

JURIDICAL REVIEW OF LAW NUMBER 32 OF 2009 CONCERNING ENVIRONMENTAL PROTECTION AND MANAGEMENT IN CONNECTION WITH THE JUDGE'S RULING NUMBER: 940/PID/B/LH/2019/PN BLB

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Abstract

Industrial and household waste that is dumped directly into rivers and natural waters or into the air creates greater social costs for society, both in the form of health costs, reduced productivity and income due to illness, rivers not functioning to support fisheries activities and providing drinking water, etc. In this research, PT. Yoosung Indonesia committed violations by disposing of production waste into water bodies towards rice fields, disposing of waste water in drainage channels and carrying out B3 waste management without obtaining permits issued by authorized agencies as regulated under Law no. 32 of 2009 concerning Environmental Protection and Management is linked to Judge's decision Number 940/PID/BLH/2019/PN BLB. Furthermore, I want to review the administrative sanctions that have been imposed on Yoosung Indonesia, but it is still permissible for non-criminal investigations to be carried out. The type of research used in this research is descriptive with a qualitative approach. The results of this research show that PT. Yoosung Indonesia in waste disposal is considered to have violated and/or can be qualified as an act that results in exceeding Waste Water Quality Standards, so it is given a Government Coercive Administrative Sanction from the Bandung Regency Environmental Service. Furthermore, in this case Yoosung Indonesia has complied with these administrative sanctions by stopping the discharge of waste water into environmental media, permanently closing the waste water channel at coordinates S07'00'48"E107'48'04" and S07'00'50" E107' 48'00", create temporary storage of B3 waste, apply for a temporary storage permit for B3 waste. So it is assumed that PT. Yoosung Indonesia has committed a violation as stipulated in Article 100 of Law Number 32 of 2009 concerning Environmental Protection and Management and has not been proven to have committed a violation and this proves that criminal sanctions cannot be applied because administrative sanctions have been fulfilled.

Keywords: Environmental Agency, Pollution, Destruction.

INTRODUCTION

The living environment as a gift and mercy from God Almighty to the people and nation of Indonesia is a space for life in all aspects and dimensions in accordance with the archipelago's insight. In order to utilize natural resources to advance general welfare as mandated in the 1945 Constitution of the Republic of Indonesia and to achieve happiness in life, sustainable development with an environmental perspective, based on an integrated and comprehensive national policy that takes into account the needs of present and future generations. For this reason, it is necessary to implement harmonious, harmonious and balanced environmental management in order to support the implementation of sustainable development with an environmental perspective.

The implementation of environmental protection and management in the context of sustainable development with an environmental perspective must take into account the level of public awareness and developments in the global environment as well as international legal instruments relating to the environment.

Community awareness and life in relation to environmental protection and management has developed to such an extent that it needs to be refined to achieve sustainable development goals with an environmental perspective.

Regulations set out in Law no. 32 of 2009 concerning Environmental Protection and Management, especially in Chapter VII, states that the management of hazardous and toxic materials and hazardous and toxic waste must be carried out, in order to minimize the waste disposal system with very little risk to the environment, the survival of humans and other living creatures. By realizing this, hazardous and toxic materials and their waste need to be protected and managed well. Environmental pollution occurs when the cycle of matter in the living environment changes so that the balance in terms of structure and function is disturbed. Imbalances in the structure and function of the material cycle occur due to natural processes or also due to human actions.

In this modern age, many human activities or actions to fulfill biological needs and technological needs cause a lot of environmental pollution. In an effort to change the human environment to improve their welfare, it can cause a problem called pollution. If a business and/or activity will produce waste, it should be managed before it is disposed of into environmental media, so that it does not cause pollution and/or damage to the environment. In this case, the waste produced by a business and/or activity can be used as raw material for products. However, the utilization process will produce waste, as residue that cannot be reused, which will be disposed of into environmental media. As a factual example, there is waste from factories/industries emitting an unpleasant odor, or in the form of liquid pollution. This is the impact of the construction of factories or industries, on the one hand it has a positive multiplier effect on the surrounding environment, including opening up job opportunities and absorbing the workforce. However, on the other hand, it is necessary to address the emergence of pollution and environmental destruction around industrial areas, both preventively and repressively.

A good and healthy living environment is the human right of every Indonesian citizen as mandated in Article 28H of the 1945 Constitution of the Republic of Indonesia, national economic development is carried out based on the principles of sustainable and environmentally sound development; The increasingly declining environment has threatened the survival of humans and other living creatures, so it is necessary to protect and manage the environment seriously and consistently by all stakeholders.

The spirit of regional autonomy in administering the government of the Unitary State of the Republic of Indonesia has brought about changes in the relationship and authority between the Government and regional governments, including in the field of environmental protection and management. Environmental problems are complex issues, often not easy to resolve and subject to various conflicts of economic, political, social and cultural interests. Examples of

frequent violations of rules related to spatial planning. In fact, violations of spatial planning regulations are often the beginning of environmental damage.

Apart from that, due to limited technical knowledge in preventing pollution or environmental damage caused by an activity or business, efforts to overcome environmental problems need to be looked at with a policy that can address and overcome an environmental problem. A policy that has been taken will be on target in its implementation if there is clear and accurate information.

One of the norms in the 1982 UULH, namely Article 7, cannot be relied upon, if permits in the licensing system are environmental control instruments, because the 1982 UULH, which was originally intended as an "umbrella" provision over other legislation, does not place and regulate permits as a system. licensing. In its implementation, the provisions of Article 7 paragraphs 2 and 3 often involve various kinds of agencies which can give rise to overlapping authority, various kinds of permits, complicated and bureaucratic procedures, which in turn present permits as an obstacle, rather than a blessing; preventive juridical; especially as a controlling instrument. In fact, it is very worrying that there is a tendency for permits to be used as a source of funding and this in turn results in higher economic costs. (basah, 1996) An argumentum a contraric interpretation of Article 7 paragraphs 1 and 2 is that a non-business sector does not require a permit, even though this is not always the case. In operations based on the principle of compliance with principles, it is rarely easy to return a permit as a type of decree, which is individual-concrete as a result of the normativeization process to its "parent" provisions, especially to Article 4 of Law no. 4 of 1982 (LN 1982: TLN No. 3215) Jo UU 32 Th 2009 Jis UU 27 Th 2012.

The licensing system as an environmental control instrument mandates that the environment can be controlled in realizing Article 4 of UULH 1982 Jo UU No 32 of 2009 Jis UU 27 of 2012 by permits in a system that has sub-sub-systems and in turn the permits themselves become sub-systems rather than the environment. In the end, environmental (living) law is a sub-system of law. The licensing sub-sub-systems that are related to each other form a single unit or package (Basah, 1997).

Damage to natural resources and environmental pollution are generally caused by development activities that do not pay attention to the carrying capacity of the environment. Industrial and household waste that is dumped directly into rivers and natural waters or into the air creates greater social costs for society, both in the form of health costs, decreased productivity and income due to illness, rivers not functioning to support fisheries activities and water supply. drinking, and so on. Moreover, hazardous and toxic waste which is thrown carelessly into the environment/surrounding nature will kill the ability and function of the environment to support life.

In this regard, community participation in the management of Hazardous and Toxic Waste is prioritized to convince the public whether a procedure in the regulations has been implemented correctly or not. If not, is there any "power" (power) in society to correct it? This community power is based on the fact that the environment is a common property (public domain) so that

environmental management efforts are not solely the business of one group, but rather are in the public interest. In this context, environmental management is not limited to the management of hazardous and toxic waste.

It is very unfortunate that environmental destruction in the form of air, water pollution and various other environmental damage, causes losses that are worthless. This impact damages the environment/surrounding nature, the value of which is never shown in the calculation of funding policies for environmental improvement. The next problem is, if the pollution causes harm to sufferers, for example the victim has to go to the doctor, is unable to carry out his work, or becomes disabled, etc., then in accordance with the polluter pays principle, the polluter is obliged to compensate to sufferers whose rights to a good and healthy living environment have been violated, in other words the victim has the right to sue for compensation in the amount commensurate with the losses suffered.

Law no. 32 of 2009 concerning Environmental Protection and Management Article 98 paragraph (1) states that:

Any person who intentionally commits an act that results in exceeding the ambient air quality standards, water quality standards, sea water quality standards, or environmental damage standard criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years. and a fine of at least IDR 3,000,000,000.00 (three billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah).

In cases of pollution caused by B3 waste, sufferers are generally ordinary people who are economically weak and have relatively lower education, so it is difficult to be expected to have sufficient ability to prove the polluter's guilt.

In connection with this, the development of industrialization has resulted in greater risks and increasingly complicated causal relationships, legal theory has abandoned the concept of "fault" and turned to the concept of "risk". Thus, the element of fault does not become the evidentiary basis for compensation for losses.

Environmental law enforcement is not the only means of regulation. Structuring can be achieved through other means such as economic instruments, effective public pressure, company's rating, approaches through negotiation and mediation mechanisms, analysis of environmental impacts and licensing. It should be emphasized here that coercive measures through the application of sanctions do not have to go through the courts. The use of administrative sanctions includes the lightest sanctions such as written warnings, warnings, administrative orders up to temporary or permanent suspension of part or all of the activities.

Companies operating in the industrial sector, apart from producing useful products, also sometimes produce B3 waste, so these companies have an obligation to have B3 waste processing equipment. However, if every company producing B3 waste has to have B3 waste processing equipment, it will result in it being ineffective and inefficient and requiring quite expensive costs. On the other hand, this type of B3 waste must be handled specifically. Because if B3 waste is thrown into rivers and seas, or even just left in mud pools or stored in leaky and

rusty drums, the possibility of this B3 waste polluting water, air and soil is very large, thereby reducing the carrying capacity of the environment., which will ultimately disrupt the health of living creatures.

To avoid the above, a company has been established that provides facilities for managing B3 waste. In this regard, researchers will take the example of PT PPLI (Prasadha Pamunah Limbah Industri) as reference material for companies that manage B3 waste.

Waste Management or B3 waste management facilities is a B3 waste management process which includes B3 waste processing and B3 waste minimization. B3 waste management consists of storage, collection, transportation, processing and landfill stages. Meanwhile, minimizing B3 waste consists of reducing waste at the source and reusing it which is determined by certain conditions (PT. PPLI Cileungsi, Bogor 1997).

All of these stages form a series that cannot be broken and should be in one Waste Management activity container. Each of these stages means:

1. B3 waste storage is the activity of storing B3 waste carried out by producers and/or collectors and/or utilizers and/or processors and/or stockpilers of B3 waste with the aim of temporarily storing it.
2. Collection of B3 waste is the activity of collecting B3 waste from B3 waste producers with the intention of storing it temporarily before handing it over to the user and/or processor and/or landfill of B3 waste.
3. Transportation of B3 waste is an activity of transferring B3 waste from producers and/or from collectors and/or from users and/or from processors to collectors and/or to users and/or to processors and/or to landfills of B3 waste.
4. B3 waste processing is a process to change the characteristics and composition of B3 waste to eliminate and/or reduce its hazardous and/or toxic properties.
5. B3 waste stockpiling is an activity of placing B3 waste in a landfill facility with the intention of not endangering human health and the environment.
6. Utilization of B3 waste is an activity of recovery and/or reuse and/or recycling which aims to convert B3 waste into a product that can be used and must also be safe for the environment and human health.

So Waste Management activities do not only reach the landfill stage but also include processing and utilization of B3 waste processing results so that B3 waste that has been processed can be reused.

The Waste Management process includes 2 major activities, namely: B3 waste management and B3 waste minimization.¹ With the B3 waste management programs in Waste Management, you can see the efforts that have been, are being, and will be made to create a clean, healthy and sustainable living environment.

In this case, the author states that no one can deny that criminal cases regarding environmental protection and management are currently still in the spotlight and priority of the government. Viewing this case solely from a narrow legal perspective ignores the fact that a case that is actually just a violation becomes an extraordinary crime case so that there must be the most severe punishment possible. The existence of a wrong analysis regarding criminal offenses and violation offenses in environmental crime will result in wrong or inaccurate analysis. In the end, it results in wrong or inaccurate conclusions;

Whereas on December 18 2018, the Defendant received a coercive administrative sanction from the Bandung Regency Environmental Service for a period of 45 (forty five) days to carry out the following obligations:

1. Stop the discharge of waste water into environmental media;
2. Permanently close wastewater channels at coordinates S0700'48"E107'48'04 and S07'00'50 E107'48'00";
3. Create a temporary storage area for hazardous and toxic waste (B3 waste)
4. Apply for a Temporary Storage Permit for B3 Waste;

Whereas since the Coercive Administrative Sanski was issued, the Defendant immediately carried out his obligations and provided an implementation report to the Bandung Regency Environmental Service as stated in the Implementation Results Report dated January 5 2019;

That while the administrative sanctions period was still running, namely on January 29 2019, the Investigation Team from the Police Criminal Investigation Team together with PPC Lab. The environment came to the location of the defendant's factory and carried out an examination of waste water samples which from the results of laboratory tests contained several parameters, namely TSS, BOD, COD, SULFIDA, and weak oil quality standards;

That as a result of this all the Defendants were accused by the Public Prosecutor of the Bandung Regency District Prosecutor's Office with alternative charges of having committed violations of Article 100 paragraph (1), (2) Article 116 paragraph (1) letter a of the Republic of Indonesia Law Number 32 of 2009 concerning Protection and Management of the environment; Or Article 104 jo. Article 116 paragraph (1) letter a Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management; Or Article 114 jo. Article 116 paragraph (1) letter a Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management.

That at the time the examination and investigation was carried out by the Investigating Team and Bareskrim Polri, the Defendant was undergoing and carrying out the obligations of Coercive Administrative Sanski from the Bandung Regency Environmental Service. This is contrary to the Principle of Subsidiarity adopted in environmental law provisions;

From the description above, it has been proven that there is overlapping law enforcement in the cases faced by the defendant. Bareskrim investigators' negligence and inconsistent communication with Bandung Regency Environmental Service officers regarding the

administrative process being carried out by the defendant. Therefore, this research discusses the juridical review of Law Number 32 of 2009 concerning environmental protection and management in connection with the judge's decision number: 940/PID/B/LH/2019/PN BLB at PT. YOOSUNG INDONESIA.

METHODS

This type of research is descriptive with a qualitative approach. Writing uses a descriptive method because this method can explain the actual situation of the research object, both from the results of observations and reports as material for the analysis carried out. Apart from that, this type of descriptive research can also interpret real data conditions.

Qualitative research methods according to J Creswell (1994:82) are a way or more effort to focus on aspects of in-depth understanding of a problem. Then the results obtained in the field, both in the form of data/documents and interviews, are described and expressed in the form of words and language. This type of descriptive research is used if there is knowledge or information about the social phenomena that will be investigated or questioned.

This knowledge is obtained from literature surveys, research reports, or from the results of exploratory studies. Through the knowledge or information held about the symptoms being investigated and by carrying out careful measurements of the problem, the researcher describes clearly and in detail the what, who, where, when, how, and why of the existing symptoms. So descriptive research relates to the frequency, number and characteristics of the symptoms studied. The main type of descriptive research involves assessing attitudes or opinions about individuals, organizations, events, or procedures. Qualitative Research according to J Creswell in Sugiono (2013: 4) suggests, "Methods" to explore and understand the meaning that a number of individuals or groups of people consider to originate from social problems or from humanity."

This Qualitative research process involves important efforts such as asking questions from procedures, collecting participant-specific funds, analyzing data inductively starting from specific themes to general themes, and interpreting the meaning of the data. According to Moelong in Herdiansyah (2010:9), what is meant by qualitative research is scientific research which aims to understand a phenomenon in a natural social context by prioritizing a process of in-depth communication interaction between the researcher and the phenomenon being studied.

The qualitative approach according to Sugiyono (2013: 8) is a research method used to examine the condition of natural objects, where the researcher is the key instrument, data collection techniques are carried out by triangulation (combination), data analysis is inductive, and the results of qualitative research emphasize more meaning rather than generalization. The object in qualitative research is a natural object or natural setting, so this method is often also referred to as a naturalistic method (Haris,2010).

Research Focus Scientific research is more than just a form of scientific formulation and statement and of course every scientific research has different research objectives.² Therefore, the research focus in scientific research needs to be determined in order to limit the research

and also function to fulfill the inclusion – exclusion criteria (inputting – removing) new information obtained in the field. So determining the research focus will help researchers make the right decisions regarding the data;

RESULTS AND DISCUSSION

1. Sit down the matter.

That the defendant PT. YOOSUNG INDONESIA, represented in this case by Kwon Taek Hoon alias Taek Hoon Kwon as Operational Director of PT. YOOSUNG INDONESIA, based on the Power of Attorney of the President Director dated 14 November 2016, has the right to represent the Company inside and outside the court on all matters and in all events as stated in Notarial Deed Number 19 dated 14 November 2016 (Article 11 paragraph 3) and paragraph 6 letter b and has received approval from the Ministry of Law and Human Rights of the Republic of Indonesia with Number: W7/00240 HT.01.01.TH 2006 dated 07 September 2006, on 29 January 2019 or at least at other times included in 2019, located in the area of PT. YOOSUNG INDONESIA, namely Jalan Raya Cicalengka - Majalaya KM 5 Kpg Ragas RT. 001 RW.011 Srirahayu Village, Cikancung District, Bandung Regency, West Java Province, or at least in another place that is still included in the jurisdiction of the Bale Bandung District Court, dumping waste and/or materials into environmental media without permission as intended in Article 60 UURI No. 32 of 2009 concerning Environmental Protection and Management, this action is carried out in the following way:

- That the defendant PT. YOOSUNG INDONESIA is a business entity engaged in the textile business (Gray/Weaving Fabric) established in 2006, whose address is Jalan Raya Cicalengka Majalaya Km 5 RT.01 RW.11 Srirahayu Village, Cikancung District, Bandung Regency, Prov. . West Java, with the leadership of JUNG WOO LEE as President Director of PT. YOOSUNG INDONESIA, and has given a Power of Attorney dated November 14 2016 to KWON TAEK HOON as Production Director of PT. YOOSUNG INDONESIA, acting for and on behalf of the Principal as President Director of the Company to run the company, manage and provide decisions regarding all company policies throughout the company's operational activities;
- Whereas in carrying out its business the Company operates in the textile business (Gray/Woven Fabric) and produces production waste in the form of waste water and SLUDGE (WWTP mud). In this activity, on October 24 2018, November 5 2018 and November 14 2018, an environmental compliance inspection was carried out by the Bandung Regency Environmental Service, by taking samples of liquid waste, and it was found that there was a discharge of production waste water into water bodies leading to rice fields, there is waste water discharged in drainage channels and the company carries out B3 waste management without having a permit issued by the authorized agency;
- Whereas from the results of these findings, the Company was subsequently given Government Coercive Administrative Sanctions from the District Environmental Service. Bandung within the period of fulfilling the Government's Coercive Administrative Sanction

obligations of 45 (forty five) days, and stopping the direct discharge of waste water into environmental media for 1 (one) week from the issuance of the Administrative Sanction. Within the time period determined by the Bandung Regency Environmental Service, the company's waste water processing progress had not yet met quality standards and on January 29 2019 the Investigation Team from the Police Criminal Investigation Team was accompanied by PPC Lab Officers. Bandung Regency Environment carries out waste water sampling at; bypass channel near the IPAL, storage tank near the IPAL and waste water in the drainage channel, from the results of laboratory tests on these samples there are several parameters that exceed the required quality standards, namely the parameters TSS, BOD, COD, SULFIDA and Fatty Oil until now the company /PT.YOOSUNG INDONESIA does not yet have an IPLC;

- That the defendant PT. YOOSUNG INDONESIA Disobeying/disobedient to the prescribed Administrative sanctions because the progress has not been fully implemented and at the time of the Investigation Team from the Police Criminal Investigation Team together with the PPC Lab. The environment carried out an inspection around the IPAL and found that waste water was being disposed of illegally/discarded directly into environmental media leading to rice fields, reservoirs near rice fields and drainage channels, where samples were then taken for laboratory tests;
- Whereas from the Bandung Regency Environmental Laboratory Test results on waste water samples taken on January 29 2019 with test results on February 15 2019 and February 18 2019 there are several parameters that exceed the liquid waste quality standards, namely:
 - a) Illegal channels:
 1. TSS (Suspended Residue) test results 57 mg/L, quality standard 50 mg/L;
 2. BOD test results 67 mg/L, quality standard 60 mg/L;
 3. COD test results 267 mg/L quality standard 150 mg/L;
 4. Sulfide test results 1.1 mg/L quality standard 0.3 mg/L;
 5. Fat oil test results are 6.1 mg/L, quality standard is 3 mg/L.
 - b) Drainage channel: TSS (Suspended Residue) test results 59 mg/L, quality standard 50 mg/L;
 - c) Storage near rice fields. COD test results are 224 mg/L, quality standard is 150 mg/L;
- The chemical properties of the test results on waste water samples, namely TSS, BOD, COD, Sulfide and Fatty Oil, exceed quality standards which can have a detrimental impact on human health, aquatic biota and plants in the surrounding environment;
- That according to Chemist Dr. Rer Nat BUDIAWAN PT. YOOSUNG INDONESIA, in carrying out its industrial/operational activities, is not permitted to dispose of waste water before it is managed/processed properly and correctly through IPAL until it meets the required quality standards and the company is required to have/have an IPLC (Liquid Waste Disposal Permit) from the authorized agency;

The defendant's actions violated as regulated and punishable by crime in Article 104 in conjunction with Article 116 paragraph (1) letter a UURI Number: 32 of 2009 concerning Environmental Protection and Management.

2. Author's Analysis

PT. YOOSUNG INDONESIA in carrying out its industrial/operational activities is not permitted to dispose of waste water into environmental media before it is managed/processed through IPAL and before it meets the required quality standards and the company is required to have/have an IPLC (Waste Water Disposal Permit) from the authorized agency and if the company has previously received government coercive administrative sanctions from the District Environmental Service. Bandung and its parties have not/did not comply with the administrative sanctions, then the company is deemed to have committed a violation, as regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, meaning that PT. YOOSUNG INDONESIA (Company) may be qualified as violating the provisions of Article 100 of Law Number 32 of 2009 concerning Environmental Protection and Management;

PT. YOOSUNG INDONESIA in its waste processing uses a recycling system for production waste water through a paralon pipe into the first tank, then medicine is given, then stirred using a mixer machine to mix the medicine and production waste water. Then, after mixing the medicine, the water goes into a large tub/last tub and the sludge is sucked into a sack. Then from the large tub the water is drawn into the Filterization Tank which uses zeolite stone, gravel and carbon media to purify the water. Next, the Filterization Tank goes back into the large tub and is drawn back to the WJL machine to be used as production water again.

The author responds to this matter that PT.YOOSUNG INDONESIA has complied with the government's coercive administrative sanctions Number: 660.31/Kep.140-DLH/2018 on December 18 2018, that PT.YOOSUNG INDONESIA in this case has complied with the administrative sanctions by stopping the discharge of waste water to environmental media, permanently close the waste water channel at coordinates S07'00'48"E107'48'04" and S07'00'50" E107'48'00", create a temporary storage place for B3 waste, apply for a temporary storage permit for B3 waste,. So it is assumed that PT. YOOSUNG INDONESIA has committed a violation as stipulated in Article 100 of Law Number 32 of 2009 concerning Environmental Protection and Management and has not been proven to have committed a violation;

That PT. YOOSUNG INDONESIA has violated and/or can be qualified as an act that results in exceeding WASTE WATER QUALITY STANDARDS, meaning that in the management of residual liquid waste from an activity/business MUST MEET WASTE WATER QUALITY STANDARDS (that the results of the management must be below quality standards/must not exceed waste water quality standards) , because the impact of disposing of liquid waste into environmental media that exceeds quality standards can cause pollution and/or damage to the environment without a permit, this is as regulated in Article 104 of Law no. 32 of 2009 concerning Environmental Protection and Management, which in fact PT. YOOSUNG

INDONESIA does not have a permit in the form of a liquid waste disposal permit, including a collection permit and storage permit issued by a technical agency to carry out business and/or and Article 1, Number 23 of Government Regulation Number 101 of 2014, Article 1 Number 11 B3 Waste Management is an activity which includes reduction, storage, collection, transportation, utilization, processing and/or stockpiling. Apart from that, PT. YOOSUNG INDONESIA as a Legal Entity (Business Entity) can be asked for responsibility which is a legal subject in accordance with Article 114 Jo. Article 116 paragraph (1) letters a and b and the provisions of Article 1 point 32 of Law no. 32 of 2009, because PT. YOOSUNG INDONESIA as a legal entity obtains profits in its operational activities, because it does not carry out government coercion.

That PT. YOOSUNG INDONESIA can be considered to have violated and/or can be qualified as an act that results in exceeding WASTE WATER QUALITY STANDARDS, meaning that in the management of residual liquid waste from an activity/business MUST MEET WASTE WATER QUALITY STANDARDS (that the results of the management must be below quality standards/must not exceed water quality standards waste), because the impact of disposing of liquid waste into environmental media that exceeds quality standards can cause pollution and/or damage to the environment. Furthermore, in accordance with the provisions of Article 100 paragraph (2), the PPLH Law contains the principle of subsidiarity, which means that actions that violate waste water quality standards, emission quality standards or law enforcement interference quality standards use administrative sanctions first and criminal sanctions can only be applied if the administrative sanctions that has been imposed is not complied with or the violation is committed more than once, then if the violation is not complied with or the violation is committed more than once, criminal sanctions may be imposed/applied. Therefore, criminal sanctions can be imposed if the administrative sanctions that have been imposed are not complied with. in the form of non-compliance with government coercive sanctions and therefore repeating the violation, meaning that the violation is committed more than once or non-compliance with government coercive sanctions, considering the failure to fulfill the waste water quality standards determined by statutory regulations as proven based on laboratory results and the absence of permission from the authorized official. Authorized.

As we know, the principle of subsidiarity is contained in Article 100 paragraph (2) of the PPLH Law no. 32 of 2009 means that acts that violate waste water quality standards, emission quality standards or law enforcement interference quality standards use administrative sanctions first and criminal witnesses can only be applied if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once.

On December 18 2018, the Government, through the Environmental Service, imposed administrative sanctions number: 660.31/Kep.140-DLH/2018, these sanctions were given within 45 days of being given; However, on January 29 2019, which at that time had not even been 45 days since the sanctions were given, the National Police Criminal Investigation Team, accompanied by the Environmental Service, came and inspected PT. YOOSUNG INDONESIA.

In this case PT. YOOSUNG INDONESIA has complied with these administrative sanctions by stopping the discharge of waste water into environmental media, permanently closing the waste water channel at coordinates S07'00'48"E107'48'04" and S07'00'50" E107'48'00", create temporary storage for B3 waste, apply for a temporary storage permit for B3 waste. So the assumption that PT. YOOSUNG INDONESIA has committed a violation as stipulated in article 100 of Law Number 32 of 2009 concerning Environmental Protection and Management is not proven to have committed a violation and this proves that criminal sanctions cannot be applied because administrative sanctions have been fulfilled.

Responding to the description above, the author is of the opinion that we already know that in one case it cannot be investigated twice, whereas in the ATS case there has been an investigation carried out twice, namely an investigation carried out by the Environmental Service PPNS and the National Police Headquarters investigator if the investigation is carried out twice as in case of PT.YOOSUNG INDONESIA, what is the legal certainty for PT.YOOSUNG INDONESIA as stated in Article 100 paragraph (2) of the PPLH Law no. 32 of 2009, criminal acts as referred to in paragraph (1) can only be imposed if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once.

CONCLUSION

That PT. YOOSUNG INDONESIA is considered to have violated and/or can be qualified as an act that results in exceeding WASTE WATER QUALITY STANDARDS, meaning that in the management of residual liquid waste from an activity/business MUST MEET WASTE WATER QUALITY STANDARDS (that the results of the management must be below quality standards/must not exceed waste water quality standards), because the impact of disposing of liquid waste into environmental media that exceeds quality standards can cause environmental pollution and/or damage. Furthermore, in accordance with the provisions of Article 100 paragraph (2) of the PPLH Law which contains the principle of subsidiarity, if it is not complied with or if the violation is committed more than once, criminal sanctions may be imposed/applied.

In this case PT. YOOSUNG INDONESIA has complied with these administrative sanctions by stopping the discharge of waste water into environmental media, permanently closing the waste water channel at coordinates S07'00'48"E107'48'04" and S07'00'50" E107'48'00", create temporary storage for B3 waste, apply for a temporary storage permit for B3 waste. So the assumption that PT. YOOSUNG INDONESIA has committed a violation as stipulated in Article 100 of Law Number 32 of 2009 concerning Environmental Protection and Management is not proven to have committed a violation and this proves that criminal sanctions cannot be applied because administrative sanctions have been fulfilled.

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