

The Optimalization of Coal Mining Supervision for the Environmental Law Enforcement on Post-Mining Activities

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Abstract

Many coal mining companies are reluctant to carry out reclamation and post-mining, of course, resulting in environmental, ecological and community losses. Therefore this article tries to parse and explain the role and function of supervision as an effort to enforce administrative law related to the obligation to conduct reclamation by coal mining companies in order to preserve the environment and provide public justice. In addition, it also describes the construction related to withdrawing good post-mining reclamation funds in an effort to overcome the bad faith of the mining company. This research is a type of normative legal research. In this research, it is known that this is a result of the lack of intensity of supervision carried out by the government both before the Mining Business License (IUP) is issued or after the IUP is issued. First, in the case of supervision prior to the issuance of IUPs, it is known that many of the management of IUPs are issued without attaching reclamation and post-mining plans which are actually mandated by Article 99 (1) of Law 02/2009 which should be a reference for supervision of companies in conducting post-mining reclamation. Second, in terms of supervision after the issuance of IUP, it is known that the regulation on supervision, work mechanism, distribution of supervisors in mining areas, action models, is a problem that has never been well formulated to date. Then related to the large number of mining companies that have not provided reclamation and post-mining guarantee funds, it is known as a result of the regulation regarding withdrawal of post-mining Reclamation funds not clearly regulated in mining law in Indonesia.

Abstrak

Banyaknya perusahaan tambang batubara yang enggan dalam melakukan reklamasi dan pascatambang tentunya mengakibatkan kerugian bagi lingkungan, ekologi dan masyarakat. Oleh karena itu artikel ini mencoba mengurai dan menjelaskan peran dan fungsi pengawasan sebagai upaya penegakan hukum administrasi terkait kewajiban melakukan reklamasi oleh perusahaan tambang batu bara demi upaya pelestarian lingkungan dan memberikan keadilan masyarakat. Selain itu, juga menguraikan terkait konstruksi penarikan dana reklamasi pascatambang yang baik dalam upaya menanggulangi itikad tidak baik dari perusahaan tambang. Penelitian ini berjenis penelitian hukum normatif. Dalam penelitian ini diketahui bahwa hal tersebut merupakan akibat dari kurangnya intensitas pengawasan yang dilakukan oleh pemerintah baik sebelum Izin Usaha Tambang dikeluarkan ataupun selepas IUP diterbitkan. *Pertama*, dalam hal pengawasan sebelum IUP diterbitkan diketahui bahwa banyak pengurusan IUP diterbitkan tanpa melampirkan rencana reklamasi dan pasca tambang yang sejatinya merupakan amanah dari Pasal 99 (1) UU 02/2009 yang seharusnya menjadi acuan pengawasan terhadap perusahaan dalam melakukan reklamasi pascatambang. *Kedua*, dalam hal pengawasan setelah IUP diterbitkan diketahui bahwa pengaturan mengenai pengawasan, mekanisme kerja, distribusi pengawas di area-area pertambangan, model penindakan, merupakan permasalahan yang tidak pernah dirumuskan dengan baik sampai saat ini. Kemudian terkait dengan banyaknya jumlah perusahaan pertambangan yang belum memberikan dana jaminan reklamasi dan pascatambang hal tersebut diketahui sebagai akibat dari pengaturan mengenai penarikan dana Reklamasi pascatambang tidak diatur secara jelas dalam hukum pertambangan di Indonesia.

INTRODUCTION

The topic about mining in developing countries is actually has been a hot issue until recently. In the book entitled “Escaping the Resource Curse” edited by one of the world’s economists, Joseph Stiglitz, on the contrary presented the great disadvantage for a country providing freedom to developed countries to massively invest in that sector. It is inevitable that the income obtained from the process and the output is truly promising. However, it is unknown whether the profit is applicable for big companies or for a small number of governmental people who do not care about the effect of the unsustainable exploitation.¹ Nauru is one of the examples from a country conducting exploitation on natural resources without considering the post-exploitation environmental impact. It caused the devastating condition of the country in the post-exploitation of natural resources.²

Most Indonesian people who do not understand the importance of environment will perceive that it is merely a simple object related with nature, plants, and animals. Actually, the scope of environment is much greater than that, it concerns the whole entity in which all living creatures belong. In the context of country development and citizen empowerment, all activities should consider the existence of environment up to the point and particular limitation. Therefore, the development and empowerment not providing serious concern on environment will only result in anti-development and anti-empowerment. Moreover, the protection on environment is closely related with the fulfillment of human rights.³

According to Matthias Finger,⁴ the global environmental crisis which occurs currently is at least caused by several matters, namely improper and unsuccessful policies, inefficient and even tend to be destructive technology, poor commitment of politics, concept, and ideologies which finally damages the environment, deviant actions and behavior of the state actors, the spread of negative cultural patterns such as consumerism and individualism, and individuals who are not guided well. Starting from that case, the general method applied to solve environmental problems will be carried out through formation of better policies, brand new technology, reinforcement of political and public commitment, creation of new pro-environment concept and ideology (green thinking), arrangement of deviant actors, and improvement of cultural pattern, behavior, and awareness of each individual.⁵ The study about Article 33 of the Law of 1945 (afterwards referred as UUD 45) is always popular and made as the basis in managing the mining in Indonesia. In this case, it can be concluded that what is mentioned in the Article 33 of UUD 45 is an obsolete issue and is more of economic justice rather than of ecological justice.⁶

¹Franky Butar Butar, Penegakan Hukum Lingkungan di Bidang Pertambangan, *Yuridika* Vol. 25 No. 2, May–August 2010, p. 151-152

²This country has a complex history. In the period of less than three decades, Nauru has turned from the richest country in the world into one of the poorest country in the world. The country’s wealth is obtained from phosphate mining, can be looked up at <https://www.idntimes.com/news/world/siti-anisah-2/fakta-negara-nauru-c1c2>

³Bridget Lewis, “Environmental Rights or a Right to the Environment? Exploring the Nexus between Human Rights and Environmental Protection”, *Macquarie Journal of International and Comparative Environmental Law*, Vol. 8 No. 1, 2012, p. 36-47.

⁴Matthias Finger, “Which Governance for Sustainable Development? An Organizational and Institutional Perspective”, in Jacob Park, Ken Conca, and Matthias Finger, editor., *The Crisis of Global Environmental Governance: Towards a New Political Economy of Sustainability*, New York: Routledge Taylor & Francis Group, 2006, p. 125.

⁵Jaelani A.K, Handayani I.G.A.K.R, Isharyanto, “Regulation of Regional Government on Halal Tourism Destinations in West Nusa Tenggara Province after Constitutional Court Decision Number 137/PUU-XIII/2015”, *Proceeding Atlantis Press: Advances in Social Science, Education and Humanities Research*, Volume 358, Tahun 2019.

⁶Article 3 paragraph (3) of The Law of Indonesian Republic of 1945. Also see in Wahyu Nugroho, et. al, *Kebijakan Pengelolaan Tambang dan Masyarakat Hukum Adat yang Berkeadilan Ekologis*, *Jurnal Konstitusi*, Volume 15, no. 4,

It actually can be seen in several aspects of economic management related or based on land use or natural resources which often neglect environmental aspects. In fact, referring to UUD 45, besides regulating about that matter, the constitution also contains regulation basis regarding the management and life protection, which is called as Green Constitution as Jimly Asidiqi.⁷ On the other hand, mining law has a close relationship with environmental law because each mining work, whether it is related with general mining or oil and gas mining, is obliged to preserve the sustainability of environmental capacity and environmental carrying capacity. It is commonly referred as the preservation of environmental functions.⁸ The awareness concerning the importance of arrangement regarding environment emerged when the awareness about environment was campaigned internationally in the Conference of Stockholm 1972 and started to be implemented in Indonesian law ten years later with the creation of the Law no. 04 of 1982 and later on became the Law no. 23 of 1997 which is an Umbrella Act. The last one is the Law no. 32 of 2009 concerning the protection and management of environment.⁹ Besides the Conference of Stockholm 1972, actually the international world's attention on the matter of utilization, management, and preservation of natural resources has been realized with the agreement of various declarations, for instance the Declaration of Stockholm, the Declaration of Nairobi, the Declaration of Rio De Janeiro, the Declaration of Johannesburg, and The Earth Charter. The international conference has produced a concept of sustainable development which is a long term and sustainable development.

The effects of mining activities are not only in the form of economic disadvantages but also in the form of social conflict. Those effects are the rise of conflict escalation between mining companies and the citizen, the shift from agrarian citizen pattern to mining citizen pattern, and the last one is the commonly discussed topic namely the destruction and contamination of the area around the mine. Those matters occur due to the fact that 70 percent of environmental damage in Indonesia are caused by operational mining companies.¹⁰ In the perspective of fair management of natural resources, legal protection is granted to the citizens and environment. The protection on environment is aimed to provide balance in its utilization, both for the users of the natural resources and for the people not enjoying any economic benefits on the utilization of natural resources. The balance in provision of legal protection is expected to be able to provide development sustainment in three frames, namely economic sustainment, ecological sustainment, and social sustainment.¹¹

Afterwards, the Law no. 4 of 2009 concerning Mineral and Coal Mining (afterwards referred as UU 04/2009) starts to open a new horizon regarding juridical aspect related with the mining

December 2018, p. 818 stating that the management is required to be implemented as optimal as possible as the regulations stated in Article (4) by considering the efficiency, transparency, sustainability, environmental conception and environmental justice in order to obtain as many benefits as possible for the community welfare.

⁷ See also Article 28H paragraph (1) and Article 33 paragraph (4) UUD 1945. Article 28H paragraph (1) of UUD 45 states: "Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care" in Yance Arizona, 2014, *Konstitusionalisme Agraria*, Yogyakarta: STPN Press, p. xiii

⁸ Rangkuti, Siti Sundari, Perangkat Hukum Lingkungan: *Dari Ius Constitutum, Sekali Lagi, Ke Ius Constituendum*, delivered in "Good Governance and Good Environmental Governance" Seminar organized by the Law Faculty of Universitas Airlangga in 28th February 2008 in Surabaya, p. 29

⁹Jaelani A.K, Handayani I.G.A.K.R, Karjoko L, "Executability of the Constitutional Court Decision Regarding Grace Period In The Formulation Of Legislation", *International Journal of Advanced Science and Technology* Vol. 28, No. 15, (2019). P. 816-823

¹⁰Wahyu Nugroho, et. all, Kebijakan Pengelolaan Tambang dan Masyarakat Hukum Adat yang Berkeadilan Ekologis, *Jurnal Konstitusi*, Volume 15, no. 4, December 2018, p. 822

¹¹Hira Jhamtani and Indra Setiawan, 1993, Ekologi Manusia Versus Ekonomi Pembangunan Pada PJPT II, Konphalindo, Jakarta, p. 30, Look also in Nicholas Low and Brendan Gleeson, 1998, Justice, Society and Nature, An Exploration of Political Ecology, Routledge, New York, p. 133.

management from environmental aspect aside from Indonesian mining autonomy. From the environmental aspect, UU 04/2009 starts to accommodate several environmental problems related to the direct impacts such as post-mining activities in order to minimize the ecological damage and the probability of flood and landslide occurrence.¹² However, it has not been maximum enough to provide protection on environment and society due to the great number of mining companies who are not willing to conduct post-mining activity in the form of reclamation.

Kaltim Post records that in East Kalimantan province, the area of coal mining rights (KP) in total is 3.08 million hectares. The data from Mining and Energy Department of East Kalimantan shows that the total number of KP is 1,180. Based on those numbers, 391,000 hectares comes from 260 mining rights which have been categorized in the stage of exploitation. Considered from the number of KP permits, Kutai Kartanegara ranks first with 271 KP permits followed by Kutai Barat with 138 KP permits, and Paser with 73 KP permits while the others are the remaining regencies/cities. Several Non-Governmental Organizations (NGO) in environmental sector both in South Kalimantan and East Kalimantan justify the reluctance of companies to conduct mining reclamation due to the minimum supervision.¹³ Even up to this point, the reluctance of the businessmen in conducting reclamation on former mining area has ended up in numerous casualties.¹⁴ According to Muhammad Muhdar, the reluctance of the businessmen in implementing the regulations concerning the obligation of coal mining reclamation is caused by the lowering coal mining activities due to export market demand which also triggers failure of the permit holders to fulfill the reclamation obligation. Afterwards, it is worsened by the placement of reclamation guarantee fund as the legal obligation of the permit holders which is not obeyed well, even though this policy is made as the effort to carry out anticipation on the actions of permit holders who do not fulfill the reclamation obligation.¹⁵

It is certainly inappropriate with the principles of a good mining implementation in which one of them requires the presence of management and supervision on mining environment, including reclamation and post-mining activities.¹⁶ Genuinely, the authority of the supervision on coal post-mining activities related with reclamation is conducted by the Minister and Governor as the representatives of the Central Government in the district.¹⁷ However, considering the empirical fact the number of reluctances from the mining companies in conducting reclamation on post-mining area and the great number of mining companies who have not collected post-mining guarantee fund, it can be concluded that the legal mining regulation in Indonesia is not effective

¹² Look up and compare it with Yusni Yetti, "Analisis Kebijakan AMDAL Dalam Mencegah Kerusakan", *Lembaran Publikasi Lemigas*, Vol. 41, No. 3, December 2007, p. 24 See also in Muhamad Muhdar, Aspek Hukum Reklamasi Pertambangan Batubara Pada Kawasan Hutan Di Kalimantan Timur, *Mimbar Hukum* Volume 27, no. 3, October 2015, p. 475 stating that the legal regulation concerning coal mining in relation with the law and country proven more accommodative on businessmen's interest rather than on vulnerable community groups and environment. It results in the disadvantages of the community and environment due to the mining activities.

¹³Fenty U. Pulu Hulawa, Pengawasan Sebagai Instrumen Penegakan Hukum Pada Pengelolaan Usaha Pertambangan Mineral Dan Batubara, *Jurnal Dinamika Hukum* Vol. 11 No. 2 May 2011, p. 296

¹⁴Handayani I.G.A.K.R, As'Adi E, Hamzah.G, Leonard T, Gunarto G. "Relationship between Energy Consumption in International Market and Indonesia Prices Regulation", *International Journal of Energy Economics and Policy*, Vol.7, Issue 5 Tahun 2017.

¹⁵Muhamad Muhdar, Aspek Hukum Reklamasi Pertambangan Batubara Pada Kawasan Hutan Di Kalimantan Timur, *Mimbar Hukum* Volume 27, No. 3, October 2015, p. 482

¹⁶Karjoko L, Nurjanah Y, "The Legality of Freehold Title and Legal Implications Against of Land Makers Officers (The Study of Freehold Title Issuance Number 1576/Nusukan Village, Banjarsari Sub-District, Surakarta City, Central Java)", *International Journal of Scientific and Technology Research* 8(10), 2019.

¹⁷Look up in Article 45 Paragraph (1) Regulation of Energy and Mineral Resources Minister no. 26 of 2018 concerning The Implementation of Good Mining Principles and Supervision of Mineral and Coal Mining

and there is an indication that the intensity of supervision implementation is low.¹⁸ It results in the unrealized implementation of legal regulations.

Therefore, in order to enforce the administrative law which is effective in coal mining sector related to post-mining activity in the form of reclamation, it will be relevant if that matter is carried by strengthening the supervision intensity on mining companies. This article attempts to elaborate and explain the roles and functions of supervision as an effort to enforce the administrative law related with the obligation of conducting reclamation by coal mining companies as an effort to preserve the environment and providing justice to the citizen. Besides, it also elaborates the matter related with the good construction of post-mining reclamation fund withdrawal in order to prevent negative intentions from mining companies

RESEARCH METHODS

This type of research is normative legal research. Thus, the first step is to collect secondary data. Normative legal research prioritizes the study of literature, the activity of collecting data from various literatures from both libraries and other places.¹⁹ This normative legal research focuses on legal principles, legal systematics, law synchronization, and the history of law.²⁰ This study uses secondary data. Secondary data collection tools in the form of books relating to the theory and concepts of research objects, related articles, literature on scientific work and so on through the study of literature.²¹ Analysis of the data used in this study is a qualitative analysis which is then presented in a descriptive form. Qualitative analysis is done through categorization based on the problem under study and the data collected.

DISCUSSION

Supervision Function as an Instrument of Mining Administrative Law Enforcement in the Effort of Environment Preservation

The law for each country, particularly for the powerholder in a country, should be utilized to perform their duties and authorities based on the applicable legal principles. In this case, the law acts as the protection of the citizen against excessive or unfair government power, including to protecting people against excessive or unfair private power.²² Factually, the legal relation between “country – user of natural resources – citizen: must be put in a frame which favors legal protection”. However, if it is seen furtherly, the legal regulations concerning coal mining in relation with the law and country tend to be more accommodative to the businessmen’s interests (economy) rather than vulnerable citizen group,²³ and environment. Certainly, that matter is unfortunate because mining activities are not always about economy. If considering the impacts from mining activities, the ones who are in disadvantage are the citizen and environment around the mining location. Thus, there

¹⁸ The weak supervision is caused by the ineffective supervision from the central level and regional level on the existing coal mining companies

¹⁹ Dudu D.M, “Modernization and Acceleration of Case Standard Handling and Reviewing on Indonesia Supreme Court”, *Journal of Legal, Ethical and Regulatory Issues*, Volume 21, Issue 3, 2018

²⁰ Maria S.S, *Metodologi Penelitian Ilmu Hukum*. Yogyakarta: Gadjah Mada Press, 2016

²¹ Suharsimi A, *Prosedur Penelitian Suatu Pendekatan*. Jakarta: Rineka Cipta. 2018

²² Samuel Mermin, 1982, *Law and the Legal System*, An Introduction, Second Edition, Little, Brown and Company, Toronto, p. 7.

²³ Vulnerable citizens are those living around mining area whose existence has been there before the mining activities occur around their residence and economic area such as where agricultural activities take place. Vulnerable citizen group is included as those living along the river used as transportation channel of coal transportation and coal mining waste disposal. Look up in Muhamad Muhdar, Aspek Hukum Reklamasi Pertambangan Batubara Pada Kawasan Hutan Di Kalimantan Timur, *Mimbar Hukum* Volume 27, no. 3, October 2015, p. 475

should be a guarantee for the citizen and environment on the revitalization of a good environmental condition both during and after the mining activities are conducted. Therefore, the strengthening on supervision system of post-mining activities is necessary to be conducted. Considering the supervision authority concerning post-mining activities actually has been accommodated in several related regulations, both in UU 04/2009, Ministerial Regulation of Energy and Mineral Resources No. 26 of 2018, and other Local Legal Products. However, in reality there are numerous disobediences conducted by mining companies related with the post-mining obligation which impacts on the disadvantages of the environment and citizen showing that the authorities have not been able to conduct the supervision well.²⁴

Supervision on mining business management in principle aims to direct the permit holders of Mining License (IUP) in conducting their activities in their series of mining business so that they will not be deviant from the government and the prohibitions have been stated in the permit. It is also should be considered that post-mining and reclamation activity plan must be attached by the permit holders when asking for the mining license. It is certainly aimed to make the post-mining activities able to minimize the disadvantages of the environment and the citizen around the mining location by conducting reclamation according to the planned post-mining land.²⁵ Theoretically, George R. Terry states that supervision is aimed to determine what has been achieved, evaluate, and implement corrective actions if needed in order to be able to ensure the expected result as planned.²⁶ Relevant with that opinion, structured supervision both before and after mining activities is absolutely required in the series with mining business management according to the principles of supervision goals so that it will not be deviant from the order and prohibitions as have been stated in the permit. Therefore, as a part of management functions, planning becomes more necessary for the effectiveness of supervision duty, and as the realization from law enforcement duty as mandated by the law.

Thus, the success of supervision duty series is determined by the initial planning from the aim of the supervision activity itself. However, the aforementioned explanations are mostly contradictive with the factual condition in the field concerning the permit system conducted by the local government. It can be seen from the research conducted by Muhamad Muhdar stating that:²⁷ It certainly shows that in term of issuing permits, there have been legal defects in which the requirements of reclamation and post-mining plan are omitted in the permit issue which should implicate on the denial of mining license by the government. However, the IUP is still granted which disgraces the spirit of autonomy so that the opinion of Nugraha is true that:²⁸

In fact, if the important part of supervision on post-mining and reclamation activities is considered, it refers to the appropriateness between the reclamation and post-mining plan and the factual condition in the field. If they are inappropriate, then it can be concluded that the mining

²⁴ It can be seen in: Antara Ribuan Izin dan Ratusan Lubang Tambang Batubara, Kaltim Minim Pengawas, <https://www.mongabay.co.id/2017/05/31/antara-ribuan-izin-dan-ratusan-lubang-tambang-batubara-kaltim-minim-pengawas/>

²⁵ Actually, appropriate with the Article 99 (1) of UU/2009 that “each holder of IUP and IUPK are obliged to submit the reclamation plan and post-mining plan when requesting IUP Operation Production or IUPK Operation Production” in order to observe the plan of the mining company after the mining activities have been finished.

²⁶ George R.Terry (in Jazim Hamidi and Mustafa Lutfi), “Eksistensi Komisi Ombudsman Nasional dalam Mewujudkan Good Governance”, *Majalah Hukum Varia Peradilan*, Edisi April 2009, p. 47.

²⁷Rian Saputra, et.all, Pendaftaran Internasional Sebagai Upaya Perlindungan Indikasi Geografis Indonesia Dalam Perdagangan Global (Studi Peraturan Pemerintah Nomor 22 Tahun 2018), *Jurnal IuS Kajian Hukum dan Keadilan* Vol 7 Nomor 2 Agustus 2019.

²⁸ Look up in Diana Yusyanti, Aspek Perizinan Dibidang Hukum Pertambangan Mineral Dan Batubara Pada Era Otonomi Daerah, *Jurnal Penelitian Hukum De Jure*, Vol. 16 No. 3, September 2016 p. 310-311

company has violated the legal regulations. Furthermore, the regulation concerning supervision, work mechanism, supervisor distribution in mining areas, and action model are the problems which have never been formulated well until now. The number of mining inspectors across East Kalimantan being only 44 (forty-four people) becomes a reason for not conducting mining activities optimally while having to supervise 1,443 coal mines.²⁹ Moreover, that number keeps decreasing when several personnel are assigned in other places as a part of the staff career development which does not have any relation with coal mining activities. The Forestry Department performs observation once in a year only if the coal mining area utilizes forest area. Accordingly, the Environment Department does not conduct a proper supervision on mining activities, except for proper environmental activities which substantially have different goals with reclamation activity.

So far, the assessment result of proper environment does not have any goal of protection for the environment. The companies receiving proper environment assessment in good category unfortunately do not conduct reclamation well. Another matter which must be kept in mind is that the mining companies not conducting reclamation become the burdens of the government in the future because it has to face ecological damage and reduce the area's capability to ensure environmental capacity in the future. Coal mining lands are abandoned by the permit holders due to various reasons, it also means removing natural forest area. It is certainly a great loss for the area and citizens in the future considering the impact of the mining activities conducted there. Thus, the supervision intensity in the effort to normalize post-mining environment is required to be improved in order to provide justice for the neighboring citizens and environment.

The Construction of Reclamation Fund which is Relevant to Anticipate Negative Intentions of Mining Companies from Post-Mining Obligation

The regulations regarding the withdrawal of post-mining reclamation fund are not stated clearly in Indonesian mining law. Referring to Article 22 Paragraph (1) section b of Ministerial Regulation of Energy and Mineral Resources no. 8 of 2018. Based on that article, it is still questionable whether the reclamation fund is withdrawn in the initial stage of permit request or after the implementation of mining activity. Considering the reality that there are many mining companies not having collected their reclamation guarantee fund, then the reclamation guarantee fund should be collected after the mining companies have conducted mining operation activities.³⁰

Certainly, it is what becomes the problem because in the concept of the law of guarantees³¹ it is stated that in order to provide safety for the creditor which is in this case is the country (the one who grants permit), the reclamation guarantee fund should be collected in the initial phase of mining permit issue by the mining company. Definitely, it will prevent loss from the country if in the future the mining companies are reluctant to conduct post-mining reclamation. Therefore, it will be better if the regulation of post-mining reclamation fund stated in Article 22 Paragraph (1)

²⁹Jaelani A.K, Basuki U, "Problematika Pelaksanaan Putusan Mahkamah Konstitusi Nomor 100/PUU-XI/2013 dalam Mendudukkan Pancasila Sebagai Dasar Negara", *Jurnal Wacana Hukum*, Volume 24, Nomor 2 Tahun 2018.

³⁰Akhmaddhian S, Hartiwiningsih, Handayani I.G.A.K.R. "The Government Policy of Water Resources Conservation to Embodying Sustainable Development Goals: Study in Kuningan, Indonesia". *International Journal of Civil Engineering and Technology*. Volume 8, Issue 12 Tahun 2017.

³¹Jaelani A.K, "Pengembangan Destinasi Pariwisata Halal pada Era Otonomi Luas di Provinsi Nusa Tenggara Barat", *Jurnal Pariwisata*, Vol.V, No.1, April 2018.

section b of the Ministerial Regulation of Energy and Mineral Resources no. 8 of 2018 is revised so that the reclamation guarantee fund is collected in the initial phase of IUP arrangement.

CONCLUSION

Firstly, the low intensity of the supervision conducted by the authoritative government agency implicates on the reluctance of mining companies in conducting reclamation of post-mining operation. It is also caused by the great number of IUP issues in the regions not appropriate with the Regulation of Energy and Mineral Resources Minister no. 8 of 2018 requiring the existence of reclamation and post-mining plan in each IUP arrangement which results in the absence of guideline in conducting supervision on the reclamation and post-mining activities. Secondly, the vagueness concerning the regulation of reclamation guarantee fund stated in the mining law in Indonesia regarding the due time of reclamation and post-mining guarantee fund.

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