment becomes important in the management process environment in mining areas to find out the impacts caused from mining , as well as to prevent occurrence of business activities mining is carried out in a way illegal or without a business license mining . In the management process stage environment in mining areas , details to aspect environment is usually included in the environmental document . In the environmental document , it will be load information backup coal , mining plans , and also the composition stage operation production .

Aspect environment that is considered in the stage management environment in mining such as the implementation of management mines that must comply with environmental documents , then there are actions such as mitigation and recovery environment if happen pollution or damage environment consequence from business activities mining .

b. **Stage Reclamation and Post-Mining**

At the stage reclamation , aspects environment must be considered in terms of Mining Business License or IUP holders carry out reclamation so that in the implementation stage of reclamation IUP holders are required to fulfill balance between land that will be opened and reclaimed land as regulated in the provisions of Article 99 paragraph (3) of the Mineral and Coal Mining Law .

Aspect the environment that is taken into account in the reclamation process is also like carrying out management to former mining pits . Article 7 paragraph (4) Regulations Government Regulation Number 78 of 2010 concerning Reclamation and Post-Mining arrange that criteria from the implementation of reclamation that has met the requirements aspect environment if the reclamation plan mine has been in accordance with land use and also planning land .

2. **Consequence Law No Notice Aspect Environment In Granting of People's Mining Business**

Aspect environment which is an important thing and becomes one of conditions that must be met in granting a business license mining the people , if the implementation is not fulfilled , then implementation sanctions can be given to parties who violate. The provision of sanctions against people who commit violations to mining people aims to take action against crimes in the field of *illegal mining* .<sup>10</sup>

As for sanctions that can be given to parties who commit violations regarding business permits mining people in the field coal , can be in the form of sanctions administration and also sanctions criminal .

a. **Implementation Sanctions Administration**

Article 151 paragraph (1) of the Mineral and Coal Mining Law regulates that , the Minister of Energy and Natural Resources Alam Mineral is the party authorized to impose sanctions administration to the party committing the violation regarding mining permits people . In terms of happen violation in the field of business permits mining people in mining , then the party that is brought down sanctions are mining permit holders people .

Terms of grant sanctions the administration itself has set up in Article 155 paragraph (2) of the Mineral and Coal Mining Law . As for sanctions that can be given to mining permit holders people can be warning written . Giving sanctions in the form of warning written is usually step next if the violating party does not heed it verbal warning given previously. Sanctions administration The next one is in the form of sanctions fine administrative . Sanctions fine administrative is loading in the form of obligation for people who commit violations to pay a certain amount of money .

Sanctions administrative sanctions that can be given to mining permit violators people other than warning written and the fine can be in the form of sanctions

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<sup>10</sup> Nicodemus Vishnu Pratama & Ismunarno , 2016, " Criminal Responsibility for Perpetrator Mining Without People's Mining Permit (IPR) Based on Law Number 4 of 2009 Concerning Mineral and Coal Mining ", Recidive Journal , VolIV /No-2/ August /2016, p. 249.

termination temporary part and also all over from mining activities until up to the revocation of mining permits people . Termination and up to to the point revocation of license usually occurs consequence from the existence of an act against the law committed by mining permit holders people . If a business activity mining people done sanctions administration in the form of sanctions revocation , usually through stages such as the stages examination , evaluation , provision warnings , and also the opportunity to be able to improve , determination until get to the stage revocation of permit is followed by an announcement .<sup>11</sup>

b. Implementation Criminal Sanctions

Sanctions criminal is the fall sanctions that aim to provide an effect deterrent Because characteristic from sanctions criminal law as *ultimum Remedy* .<sup>12</sup> The Drop sanctions criminal to mining permit holder people who don't pay attention aspect environment can be affected sanctions criminal because it is included in the act against the law. <sup>13</sup>In essence , the imposition of sanctions criminal penalties are given to people who commit violations due to not paying attention aspect environment , can be a deterrent to action action against other laws such as the continuation of mining activities people without permission.

If IPR holders provide false reports in mining activities , then the holder of the IPR can be sentenced criminal imprisonment for a maximum of 5 (five) years and a fine fine as much as Rp 100,000,000,000,- 00 ( one hundred thousand ) billion rupiah). The community can be subject to criminal law . if has fulfil element action criminal acts such as acts , elements against objective law and also elements against subjective law .<sup>14</sup>

**3. Law Enforcement Theory Against Importance Aspect Environment as well as Implementation Sanctions in People's Mining Business Permits**

The theory of law enforcement as put forward by Satjipto Rahardjo is the process of implementing law properly and correctly in life. society in accordance with the values and norms adopted by society . Law enforcement is important in business activities . Mining . Law enforcement in the field of business activities mining means that regulations relating to business activities mining people must be implemented as well as obeyed properly.

This is useful for the implementation of business activities mining people still notice important aspects are included in it aspect environment . In granting mining permits people or known as IPR, law enforcement is important if in case management of mining business permits people , happened deviations such as not paying attention aspect environment . Aspects The environment is a condition that must be taken into account remember that mining occurs in the environment which will have an impact to other living things .

Law enforcement in this case happen A deviation by mining permit holders people aims to regulate and also make public obey the law. In addition, law enforcement functions so that in terms of mining permit activities people , society get effect a deterrent that is commensurate with the crime in accordance with the sanctions that have been imposed set up in the provisions of the regulations applicable legislation in the field of mineral and coal mining .

**CHAPTER III**

**CLOSING**

**A. CONCLUSION**

As for conclusion in writing This is as Following :

<sup>11</sup> Ni Kadek Karina Putri, 2024, Legal Implications of Revocation of Business License of Finance Company by Authorities Service Finance ” Kertha Negara Journal , VolXII /No-6/2024, p. 708.

<sup>12</sup> Yoserwan , 2022, Doctrine Ultimate Remedy in Indonesian Criminal Law., PT RajaGrafindo Press : Depok, p. 59.

<sup>13</sup> Citranu , 2020, Community Mining Permits in the Context of Implementation Criminal Sanctions ”, Journal of Legal Studies , VolIII /No-2/2020, p. 12.

<sup>14</sup> Nicodemus Vishnu Pratama & Ismunarno , Op.Cit ., p. 250.

1. Aspect environment very important in the process of giving permission business mining people in mining Because aiming For get information and data - Details from all over existing aspects the relationship in the determine eligibility economic and technical business mining , including analysis about impact environment as well as planning mining .
2. As for consequence law No notice aspect environment in giving business mining people is the fall sanctions to IPR holders such as sanctions administration until until sanctions criminal .

**B. SUGGESTION**

In matter somebody from beginning do plan business activity mining people , but No notice aspect environment , then government should No only postpone publishing permission business mining its people , will but government must brave take attitude with No publish permission the although There is effort repair from perpetrator offender . This is because of from beginning Already there is attitude No obedient to rule law with No notice aspect environment in the plan business mining people .

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