



## Supervision of Mineral and Coal Mining Business Permits in Solok Regency

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**Abstract:** This research is as follows: 1. To find out the supervision activities of the Mineral and Coal Mining Business Permits in Solok Regency. 2. To find out the obstacles that arose during the supervision of the Mineral and Coal Mining Business Permits in Solok Regency. The research method used is the empirical method (sociological juridical). After the data obtained is processed, the authors then analyze the data qualitatively. The results of this study In supervising the mining sector, the Provincial Government should be able to carry out these activities more than 1 time in 1 year considering that the mining sector is one of the important sectors both in the economic field and in its impact on the surrounding environment.

**Keywords:** Supervision, Business License, Mineral and Coal Mining.

### INTRODUCTION

The State of Indonesia as a rule of law state which is stated explicitly in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, hereinafter abbreviated as the 1945 Constitution, has several objectives listed in the preamble to the fourth paragraph of the Constitution, one of which is to protect the entire Indonesian nation and promote public welfare. The way that can be done to advance the welfare of the Indonesian people is stated in Article 33 paragraph (3) of the 1945 Constitution that "Earth, water and the natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people".

Indonesia is blessed with abundant natural and energy resources, one of which is mining. Potential resources and reserves of metallic minerals are scattered in more than 437 locations in western and eastern Indonesia. The government as the ruler of these resources in accordance with the mandate of the 1945 Constitution, must regulate the level of their use to prevent wastage of the potential they control and can optimize revenue from exploiting these resources so that maximum benefits can be obtained for the prosperity of the people. Mining and energy are important development sectors for Indonesia. The mining industry as a concrete form of the mining sector contributes around 11.2% of Indonesia's export value and

contributes 2.8% to gross domestic product (GDP). The mining industry employs around 37,787 Indonesian workers. Starting from the requirements of a rule of law state in order to realize the stated goals of the state in its implementation carried out by the government as the manager and controller, it is necessary to supervise all government policies.

In the implementation of supervision, according to Suwoto, it is necessary to pay attention to three types of supervision, namely; (a) legal supervision, a form of supervision aimed at finding out whether the authority has been exercised in accordance with applicable legal provisions ( *geldelijke controle* ); (b) Administrative supervision, a form of supervision that aims to measure work efficiency; (c) Political oversight, a form of oversight that is used to measure aspects of expediency ( *doelmatigheids controle* ).

Supervision is intended to prevent violations from occurring as well as to stop violations early in order to avoid worse consequences. The authority over mineral and coal mining is regulated in Law Number 4 of 2009 concerning Mineral and Coal Mining. These authorities include establishing national policies, drafting laws and regulations, establishing a national mineral and coal mining licensing system, formulating and stipulating non-tax state revenues from mineral and coal mining business results, management of geological information, information on potential mineral and coal resources, as well as mining information at the national level, preparation of a national balance sheet of mineral and coal resources and finally development and increase of added value of mining business activities. In terms of State Administrative Law, supervision is interpreted as a process of activity that compares what is carried out, carried out, or organized with what is desired, planned, or ordered.

In Article 1 paragraph (1) of Law Number 4 of 2009 concerning Mineral and Coal Mining, it explains that mining is part or all of the stages of activity in the framework of research, management and exploitation of minerals or coal which includes general investigations, exploration, feasibility studies, construction, mining, processing and refining, transportation and sales, as well as post-mining activities. In principle, mining activities can only be carried out by government agencies or state companies as holders of areas that are used as mining sites. With these considerations, the mining business can be used as a regional potential that has considerable economic prospects for regional income, so it needs to be managed through a Regional Owned Enterprise engaged in the mining sector. In this mining activity, domestic parties and foreign investors enter into a work agreement called a coal mining management contract based on applicable laws and regulations.

In Law Number 4 of 2009 concerning Mineral and Coal Mining in Article 8 paragraph (1) letter b states that the authority of district/city governments in managing mineral and coal mining is the granting of Mining Business Permits (IUP) and People's Mining Permits (IPR), coaching, community conflict resolution and supervision of mining business in regency/municipal areas and/or sea areas up to 4 (four) miles.

Carrying out mining activities from an economic perspective is indeed very profitable for the nation and the state. Although these activities have a good impact, on the other hand they can also have a bad impact on the environment. As a result of mining, the land cannot return to its original state, even though reclamation has been carried out, it is difficult for the land to be planted with vegetation because the land resources are no longer there, the soil has become infertile. The impact on barren land when exposed to rain will become landslides and floods.<sup>6</sup> Article 1 point 1 Law Number 32 of 2009 Concerning Environmental Protection and Management, hereinafter referred to as the PPLH Law, provides the meaning of the Environment, namely the unity of space with all objects, forces, conditions, and living things, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living things.

In the PPLH Law, the provisions for Environmental Impact Analysis (AMDAL) are found in Article 22 to Article 33.<sup>7</sup> Article 22 paragraph (1) of the PPLH Law states that every

business and/or activity that has a significant impact on the environment must have an Amdal. Significant impacts on the environment are determined based on the criteria as stated in Article 22 paragraph (2), namely: (a) the size of the population that will be affected by the planned business and/or activity, (b) the area of impact distribution, (c) the intensity and duration the impact takes place, (d) the number of other environmental components that will be affected, (e) the cumulative nature of the impact, (f) the impact returns or does not return, (g) other criteria in accordance with technological developments.

Article 14 of the Regional Government Law states that the implementation of governmental affairs in the forestry, marine, and energy and mineral resources sectors is divided between the central government and the provincial regions. Article 15 of the Regional Government Law states that the distribution of concurrent governmental affairs between the central government and provincial and district/city regions is listed in the annex which is an integral part of this law. In the annex to the regional government law on the mineral and coal sub-affairs, this attachment shows that districts/cities have no authority at all in terms of issuing permits or other matters in matters of mineral and coal mining.

In accordance with Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities, based on the classification of types of mineral resources, Solok Regency has potential consisting of metal minerals, non-metallic minerals, rocks and coal which are scattered in various areas of the region, such as in water scarce areas, Alahan Panjang, Abu River, Lubuk Selasih, Batang Hari River, Paninggahan, Mount Talang, Gumanti Valley, Surian, Lubuk Gadang and also other areas with sizable reserve potential. With this, of course, it is very necessary to supervise mining activities carried out as an effort to maintain sustainability and avoid environmental damage around mining areas. However, there are still many things that disturb and harm the surrounding natural conditions and also the community as a result of these mining activities even though supervision has been carried out. For example, floods and landslides that occurred in Solok Regency were suspected as a result of mining activities in hilly areas and riverbanks. The authority in the mining sector which was previously owned by the Regency/City Government as the party closest to the location of mining activities has shifted to the Central and Provincial Governments after the issuance of the Local Government Law.

Therefore, there is a need for research to examine how supervision is carried out on controlling environmental damage as a result of the implementation of mineral and coal mining business activities in Solok Regency. Based on the description above, the writer is interested in discussing and writing a study entitled **"Supervision of Mineral and Coal Mining Business Permits in Solok Regency"**

## **LITERATURE REVIEWS**

### **Mineral and Coal Mining**

Mining is part or all of the stages of activity in the context of research, management and exploitation of minerals and coal which includes general investigation, exploration, feasibility studies, construction, mining, processing and refining, transportation and sales, as well as post-mining activities. In this definition, mining is constructed as an activity. These activities include (1) research, (2) management, and (3) exploitation.

In simple terms mining can be given the meaning, is an activity carried out by digging into the ground (earth) to get something in the form of mining products (minerals, oil, natural gas, and coal). In Article 1 paragraph (1) Law Number 4 of 2009 concerning Mineral and Coal Mining are part or all of the stages of activity in the framework of research, management and exploitation of minerals or coal which includes general investigations, exploration, feasibility studies, construction, mining, processing , and refining, transportation and sales, as well as post-mining activities.

Coal is a translation from English, namely *coal*. Coal is a heterogeneous mixture of solids and occurs in nature at different grades from lignite, sub-bitumine, antarasite.<sup>23</sup> In Law Number 4 of 2009 concerning Mineral and Coal Mining, coal is a deposit of organic carbon compounds that are formed naturally from the remains of plants (Article 1 paragraph (3)). Coal mining according to Article 1 paragraph (5) is the mining of carbon deposits contained in the earth, including solid bitumen, peat and bitumen rock.

From the above understandings, a legal definition of mineral and coal mining can be formulated, namely the rule of law that regulates the relationship between the state and minerals and coal and regulates relations between countries and legal subjects, both individuals and legal entities in the context of the exploitation of minerals and coal.

### **Supervision**

Supervision is one of the factors for the success of an activity carried out, without an act of supervision, it is possible that an action cannot reach its goal. For this reason, in carrying out supervision, it must be preceded by planning the system itself. An effective oversight system is the best means to make things run well in the State Administration, especially in its prevention.

According to Prajudi "Supervision is a process to determine what work is carried out, carried out, or organized according to what is desired, planned, or paid attention to". Supervision or control over the actions of government officials is necessary so that the implementation of assigned tasks can achieve the goal and avoid irregularities.

Law number 32 of 2009 concerning Basic Regulations for the Protection and Management of the Environment explains that in terms of this supervision appoint Ministers, Governors, Regents/Mayors as officers who oversee the continuity of mining activities. State officials of these countries have the authority to supervise compliance with business and/or activity accountability for the provisions stipulated in laws and regulations in the field of environmental protection and management. Ministers, Governors and Regents/Mayors are allowed to delegate their authority, therefore supervision activities are delegated to technical officials/agencies who are responsible for environmental protection and management, hereinafter referred to as functional officials.

### **Permission**

Licensing is an issue that cannot be separated from everyday life. Ranging from ordinary people to officials, because permits are related to the interests desired by the community to carry out certain activities by obtaining approval or legality from state officials as an administrative tool in the government of a country.

Licensing is a form of implementation of the regulatory function and is in the nature of control owned by the government over activities carried out by the community. Licensing means that it can take the form of registration, certificate recommendations, determination of quotas and permits to carry out a business which usually must be owned or obtained by a company organization or person before the person concerned can carry out an activity or action.

### **METHODS**

The research method used is the empirical method (sociological juridical), which is a problem-approach method that is carried out by studying the prevailing positive legal norms and existing facts and seeing their practical application in the field. This study aims to examine and collect primary data obtained directly from informants. The nature of the research is descriptive. A descriptive study, intended to provide as accurate data as possible about humans, conditions or other symptoms. Its purpose is primarily to reinforce

hypotheses, so that it can assist in strengthening old theories or in the framework of developing new theories.

After the data obtained is processed, the authors then analyze the data qualitatively. Qualitative data analysis, namely not using numbers, but using sentences which are the views of experts, laws and regulations, including data obtained in the field which provides a detailed description of the problem so as to show the nature of the descriptive research.

## RESULTS AND DISCUSSION

### Supervision of Mineral and Coal Mining Business Permits in Solok Regency

The principle of sharing power/authority or affairs in the Unitary State is as follows:

First, power or authority basically belongs to the central government, the regions are given the authority or right to manage and carry out some of the government authority that is delegated or handed over. So the process of surrender or delegation of authority. Second, the Central Government and Regional Governments still have a line of command and relationships that are carried out by the central government not to intervene and dictate to the Regional Governments in various matters. Third, the authority or power that is transferred or handed over to the regions under certain conditions, where the regions are unable to carry out their duties properly, the authority or affairs that are delegated or handed over can be withdrawn by the central government as the owner of said power or authority.

The legal basis relating to State control over natural resources in Indonesia is contained in Article 33 paragraphs (2) and (3) of the 1945 Constitution of the Unitary State of the Republic of Indonesia where the relationship between the state and natural resources in that article according to the Constitutional Court is reduced to five functions, namely regulation ( *regelendaad* ), management ( *beheersdaad* ), policy ( *beleid* ), management actions ( *bestuursdaad* ), and supervision ( *toezichthoudensdaad* ). The five functions of the state regarding natural resources that are carried out by the government (including Regional Governments) as interpreted by the Constitutional Court can be used to categorize Regional Regulations concerning natural resources.

The supervisory function ( *toezichthoudensdaad* ) in regional regulations can be seen from how the supervision and/or control arrangements are formulated in regional regulations so that state control over natural resources is utilized for the greatest benefit of the people. For the central government, this oversight function is carried out by carrying out an *executive review* of regional regulations issued by the Regional Government.

The division of governmental affairs is important for the Regency/City Regional Government because it involves what authority is still held. In the mining sector, the implications of implementing Law Number 23 of 2014 concerning Regional Government will result in the disappearance of the mining agency because it is not significant for the Regency/City Government to form a mining SKPD if only 1 (one) authority or matter is taken care of. Based on Law Number 23 of 2014 concerning Regional Government and Perpu No. 2 of 2014, Regencies/Cities no longer have the authority to issue IUPs in the regions. The authority to issue IUPs is now the authority of the Provincial Government. In accordance with the Regional Government Law, the issuance of mining permits is now only owned by the governor and the central government. In other words, the authority to issue IUP is the authority of the Provincial Government based on Law Number 23 of 2014 concerning Regional Government. so that in matters of mineral and coal mining, there has been 100% centralization.

In principle, supervision is carried out as a preventive effort whether the activities carried out are in accordance with existing regulations. In principle, supervision of the management of the mining business aims to make the IUP holders more focused in carrying out activities related to the mining business, so that they do not deviate from the orders and prohibitions set out in the permit. In theory George R. Terry argues that supervision is



intended to determine what has been achieved, evaluate and apply corrective action if necessary, to be able to ensure the results are in accordance with the plan. Relevant to this opinion, supervision is absolutely necessary in the context of mining business management in accordance with the principle of the purpose of supervision, namely so as not to deviate from the orders and prohibitions that have been stipulated in the permit. Therefore, as part of the management function, planning becomes increasingly important for the effectiveness of supervisory duties, and as the realization of law enforcement duties as mandated by laws and regulations.

Permen of ESDM Number 43 of 2015 concerning Procedures for Evaluation of Issuance of Mineral and Coal Mining Business Permits, in Article 1 paragraph states that *Clear and Clean* (CnC) certificates are certificates issued by the Director General to IUP holders who have met administrative, regional, technical requirements, environment, and finance. Article 22 states that the Director General on behalf of the Minister announces the status of IUP *Clear and Clean* based on the results of an evaluation of the issuance of IUP related to administrative and territorial aspects carried out by the Director General as referred to in Article 5 paragraph (2) letters a and b through Article 16 and evaluation results as referred to in Article 18. In Solok Regency there are 26 mineral and coal IUPs with CnC status.

Permen of ESDM Number 43 of 2015 mandates that if an IUP does not obtain a CnC certificate because it does not meet the technical, environmental or financial criteria, it will be given administrative sanctions by the Director General on behalf of the Minister or Governor in accordance with their authority. The administrative sanctions given are in the form of a written warning, temporary suspension of business activities and revocation of IUP based on the provisions in Article 17 paragraph (3). The authority to grant IUP owned by the provincial government is in accordance with Permen ESDM Number 11 of 2018 in Article 36 Paragraph (1) letter b which states that the Governor issues IUP for WIUP located in 1 province area which has implications for supervision that must be carried out. In Solok Regency, the management of mining activities ranging from granting mining business licenses to development and supervision activities as the authority of the provincial government is carried out by the ESDM (Energy and Mineral Resources) Office of West Sumatra Province as a related agency that adheres to Law Number 4 of 2009 concerning Mineral and Coal Mining, PP Number 23 of 2010 concerning Implementation of Mineral and Coal Mining Business Activities as amended by PP Number 1 of 2017, PP Number 55 of 2010 concerning Guidance and Supervision of the Implementation of Mineral and Coal Mining Business Management, Permen of ESDM Number 25 of 2010 2018 concerning Mineral and Coal Mining Business and ESDM Regulation Number 26 of 2018 concerning Implementation of Good Mining Principles and Supervision of Mineral and Coal Mining.

Supervision activities from the ESDM Service are carried out by the Mining Inspector and appointed supervisory officials. Based on Permen of ESDM Number 26 of 2018 concerning Implementation of Good Mining Principles and Supervision of Mineral and Coal Mining in Article 1 number 16 states that Mining Inspectors are state civil servants who are given the task, responsibility and authority to supervise the implementation of mining technical principles that are as well as processing and/or refining technical principles. In West Sumatra Province, there are 8 Mining Inspectors who have received Mining Inspector training certificates from the Ministry of Energy and Mineral Resources, 14 Candidates for Mining Inspectors who have carried out Training but have not received a certificate approved by the Ministry of Energy and Mineral Resources and 3 who have not attended Mining Inspector Training. Article 1 point 17 explains that the appointed officials are state civil servants who are given the task, responsibility and authority to supervise the implementation of mining management and processing and/or refining business management.

Administrative oversight is intended as oversight of all administrative completeness of the holder of the mining business license concerned as well as other administrative obligations in accordance with the provisions of the applicable regulations. The administrative completeness referred to can be in the form of activity reports, quarterly reports, work plans and budgets (RKAB), reclamation and post-mining plans. This administrative oversight can be carried out at any time and the IUP holder is also required to submit quarterly reports to the West Sumatra Provincial Energy and Mineral Resources Office as the relevant competent authority.

Field supervision is supervision carried out by visiting/observing the mining location directly. This is done to find out and monitor whether the IUP holder has carried out activities in accordance with their rights and authorities and pays attention to all applicable laws and regulations. This direct field supervision is carried out at least once a year in accordance with the mandate of Government Regulation Number 55 of 2010 concerning the Guidance and Supervision of the Implementation of Mineral and Coal Mining Businesses. This supervision can be carried out by contacting the relevant IUP holder that a visit to the mining location will be carried out or carried out suddenly without prior notification. The current situation is that the Energy and Mineral Resources Agency conducts field supervision 1 time in 1 year in accordance with the mandate of the applicable regulations.

Each IUP holder is required to submit a development report to the ESDM Agency in a quarterly period, where within one year the IUP holder will submit 4 quarterly reports containing the realization of the RKAB that has been determined and approved, so that the progress of the IUP can be monitored continuously. In addition, supervision is also carried out on the state revenue sector in the form of PNPP and PBB as well as regional revenues in the form of regional taxes. based on the explanation above regarding the obligations that must be met, the ESDM Office looks at and assesses the extent to which IUP holders carry out their obligations.

For IUP holders who do not carry out their obligations both materially and also in a report nature, they will be subject to administrative sanctions in the form of a first warning reminding the IUP holder that based on the results of inspections carried out by the IUP holder concerned he has not fulfilled some of his obligations, then give a second warning and if IUP holders still do not fulfill their obligations, then a temporary or complete suspension will be carried out. Every sanction imposed by the IUP holder is given a period of 14 days to fulfill the deficiencies found in the inspection activity. Every time direct supervision is carried out at a mining location, the Mining Inspector and appointed supervisory officials will provide a report on deficiencies that must be completed by IUP holders through the mine book owned by each IUP holder.

The mechanism for monitoring activities directly in the field is carried out by planning activities that are discussed in the annual work plan of the ESDM Office of West Sumatra Province based on considerations of *high risk companies* and the budget funds provided. Next, a team was formed consisting of 4 people consisting of a mine inspector and an appointed supervisory officer. This monitoring activity can be carried out after the issuance of a task order by the Head of the ESDM Service. The supervisor will contact the company holding the IUP through the KTT as the person responsible for the IUP. However, direct supervision to the field can be carried out at any time without contacting the IUP holding company if necessary.

The problem that arises is PT. Mineral Sukses Makmur has been in a vacuum for quite a long time due to sales factors that did not work and several things were found during field inspections. Currently PT. Mineral Sukses Makmur has received guidance to carry out mining activities according to regulations and has also submitted its quarterly report to the ESDM Office of West Sumatra Province.

Regarding the supervision carried out by the community, according to a resident of Nagari Simpang Tanjuang Nan IV, Danau Kembar District, Solok Regency, the community does not pay much attention to and supervise mining activities that occur. Only the people who work at the mine always see the condition of the mine site because the mining site is not too close to the settlements of the surrounding community. If related to the form of supervision put forward by Saiful Anwar, then the supervision carried out by the community can be referred to as external supervision carried out by organs/institutions outside the government. Supervision involving the role of the community as an external supervisor is urgently needed as a form of social control over the implementation of mining activities. Oversight by the community essentially functions as a means of control so as to prevent various forms of violations from occurring. Therefore, the supervision carried out is expected to provide benefits to the community itself to achieve happiness so as to create a good legal system.

### **Obstacles in Monitoring Mineral and Coal Mining Business Permits in Solok Regency**

In carrying out supervisory activities there are several things that hinder or become a problem for the running of monitoring activities for Mining Business Permits in Solok Regency. The inhibiting factors consist of juridical factors and non-juridical factors.

#### **1. Juridical Factors**

Furthermore, with the enactment of Law Number 23 of 2014 concerning Regional Government which places the Provincial Government as the owner of authority in the mining sector has implications for the effectiveness of the supervision carried out. Prior to the Regional Government Law, supervision of IUPs was carried out by the Solok District Mining Service which would then make a report to be submitted to the W Sumatra Provincial Energy and Mineral Resources Office to be submitted to the governor. However, since 2015 the existence of the Solok Regency Mining Service has been abolished which in fact the Mining Service itself is the closest agency to the location of mining activities carried out in Solok Regency so that the service has many opportunities to carry out supervision and guidance compared to the W Sumatra Province ESDM Office.

#### **2. Non Juridical Factors**

The monitoring activities carried out depend on the budget disbursed to the West Sumatra Provincial Energy and Mineral Resources Office. With so many IUPs in West Sumatra itself, the ESDM Service gives priority to companies that have a high risk both in terms of work safety and also environmental safety around mining areas such as iron ore, coal and radio active mines. Other assessment factors such as companies that use explosives or other risky devices.

### **CONCLUSION**

Based on the results of the research that has been done, the following conclusions can be drawn:

1. Supervision of Mining Business Permits (IUP) in Solok Regency, which in this case is carried out by the Department of Energy and Mineral Resources of West Sumatra Province, consists of administrative supervision and field supervision directly to the mining location. Administrative supervision is carried out by evaluating documents from the relevant IUP holder as well as other administrative matters such as submission of the RKAB and quarterly reports on the activities carried out by the IUP holder. Field supervision is carried out directly to assess whether mining activities are carried out in accordance with the RKAB and reports that have been submitted. This monitoring activity is carried out by the Mining Inspector and supervisory officials who have been appointed based on an assignment letter issued by the Head of the ESDM Office for the Province of West Sumatra at least 1 time in a period of one year.



2. In conducting supervision there are factors that hinder or become a problem in carrying out these activities. These factors consist of juridical factors and non-juridical factors. The juridical factor is the absence of a regulatory basis obliging the District Government with the Provincial or Central Government to synergize and coordinate in the activities of the mineral and coal mining sector, so that currently the West Sumatra Provincial Energy and Mineral Resources Office adheres to the Minerba Law with Regional authority which has been transferred to the Province, Government regulations and also Minister of Energy and Mineral Resources and Minister of Energy and Mineral Resources. Furthermore, there are not too many non-juridical factors in the form of Mining Inspectors so that with the large number of IUPs in West Sumatra, the ESDM Service prioritizes companies that have high risk and there are several companies that are vacuum due to economic factors or have not completed their obligations such as submitting the RKAB, quarterly reports, not yet the installation of an IUP area boundary sign and the absence of the Head of Mining Engineering who incidentally is the person in charge and liaison between the ESDM Agency and the IUP holding company.

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