

The Powerless of Strategic Environmental Assessment (SEA): A Case Studies of North Kendeng Mountain Area, Central Java, Indonesia

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Abstract. Strategic Environmental Assessment (SEA) is a new instrument of environmental management stipulated by Act 32 of 2009 regarding Environmental Protection and Management. This study observes the response of relevant government regarding the result of SEA studies. In August 2016, President Jokowi governed to conduct SEA for North Kendeng Mountain area due to the conflict between the government and investor preferring the utilization of this area for mining and local people demanding for conservation. North Kendeng mountain area is rich in limestone potentially utilized for cement, cosmetics, paint, and other commercial uses. However, this area is also storage for water that has been widely utilized for potable water and irrigation for local people. SEA is expected to mediate the conflict by recommending the area for exploitation and conservation. All relevant provincial governments: Central and East Java, and regencies: Grobogan, Pati, Rembang, Blora, Tuban, Bojonegoro and Lamongan agreed to follow up President's instruction. However, after the EIA studies finished, the provincial government of Central Java on their revision on spatial planning did not incorporate the EIA studies. The Regency government of Pati also refused to incorporate the EIA studies. Institutional and substantial arrangement are required to make SEA studies workable and implementable.

Keywords: SEA; resistance of governments resistant; institutional and substantial arrangement.

1 Introduction

North Kendeng Mountain area covers two provinces: Central and East Java, and seven regencies namely Grobogan, Pati, Rembang and Blora in Central Java and Tuban, Bojonegoro and Lamongan in East Java. This area is rich in limestone potentially utilized for raw materials for cement, cosmetics, paint, and other commercial uses. On the hand this area is also a storage for water resource has been widely utilized for potable water and irrigation for rice fields for local people. The conflict involves the government and investors prefer to utilize the area for mining and local people supported by academician and NGOs demanding for conservation. The conflict started in 2008 when cement stated-owned company initiated to build a cement factory in the district of Sukolilo, Pati Regency followed by similar conflict in the district of Gunem, Rembang Regency in 2013. Another conflict occurred in the district of Tambakromo and Kayen, Pati in 2012 between cement private company and local people. This conflict drew the attention of President Jokowi and met JMPPK (Community Network for North Kendeng Mountain) representing local people in August 2016. To accommodate different interests President Jokowi agreed to conduct Strategic Environment Assessment for North

Kendeng Mountain area as an ecosystem covering two provinces and seven regencies and expected to provide a recommendation area for mining and conservation. However, the government of Central Java Province and Pati Regency on their revision of spatial planning did not accommodate the recommendation proposed by EIA studies.

2 Literature Review

Under Act 32 of 2009 on environmental protection and management, new stipulations were enacted including strategic environmental assessment. SEA was introduced to deal with the weaknesses of environmental impact assessment (EIA) initiated in 1986 under Act 4 of 1982 on Basic Principles of Environmental Management. Since EIA launched, thousands of EIA documents for a variety of projects has been published. However, many EIA documents did not address the main environmental and social issues and the environmental management and monitoring plan were not implemented. Consequently, even though many projects have been completed by EIA studies, but they still cause severe environmental and social impacts. EIA is implemented at the downstream phase when economic and technological feasibility studies have finished, while SEA is at the upstream stage

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when spatial planning still being discussed. In other word, SEA is addressed to formulate policies, plans, and programs while EIA is adopted at project level [3]. The purpose of applying SEA is to integrate environmental aspects at the earliest stage of planning. [5]

Article 15 (2) Act 32 of 2009 stipulates that SEA is obliged for the government to adopt SEA for formulating or evaluating spatial planning and a long term development planning. However, there is no sanction imposed for the government who did not implement SEA. Practically, SEA has generally treated informality and substantially does not based on environmental carrying capacity and carrying capability as required by Act 26 of 2007 on spatial planning and Act 32 of 2009. From the perspective of the provincial and local governments, the two criteria will discourage the investor to invest their capital, in turn, will slow the economic growth. According to Act 32 of 2009, environmental carrying capacity shall be the capacity of the environment to support the life of humans, other creature and balance of both, while environmental carrying capability shall be the capacity of the environment to absorb substances, energy and/ or other components coming into or introduced into the environment.

3 Research Method

This is descriptive analysis research in which focuses on reviewing the process after SEA studies finished, also the response of relevant governments toward SEA studies related to the revision of their spatial planning. The data collection techniques included literature review, physical and social observation. The data were analyzed qualitatively.

4 Result and Discussion

Initially and substantially local and provincial governments prefer to utilize the karst area for mining use. It was expressed at the spatial planning of Central Java where the Sukolilo karst area has been allocated for mining use. It is also true for groundwater basin (Cekungan Air Tanah or CAT) of Watuputih and its surrounding at Rembang Zone have been utilized for mining use. Until the SEA studies are done, there are twenty-one mining permits were issued by local and provincial governments.

On October 9, 2016, the Supreme Court governed the Governor of Central Java to cancel the environmental permit of cement factory in Rembang due to the sue by local people. Three months after the Supreme Court Decree, the Governor followed up the Supreme Court's instruction but he allowed the cement company to improve their EIA through Addendum EIA. The rationale behind the addendum was because the mining area was narrowed from 571 hectares to be 291 hectares. The Provincial EIA Commission approved Addendum EIA and based on this approval the Governor issued a new environmental permit on February 23, 2017. By that time, the initial report of SEA showed that CAT

Watuputih meets the criteria for KBAK (Karst Natural Landscape Area) need to conserve. The result of SEA studies was submitted to the Ministry of Environment and Forestry then sending to the Central Java Governor as a basis for his response to Supreme Court instructions. However, the Governor responded by giving the opportunity to cement the company to improve EIA. When the SEA studies were released, many appreciated the SEA results. However, the provincial government of Central Java refused the recommendation of SEA studies. The response is related to the on-going mining activities at CAT Watuputih that should have been stopped during further research by Geological Agency.

Another indication that the government of Central Java did not incorporate SEA studies was that on their revision of spatial planning 2010-2030. As mentioned by tAct 32 of 2009 that spatial planning may be revised every five years. Until the last discussion, the special committee (Panitia Khusus) of Provincial Representative Council did not take into account of SEA studies. In November 2018, JMPPK mobilized people and visited the Provincial Representative Council to encourage them to accommodate EIA Studies. However, until the document sent it to the Coordination Council of Spatial Planning in Jakarta, there is no indication of the incorporation of SEA studies. The problem related to the implementation of SEA in mediating the conflict between corporates and community has been raised. [1, 2]

In October Ministry for Forestry and Environment initiated to invite two provincial governments and seven regencies to discuss the result of SEA studies. After the discussion, the Regency of Pati and Rembang responded. Pati Regency in principle refuse the SEA studies. They argue that they have their planning if they follow SEA studies they were worried could not realize the plan.

5 Conclusion

Even though SEA studies were instructed by President Jokowi, the results were not incorporated in the revision of spatial planning of Central Java and some regencies in Central Java. The province of East Java and other regencies did not response explicitly related to SEA studies. Act 32 of 2009 obliges the government to adopt SEA for formulating or evaluating spatial planning but does not stipulate any sanction for the governments disobeying the law on SEA studies. Local people formed Community Network for North Kendeng Mountain may still have the right to sue the government based on the stipulations that spatial planning must be based on environmental carrying capacity and environmental carrying capability. SEA studies have recommended the area for conservation and mining. Institutionally, it is required to give back the mandate adopting SEA to the President through the Office of President's Secretariat as a mandate holder. The President supposed to instruct the relevant Governors and Regencies to internalize SEA studies on their development policies through spatial planning and long term development planning. If the similar studies will be done in the future, it is required to

involve provincial and regencies governments to be the team member so that intensive discussion during the process of studies will be done and the result substantially will be workable and implementable.

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