



THE AUTHORITY OF THE ACEH GOVERNMENT IN THE FIELD OF MINERAL AND COAL MINING LICENSING IS BASED ON LAW NUMBER 11 OF 2006 CONCERNING ACEH GOVERNMENT

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Abstract

This research aims to explain the position of Aceh Province in the management of natural resources in the field of mineral and coal mining based on the specificities and privileges of Aceh, as well as to explain the authority of the central government in the field of mineral and coal mining as well as explain the authority of the Aceh government in terms of mineral and mining permits. coal in the Aceh Province area. This research is empirical legal research using a statutory approach and a legal sociology approach. The data sources used in this research are primary and secondary data using primary legal materials, secondary legal materials and tertiary legal materials, then the data obtained from both Secondary legal materials and tertiary legal materials will be analyzed. The results of the research show that the authority to manage mineral and coal mining in the Aceh Province area is managed by the Aceh government in accordance with statutory regulations, this authority is an attributive authority granted directly by Law Number 11 of 2006 concerning the Aceh Government, so that in terms of mineral mining and coal, the central government does not have full rights in controlling it because the central government's mining regulations exclude the Aceh government in its regulation, namely in article 137A of Law Number 3 of 2020 concerning amendments to Law Number 4 of 2009 concerning mineral and coal mining. The granting of special autonomy to Aceh, especially in the management of natural resources in the mineral and coal mining sector, has not been fully respected by the central government. It is recommended that the central government needs to pay attention to the authority possessed by the Aceh government as one of the special and special regions, as explained in the constitution that the Indonesian State recognizes and respects regional government units which are special and given special authority based on the principle of decentralization. , to create legal certainty in the management of mineral and coal mining in the special autonomous region of Aceh.

Keywords: *Mineral and coal mining management*

1. INTRODUCTION

Indonesia is a country that is rich in natural resources (SDA), therefore they must be used to realize the state's goal, namely the welfare of the people, as stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states clearly that the earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Constitutional Court Decision Number 001,021, 022/PUU-1/2003 dated 15 December 2004, the main consideration being that the meaning of "controlled by the state" must be interpreted to include the meaning of control by the state in a broad sense which originates and is derived from the concept of sovereignty of the Indonesian people over all sources of wealth. "Earth, water and natural wealth contained therein, also includes the meaning of public ownership by the people's collective of the sources of wealth in question. In carrying out its function of implementing policies (beleid) and management actions (bestuursdaad), regulation (regelendaad), management (beheersdaad), and supervision (toezichthoudensdaad) by the State.¹ Article 2 of the Law of the Republic of Indonesia Number 5 of 1960 concerning Agrarian Principles states that on the basis of Article 33 paragraph (3) of the 1945 Constitution, the right to control from the State gives the authority to regulate and carry out the allocation, use, supply and maintenance of land, water and space and regulates legal relations between people and the earth and regulates legal relations between people and legal acts between people and legal acts concerning earth, water and space. Article 18 Paragraph (2) of the 1945 Constitution emphasizes that the state recognizes and

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respects special regional government units which are given special authority as regulated by law. Regional governments have the authority to regulate and manage government affairs themselves based on the principle of autonomy and supporting duties, in realizing the implementation of regional autonomy. Law Number 23 of 2014 concerning Regional Government divides the clarification of government affairs into 3, namely absolute, concurrent and general government affairs.

Absolute government affairs are affairs that are completely under the authority of the central government, concurrent government affairs are affairs that are shared between the central government and regional governments, concurrent government affairs that are handed over to the regions are the basis for implementing regional autonomy. General government affairs are government affairs which fall under the authority of the president as regional head. Absolute government affairs which are the full authority of the central government include foreign policy, defense, security, justice, national monetary and fiscal and religion, but in Aceh Province absolute government affairs look different, this is because Aceh is a special autonomous region, therefore in Aceh Province Religious affairs are not entirely a matter for the central government but rather a matter for regional governments. Aceh is an area that has had conflict with Indonesia. The conflict between the Free Aceh Movement (GAM) and the government ended due to the existence of the Helsinki MOU memorandum on August 15 2005. This memorandum of understanding became the unifying link between Aceh and Indonesia. This memorandum is the first step to realizing peace in Aceh, on the basis of peace, gave birth to Law Number 11 of 2006 concerning the Government of Aceh.

Article 1 Number (2) of Law Number 11 of 2006 concerning the Government of Aceh states that Aceh is a special region which is given special authority to regulate and manage government affairs and the interests of the local community. Aceh is given the broadest authority in running the government in all fields. except for foreign policy, defense, security, judicial, monetary and national fiscal affairs, while religion is a matter of Aceh Province based on its specificity. One of the authorities that Aceh has is to manage natural resources in the Aceh region, including mineral and coal mining, which in Law Number 11 of 2006 concerning the Aceh Government states that the Aceh Government has the authority to manage natural resources both on land and in the sea which also includes mineral and coal mining. Natural resources are everything that comes from nature, which can be used by humans, both biotic components (such as plants, animals and microorganisms) and also abiotic components (such as natural gas, petroleum, various metals, minerals, coal, water, land, and so forth). Mining is an activity, stage of management or refining, development and utilization, minerals are organic compounds that are formed in nature which have certain physical and chemical properties as well as regular crystal arrangements or combinations that form crystals, coal is a precipitate of carbon organic compounds that is formed scientifically.

Regarding Aceh's authority to manage natural resources, it is stated in Article 156 of Law Number 11 of 2006 concerning the Government of Aceh, the contents of article 156 are as follows:

- (1) The Aceh government and district/city governments manage natural resources in Aceh both on land and at sea in the Aceh region in accordance with their authority.
- (2) The management referred to in paragraph (1) includes planning, implementation, utilization and supervision of business activities which can take the form of exploitation, exploration and cultivation.
- (3) The natural resources referred to in paragraph (1) include the mining sector consisting of coal mineral mining, geothermal, forestry, fisheries, agriculture which are carried out by applying the principle of transparency of sustainable development.

Based on Law Number 11 of 2006 concerning the Aceh Government regarding mineral and coal mining, Aceh Qanun Number 15 of 2013 was issued which was later changed to Aceh Qanun Number 15 of 2017 concerning Mineral and Coal Mining Management. This qanun explains that the management of minerals and coal aims to support the sustainable development of Aceh.

Article 8 of Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management confirms that the granting

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of Mining Business Permits (IUP) is granted by the Governor. Apart from mining business permits, the Governor of Aceh also has the right to issue Mining Business Permit Areas (WIUP) and Special Mining Business Permit Areas (WIUPK), determined by the governor taking into account the Aceh Qanun Concerning Aceh Regional Spatial Planning. The Governor of Aceh also has the authority to revoke Mining Business Permits (IUP) as contained in article 69 paragraph (3) Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management.

Regarding mineral and coal mining, the State also has special regulations that regulate it, namely Law Number 4 of 2009 concerning Mineral and Coal Mining which was later changed to Law Number 3 of 2020 concerning Mineral and Coal Mining, before changes were made to the law. In Article 4 of Law Number 4 of 2009 concerning Mining, it is explained that control of minerals and coal is carried out by the central government and regional governments. After the amendments were made to Law Number 4 of 2009 concerning Mineral and Coal Mining, there were differences in terms of control over mineral and coal mining, this is clearly stated in Article 4 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 Regarding Mineral and Coal Mining as follows:

- (1) Minerals and coal as non-renewable natural resources are national assets controlled by the State for the greatest welfare of the people.
- (2) Control of minerals and coal as intended in paragraph (1) is carried out by the central government in accordance with the provisions of this Law.
- (3) Control as intended in paragraph (2) is carried out through the functions of policy, regulation, administration, management and supervision.

In the material of the law above, it is emphasized that mineral and coal mining is national wealth which is controlled by the state and its management is under the control of the central government and is managed by the central government, without involving regional governments. In the previous law it was stated that minerals and coal are national wealth and administered by the central government and regional governments. This law also regulates the provision that the determination of Mining Business Permit Areas (WIUP) and Special Mining Business Permit Areas (WIUPK) is the authority of the central government, in Article 6 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, it was stated that the central government in managing mineral and coal mining has the authority to issue or determine Mining Business Permit Areas (WIUP) and Special Mining Business Permit Areas (WIUPK), apart from that the central government also has the authority to issue mining business permits. Article 151 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining states that the administration of administrative sanctions in the form of written warnings, fines, temporary suspension of part or all of Exploration activities or Production Operations, and/or revocation IUP, IUPK, IPR, SIPB, or IUP for Sales are issued by the minister. Article 137A of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining excludes Aceh Province in its regulations, because Aceh Province is a special region and also has its own regulations regarding mineral and coal mining, as for The substance of Article 173A is as follows:

The provisions in this Law also apply to the Province of the Special Region of Yogyakarta, the Province of the Special Capital Region of Jakarta, the Province of Aceh, the Province of West Papua and the Province of Papua as long as it is not specifically regulated in the law that regulates the privileges and specialties of these regions.

The article above contains the provision that these laws and regulations are exempt from Aceh Province, because Aceh Province already has regulations regarding mining, namely in Law Number 11 of 2006 concerning the Government of Aceh, it is emphasized that control of minerals and coal is controlled by the Aceh government and regional governments/ city district. However, the central government revoked the Mining Business License (IUP) located in Aceh on the basis of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.

2. METHOD

The type of research used by the author in conducting this research is empirical legal research. Empirical juridical research is legal research regarding the application or implementation of normative legal provisions in action at each particular legal event that occurs. In other words, research is carried out on actual conditions or real situations that occur with the aim of knowing and finding the facts and data needed. After the required data is collected, it then leads to problem identification which ultimately leads to solving the problem. The approach used in this research is the statutory approach (statute approach). A normative research must of course use a statutory approach, because what will be studied are various legal regulations which are the focus of the research. Therefore, a statutory approach is important in this research to examine in more depth the laws and regulations related to the research subject. The statutory approach is carried out by examining all laws and regulations related to the legal issue being studied. This research also uses a legal sociology approach to see the effectiveness of the legislation being studied, in this case social issues are conceptualized and studied using the legal paradigm of law in books and law in action.

3. RESULTS AND DISCUSSION

3.1 Authority of the Aceh Government in the Field of Mineral and Coal Mining Licensing

The Constitution of the Republic of Indonesia recognizes and respects special regions, special autonomy can be interpreted as regulating and managing its affairs, as well as regulating government and utilizing natural resources for the greatest prosperity of the people or special autonomous regions without abandoning their rights and obligations. for the state to participate in the administration of the central government. In special autonomy, it can be defined as different treatment given to a region which is not the same as the treatment given to other regions. The implementation of special autonomy must be in line with the mandate of the state constitution so that relations between the center and the regions and good inter-regional relations remain.

Article 18B paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the state recognizes and respects special or special regional government units regulated by law. In article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia, it is stated that regional governments exercise the broadest possible autonomy except for government affairs which are determined by law to be the affairs of the central government. The affairs that are the concern of the central government are foreign policy, defense, security, justice, national monetary and fiscal affairs and religion. Aceh is one of the provinces that is given special autonomy. Apart from that, Aceh is also a special region that can carry out the widest possible autonomy in carrying out government, this is stated in Law Number 11 of 2006 concerning Aceh Government.

Philosophically, there are two main goals to be achieved in granting special autonomy through the implementation of asymmetric decentralization policies, namely the goals of democracy and social welfare. Thus, based on the principle of asymmetric decentralization owned by the Aceh government, regarding mineral and coal mining, Aceh Province can manage natural resources including mineral and coal mining based on Number 11 of 2006 concerning the Government of Aceh, Aceh's authority in managing its natural resources is attributive authority granted by law. Regarding the authority of the Aceh government in managing natural resources in the mining sector, it is stated in Article 156 to Article 159 of Law Number 11 of 2006 concerning the Government of Aceh, the contents of article 156 are as follows:

- (1) The Aceh government and district/city governments manage natural resources in Aceh both on land and at sea in the Aceh region in accordance with their authority.
- (2) The management referred to in paragraph (1) includes planning, implementation, utilization and supervision of business activities which can take the form of exploitation, exploration and cultivation.
- (3) The natural resources referred to in paragraph (1) include the mining sector consisting of coal mineral mining, geothermal, forestry, fisheries, agriculture which are carried out by applying the principle of transparency of sustainable development.

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In article 156 above it is clearly stated that the management of natural resources in the Aceh region is managed by Aceh, both natural resources in the sea of the Aceh region and natural resources on land in the Aceh region including natural resources, mineral and coal mining, geothermal, forestry and agriculture. , management that can be carried out by the Aceh government includes planning, supervision, implementation and utilization as well as supervising business activities in the Aceh region, including exploration, exploitation and cultivation activities.

Article 157 as follows:

- (1) Every business actor as referred to in article 156 is responsible for carrying out reclamation and rehabilitation of land explored and exploited.
- (2) Before carrying out business activities, business actors are required to provide reclamation and rehabilitation guarantee funds, the amount of which will be calculated when discussing exploration and exploitation work contracts.

Article 158 as follows:

The Government, Aceh Government and Regency/City governments carry out balanced community economic development, education and health as compensation for the exploitation of non-renewable natural resources.

Article 159 as follows:

- (1) Every mining business actor who carries out mining business activities in Aceh is obliged to prepare community development funds.
- (2) Community development funds as referred to in paragraph (1) are determined based on an agreement between the Aceh government and the district/city government, and business actors with an amount of at least 1% (one percent) of the total price of production sold each year.
- (3) The plan to use community development funds to finance programs that are prepared jointly by taking into account the needs of communities around business activities and communities in other places and including the business actors concerned is further regulated in the Aceh Qanun.
- (4) Financing of community development programs with community development funds as intended in paragraph (2) and paragraph (3) is managed independently by the business actor concerned.

Law Number 11 of 2006 concerning the Aceh Government above clearly states that the management of natural resources in the Aceh territorial area is managed by the Aceh government, including natural resources in the sea and also natural resources on land, as for the management of natural resources which is the authority of Aceh Province covering planning, implementation, utilization and supervision of business activities in the form of exploitation, exploration and cultivation. The natural resources that can be managed by the Aceh government are in the sea and land areas of the Aceh region which include natural resources in the mining sector, which consists of mineral and coal mining, geothermal, forestry, fisheries, agriculture, which are implemented by applying the principle of transparency. sustainable development. Regarding the authority of the Aceh government in the field of licensing, it is contained in article 156 as follows:

- (1) Residents in Aceh can trade and invest internally and internationally in accordance with statutory regulations.
- (2) The Aceh government and district/city governments, in accordance with their authority, can attract foreign tourists and provide permits related to investment in the form of domestic investment, foreign investment, exports and imports by taking into account the norms, standards and procedures that apply nationally.
- (3) The Aceh government and district/city governments in accordance with their authority and based on nationally applicable norms, standards and procedures have the right to provide:
 - a. General mining exploration and exploitation permits;
 - b. Forest area conservation permit;

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- c. The maximum fishing permit is 12 nautical miles measured from the coastline towards the open sea and/or towards archipelagic waters for provinces and one third of the provincial authority area for district/city areas;
 - d. Permit for operational use of fishing vessels of all types and sizes;
 - e. Permit to use surface water and sea water
 - f. Permits relating to forest management and control;
 - g. Local operator license in the telecommunications sector.
- (4) The granting of permits as intended in paragraphs (2) and (3) must refer to the principles of fast, precise, cheap public services and simple procedures.
- (5) Further provisions regarding the granting of permits as intended in paragraph (2), paragraph (3), and paragraph (4) are regulated by qanun.

Based on Law Number 11 of 2006 concerning the Aceh Government regarding mineral and coal mining, Aceh Qanun Number 15 of 2013 was issued which has been changed to Aceh Qanun Number 15 of 2017 concerning Mineral and Coal Mining Management. This qanun explains that the management of minerals and coal aims to support the sustainable development of Aceh. Article 6 and article 8 of Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management confirm that the granting of Mining Business Permits (IUP) is granted by the Governor. Apart from mining business permits, the Governor of Aceh also has the right to issue Mining Business Permit Areas (WIUP) and Special Mining Business Permit Areas (WIUPK), determined by the governor taking into account the Aceh Qanun Concerning Aceh Regional Spatial Planning. The substance of article 6 of Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management is as follows:

- (1) Mining businesses are carried out based on IUP, IPR or IUPK
- (2) IUP, IPR or IUPK as intended in paragraph (1) is given in WIUP for IUPK.
- (3) WIUP. WPR and WIUPK as intended in paragraph (2) are determined by the Governor taking into account the determination of mining areas.
- (4) WIUP and WIUPK as intended in paragraph (3) are given in WUP for WIUP or WPN for WIUPK.
- (5) deleted
- (6) WIUP and WIUPK as intended in paragraph (2) which are located in protected forest areas, are determined by the Governor after obtaining DPRA approval.
- (7) The determination of WIUP and WIUPK in protected forests as intended in paragraph (6) is only for radioactive minerals and metallic minerals.
- (8) Deleted
- (9) Further provisions regarding procedures for using protected forest areas as intended in paragraph (6) are regulated by Governor regulations.

The substance of article 8 is as follows:

- (1) IUP is granted by the Governor based on an application submitted by
 - a. business entity;
 - b. cooperative; And
 - c. individual
- (2) Business entities as referred to in paragraph (1) letter a can be Private Business Entities, State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD)
- (3) BUMN and national and foreign private business entities must partner with BUMD, cooperatives and/or Local Private Business Entities
- (4) The individuals as referred to in paragraph (1) letter c can be individuals, firms or limited companies.
- (5) The IUP as intended in paragraph (1) is granted after obtaining the WIUP
- (6) In one WIUP, 1 (one) or several IUPs can be granted

Article 8 above clearly states that the authority to issue mining permits operating in the Aceh region is the Governor. The Governor of Aceh also has the authority to revoke Mining

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Business Permits (IUP) as contained in article 69 paragraph (3) Aceh Qanun Number 15 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management as follows:

- (1) The Governor supervises the implementation of mining business activities carried out by IUP, IPR or IUPK holders.
- (2) The Governor carries out verification and evaluation of the implementation of mining business activities carried out by IUP, IPR and IUPK holders.
- (3) In the event as intended in paragraph (2) that the implementation of mining business activities carried out by IUP, IPR and IUPK holders is not in accordance with the Legislative Regulations, the Governor may revoke the IUP, IPR and IUPK.
- (4) Supervision as intended in paragraph (1) is carried out at least 1 (one) time a year.

In terms of supervision by the Governor as intended in article 69 paragraph (1) consists of supervision of exploration and production operations which includes mining technical, marketing, finance, mineral and coal data processing, conservation of mineral and coal resources, mining work safety and health, mining operations, environmental management, reclamation and post-mining, utilization of goods, services, technology, and domestic engineering and design capabilities, development of mining technical workforce, development and empowerment of local communities, mastery, development and application of mining technology, activities others in the field of mining business activities involving the public interest, management of IUP or IUPK and the number of types and quality of mining results.

In article 69 paragraph (3) it is clearly stated that the Governor has the authority to revoke mining permits. The mining permits are in the form of IUP, IPR and IUPK, the Governor revokes IUP, IPR and IUPK whose mining business activities are carried out not in accordance with the Legislative Regulations. Article 70 states that in the case of revocation of an IUP, IPR and IUPK whose validity period has not expired, you must first notify the Regent/Mayor in writing. Written notification is an administrative and technical notification carried out by the Governor Based on the authority of the Aceh government in the mining sector as stated in Law Number 11 of 2006 concerning the Government of Aceh and continued with Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management, it can be seen that the authority regarding the granting of permits in the mining sector in the Aceh Province region are granted by the Governor.

Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Mineral and Coal Mining Management also states that administrative sanctions in the form of revocation of mining business permits are also given by the Governor of Aceh to mining businesses that carry out exploration and exploitation in the Aceh Province area. Regarding mining permits in Aceh Province which were revoked by the Minister of Energy and Mineral Resources, the central government's decision to revoke IUPs operating in the Aceh region, the Aceh government gave its response after the Minister of the Investment Coordinating Board (BKPM) Bahlil Lhadia issued a letter of revocation 180 Mining Business Permit (IUP), one of which is mining in Aceh Province on February 15 2022.

Head of the Aceh Energy and Mineral Resources (ESDM) Service, Ir Mahdinur, MM stated "that the authority of Aceh Province regarding mineral and coal mining is one of the special authorities of Aceh province which is included in Law Number 11 of 2006 concerning the Aceh Government, and regarding revocation of the IUP by the center, Aceh's order through the Aceh Energy and Mineral Resources (ESDM) Service will clarify to the center because it seems there was an error in revoking the IUP." Regarding the authority to grant and revoke mining permits in the Aceh region up to 12 millimeters, the sea boundary measured from the coast is the administrative region of Aceh and is entirely under the authority of the Aceh government, because Aceh is a region that is given the authority and specialization to handle its own government affairs including government affairs. mineral and coal mining permits, the legal basis for this is Law Number 11 of 2006 concerning the Government of Aceh. The central government, through the Minister of Energy and Mineral Resources (ESDM), the Minister of Investment/Head of the

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Investment Coordinating Board, Bahlil Lahadia, has issued a letter of revocation of Mining Business Permits (IUP) for mineral and coal mining in the Aceh Province area, as for the list of mines in revoked by the central government are as follows:

List of Mining Business License (IUP) holders revoked by the Investment Coordinating Board (BKPM) in April 2022

No	Holder Name IUP	District/ City	No. IUP Decree	Date Rise	Date End	Commodity	Wide Area (Ha)	Stages
1	PT ESTAMOINDEPENDENT	Subulussalam	Regent No.188.45/084/2011	10/10/2011	10/10/2033	OreIron	600	IUPOP
2	PT BUMIBABAHROT	Aceh Barat Daya	Regent No.540/99/2009	03/30/2009	03/30/2024	OreIron	550	IUPOP
3	KSU TIEGAMAN GOSTEEN	Aceh Selatan	Head of DPMPSTSP No.540/DPMPSTSP/1787/IUP-OP1./2020	06/11/2020	06/11/2030	OreIron	200	IUPOP
4	LHOONG PTLOYALMINING	Aceh Besar	Regent No.540/01/IUP-OP/2010	07/20/2007	06/09/2027	OreIron	500	IUPOP
5	PT MULTIMINERALMAIN	Aceh Selatan	Regent No. 03 Year2010	06/01/2010	07/09/2027	Gold	1,000	IUPOP
6	PT MAGELLANICGARUDA KENCANA	Aceh Barat	Regent No. 191 Year2012	02/15/2012	02/15/2032	Gold(Placer)	3,250	IUPOP
7	PT. TAMBANGINDRAPURI JAYA	Aceh Besar	Regent No.545/115/IUP/2011	04/04/2011	04/04/2026	OreIron	538	IUPOP

Source: Department of Energy and Mineral Resources

Head of the mineral and coal sector of the Aceh Energy and Mineral Resources (ESDM) Department Khairil Basyar, ST,MT in an interview on March 3 2024 stated that the revocation of several Mining Business Licenses (IUP) as stated above was carried out by the central government without prior coordination. Previously, with the Aceh Energy and Mineral Resources (ESDM) Service, the central government revoked the Mining Business License (IUP) without prior confirmation with the Aceh government. Head of the mineral and coal sector of the Aceh Energy and Mineral Resources (ESDM) Department Khairil Basyar, ST,MT in an interview on March 3 2024 stated that the Aceh government had made efforts to cancel the revocation of the mining permit by sending a letter from the Governor of Aceh to the Minister of Investment / Head of BKPM RI with letter number 540/6126 on April 16 2022. Apart from the spirit of decentralization, the management of mineral and coal mining by regional governments is also based on the externality principle considering that mining areas are the ones most affected by the affairs being regulated. This then gives the region the authority to regulate. However, the authority to grant permits and revoke permits also creates problems at the central and regional levels. Therefore, the implication of taking over authority in the field of mineral and coal mining by the central

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government and regional governments is that there is a mismatch in authority as well as the accuracy of the same control authority between the central government and the Aceh government.

3.2 Central Government Authority in the Field of Mineral and Coal Mining Licensing in the Aceh Region

Permits that can be issued by the central government and are under the authority of the central government include: Mining Business Permit (IUR), Special Mining Business Permit (IUPK), Special Mining Business Permit as a Continuation of Contract/Agreement Operations, People's Mining Permit (IPR), Mining Permit Batuan (SIPB), assignment permits, transportation and sales permits, mining services business permits (IUJP) and mining business permits for sales. The authority to grant permits owned by the central government can be delegated to regional governments in accordance with applicable statutory provisions, meaning that the authority of regional governments in granting mining permits was previously attribution authority, but according to law number 3 of 2020 the authority of regional governments in granting permission shifts from attribution to delegation.

The central government not only has authority in terms of granting mining permits, in this case the central government also has authority in the field of revoking mining permits, this is contained in article 151 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral Mining And Coal. The material in this article contains provisions that the central government has the authority to revoke Mining Business Permits (IUP), Special Mining Business Permits (IUPK), People's Mining Permits (IPR), Rock Mining Permits (SIPB), and Mining Business Permits for Sales. The revocation of Mining Business Permits (IUP), Special Mining Business Permits (IUPK), People's Mining Permits (IPR), Rock Mining Permits (SIPB), and Mining Business Permits for Sales is carried out by the minister.

Article 188 of the Government Regulation of the Republic of Indonesia Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities states that the minister can impose sanctions in the form of revoking permits without going through the stages of giving administrative sanctions in the form of written warnings and temporary suspension of part or all of Exploration activities or Production Operations. The imposition of administrative sanctions in the form of revocation of mining permits, which is the authority of the minister, is stated in article 119, which states that the holder of an IUP or IUPK does not fulfill the obligations stipulated in the IUP or IUPK as well as the provisions of statutory regulations, the holder of the IUP or IUPK commits a criminal act as referred to in This Law, or the IUP or IUPK holder is declared bankrupt.

The regulations regarding mining contained in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining should not be applied to the Aceh government because article 137A has locked in that the law does not apply to the area concerned. is special and has regulations regarding mining Article 137A of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining excludes Aceh Province in its regulations, because Aceh Province is a special region and also has its own regulations regarding mineral and coal mining, as for The substance of Article 173A is as follows:

The provisions in this Law also apply to the Province of the Special Region of Yogyakarta, the Province of the Special Capital Region of Jakarta, the Province of Aceh, the Province of West Papua and the Province of Papua as long as it is not specifically regulated in the law that regulates the privileges and specialties of these regions.

The article above contains the provision that these laws and regulations are excluded from Aceh Province, because Aceh Province already has regulations regarding mining. However, the central government has revoked the Mining Business License (IUP) located in Aceh on the basis of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.

Government Regulation Number 3 of 2015 Concerning National Government Authority in Aceh, it states several authorities which constitute national central government authority in the

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Aceh region, among the national government authorities in Aceh are authority in the field of mineral and coal mining in article 4 letter cc It is stated that the Government's authority in national government affairs, letter cc, includes energy and mineral resources. Article 4 letter cc Government Regulation Number 3 of 2015 Concerning National Government authority in Aceh in the attachment section explains the points that constitute the central government's authority in the mineral and coal sector, including:

1. Determination of policies, norms and procedures for mineral and coal management.
2. Determination of criteria for mineral and coal mining areas with consultation and consideration by the Aceh Government.
3. Determination of policies, norms, standards and licensing procedures for mineral and coal mining.
4. Providing permits and guidance, resolving community conflicts and supervising mining businesses in cross-provincial areas and sea areas more than 12 miles from the coastline.
5. Granting permits, guidance, resolving community conflicts and monitoring mining locations located in cross-provincial areas and/or sea areas more than 12 miles from the coastline.
6. Granting permits, coaching, resolving community conflicts and supervising Mining Business Production Operations which have direct environmental impacts across provinces and/or in sea areas of more than 12 miles.
7. Evaluation of permits for mining production operations issued by regional governments, which have caused environmental damage.
8. Determination of policies, norms, standards and procedures for mineral and coal mining services businesses.
9. Granting permits for mineral and coal mining service business entities in the context of Foreign Investment (PMA) and having work areas across provinces.
10. Management, guidance and supervision of the implementation of mineral and coal mining service business permits in the context of cross-provincial investment.
11. Development and supervision of occupational safety and health, the mining environment including post-mining land reclamation, conservation and increasing the added value of minerals, coal, in cross-provincial areas or with national impacts and in sea areas more than 12 miles from the coastline.
12. Guidance and supervision of mining business permits (IUP) across provinces.
13. Determination of state reserve areas for mineral and coal resources at the discretion of the Aceh Government.
14. Guidance and supervision of the implementation of mineral and coal mining business permits for production operations, which have direct environmental impacts across provinces and/or in sea areas of more than 12 miles of coastline.
15. Determination of policies regarding limits on mineral, coal production, marketing, utilization and conservation.
16. Determination of Mining Business Areas is carried out at the discretion of the Aceh Government and submitted in writing to the DPR RI.
17. Determination of non-tax state revenues from mineral and/or coal mining business results.
18. Guidance and supervision of management in the mineral and coal mining sector.
19. Carrying out inventories, investigations and research as well as exploration in order to obtain data and information on minerals and coal as material for preparing state reserve areas and Mining Business Areas.
20. Management of geological information, potential mineral and coal resources, and national mining information.
21. Management of coal mineral data and information, as well as exploitation and Geographic Information Systems (GIS) of national mining work areas.
22. Determination of the potential and balance of national mineral and coal resources and reserves.

23. Appointment and development of mining inspectors as well as development of functional positions.
24. Implementation and facilitation of increasing the capacity of Aceh Government and district/city government officials in the management of Mining Businesses.

4. CLOSING

4.1 Conclusion

Based on Article 18B of the 1945 Constitution of the Republic of Indonesia, there is a provision that the state recognizes and respects special regional government units and special regional government units. Aceh is one of the regions that is given specialties and privileges by the state, therefore in the province of Aceh there is Law Number 11 of 2006 concerning the Government of Aceh which regulates the specialties and privileges of Aceh. Management of natural resources including mineral and coal resources in Aceh is the authority of the regional government. This is one of the specialties of Aceh as stated in Law Number 11 of 2006 concerning the Aceh Government. Regarding mineral and coal mining permits and the revocation of mineral and coal mining permits in the province of Aceh, this is the authority of the Governor of Aceh.

This is contained in Aceh Qanun Number 15 of 2017 concerning Amendments to Aceh Qanun Number 15 of 2013 concerning Management of Mineral and Coal Mining, thus The granting and revoking of mining permits is the authority of the Aceh government. The authority of the central government in the mining sector in the mineral and coal sector in the special autonomous region of Aceh is regulated in Government Regulation Number 3 of 2015 concerning National Government Authority in Aceh in the attachment letter CC in the field of energy and mineral resources, including the establishment of policies, standard norms and procedures for mineral and coal mining services businesses, granting permits for mineral and coal mining services business entities in the context of foreign investment in cross-provincial work areas, determining state reserve areas for mineral and coal resources at the discretion of the Aceh government and providing guidance and supervision of mining business permits (IUP) across provinces.

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