

## The Cancellation of Environmental License of PT. Semen Indonesia: A Strategic Environmental Assessment

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### ABSTRACT

Debate over the construction of a cement factory in Rembang Regency between the community groups of Kendeng mountain care is in relation with the issuance of the environmental license No. 660.1/17 of 2012 by the Governor of Central Java. It had been declared null and void by the Supreme Court of the Republic of Indonesia based on the decision in the case register No. 99 PK/TUN/2016. The reason for the submission of the cancellation to the Environmental License of PT. Semen Indonesia in Rembang Regency, the community who cares about Kendeng mountains was because the process of submitting the mining licenses for the cement plant was not open and transparent to the community and it was feared that there would be environmental damages to the CAT area (Watu putih basin). In other words, to get the benefits, they are obliged to stay away from potential damage. Then, the urgency in the Strategic Environmental Assessment is as the Government instrument used as an instrument of prevention from pollution and/or environmental damage, and it becomes the basis for the policy of development plans and/or programs within a territory. Therefore, the mining of the cement factory of PT. Semen Indonesia in Kendeng mountains of Rembang Regency is in the CAT area (groundwater basin) based on findings of the Strategic Environmental Assessment Team. It is a protected area so that it potentially causes damage and the mining process must be stopped.

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### 1. Introduction

Information disclosure is very important in the development process.<sup>1</sup> The development is not only useful for economic improvement, but also for the improvement of people's welfare.<sup>2</sup> Above all, the development process should consider

<sup>1</sup> Brown, H.S., de Jong, M., & Levy, D.L. (2009). "Building institutions based on information disclosure: lessons from GRI's sustainability reporting." *Journal of cleaner production*, 17(6), p. 571; Dingwerth, K., & Eichinger, M. (2010). "Tamed transparency: How information disclosure under the Global Reporting Initiative fails to empower." *Global Environmental Politics*, 10(3), p. 74.

<sup>2</sup> Huber, E., and Stephens, J.D. (2001). *Development and crisis of the welfare state: Parties and policies in global markets*. University of Chicago press.

the environmental impacts on the physical environment or natural and social environment. Therefore, the development process must be based on the regulations that have been determined including local wisdom that has become a tradition of local communities.<sup>3</sup> It is also important to avoid the occurrence of prolonged social conflict among community groups, businesses, and also the government. Along with the process of the factory construction of PT. Semen Indonesia (formerly PT. Semen Gresik), there have been the social conflicts between the communities and the Government from village level to the central government.<sup>4</sup>

Public unrest occurred since in Tegaldowo Village, Gunem Sub-District, Rembang Regency, Central Java Province, a cement factory would be built by PT. Semen Gresik Indonesia, which is now PT. Semen Indonesia. An environmental-care group confirmed the Village Government about the information on the construction of the cement plant.<sup>5</sup>

With the public unrest about the circulation of information on the cement factory construction, the community finally found out to the Village, Sub-District, Regency and even to the Central Java Provincial Government Offices and it is true that the Governor of Central Java in 2012 had issued the Decree of Central Java Governor No. 660.1/17/2012 on the Environmental License for Mining Activities by PT. Semen Gresik (Persero) Tbk in Rembang Regency, Central Java Province dated June 7, 2012. The environmental license issued by the Governor turned out to be a contradiction because the Government of Rembang Regency had recommended to PT. Semen Gresik (Persero) Tbk to conduct mining in the area included into the CAT area (ground water basin) of Watuputih area of 131.55 hectare wide (1,315,500 m<sup>2</sup>). There will be risk of water loss in Gunem and Sale Sub-Districts, which is 1500 mm/Year (1.5 m). Similarly, the environmental license issued by the Governor of Central Java is inconsistent with the Central Java Provincial Regulation no. 6 of 2010 on the Spatial Plan (RTRW) in Article 63 and the Regional Regulation of Rembang Regency no. 14 of 2011, Article 19 of the RTRW (Spatial Plan) of Rembang Regency, that Watuputih Basin is a water recharge area and Geological Protected area.

The environmental license issued by the Governor of Central Java has been discussed by the experts in the field of environment, community-care groups of Kendeng mountains and the environmental activists (Walhi) who rejected the environmental license on the construction of the cement plant. With the insistence of the mountain

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<sup>3</sup> Some studies have discussed the relationship as well as the tension between state development and local wisdom. For instance, see Kongprasertamorn, K. (2007). Local wisdom environmental protection and community development: the clam farmers in Tambon Bangkhunsai, Phetchaburi Province, Thailand. *Manusya: Journal of Humanities*, 10(1): 1-10; Lisdiyono, E. (2017), "Exploring the Strength of Local Wisdom in Efforts to Ensure the Environmental Sustainability," *International Journal of Civil Engineering and Technology*, 8(11): 340-347.

<sup>4</sup> Arianto, K.J. (2015). Contested land, contesting laws. A context of legal pluralism and industrialization in Indonesia. *Sortuz: Oñati Journal of Emergent Socio-Legal Studies*, 6(2): 93-106; Purnaweni, H. (2014). Kebijakan Pengelolaan Lingkungan di Kawasan Kendeng Utara Provinsi Jawa Tengah. *Jurnal Ilmu Lingkungan*, 12 (1): p. 53.; Aziz, M. (2012). Identitas Kaum Samin Pasca Kolonia Pergulatan Negara, Agama, dan Adat dalam Pro-Kontra Pembangunan Pabrik Semen di Sukolilo, Pati, Jawa Tengah, *Jurnal Kawistara*, 2(3): 252-263.

<sup>5</sup> Pangayom, G.S., Sardini, N.H., & Astuti, P. (2017), "Gerakan Perlawanan Masyarakat Pegunungan Rembang Terhadap Pembangunan Pabrik Semen Indonesia Pada Tahun 2014-2017," *Journal of Politics and Government Studies*, 6(4): 341-350; Hidayatullah, U., Rini, H.S., & Arsal, T. (2017), "Analisis Peta Konflik Pembangunan Pabrik PT. Semen Indonesia di Kecamatan Gunem Kabupaten Rembang," *Solidarity: Journal of Education, Society and Culture*, 5(1): 10-21.

communities of Kendeng, the environmental license remained not to be revoked by the Governor until finally the community represented by Walhi (the Indonesian Environmental Organization) filed a lawsuit to the State Administrative Court of Semarang.

The basis of the lawsuit filed by WALHI was the granting of environmental license from the Governor of Central Java No. 660.1 / 17 of 2012 on the environmental license to the mining activities of PT. Semen Gresik (now PT Semen Indonesia) in Rembang Regency, Central Java. It has violated the prevailing laws and regulations and ignored the environmental protection. The license issued by the Governor of Central Java violates Article 22 paragraph (1), Article 36 paragraph (1) and (2), Article 40 paragraph (1), Article 41 of Act no. 32 of 2009 on the protection and management of the environment, Article 20 paragraph (1) of Act no. 7 of 2004 on water resources, Article 20 paragraph (1), Article 20 paragraph (6) of Act No. 26 of 2007 on Spatial Planning, Presidential Decree No. 26 of 2011 on the determination of groundwater basin, Central Java Regional Regulation No. 6 of 2010 on the Spatial Planning of Central Java Province and the Regional Regulation of Rembang Regency No. 14 of 2011 on the Spatial Planning of Rembang Regency.<sup>6</sup>

The result of the Decision in the State Administrative Court of Semarang and the State Administrative Court of Surabaya on the claim of the community represented by Walhi against the environmental license from the Governor of Central Java No. 660.1/17 of 2012 was declared to be rejected. To the verdict rejected by the State Administrative Court of Semarang and upheld at the appellate level of the State Administrative Court of Surabaya, some of the people in the CAT area of Watuputih who care about the environment did not surrender to the verdict. They continue to strive to seek justice for the sake of preserving the environment by filing a review to the Supreme Court of Indonesia on the rejection of the decision of the State Administrative Court of Surabaya.

Consequently, the submission of a review at the Supreme Court level as stated in the case register No. 99 PK/TUN/2016 submitted by the community was granted and the Supreme Court overturned the verdict of the State Administrative Court of Surabaya No. 135/B/2015/PT.TUN.SBY. Subsequently, the Supreme Court adjudicated again to grant the Plaintiffs' claim entirety to cancel the decree of the Governor of Central Java No. 660.1/17/2012, dated June 7, 2012, on the environmental license of mining activities by PT. Semen Gresik in Rembang Regency, Central Java and obliged to revoke the environmental license to mining activities by PT. Semen Gresik.<sup>7</sup> Thus, the environmental license issued by the Governor of Central Java to the mining activities of PT. Semen Gresik (now PT. Semen Indonesia) canceled by the Supreme Court has the consequence that PT. Semen Gresik (now PT. Semen Indonesia) must comply with the content of the decision and the verdict contains orders and restrictions. However, it turns out that the Governor of Central Java has issued the latest environmental license to PT. Semen Indonesia after the issuance of the decision of the Supreme Court. The latest license set forth in the Governor Decree No. 660.1/6 of 2017 is to regulate the mining activities and the construction of a cement plant by PT. Semen Indonesia in Rembang Regency.

The newest environmental license No. 660.1/6 of 2017 is a policy created as a post-revocation disclosure of the license Number 660.1/17 of 2012 which was decided by the Supreme Court. When examined, overall, the legal considerations in the content of

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<sup>6</sup> See: <https://putusan.mahkamahagung.go.id/putusan/99PK/TUN/2016>.

<sup>7</sup> The Verdict of the Supreme Judicial Review of the Indonesian Court No. 99 PK/TUN/2016, *ibid*, p. 115

the verdict are not solely for economic and investment purposes, but it is related to the importance of environmental carrying capacity and protection in a sustainable manner and the interests of the surrounding community who are hereditary as farmers. Therefore, it is interesting to be studied in this paper related to the Cancellation of the Environmental License of PT. Semen Indonesia in Rembang Regency and Its Urgency in the Study of Strategic Environment.

This paper is structured to some parts. First part is introduction, highlighting the background of study, followed by second part, discussing the construction of Rembang cement plant and the ecology for sustainable development. In this part, this paper demonstrates the consideration of the ecological or environmental side of development, as well as the strength of local communities in sustainable development efforts, by special reference to the case of Rembang cement plant. Third part discusses the cancellation of environmental licenses by the Supreme Court and the urgency of the strategic environmental study. In this part, it is widely discussed about the legal justification of the cancelation of environmental licenses in condition it does not meet with wider socio-economic interest, and the objectives of strategic environmental study as mandated in Act No. 25 of 2004. In the latest part of discussion, this study proposes the importance of the strategic environmental study of Kendeng Mountain Area, and its impact for sustainable development. This study also reveals some insightful conclusions regarding the rationale of the cancelation of environmental licenses from the legal perspective, in which condition it can be implemented, and its impact for wider interest of national development.

## **2. The Construction of Rembang Cement Plant and the Ecology for Sustainable Development**

The ideals and main agenda of sustainable development are the efforts to synchronize, integrate and give equal weight in several key aspects of development, i.e. economic, socio-cultural, and ecological or environmental aspects.<sup>8</sup> The idea behind it is that economic, socio-cultural and environmental development must be closely linked to each other so that the elements of this interconnected unity cannot be separated or contradicted.<sup>9</sup> The one to be achieved in sustainable development is by shifting the center of development from mere economic development to the inclusion of socio-cultural and environmental development.

The pattern of economic development that prioritizes the increase of local revenues and the objective of improving the living standards and the welfare of the people should at least begin to shift into a holistic and integrative approach with regard to social and cultural factors, local community participation and ecological factors. By involving community participation, it has the goal not to make local people feel marginalized in decision making.<sup>10</sup> Local community as a social capital in the process of supporting the development has different characters, including their socio-economic conditions that will affect the development process. Therefore, in order that the development process runs well and smoothly, then it is necessary to have the understanding to the local community with the aim of not going pros and cons so as

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<sup>8</sup> Hopwood, B., Mellor, M., & O'Brien, G. (2005), "Sustainable development: mapping different approaches," *Sustainable development*, 13(1): 38-52.

<sup>9</sup> Keraf, A.S. (2010). *Etika Lingkungan Hidup*. Jakarta; Penerbit Buku Kompas, p. 168.

<sup>10</sup> Suparno. (2017), "Community Participation and the Creation of Social Justice," *International Journal of Civil Engineering and Technology*, 8(8): 1095-1098.

not to cause tension and disputes continuously with a group of people and with the government.

The strength of local communities based on totality will be able to influence the development process. For example, every individual of Javanese society in the culture of Java should create an emotional balance in them.<sup>11</sup> Because in the principle of harmony the emphasis of value lies in the realization and maintenance of orderliness and social harmony, it is common, in his attempt, someone must be willing to suppress his emotions and interests.<sup>12</sup> However, social harmony and suppressing emotions can be different, causing tension among them because some groups of society have different interests including the influence of external groups. Hence, their understanding cannot be united. Like the construction of a cement factory conducted by PT. Semen Indonesia in Rembang Regency, some community groups have declined to build the cement factory because it is feared to damage the environment around Kendeng mountains, the decrease of water source around Watuputih ground water basin, causing landslide, and eliminating the livelihood of farmers. They are all the arguments for the reason of rejection. In contrast to a group of people who support the construction of the cement plant, they argued that the construction of a cement factory can increase employment for the local communities, and the Central Java Provincial government should still allow the construction of a cement plant in Rembang.

From the ecological or environmental side, development does not only bring benefits, but it also brings risks and the risks must be minimized in order to maintain a balance of life. The balance of life is preserved through the mutual relationships between humans and the surrounding environment, including plants, other living creatures and natural resources in order to maintain their sustainability. It can be seen in some areas of Indonesia that the development and exploration of natural resources have been performed. Consequently, the exploration activities have left the remnants of the impacts so that the ecology becomes damaged. Similarly, in the process of the construction of a cement factory in Rembang Regency, some community groups are concerned about ecological or environmental damage and will bring the impacts, such as decreasing ground water basin in Watuputih area, causing air pollution by dust, damaging the water system.

The benefits and risks will certainly not be separated, but the risk of ecological damage will not be felt at the moment. The risk will be felt in the next decades after the limestone rocks and karst areas are destroyed and used as cement making materials. Then, the carrying capacity and the capacity of the environment will be reduced so that it can lead to natural disasters. Therefore, both the benefits and risks must be balanced in the development process.<sup>13</sup> It is in accordance with the agreement on the High-Level Conference in Rio de Janeiro, Brazil in 1992, and agreed by all countries that development should be carried out in a sustainable manner.<sup>14</sup> However, until now, the paradigm of sustainable development is not like what it is expected in the conference.

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<sup>11</sup> Susilo, S., & Syato, I. (2016). "Common identity framework of cultural knowledge and practices of Javanese Islam," *Indonesian Journal of Islam and Muslim Societies*, 6(2), p. 184.

<sup>12</sup> Poerwanto, H. (2005). *Kebudayaan dan Lingkungan Dalam Perspektif Antropologi (Culture and Environment in Anthropological Perspective)*. Yogyakarta: Pustaka Pelajar, p. 222.

<sup>13</sup> Soemarwoto, O. (2004). *Ekologi Lingkungan Hidup dan Pembangunan (Environmental Ecology and Development)*, 4<sup>th</sup> Edition. Jakarta: Djambatan, p. 161.

<sup>14</sup> Quarrie, J. (1992). *Earth Summit'92. The United Nations Conference on Environment and Development*, Rio de Janeiro.

One of the causes of the failure to implement the paradigm is the poor understanding on the paradigm. It is not understood as the one containing the working principles that determine and animate the entire development process. In addition, this paradigm is not understood as the main principle of development politic. In the end, the goals and wishes to be realized behind the sustainable development paradigm are not achieved because the political principles of development that should guide the government and other parties in designing and implementing development are not adhered.<sup>15</sup>

Regarding the construction process of the cement factory in Rembang Regency of Central Java, the legal consideration of the judges was that mining and drilling activities on the CAT (basin) of Watuputih in principle is not justified since it disturbs the aquifer system. Then, in the AMDAL document (Analysis of environmental impact), the real condition of the mining area has not been described, particularly about the mining that will be performed and its impacts that will emerge in the future. Therefore, it will not guarantee the sustainability of the aquifer system in the CAT of Watuputih area. the mining carried out as reflected in the AMDAL results in the collapse of underground river walls and CAT (ground water basin) which causes some residents' concerns.

The consideration in the decision concerns the ecological importance, which means that there is always a correlation as a life buffer between development activities and the environment that must be considered in the construction process of the cement factory in Rembang Regency. It is affirmed in Article 7 of Act No. 5 of 1990 on the conservation of natural resources and ecosystem of life support system which is a natural process of various biological and non-biological elements that guarantee the survival of creatures. Therefore, this ecological sustainability will be achieved when there is a fundamental change in the national policy that gives priority to the preservation of life forms for local communities as a source of environmentally friendly economic livelihoods.<sup>16</sup> An environmental license is actually an administrative legal instrument that can be used by the Government Officials with the authority to regulate the ways by which businesses run their business.<sup>17</sup>

### **3. Cancellation of Environmental Licenses by the Supreme Court and the Urgency of the Strategic Environment Study**

Any development process suspected to result in environmental impacts shall be fulfill a license by the proponent. The obligation to propose the license for the proponent is the order of the Environmental Law regulated since the issuance of Act no. 4 of 1982 which was then amended by Act No. 23 of 1997 and subsequently amended with Act no. 32 of 2009 in the Articles 33, 41 and 56. As a follow-up to the provisions of the Articles, the Government subsequently issued the Government Regulation no. 27 of 2012 on environmental licenses.

Before the environmental license is issued by the Minister, Governor, Mayor, there should be a Strategic Environmental Assessment (KLHS). Strategic environmental assessment is required as a Government instrument used as an instrument for preventing pollution and/or environmental damage. It is then the policy base for the development plans and/or programs within a region as specified in Article 14, Article

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<sup>15</sup> Keraf, A.S. (2010). *Op.Cit.*, p. 167.

<sup>16</sup> Lisdiyono, E. (2017), "Environmental Legislation: A Study of the Shift of Spatial Policy in Local Regulation," *International Journal of Environmental and Science Education*, 12 (4): 597-605.

<sup>17</sup> Rahmadi, T. (2015), *Hukum Lingkungan di Indonesia*. Jakarta: PT. Raja Grafindo Persada, p. 94

17 of the Act No. 32 of 2009. When the result of strategic environmental assessment states that the carrying capacity and the capacity of the environment are exceeded, the activity is not allowed. Therefore, a strategic environmental assessment is needed as an instrument in the framework of self-assessment to see how far the policies, plans and programs will be better. Besides, the objectives of strategic environmental study as mandated in Act No. 25 of 2004 are:

- a. Supporting coordination among development actors;
- b. Ensuring the sustainability of development plans and implementation.
- c. Helping the creation of integration, synchronization and synergy between regions, inter-space inter-time, between government functions, and between center and regions;
- d. Ensuring the linkages and consistency in planning, budgeting, implementation and control;
- e. Optimizing community participation and
- f. Ensuring the efficient, effective, equitable and sustainable use of resources

In addition, the implementation of strategic environmental assessment is also expected to anticipate the impact of cross-boundary environmental effects and cross-sectoral, and, more importantly, to maintain the sustainability of environmental function and community safety in a sustainable manner.

Related to the issue of environmental license, the cement factory managed by PT. Semen Indonesia in Rembang Regency has become a debate between the community network of Kendeng mountain care who love the environment and the Government of Rembang Regency and Central Java Province. The issue is related to the issuance of the license no. 545/68/2010 dated October 14, 2010 concerning the granting of mining area license of Tras Exploration. Then, on January 18, 2011, Rembang Regent issued the exploration mining license, and on November 18, 2011, Rembang Regent issued the other decree No. 591/040 of 2011 regarding the granting of location license to PT. Semen Indonesia for cement plant, mining area, raw materials and other supporting facilities. Next, on June 7, 2012, the Governor of Central Java issued the Decree No. 660.1/17 of 2012 regarding environmental license for the mining activities of the cement factory of PT. Semen Indonesia in Rembang Regency of Central Java. Subsequently, the environmental licenses were filed by the Community to the State Administration Court of Semarang and the Appeal at the State Administration Court of Surabaya, but the lawsuit was rejected.

Concerning the verdict rejected by the State Administrative High Court of Surabaya, the community then submitted a re-examination to the Supreme Court and the result declared that the Central Java Governor's Decree No. 660.1/17 of 2012 regarding environmental license for the mining activities of PT. Semen Indonesia is void.

The legal considerations of the Panel of Judges of the review in their decision are:<sup>18</sup>

- a. CAT (groundwater reserves) constitutes a particular area where all hydro-geological events, such as the process of groundwater drainage, drainage and discharge take place, so that the provisions of Article 44 paragraphs (1) and (2) cover the CAT area;
- b. Precautionary and precise principles of good governance principles give direction to state organizers to be more focused on avoiding potential damage/

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<sup>18</sup> The legal consideration in the Judicial Review of the Supreme Court, p. 111 - 114.

harm than the benefit. In other words, to get the benefits, it must avoid potential damage.

Furthermore, the panel of judges had the opinion that the mining and drilling activities above groundwater reserves are in principle not justified. The determination of environmental licenses should be supplemented by the approval of the official establishing the status of the area and the environmental licenses of the Rembang cement plant were issued both by the Government of Rembang Regency and the Provincial Government of Central Java in which in fact the community was not involved in the appraisal process and not performed in an open manner.

In some sections of the Environmental Impact Analysis (AMDAL) document, they do not show the concrete solutions and illustrate the alternative ways to overcome the problem of people's needs, such as, lack of clean water and agricultural needs. It is in line with legislation and sustainability, prudential and precautionary principles in the preparation of environmental impacts analyzes which are the main supporters of the issue of dispute object. Based on the consideration, it is proven that the AMDAL document preparation had a defect in the procedure. Consequently, the decision of dispute object issued based on the AMDAL document in *mutatis-mutandis* contains juridical defect, so it should be declared void.

The Supreme Court decision clearly states that the environmental licenses had been declared void, so the licenses automatically do not apply, and practically the cement plant should not operate. Thus, the Provincial Government of Central Java and PT. Semen Indonesia must comply with and be subject to the decision of the Supreme Court, and there is also a political commitment to stop the cement plant. The Provincial Government and PT. Semen Indonesia should not impose their will by their political interest to keep open and operate the cement company. The Provincial Government of Central Java should see thoroughly not only from the aspect of development and economic improvement, but also the sustainable socio-cultural and environmental aspects must be the priority. Besides, one of the principal elements of the planning and implementation of the spatial planning is to control the utilization of space, by setting zoning regulation, licensing and giving spatial award.<sup>19</sup> If the above factors are not considered due to the state actors who make mistakes in policy making deviating from the provisions of the laws and regulations related to the environment. Ultimately the quality of the environment is damaged.

Accordingly, the good and healthy quality of environment and its sustainability is the right of every citizen as guaranteed in the 1945 Constitution in Article 28 H paragraph (1) and Article 33 paragraph (4) as constitutional rights.

Article 28 H Paragraph (1): *"Everyone shall be entitled to be prosperous, reside, and obtain proper and sound environment and medical services."*

Article 33 paragraph (4): *"The national economy shall be held based on economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental perception, independence, and by keeping the balance of the national economic progress and unity."*

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<sup>19</sup> Supriadi, S. (2016). "Legal Standing of Coastal Reclamation: Islamic and Positive Law Perspectives." *Hasanuddin Law Review*, 2(2): 258-276. doi: <http://dx.doi.org/10.20956/halrev.v1i2.312>. For more detail discussion of spatial planning from the legal perspective, see: Lisdiyono, E. (2008). *Legislasi Penataan Ruang Studi Tentang Pergeseran Kebijakan Hukum Tata Ruang Dalam Regulasi Daerah di Kota Semarang* (Dissertation). Semarang: Post-graduate Diponegoro University.



Based on the two articles above, it is clear that the 1945 Constitution also has accommodated the constitutional protection, both to its citizens to obtain a living environment and the security and sustainability of environmental order on the impact of national economic activity.<sup>20</sup>

#### 4. The Strategic Environmental Study of Kendeng Mountain Area for Sustainable Development

The environmental license of PT. Semen Indonesia after it was declared null and void by the Supreme Court of the Republic of Indonesia, the Central Java Provincial Government through Governor Ganjar Pranowo still insisted that PT. Semen Indonesia continues, and it reaped the pros and cons. The Central Java Governor's reason was that the content of the verdict does not state that the cement plant should be closed. The Central Java Governor even finally issued a new environmental license based on the Governor's Decree No. 660.1/6 of 2017 dated February 23, 2017 on environmental license. The license state that, first, there is a reduction of limestone mining area from 500 hectares to 298 hectares, and the area of clay into 98 hectares, which previously almost doubled. Second, there may be a clash between the environmental license and the results of the Strategic Environmental Assessment (KLHS). On the other hand, from the community group of Kendeng mountain care stated that when the environmental license had been canceled, of course the cement plant should not stand or operate.

From two sides of the opposite opinions, the central government's final view through the Head of the Office of Presidential Staff, Teten Masduki, stated that the strategic environmental studies (KLHS) will be performed to Kendeng mountain area. the KLHS of Kendeng mountains were made and implemented at the request of the farmers who are members of the Kendeng Community Care Network (JMPPK) to President Joko Widodo at the State Palace of Jakarta on August 2, 2016. From the results of the KLHS Study, the mining in Watuputih Water Basin Area (CAT) of Rembang Regency, Central Java, is temporarily suspended. This moratorium was enacted after the government announced the results of the Phase I (First) of the Strategic Environmental Assessment at of the CAT of Watuputih. The decree applies to 21 (twenty-one) companies holding the mining licenses (IUPs) in the region (Table 1).

**Table 1.** Location of Mining Business License in Watuputih.

|    |  |    |                     |
|----|--|----|---------------------|
| 1  | ICCI (Indonesian Comco Crown Industry) | 11 | Kurnia              |
| 2  | SAF (Sinar Asia Fortuna)               | 12 | Alfa Mineral        |
| 3  | Vinesco                                | 13 | CV Alam Mulyo Putro |
| 4  | CV Bio Alam Indo                       | 14 | CV DJS              |
| 5  | CV AMP (Alam Megah Putih)              | 15 | CV Salema           |
| 6  | UTSG (United Tractors Semen Gresik)    | 16 | PT BKM              |
| 7  | Wahyu Bumi Pertiwi                     | 17 | PT SBR              |
| 8  | Karangjati                             | 18 | PT BRP              |
| 9  | Bangun Arta                            | 19 | PT Tuder Kapur Bumi |
| 10 | Ahaka                                  | 20 | PT Semen Indonesia  |

Source: Kompas Daily, from the Report of the Implementation Team for Strategic Environmental Review Phase I

<sup>20</sup> Faiz, P.M. (2016), "Perlindungan Terhadap Lingkungan Dalam Prespektif Konstitusi," *Jurnal Konstitusi*, 13 (4): 771.

The results of the Strategic Environmental Assessment of the first phase, it was then continued for a second phase of the strategic environmental study chaired by Sudharto P. Hadi, the Former Rector of Diponegoro University, and the result of the Strategic Environmental Assessment of CAT Watuputih was on 12 April 2017. Teten Masduki, as the Chief of the Presidential Staff, said that the Strategic Environmental Assessment was divided into two stages. First, it was related to the CAT of Watuputih in Rembang zone, and secondly the entire Kendeng mountains crossing seven regencies in Central Java and East Java. In the issuance of the strategic environmental assessment, it was described that the CAT of Watuputih is a protected area according to the criteria in the national spatial plan and the process of establishing the karst landscape area (KBAK). With the protected status, it means that it is free from all minings, both licensed and illegal.

Concerning the decision of the strategic environmental assessment results in the first and second phase of the CAT (ground water basin) of Watuputih as a protected area, it means that if PT. Semen Indonesia will continue its mining activities of cement material, it will certainly impact on both social and ecosystem damage. Substantially, KLHS is an effort to directly assess the directions of utilization plan and spatial pattern to environmental indicators in providing the foundation for the realization of sustainable development. Besides, the essence of KLHS is a cooperation between development actors, district/ city, provincial, and central governments as a good governance in realizing sustainable development not only with the preferred project approach but the attention to the environment must also be our concern for the survival of humans and other living beings.

## **5. Conclusion**

The reason for the submission of the Environmental Licenses of PT. Semen Indonesia by the community of Kendeng mountain care was related to the process of filing the licensing of cement factory in Rembang which was not open and transparent to the public, and it was feared that there would be environmental damage to the CAT area (groundwater basin) of Watuputih. It is important to prioritize the prevention of potential damage/harm rather than taking benefits. In other words, the efforts of gaining the benefits must avoid potential damage.

The urgency in the Strategic Environmental Assessment as the Government instrument is its use as an instrument of prevention of pollution and/or environmental damage. Then, it becomes the policy basis for the development plan and/or program in a territory. It is specified in Article 14, Article 17 of Act no. 32 of 2009. Therefore, regarding the mining by the cement factory of PT. Semen Indonesia in Kendeng of Rembang Regency, the CAT area (groundwater basin) based on findings of the Strategic Environmental Assessment Team is a protected area so that the mining potentially causes the damage and it must be stopped.

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