

**ADMINISTRATIVE SANCTIONS ON RIVER DESTRUCTION  
ACCORDING TO LAW NUMBER 32 OF 2009****(Study at the Environmental Management Agency for Tulang Bawang  
Regency)****SD.Fuji Lestari Hasibuan, Satrio Nur Hadi, Dina Haryati Sukardi, Tahura  
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**ABSTRACT**

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*The need for clean water is increasing with the rapid population growth, however. Its availability has decreased due to environmental destruction or pollution, one of which is rivers. Damage or pollution to rivers is caused by domestic, industrial and agricultural activities. Damage or pollution to rivers will have a negative impact on health and cause imbalance in the river ecosystem. The problems raised are why administrative sanctions are used as an instrument in controlling river destruction in Tulang Bawang Regency, and what are the legal consequences of administrative sanctions on perpetrators of river destruction in Tulang Bawang Regency. The problem approach in this study is a normative approach, this study uses quantitative data analysis. The results of the research and discussion show that administrative sanctions are an instrument in river pollution due to restoration of conditions, repair of damage, or in other words aimed at actions committed by business actors or activities that pollute rivers, and are one of the efforts to enforce laws against activities related to licensing requirements, environmental quality standards, environmental management plans and so on through administrative sanctions, as well as enforcement of administrative sanctions aiming at actions that violate the law or do not meet the permitted requirements to stop or return to their original state, namely before the occurrence of pollution or destruction. to. Local government policies that do not take sides with the environment have in the occurrence of various natural disasters or events that continue to occur invariousregions, especially in Bawang Bawang Regency..*

**Keywords: Administrative Sanctions, Perpetrators, River Destruction.**

**Journal History**

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## INTRODUCTION

Development in the country of Indonesia is the development of the whole Indonesian human being and the development of the entire Indonesian society. Development is a conscious effort made by humans to be able to achieve a better life. In today's modern age, humans with their minds are able to create technology that is useful for industrial development so that but with the success that has been achieved, humans have sacrificed the natural environment through unplanned exploitation of the environment, regardless of the environmental impacts on humans themselves and on the natural surroundings.<sup>1</sup>

In development, it will have a wide impact on human life and the natural environment. In fact, it is not uncommon for development activities to cause disturbances to the balance of the environment. Therefore, the policies and steps in development must reflect considerations relating to the management of natural resources and the environment.

Environmentally development is a planning effort to use and manage resources wisely in sustainable development to improve the quality of life. The wise use and management of resources means always considering and taking into account the impact of

these activities on the environment and the ability of resources to support sustainable development.<sup>2</sup>

The environment faced by developing countries is mostly caused by poverty which forces people to destroy the natural environment. Thus, low income of the population, lack of job opportunities, low levels of education, all of these have contributed to encouraging residents of developing countries to deplete natural resources for their livelihoods.

The economic aspect in the design of economic development is involved in the destruction of the surrounding environment because the target of successful development in order to get a very large *income* is clearly at the expense of the environment. This opinion emphasizes that the consequences of environmental damage by economic development will bring losses that are actually greater than the benefits that are generated. obtained, including being able to cause various forms of natural disasters, one of which is flooding. Therefore, the economic sector is one of the benchmarks for success in every region, and it will be a harmony if every development in the economic sector still pays attention to environmental aspects

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<sup>1</sup> Muhammad Akib, *Hukum Lingkungan Perspektif Global dan Nasional*, (Jakarta: Rajawali Pers, 2016), p. 26.

<sup>2</sup> Muhamad Akib, *Pergeseran Paradigma Penegakan Hukum*

*Lingkungan: Dari Mekanistik-Reduksionis Ke Holistik-Ekologi*. Jurnal Masalah-Masalah Hukum. Vol. 43.No. 1, (2014), p. 28

which are the life support for all living things on earth.<sup>3</sup>

Environmental development which has been carried out for approximately 29 years since the promulgation of Law Number 4 of 1982 concerning Basic Provisions for Environmental Management and its implementing regulations. Real and clear events that cause various problems remain and are not diminishing, instead they often occur, such as floods, droughts, landslides, reduced availability of clean water and reduced ocean area, polluted seas and more and more other environmental media undergo degradation and damage.

The provisions of Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH) which replace Law Number 23 of 1997 concerning Environmental Management (UUPPLH) have regulated the concept of comprehensive comprehensive law enforcement starting with the right of everyone to obtain environment that is good and healthy which is one of the human rights (HAM), the responsibility for environmental management by the government, the business world and the wider community followed by the preservation of environmental functions by stipulating environmental quality standards, standard criteria for environmental

damage, Environmental Impact Analysis (AMDAL) and waste management obligations.<sup>4</sup>

Lampung Province has 5 (five) large rivers and around 33 (thirty three) small rivers, which form five main watersheds, namely: Sekampung Watershed, Mesuji Watershed, Semangka Watershed, Seputih Watershed and Tulang Bawang Watershed. The five major rivers are designated into 3 (three) River Basin Units (SWS) by the Ministry of Public Works, namely: SWS Mesuji-Tulang Bawang, SWS Seputih-Sekampung, and SWS Semangka. The area of the three SWSs is the same as the land area of Lampung Province which stores the potential of water resources from upstream to downstream. The three River Basin units (SWS) are a series of several river basins (DAS) which are bounded by an elevation line that separates the flow of falling rainfall in each region. Currently, rivers need serious attention. River pollution occurs everywhere, so that in terms of quality and quantity, river water has decreased and is no longer able to meet the needs of clean water.

River pollution is mainly caused by domestic, industrial and agricultural activities. This river pollution can have a negative impact on health and cause imbalance in the river or lake ecosystem. Every company responsible person who violates the provisions for preserving

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<sup>3</sup> Muhamad Akib, 2011. *Penegakan Hukum Lingkungan Dalam Perspektif Holistik Ekologis*, Bandar Lampung: Universitas Lampung. p. 32.

<sup>4</sup> Andi Hamzah, *Penegakan Hukum Lingkungan*, (Jakarta: Sinar Grafika, 2008), p. 38.

environmental functions is supervised and inspected by the Environmental Supervisory Officer ( PPLH). If a violation is found, the violator can be subject to administrative action and sanctions in the form of government coercion. The authority to impose administrative sanctions in the form of government coercion on the Governor, Regent and Mayor in accordance with the concept of regional autonomy.<sup>5</sup>

For people who are going to sue environmental polluters or destroyers, it can be done through various channels with various sanctions, such as administrative sanctions, civil sanctions, and criminal sanctions. Environmental polluters and destroyers who have been repeatedly warned, given administrative sanctions, caused public unrest, people are sick and have died, criminal sanctions can be imposed on them either against the perpetrator or against his business entity (his corporation). Acquired from environmental crimes can also be applied as an act of order (additional punishment). Therefore, acts of pollution or environmental destruction in addition to being resolved criminally (crimes / violations), companies can also be sued to pay compensation to those who are harmed or prosecuted. to carry out environmental restoration.<sup>6</sup>

Damage to rivers is actually not a dangerous thing if it does not cause casualties and losses to the

community. If the concept of protection for the environment is complete, in fact the environment is not getting better, instead it is getting more and more damaged and polluted as is the reality currently experienced. We can see the level of environmental damage and pollution from the Tulang Bawang Regency area, namely:

- a. Damage to rivers, so much sand mining that researchers see every day on either side of the road, has resulted in river damage, air pollution, and water pollution, but there are no efforts to prevent or repair them from business actors or the government.
- b. River water pollution due to industrial waste polluting the water in the area around the factory.

Given the impact of river water pollution which can create huge losses, both in the fields of economy, health, and even life safety. Thus, Law Number 32 Year 2009 concerning Environmental Protection and Management (UUPPLH) was made and enforced to prevent and overcome environmental pollution or destruction. One of them is by implementing legal rules, especially in the environmental sector, precisely and optimally. This aims to prevent environmental pollution from occurring by continuous human actions, because with environmental

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<sup>5</sup> Sukanda Husin., *Penegakan Hukum Lingkungan Indonesia*, (Jakarta: Sinar Grafika, 2009), p. 43.

<sup>6</sup> Muhamad Akib, *Op. Cit*, p. 39.

pollution one of the consequences is river damage.

Based on the description above, this research takes the title of "**Administrative Sanctions against Perpetrators of River Destruction according to Law Number 32 Year 2009 (Study at the Environmental Management Agency for Tulang Bawang Regency)**".

## **METHOD**

The type of research used in this research is descriptive analytical research. Descriptive indicates that this research will be carried out by describing something clearly and in detail regarding the juridical review of the perpetrators of river destruction according to Law Number 32 of 2009 (a study at the Environmental Management Agency for Tulang Bawang Regency).

## **DISCUSSION**

### **Administrative Sanctions Become Instruments in River Destruction Control in Tulang Bawang Regency.**

Administrative sanctions are instruments for river destruction aimed at restoring the situation, repairing the damage or in other words aimed at actions committed by business actors or activities that pollute rivers. In addition, the implementation of administrative sanctions aims to make actions that violate the law or do not meet the permitted requirements, so that they stop or return to their original state,

namely before the occurrence of pollution and destruction.<sup>7</sup> Administrative sanctions can be preventive in nature and aim to enforce environmental laws and regulations with administrative threats. Administrative environmental law has several instruments used by the government in managing and controlling the environment, more specifically for controlling environmental pollution and / or damage. Administrative law instruments can be in the form of legal instruments, such as: permits, Amdal and environmental quality standards.

#### **a. Environmental Permit.**

Licensing is a form of direct regulation that contains concrete and individual restrictions, orders and prohibitions. Permits are one of the most widely used instruments in administrative law. The government uses permits as a juridical means to control citizens' behavior. Environmental permits are public legal instruments in the form of direct regulation in environmental law. These environmental permits include industrial business permits, waste disposal permits (liquid, gas, solid), HO permits, mining rights, forest concessions, and so on. Each type of permit has different requirements and procedures. However, in general, it must meet the requirements as stipulated in Article 36 paragraph (1) of the Law on Environmental Protection and

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<sup>7</sup> Sukanda Husin, *Op Cit*, p. 46.

Management. Article 36 paragraph (1) determines the requirements for the issuance of permits for activities that have a major and significant impact to compile an AMDAL. According to Government Regulation Number 20 of 1990 concerning Water Pollution Control, the permit for disposing of liquid waste is the authority of the Governor, but after the enactment of Government Regulation Number 82 of 2001 regarding Water Quality Management and Special Environmental Water Pollution Control, the permit for disposal of liquid waste is the authority of the regent / mayor which is stipulated by a regional regulation.<sup>8</sup>

**b. Environmental impact analysis.**

Amdal has a close relationship with environmental licensing. Amdal is the result of a study on the impact of a planned activity on the environment, so it is an environmental policy instrument that is very important for the permit decision-making process by the responsible agency.

The legal basis for EIA is contained in Article 22 of the Law on Environmental Protection and Management which reads:

- (1) Every business and / or activity that has an important impact on the environment is required to have an Amdal.
- (2) Significant impacts are determined based on the following criteria:

- a. the large number of people who will be affected by the planned business and / or activity;
- b. the extent of the distribution area of the impact;
- c. intensity and duration of impact;
- d. the number of other environmental components that will be affected;
- e. the cumulative nature of the impact;
- f. reversal or irreversibility of impact; and / or
- g. other criteria according to the development of science and technology.

Government Regulation Number 27 of 1999 concerning Analysis of Environmental Impacts that Amdal is a study of the large and important impacts of a planned business and / or activity on the environment which is required for the decision-making process regarding the conduct of a business and / or activity.

Amdal in Indonesia aims as a tool to plan preventive or preventive actions against environmental damage that may be caused by a planned development activity. From the understanding of Amdal, conclusions can be drawn, namely:

- a) Amdal is the result of a review study or analysis of a business plan and / or activity.
- b) Not all planned businesses and / or activities require EIA (only those that have a large and important impact on the environment).

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<sup>8</sup> Aniek Masrevaniah, *Pencemaran Air dan Parameter*

*Dampaknya*, (Malang: PPSUB, 2009), p. 34.

c) Amdal is needed for decision making, meaning whether or not a business and / or activity license can be granted to a business actor and / or activity.<sup>9</sup>

**c. Environmental Quality standards**

Article 1 paragraph (13) of Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that the environmental quality standard is a measure of the limits or levels of living things, substances, energy, or components that exist or must exist and / or pollutant elements its existence is tolerable in a certain resource as an element of the environment. Article 20 paragraph (1) of Law Number 32 Year 2009 states that the determination of the occurrence of environmental pollution is measured through environmental quality standards. Law enforcement efforts through administrative sanctions can be carried out on activities related to licensing requirements, Amdal, environmental quality standards, and so. Administrative sanctions can be in the form of verbal warning, government coercion, closure of business premises, termination of company activities and revocation of licenses through a warning process.<sup>10</sup>

The advantages of enforcing administrative sanctions compared to other law enforcement (civil or criminal) are as follows:

- a. Enforcement of administrative sanctions in the environmental sector can be optimized as a preventive tool.
- b. Administrative (preventive) enforcement can be more efficient from a financial point of view than civil and criminal enforcement. Funding for administrative law enforcement includes the cost of routine field surveillance and laboratory testing, cheaper than evidence gathering, field investigations, and hiring expert witnesses to prove causality (cause and effect) in criminal and civil cases.
- c. Enforcement of administrative sanctions is more capable of inviting public participation. Public participation is carried out starting from the licensing process, monitoring the arrangement / supervision, and participation in filing objections and asking state administrative officials to impose administrative sanctions.

In this regard, the focus of administrative sanctions is on his actions, in contrast to criminal law sanctions that focus on the person, so that he becomes a good person and pays attention to the environment and the rights of others to live a decent life in a healthy environment.<sup>11</sup>

**Legal Consequences of Administrative Sanctions Against**

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<sup>9</sup> Aniek Masrevanah, *Op Cit*, p. 36.

<sup>10</sup> Muhamad Akib, *Op Cit*, p. 42.

<sup>11</sup> Sukanda Husin, *Op Cit*, p. 46

### Perpetrators of River Destruction in Tulang Bawang Regency

Local government policies that do not take sides with the environment have resulted in the occurrence of various natural disasters which continue to occur in various places in the region, especially Tulang Bawang Regency. This shows an indication that environmental law enforcement in Tulang Bawang Regency is still influenced by political, social and economic interests. Local government policies in Tulang Bawang Regency are closely related to the culture and political conditions of a society. Legal products and their enforcement are highly influenced by political interests. Legal understanding cannot be free from its context. The law works not in a vacuum but works in a reality that is not neutral from other influences, and the values behind it are subjective. Law is not something that occurs naturally, but is constructed socially. Therefore, the use of only formal laws will fail to address social problems.

Andika Yudha Pratama in Eka NAM Sihombing and Cynthia Hadita said that the implementation of decentralization in Indonesia is actually not something new, this discussion of decentralization was discussed since the 1950s along with the renewal of reforms in the

democratic system in developing countries. The big agenda of the implementation of decentralization, including in Indonesia, is an effort to strengthen the role of the government in organizing the country through the empowerment of local governments. Furthermore, in its development, the implementation of decentralization in Indonesia did not just stand alone, because another variant of the implementation of decentralization, namely asymmetric decentralization, was raised.<sup>12</sup>

However, do not let the goodwill of the Government is injured by the wrong move which resulted in the controversy of the validity of a regulation that has been issued because the request for the revocation of the regional regulations for permit disruption is not done with the system and the applicable law. In order to avoid the more complex problems related to the implementation of the regional disturbance permit, it is better to consider accelerating the revocation of Hinder Ordonnantie with its own revocation law and to eliminate material related to the permit of disturbance through amendment to Law Number 28 Year 2009 regarding Regional Tax and Levy area which is then followed up with the revocation order of all Local Regulations related to permit disruption.<sup>13</sup>

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<sup>12</sup>Eka N.A.M Sihombing, Cynthia Hadita, Analisis Wacana Hukuman Pancung Di Provinsi Aceh, *Jurnal Legislasi Indonesia*, Vol. 6, No. 4, December (2019).

<sup>13</sup> Eka Nam Sihombing, Problematics Implementation of Interruption Permission in the Regions, Pakpahan, Rudy Hendra., *International Journal of*



Law enforcement environments are full of considerations of political and economic interests. The reasons that are used as the basis for making decisions are not only considerations of legal provisions as regulated in environmental law but are based more on reasons so that the decisions made do not disturb the investment climate and do not close companies, which results in termination of employment (PHK) for workers or employees. Termination of employment can result in social unrest. The reasons for these considerations seem far-fetched and are deliberately put forward by the company, local government and are proven to influence the imposition of sanctions on those who commit pollution or destruction.<sup>14</sup> Actually, administrative sanctions are good to be implemented as an effort to prevent pollution or when there is an indication of pollution. In addition, bargaining is still possible in administrative law. That is, if the perpetrator of pollution or damage to rivers is subject to administrative sanctions. For example, a fine or temporary suspension of a business in question can still make improvements to the environment damaged by its actions. However, these efforts are often used for the interests of certain individuals and ultimately the decisions taken are far from feeling justice to the community.

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*Humanities and Social Science Invention (IJHSSI)*, Vol. 7, Issue 05, May (2018), p. 47.

## CONCLUSION

Administrative sanctions are an instrument in river pollution because they are intended to restore conditions, repair damage, or in other words are aimed at actions committed by business actors or activities that pollute rivers, and are one of the efforts to enforce laws on activities related to permit requirements, environmental quality standards, plans, environmental management and so on through administrative sanctions, as well as enforcement of administrative sanctions aimed at actions that violate the law or do not meet the permitted requirements to stop or return to their original state, namely before pollution or destruction occurred.

Local government policies that do not take sides with the environment have resulted in the occurrence of various natural disasters or events that continue to occur in various regions, especially in Tulang Bawang Regency. This shows an indication that the enforcement of environmental laws in Tulang Bawang Regency is still influenced by political, social, and economic interests. Environmental law enforcement is full of consideration of political and economic interests. The reason that is used as the basis for making a decision on disclosure is merely to consider the provisions of the legal rules as regulated in environmental law, but is based more

<sup>14</sup> Andi Hamzah, *Op Cit*, p. 47.

on reasons so that the decision made does not interfere with the investment climate and there is no company closure which results in termination of employment Labor / employee termination of employment may result in social unrest. The local government must be firm in imposing administrative sanctions against the perpetrators of the river, because the administrative sanctions are presumably *{preventij}* in restoring the state prior to the offense, so that if the company is relieved then the result is less effective and the company continues to perform river pollution or destruction. Local governments should try to ensnare the perpetrators or parties who make mistakes and are considered responsible for environmental damage, especially rivers, both from individuals, companies and from government officials. The government officials here are local and central officials who make mistakes, including issuing operational permits, making licensing requirements, and non-compliance with Environmental Impact Assessments (AMDAL).

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