

The Essence of Regulating Mining Business Licenses

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Abstract: Mine management carried out by the government is one of the riches of natural resources contained on the surface of the earth that have strategic value for human life. In addition, goods and materials or economic value from the mine can improve people's welfare. Based on the background above, researchers found the problem that referable in this research, and the problem are: first, whether the setting Licenses can ensure the well-being of the surrounding community. Second, how does the setting of Licenses in an effort to increase the well-being of social justice, and third is, what factors affect Licenses in an effort to ensure the well-being of the communities in the surrounding. The purpose of this study is, first, to know and analyze how the settings of Licenses in ensuring the well-being of the surrounding community, second, to know and analyze how Business permission settings Mining in an effort to increase the well-being of social justice, and the third is to know.

This research was conducted based on the type of socio-juridical because researchers in addition to researching the secondary legal materials in the form of legislation, law libraries, and electronics, the research results in the field of law and legal writing materials the other, also examines various legal facts about the procedure and terms of obtaining Licenses and the management of mining as well as the distribution of its results on the communities surrounding mining and its impact on the environment.

As for the results of this research include, first, regulation of licenses for the existence of equitable development at both the sector's economic, social and environmental responsibility on society disproportionate to the results obtained the company the holders of licenses, secondly, implementation of the Licenses was found weak oversight of Government licenses and publishers less specifically sanctioned form of revocation the venture mining company.

Keywords - Arrangements, Licenses, and well-being

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I. INTRODUCTION

The setting is a rule and norm in the law or the State administration. It is associated with human nature or conduct that is well and good or not. Further violations of the law at the discretion of the administrative ruler usually preventive, and related to the prohibition of acts without permission. So it appears that the legal authority to conduct a criminal investigation and the rest of the examination will only be possible if other means (law enforcement) has been attempted and failed.

The Government in the management of b charcoal or mine the it is one of the natural wealth of resources contained in the belly of the Earth or the Earth's surface, which has a strategic value to human life is meant to have strategic value because mine especially petroleum and gas his mastery of life to many people. In addition the goods/materials of economic value of the mine so as to improve the welfare of society.

The term Mining in article 1 point 1 of the ACT No. 4 of 2009 Year Mining Mineral and coal is defined are:

"some or all of the stages of the activities in the framework of research, management and concessions of mineral and coal that includes the General investigation, exploration, feasibility studies, construction, mining, processing, and refining, transporting and sales and post-mining".

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II. LITERATURE REVIEW

1. The nature of Licensing

Permissions, A form of rules governing community life his governance of the Government that relates to specific events to get the approval or the legality of the State officials as a tool in the Administration in the Government state.

The idea of the State welfare system that developed in Indonesia are usually more often negative than positive nuances. For example, we often hear that the welfare State is the system approach is wasteful, incompatible with economic development, causing a dependence on recipients (*beneficiaries*). As a result, not the least of which is that the system has encountered his death, alias is no longer interpreted in any country. Although this assumption is rarely accompanied by arguments and adequate research and a lot of people become less interested in talking about and let alone, taking account of this approach.

2. The licensing basics

Law is one form of norms or rules in life. The norms that govern them are the norm in the life of religion, morality, decency, customs, habits and laws. The relationship between rule of law and other social rule co-exist, meaning social rules govern the lives of human beings in society even though the law does not set it up. In addition to co-exist amplify each other, too. Even before the legal rule codified norms, others already have their own rules which clearly even had sanctions. The source of the norm of religion, morality, decency and the law differently. Religious norms source belief in God Almighty, norm decency source of conscience, norms of decency the source concerned community beliefs and norms of legal source of legislation.

The permission in question i.e.: Dispention is the determination of the nature of deklaratoir, stated that a legislation does not apply to the case as presented by the applicant. Linsesi is permission to do a non-commercial as well as bring in profit and profit. The concession is a determination of the State administration are legally complex, and therefore merupakan a set of dispensations dispensations, permits, and licenses accompanied by administering sort of the Government's authority is limited to consensionaris. The concession is not easily granted because of the many dangers of smuggling, the riches of the Earth and the natural wealth of the country and sometimes detrimental to the community concerned.

III. METHODOLOGY

This research is of type socio-juridical because researchers in addition to researching the secondary legal materials in the form of legislation, law libraries, and electronics, the research results in the field of law and legal writing materials the other, also examines various legal facts about the procedure and the terms of the license the results of his Efforts. Through the merger of the two methods of the study expected that what is found there is a rapprochement between knowledge and its object, so the truth is found to have a high degree of validity, the objective and logical, since it concerns the correspondence between the objects with what is already known. The location of the selected research jurisdictions District of southern province of Southeast Sulawesi Wowoni island.

IV. RESULT AND DISCUSSION

Based on the above research description, then according to the thrifty researchers based on the opinion that Saleng Abrar Exploration and exploitation of the natural resources of many colored by the paradigm of valuing natural resources as a source of income rather than capital. The paradigm, has its roots long before the onset of the industrial revolution as a manifestation of the human desire to control nature, which is supposed to need each other to getto balance the more quality of life high.

The implication of the view of the world (*world view*) that consciously or not formed *modes of production* whole economic activities, including exploration and exploitation of natural resources in mining, forestry and plantations. As far as is known, the exploitation of natural resources still remains a paradigm of the translation above. The exploitation of the natural resources that are only geared to supporting economic growth without regard to proportionally sustainability environmental functions remain is a common phenomenon. Even within the confines of a certain existence industry natural resources management in a region, not just put myself as a foreign entity (*an alien entity*) but also in many cases is the source of the Tempest.

The direction of management arrangements is to be able to create a natural balance and harmonization between resources by avoiding evil. In line with the above thoughts, John Rawls in his book A Theory of Justice explains the relationship between natural law and positive law. Rawls said that the power of binding the validity of positive law (*lex humana*) is based on natural law (*nature wet*), essentially the values of justice (*fairness values*) which are both the needs and desires of all humans who are incarnated in the desire to be with each other.

From the various views above as a basis for the formula for regulating the rules of balance in natural resource management, it has reflected that the balance contains deep meaning, which is the realization of the

values of justice and morality (law and morality). Fairness is one of the legal objectives sought by and coveted by humanity. In the regulation of mining natural resource management, the material content of legislation should put justice values (equity), the value of sustainability (sustainability), and the value of harmonization (harmonization) as the main consideration.

Due to the absence of a fixed formula in determining the portion of either royalty or production contributions or compensation funds, partnership funds, communal development funds as part of corporate social responsibility (CSR), the only basic rules or rules that need to be applied in mining resource management natural resources must not reduce the chances of local order in which resources are obtained to build themselves. If the rule is applied in the management of mining natural resources, the exploitation of mining natural resources found in a district can be interpreted as a reduction in the opportunity of the district. To build itself because it can be ascertained that the resources will be reduced and the quality of environmental functions will be reduced. In accordance with the above rules, the loss of opportunities and deterioration in the quality of the environment must be compensated by the provision and improvement of other resources which are at least able to provide equal development opportunities.

Balance Rule Formula:

$$SDT = SDM + SDA + SDE + SDS + SDB.....nSD$$

Explanation:

- SDT = Total Order Resources
- SDS = Social Resources
- SDM = Human Resources
- SDB = Cultural Resources
- SDA = Natural resources
- nSD = Other Resources
- SDE = Economic Resources

For this reason, the legal requirements for a permit must be in accordance with the spatial plan, community opinion and consideration and recommendations of the competent authorities relating to the business and / or activity, the authority issued can be in the form of attribution, delegation, and mandate.

According to the author that each entrepreneur who carries out activities with no regard for the applicable rules but is more compliant and submissive to the policies of a governor or regent / mayor, results in mining cases many mining entrepreneurs prioritize family, colleagues and profit sharing between entrepreneurs and officials in the regions and ownership of land rights is much manipulated.

As a result, many people around the mining area claim that the land belongs to their ancestors. For this reason, a legal effort is needed so that entrepreneurs are given an understanding of mining law through legal awareness training in each region or for each entrepreneur, so that employers and the government do not blame each other in case of legal problems.

V. CONCLUSION

1. Mining Business Permit in regional Autonomy has created euphoria among the Regional Government, one of which is the assumption that the mine is the property of the region and the local community. The euphoria caused the Regional Government to issue mining permits so easily by reason of boosting local revenue (PAD) or improving regional financial capacity. But what happened was the opposite, mining business activities actually benefited certain people rather than the Regional Government.

2. The result is environmental damage, dissonance of relations between citizens and the absence of constructive commitments from mining operators to the community around the mine. Problems arising in the mining sector mentioned above can be controlled through licensing instruments. The government as the regulator will provide and or specify certain conditions for every person or legal entity that will conduct mining business activities. If these requirements are not met, the mining business permit cannot be issued. The nature of permission is a statement from the government to allow a person or legal entity to carry out certain activities with a number of conditions. Mining business licenses issued by the government have legality if issued based on legal authority.

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