

Local Government Authority in Control Pollution and Destruction Environment in the City Manado

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Abstract- The purpose of this study are: a) to know and understand the nature of local government in controlling pollution and / or destruction of the environment; b) To know and understand the relationship Government Authority and Local Government Impact Pollution Control and / or destruction of the environment; and c) to know and understand the factors that influence the effectiveness of pollution control Upper and / or Destruction of the Environment in the city of Manado. To achieve the research objectives, the type of research is a normative-empirical research are presented and processed qualitatively using deductive argument. The results showed that the government and local authorities not to apply the principles of the protection of the public on pollution and / or destruction of the environment in accordance governance rules of good environmental governance, regulation and local government affairs division in the field of the environment is still not mandatory that basic services are not fully materialize principles of autonomy and licensing business or activity between provinces and local districts / cities do not reflect the arrangement of public space, industrial and residential.

Index Terms- Local Government Authority, Pollution Control, Destruction Of The Environment

I. INTRODUCTION

The environment is a gift from Almighty God that must be preserved and developed ability to remain can be a source of support for human life and other living creatures for the sake of survival and improved quality of life itself. Government and local government in the management of natural resources should be done in a planned, rational, optimal responsibility and in accordance with the carrying capacity by giving priority to the overall prosperity of the people and with regard to preservation and environmental balance for sustainable development.

In the frame of the unitary state, the constitutional basis of local government and environmental protection, regulated the Constitution of the Republic of Indonesia, 1945, article 18 paragraph (1) shall be declared the Republic of Indonesia is divided into provincial regions and these provincial regions shall be divided into districts and The city, which each province, district, and the city has a regional government, which is regulated by law ", Jo paragraph (2): the provincial government, regency, and the City set up and manage their own affairs according to the principles of autonomy and co-administration, Jo subsection (5): the regional government run broad autonomy, except for governmental affairs determined by law as the affairs

of the Central Government, Jo subsection (6): local government the right to set local regulations and other regulations to implement autonomy and duty of assistance, Jo paragraph (7): composition and procedures of the regional administration stipulated in the legislation (Amendment II).

The concept of environmental protection and management demands the development of an integrated system in the form of a national policy of environmental protection and management should be implemented in strict accordance with principles and consequences from the center to the regions (General Explanation of Law No. 32 of 2009). Integrated system, in the protection and management of the environment, one of which relates to the implementation of licensing in all areas of the environment such as forestry, mining, plantation and other fields (Helmi, 2011: 140). From the aspect philosophy and sociological, setting the legal responsibility of the government and local governments in the field of protection and management of the environment, is mentioned in the preamble to weigh on the Law of the Republic of Indonesia Number 32 of 2009 on the Protection and Management of the Environment, stated that the spirit of regional autonomy in the administration government of the Republic of Indonesia has brought change and the relationship between the authorities and local governments, including in the field of environmental protection and management. While the judicial aspect, the responsibility of the state to maintain a sustainable environmental order described in Article 1 paragraph (2) of the Constitution of the Republic of Indonesia Number 32 of 2009 on the Protection and Management of the Environment (UUPPLH), stated that the protection and management of the environment is systematic and integrated efforts are being made to preserve the function of the environment and prevent pollution and / or damage to the environment that includes the planning, utilization, control, maintenance, supervision, and enforcement. Government institutions both at the central level to the areas, have a great responsibility in efforts to improve environmental quality which is better to prevent the impact of economic development, social and cultural.

In the era of regional autonomy, setting the government's responsibility in the environmental field, to the government authorized some government affairs to the Governor as representative of the Government (Article 5 paragraph (b) by Law No. 32 of 2004). In the case of obligatory functions under the authority of provincial government, including environmental control. The same powers exist in local government to the district / city, the obligatory functions in the environmental field.

With the enactment of the Law of the Republic of Indonesia Number 23 Year 2014 on Regional Government, which replaces

the Law of the Republic of Indonesia Number 32 of 2004, management of the environment as a mandatory government affairs that are not related to basic services. In the Act, the division of government affairs obligatory nature and focused on matters relating to the choice of basic services or public services. In addition, the division of government affairs, provincial government, and government districts of the city, seen from across the province / state, inter-district / city as well as in the administrative area of its own.

In particular, the legal arrangements for environmental management in relation to regional autonomy, scope of duties and authorities of the government one, mentioned in Article 63 paragraph (1) letter n Law of the Republic of Indonesia Number 32 of 2009 on the Protection and Environmental Management, namely " to provide guidance and supervision on the implementation of the national policy, local regulations, and regulations head area ".

In the administrative affairs of the provincial government, the scope of duties and authorities in the field of environmental management, provided for in Article 63 paragraph (2) g Law of the Republic of Indonesia Number 32 of 2009, stated that coordinate and implement pollution control and / or environmental damage cross district / administrative affairs city. While district / city government, the scope of duties and authorities in the field of environmental management, provided for in Article 63 paragraph (3) letter (i) of the Constitution of the Republic of Indonesia Number 32 of 2009, it was stated that the conduct training and supervision observance responsible for a business and / or activities on environmental licensing requirements and legislation.

The essence of the legislation in the field of management above, confirms that the protection and management of the environment, should be run in an integrated and synergy between the government, the provincial government and city district governments within the framework of the unitary state and the principle of local autonomy. In the context of Indonesian nationality governance closer on the joint Federal government-like Arrangement Canadian version, which puts residual power (residual power), remain on the central government as the hallmark of a unitary state (CF Strong, 1966). Affairs division of environmental management in a decentralized way or so-called principle of autonomy and duty of assistance shows that the Law of the Republic of Indonesia Number 32 Year 2004 adopts General Competence or Open End Arrangement (Nurcholis Hanif, 2005: 155-156)[1]. More detailed Nurcholis Hanif stated that the surrender of General Competence The way this is embraced by Act No. 22 of 1999 and Law of the Republic of Indonesia Number 32 Year 2004. Article 7 paragraph (9) and paragraph (2) of the Constitution of the Republic of Indonesia Number 22, 1999 explains that: The authority area covers all aspects of government authority, except the authority in the field of foreign policy, defense and security, justice, monetary and fiscal, as well as other fields of religion. Authority include national planning policy and development control macro national, and the financial balance of the state administration system and state economic institutions, guidance and empowerment of human resources, utilization of natural resources and strategic high technology, conservation and national standardization. Thus all authority is the authority

mentioned outside the area. While on the Law of the Republic of Indonesia Number 32 Year 2004 as the improvement of the Law of the Republic of Indonesia Number 22 of 1999 also embraced Open End Arrangement or the General Competence in this Act under the authority of the central government is foreign policy, defense, security, justice, monetary and national fiscal, and religion (Nurcholis Hanif, 2005: 155-156)[1].

From the description above, shows the distribution of cross-government affairs in terms of environmental protection and management. Apart from that, the fundamental of setting environmental law, regarding control. At this point, the problems found in the field of environmental law primarily related to business licenses. The negative impact of granting business licenses will cause environmental pollution.

Business license arrangements affecting cross-contamination is the responsibility of the government is based on the division of affairs, the regulations have been regulated in the Law of the Republic of Indonesia Number 32 of 2009, declared "Article 13 paragraph (2): pollution control and / or damage to the environment referred to in paragraph (1) includes: a. prevention; b. prevention; and c. recovery ". Jo paragraph (3): Control of pollution and / or damage to the environment referred to in paragraph (1) shall be implemented by the government, local government, and responsible for a business and / or activities in accordance with the authority, roles, and responsibilities of each ".

Implementation of the legal arrangement above, the reality does not run in accordance with the applicable provisions of both the government as well as businesses publisher permission, so the impact on pollution and environmental destruction. One of the benchmarks to look at environmental issues, the strategic environmental assessment (SEA). In the study, contains the following formula:

- a. Carrying capacity and environmental carrying capacity for development;
- b. Estimates on the impact and environmental risks;
- c. Performance services / ecosystem services;
- d. Efficient use of natural resources;
- e. The level of vulnerability and adaptive capacity to climate change; and
- f. Level of resilience and biodiversity potential.

As for the environmental cases in the form of pollution and environmental degradation as follows (Wijoyo Soeparto, 2013: 4)[2] : First, the case of contamination of times Sidoarjo, East Java (Lapindo mudflow case). In this case the government entered into a contract with the works of PT Lapindo Brantas. Step treatment that has been done by making a levee proven unsafe, because several times dam burst caused mudslides in some villages. Efforts to overcome by throwing mud to the sea will create new problems, which will disrupt marine biotic and pollute marine waters and coastal areas; Second, pollution of the marine environment in Buyat Bay caused by the gold mining industry waste disposal by PT. NMR is happening in Buyat Bay have led to the disease is considered as a disease "Minamata", a type of disease that have occurred in Japan as a result of food consumed contaminated by heavy metals such as arsenic and mercury.

Of the two cases of pollution and environmental destruction, shows that in development activities, industrial activities, business and various other human activities, is an important indicator in seeing that the existence of a fault in the control, supervision and enforcement, especially publishing business license by the government, and the provincial government district / city governments.

Government in issuing environmental permits for business or industrial activity, more formal procedure approach rather than keep the substance of the order of elements of the environment that is whole and complete unit interacts to balance, stability, and productivity of the environment. The issuance of an environmental permit by the government on foreign companies and large-scale, which do not involve direct community impact receiver in decision-making on future business activity, thus making the position of local governments as responsible parties. On the one hand, setting the environmental permit for this type of business activities under the authority of the government, but on the part of the other, involving local governments and communities are very limited impact in strategic decision-making regarding the environmental permit.

FORMULATION OF THE PROBLEM

Based on the background mentioned above, making it more concrete, the following research questions: How is the relationship of government and local government authorities in controlling the impact of pollution and / or destruction of the environment.

RESEARCH PURPOSES

1. To know the relationship of authority government and regional governments control the impact of pollution and / or Destruction of the Environment.
2. To know and understand the factors that influence the effectiveness of Upper Pollution Control and / or Destruction of the Environment in the City

BENEFITS OF RESEARCH

This study is expected to provide several benefits:

1. The theoretical benefits of this research is to formulate the concept of authority and effective measures taken by the government in the area of pollution control and / or destruction of the environment.
2. Practical benefits of results of this research that provide insight into the nature of authority and effective measures taken by the government in the area of pollution control and / or destruction of the environment.

II. RESEARCH METHODS

This study uses the type-normative empirical research. Research normative law, which is a study primarily examines the provisions of positive law, principles of law, the principles of law and legal doctrine in order to address the legal issues that face. Also research then uses the type of empirical research (socio legal research) items, namely the implementation of legislation that applies. Reviewing legal and non-legal aspects. problem approach used in this study is the approach of legislation (statute

approach), and approach cases (case approach). Then approach conceptual approach to describe the nature of the regional authority in the frame of regional autonomy.

III. RESULTS AND DISCUSSION

1. The principle of the division of affairs externalities for pollution control and / or destruction of the environment on the concept of a unitary state, the implementation of government affairs both at the government and at the local government level is always executed according to the legislation in force, since the reforms of 1997 the changes were large enough and complex in the area of state administration, it is marked by the birth of a number of the norm of law - new regulations, especially with regard to local governance.

Government authority there are six affairs, in addition to this, there are governments that are concurrent affairs, government affairs are handled by the local government. Each affair concurrent nature of affairs in which there is always handed over to the provincial government, and there IS ALSO affairs submitted to the district / division of authority that concurrent city. Embodiment certainly not easy to implement if not done proportionally between the government, provincial and district / the city, for which the necessary criteria as a standard in doing the division of authority. Mandatory government affairs is government affairs relating to basic services such as primary education, health, subsistence minimum, and environmental basic infrastructure. Affair option is closely related to the excellent potential and uniqueness of the area. Functional assignment mechanism and authority in local governance set out in Article 9 paragraph (1) of Law No. 23 of 2014 states that Government Affairs consists of absolute government affairs, government affairs concurrent, and Government public affairs. Implementation and delivery mechanisms of accountability information report Head Regions need to pay attention to things that, every end of the year and the end of the term of office of the Regional Head shall submit a report on the regional administration to the President through the Minister of the Interior and shall submit reports information accountability in the implementation of decentralized tasks to the Council, with a copy to the Minister of the Interior. The provisions stipulated in Government Regulation No. 108 of 2000 held adjustments include: Reports Regional Head accountability information presented and discussed in a plenary session of Parliament; Regional Head accountability statement report contains information from the Regional Head of Parliament in the discharge of Regional Head for a certain period or the end of the term, as the material for the Parliament in setting policy and implementing local government policy control function; Results of the discussion by the Parliament established by Council Decision in the form of notes that are positioned to be guided by the Regional Head in the execution of their duties. Service components within the framework of the implementation of government and public services is based on the classification of areas of government authority area is guided by the provisions of the Law of the Republic of Indonesia Number 23 Year 2014 on Regional Government. Classification of the field of government authority that is processed by the legislation are as follows:

- a. General Government Sector
- b. Agriculture and Livestock
- c. Field of Fisheries and Marine Resources
- d. Forestry and Plantation
- e. Of Industry, Trade and Cooperatives
- f. Investment Sector
- g. Health
- h. Education and Culture
- i. Public Works field
- j. Transportation field
- k. Environmental Sector
- l. Population field
- m. field of Tourism
- n. Land Affairs

One mechanism involves the implementation of the supervisory relationship is second line enforcement of environmental pollution, legally ministers can apply administrative sanctions against the party responsible for a business and / or activities if the government considers the local government deliberately not applying administrative sanctions against serious violations in the field of environmental protection and management life.

The local government is a national government subdivision. In a unitary state local government directly under the central government, while the state union and the local government is dependent subordinate against the central government, while local governments within the state union is independent of the state and coordinated, thereby either unitary or federal state local government is not separated entirely from the national government system. Therefore, between the government and local Governments on the relationship between the government are intertwined to form a national unity government. A national Governments, there are two subsystems items, namely: a) the central government subsystem and b) subsystems regional government, the local government subsystems are subsystems of government smaller area. For example, in Indonesia there is the central government the which is composed of the president and secretary-minister, in the area of local government there is a subsystem consisting of a provincial government the which is composed of the governor and the Provincial Parliament and local government subsystem Cities counties and even village governance subsystems Consist of the village head and village Consultative Agency. Interwoven between subsystems and sub-subsystems such government formed a national government system is a vehicle to Achieve stated goals.

This condition can be Achieved if the relationship between systemic Reviews These subsystems can produce when the subsystem with the sub-systems work, can be run in accordance with Reviews their respective functions in harmony, harmony and harmonious. If he runs opposites, the one to the left to the right while the other is not well coordinated, do not focus on the goals set then Becomes inefficient governance, the which in turn miserable people. In order rapport systemically government was formed with maximum effectiveness, each country develops the relationship between state agencies and intergovernmental relations at all levels of government at the national level is set relations between state institutions and the relationship between

central government and local Governments, in the area governed relations between local institutions and the relationship between local Governments. Procedures and mechanisms of inter-governmental relations as stipulated in the constitution and legislation implementation. The basis for the formation of local government is the government that is tiered, or multi-storey is the Constitution of the Republic of Indonesia in 1945, in the 1945 Constitution NRI has set about conception Indonesian state administration, therefore, any regulations made with regard to local government must not conflict with the Constitution of the Republic of Indonesia, 1945. The existence of levels within the government system has implications for the relationship between levels of government, the local government laws, as stipulated in the laws of local government, that local Governments in conducting the affairs of government has a relationship with the government and with other local Governments. then the relationship includes a relationship of authority, finance, public services, utilization of natural resources, and other resources. "

In breaking down of the relationship between the state and local Governments, should first be Noted that the state Indonesia is a unitary state, so that the implementation of the principle of decentralization in Indonesia is Carried out in a unitary state.

Rights autonomy granted to regions under Article 18 1945 Constitution NRI Showed that state sovereignty is the attribute Homeland, and not be an attribute of the parts of the country ,, which only Obtain Reviews their rights from the state that actually part of dar given the right to Reviews their own country (zelfstandig) but not independent (onafhankelijk) and can not be separated from or parallel to the state. Thus, the caving or central government has the last word on the provisions concerning limits of autonomy, either positively or negatively such. This is consistent with the intent of on decentralization and deconcentration, the which is Essentially nothing more than a medium or manner to conduct local government to find the best of the good. Related government relationship between the state and local Governments, related to the surveillance system established governmental relationship management within a country, the system of local government oversight based on two-dimensional "items, namely (Nurcholis Hanif 2005: 60)[1] :

- a) Control hierarchy, ie the hierarchy surveillance monitoring pattern spectrum ranging from inter-organizational (between Organizations) to the intra-organization.
- b) Functional control items, namely functional supervision supervision spectrum ranging from surveillance Carried out by the institution whether functional / sectoral (function basis) or done holistically (interior ministry) by the government. Supervision by the institutions Carried out by means of functional institutions supervision over local Governments by agents sectoral ministries in particular to matters being done in the field of holistic means duties. Supervision of local government oversight Carried out by government agencies that are general or known representatives of the central government in areas for example the governor. The authority of the governor in conducting surveillance because of his position as a government representative in the area (general-purpose administration / agency), the clearer its position as

stipulated in Government Regulation No. 19 Year 2010 Procedures and the Duties and Powers of Financial Position as Deputy Provincial Governor. Defined Regional Government in this government regulation Juridical position of governor has been clear in coordination and supervision for local government district and the city, moreover, the Governor was given Determine the area of authority to the secretary of the district / city, and may provide penalties for regents / Mayors that do not respect Participated in the meeting / consultation or coordination with the governor.

Authority relationship model applied in the Law of the Republic of Indonesia Number 22 of 1999 received criticism from various circles, therefore, established the Law of the Republic of Indonesia Number 32 Year 2004 on Regional Government. Some of the things that distinguishes are :

- a. Regional head directly elected by the citizens of the autonomous regions
- b. Regional heads are not accountable to Parliament but is responsible to the president and the people who elected
- c. Parliament can not dismiss the head of the region for refusing to account
- d. The position of the governor as a representative of the central government reinforced
- e. Government affairs which is compulsory and the authority of the local government has determined attributive both for provincial and district / city, just a different scope. Provinces within the scope of cross-district / city, while the county / city within the scope of their respective areas
- f. In the autonomous region formed vertical agencies to carry out government affairs under the authority of the central government and administration of field can be formed in order deconcentration and assistance to other matters.
- g. Government exercise repressive supervision over government policies
- h. Village Representative Body is converted into the Village Consultative Body roomates only serves as a policy maker village together with the village head and channeling the Aspirations of the people.

As a consequence of decentralization, the relationship between the government and local Governments in unitary states required a comprehensive, understanding of the pattern of the relationship. The basis of the relationship between the government and the central government is the government administration to give up some authority to local Governments to set up and taken care of itself as its own internal affairs. This means that the area has the freedom and independence to Regulate and manage the affairs of government has Become authority roomates. Freedom and independence of local governments to regulate and administer it should remain in state bonds of unity as the basis for governance mechanisms in the country (Murhani Suriansyah. 2008: 1)[3]. Then to maintain the freedom of the country is not out of the bond of unity, the necessary supervision, media to coordinate between the

government and the local government as a media control of the local government (Murhani Suriansyah. 2008: 1)[3].

The form of the relationship between the government and the local government is the realm that is never complete issue, form relationships Potentially tug, like a *pendulum* the which is constantly moving dynamic, of dimensions that are sometimes greater power to the government, and greater Also in to local Governments dynamics will be a problem if the governance is not Carried out in accordance with the legislation in force. Therefore we need guidance, supervision and evaluation, the which can provide feedback or reward to the regional administration. Coaching, supervision, and evaluation conducted by the government to governance and affairs are handed over to local Governments with an aim to Prevent dispute or undesirable conflict between the government and local authorities. Guidance on the implementation of the area carried out by local governments conducted by the local government legislation, while the form of guidance by the government as stated in Article 373 which states that :

1. Central Government to provide guidance and supervision of the regional administration of the province.
2. Governor as representative of the Central Government to provide guidance and supervision of the regional administration district / city.
3. Guidance and supervision referred to in paragraph (1) nationally coordinated by the Minister.
The relationship includes :

- a. Division of Government Affairs;
- b. Regional institutions;
- c. Personnel in the Region;
- d. Regional Finance;
- e. Regional Development;
- f. Public Services in the Region;
- g. Regional Cooperation;
- h. Regional Policy;
- i. Regional Head and Parliament; and
- j. Another form of guidance in accordance with the provisions of the legislation.

Supervision Referred to in this law is that the implementation of government affairs in the area can be run in accordance with the standards and policies of government based on laws and regulations. Supervision of the government or local government it could be a preventive and repressive action. Preventive supervision is a precaution to avoid distortions of the operation of affairs, supervision is done by giving a prior approval by the central government or local Governments on it, against a rule before the rule was implemented a region by the government. While repressive supervision is an act undertaken by the government on it with the aim of giving concrete action in the form of strict sanctions against infringing on Carried in running the affairs of the authority. Associated with preventive surveillance and repressive control, by Tonner (Manan) suggested that preventive and repressive control supervision Supervised commonly called classic, apart form the third control is a positive control. Including the positive control is the

manufacture of instructions or guidelines. The presence of a positive control raises another classification means that a positive control and a negative control. Because known positive control, over the top-level government Actively initiate blocking action (tegen) Negligence (nalaten) a lower level of government. Because of known negative control, only preclude an action that has been performed both measures that do not have a legal consequence, or who already have legal consequences. Preventive and repressive control supervision classified into the form of a negative control.

Supervision Referred to in this law is that the implementation of various government affairs in the region can still be run in accordance with the standards and policies based on laws and regulations. Besides government authorized to supervise the implementation of local government, can also provide guidance in the form of rewards and sanctions.

Setting the relationship of authority between the central government and local Governments must show the hierarchy of government, so that between the government and local Governments do not walk alone but in line with each other so as to create synergy law in the state system. Changes in the Law of Regional Autonomy Law of the Republic of Indonesia Number 22 of 1999 to the Law of the Republic of Indonesia Number 32 Year 2004 showed consistency seat of government hierarchy. Stressing on what was to be handed over operationally, that government affairs, the submission raises matters that authorizes local governments to run such affairs. so even with the replacement of local government regulations with the Law of the Republic of Indonesia Number 23 Year 2014. Urusan governments are divided between the central government, provincial government, local government and district / city based on the premise that various governmental affairs remain under the authority of the central government always exist. If referring to the theory of transfer of power by the central government to local governments, state system of Indonesia adherents of the principle of general competence.

However, implementation of such authorities in the Indonesian constitutional practice has not been implemented in full. The division of government affairs as stipulated in local government law in addition to government affairs as much as 6 (six) affairs, and government affairs as much as 16 provincial affairs and local government affairs of the district / city as many as 16 affairs, there are still remaining or residual authority (residue of power) which is a principle adopted in the legislation of this regional government, which is the residue of this power under the authority of the central government as the authority of the unitary state.

Based on Reviews These descriptions, how Devolution is a combination of open-end ultra vires doctrine and general competence because the arrangement or the authority specified in the legislation but Also the freedom given to the area to run According to the principles of division obligatory and options based on the ability of each area

2. The principle of local government affairs division Accountability for pollution control and / or destruction of the environment.

The purpose of the legal arrangements regarding control of pollution and environmental damage in order to Realize the environment is good and healthy as mandated by the Constitution of 1945. Environmental NRI life as a gift and grace of God Almighty to the people and the nation of Indonesia is a space for life in all its aspects and Appropriate dimension with insight archipelago. In order to Utilize natural resources to promote the general welfare as mandated in the Constitution of 1945 and to Achieve happiness of life is based on Pancasila (Siswanto Soenarso).

Basic rules underlying the development and protection of the environment Indonesia contained in the preamble of the Constitution of 1945 in paragraph 4 which essentially obliges the government to utilize the natural resources that exist for many as-a lot of people's welfare. Thinking about the constitutional obligation of the state is the more elaborated further in article 33 of the Constitution of 1945, namely the principle of the state, the earth and all the riches contained Therein and into the lives of people controlled by the state to be used for people's lives, or in other words the country act as the general interests of the organizer (Bestuur Zorg) (Syahrul Machmud, 2012: 106)[4]. In general, implementation of pollution control environmental damage consists of prevention, mitigation, and recovery in North Sulawesi, according to the regional government of North Sulawesi province, in this case the Environment Agency North Sulawesi, North Sulawesi Government has made efforts to rehabilitate the various programs both forest and land damaged and greening as well as several other activities, as a form of concern for the environment and anticipate the environmental degradation that can result in disaster for the entire community of North Sulawesi.

Some of the activities that have been implemented by the Government of North Sulawesi Province by involving all government agencies, military / police, universities, Environmentalists, and society. activities that are conducted as beach clean-up carried out in the coastal Bay of Manado, Save Bunaken Activity Launched in late 2012. This activity aims to rescue Bunaken National Park in North Sulawesi as one of the icon of tourism in Indonesia worldwide. Follow-up in the management of Bunaken National Park area is the empowerment of communities through waste management group through the formation of groups Bunaken Bunaken Clean, Neat, beautiful, tongue, Healthy (BRITS)

Table 1. Environmental Rehabilitation activities carried out in North Sulawesi in 2012

No	Type Of Activity	Location
1.	Beach clean-up	Bunaken coast of Manado
2.	Beach clean-up	Manado Bay
3.	Tree Planting Around Spring	15 Districts / cities in North Sulawesi
4.	Planting trees across roads Tondano City	Minahasa District
5.	Planting trees in road Tanawangko-Tomohon	Tomohon City
6.	Planting trees on street pillar	South Minahasa District

7.	Planting trees in areas prone to landslides	South Minahasa District
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Source: Data Book SLHD North Sulawesi BLH 2012

In an effort to increase the capacity of the Audit Commission of the EIA Regency / City, then has carried out activities of guidance and supervision of the Audit Commission of the EIA Regency / City in the application of norms, standards, procedures and criteria (NSPK) through the socialization of legislation related to the implementation and assessment commission mechanism EIA the Audit Commission of the EIA both provincial and district / city, based on :

- a. Regulation of the Minister of Environment Number 05 Year 2008 on Working Procedures Audit Commission of the EIA,
- b. Regulation of the Minister of Environment No. 25 of 2009 on Development and Supervision of the Audit Commission of the Regional EIA,
- c. Regulation of the Minister of Environment Number 15 Year 2010 concerning Requirements and Procedures EIA Licence Audit Commission.

Environmental Impact Assessment (EIA) is an assessment of the significant impacts of a business and / or planned activities on the environment that is necessary for the decision-making

process regarding business or activity. Environmental Impact Assessment (EIA) is made when planning a project that is expected to give effect to the surrounding environment. What is meant here is the environmental aspects of abiotic, biotic and cultural. Environmental Impact Assessment (EIA) serves as an ingredient for regional development planning, helping decision-making process on environmental feasibility of the business plan and / or activities, provide input to the preparation of detailed design engineering of the business plan and / or activities, give input to preparation of management plans and environmental monitoring, to provide information for the public on the impact of a planned business and / or activities.

In accordance with the Regulation of the Minister of Environment Number 05 Year 2012 regarding Kinds of Business Plan or activities that are required to have the Environmental Impact Assessment, it is expected that with such provisions any business and / or activity always focuses on aspects of environmental management and monitoring of the negative impacts.

Based on the data existing, the Environmental Permit issued in North Sulawesi hose January 2013 s / d in December, 2013, totaling 12 Environmental Permit (both EIA and UKL-UPL), while based on the data from the Audit Commission of the EIA inventory in the City District are as follows:

Table 2. Total Environmental Permit issued by District / City in the province of North Sulawesi

No	Regency / City	Total Environmental Permit
1.	Manado city	0
2.	Bitung city	0
3.	Minahasa Distric	0
4.	North Minahasa Distric	1
5.	Southeast Minahasa Distric	0
6.	Bolaang Mongondow Distric	10
7.	East Bolaang Mongondow Distric	1
	Total	12

Source: Environment Agency Prov. Flammable, 2013

Based on the table above shows that the environmental permits issued by District / City in the year 2013 amounted to 12 Environmental Permit, District / City Highest Environmental Permit issuing is Bolaang Mongondow totaled 10 Environmental Permit.

Total overall Environmental Permit Regency / City and added to the Environmental Permit issued by the Province of North Sulawesi (12 Environmental Permit) totaled 24 Environmental permit.

In the case of environmental enforcement in North Sulawesi done in two ways namely submission verbally or in writing, handling environmental cases done in Part Postal Complaint Dispute Environment (P3SLH) and implementation of activities related to law enforcement involving the Civil Servant Investigators (investigators) and Officers Regional Environmental watchdog (PPLHD) in North Sulawesi.

Public complaints mechanism carried out in several stages, namely

- Acceptance of Complaint (oral, written and mass media)
- assessment Complaint (entered in the case of the environment or not)
- Verification Field
- Follow-up verification (the application of administrative sanctions, enforcement of civil law and criminal law)

Throughout the year 2013, the Postal Complaint Environment Agency North Sulawesi province has received a complaint of alleged pollution and / or destruction of the environment as much as 11 (eleven) of complaints received by mail, telephone / short message service, print media / mass media as well as orally and report directly to the Complaints Pos.

Table 3. Environmental Complaint Cases in North Sulawesi

No.	Problems of complained	Status
(1)	(2)	(3)
1.	Tanoyan Public Complaints regarding alleged gold mining activities without environmental documents and without the environmental permit by PT. Arafura Mandiri Sentosa	Have conducted joint verification of BLH North Sulawesi province and BLH Bolmong district.
2.	Complaints regarding alleged Nunuk Village Community groundwater contamination / wells population by PT. Marga Jaya	Has been verified by BLH . north Sulawesi province along BLH Bolsel District
3.	Complaints regarding alleged Talawaan Village Community environmental damage and pollution by Mr. Ferry Kaseger	Have conducted joint verification BLH District. North Minahasa
4.	Complaints Airmadidi Upper Village Society (Mr. Walukow) regarding the alleged pollution of river water (dead fish) by PT. Tirta Investama and PT. Ake Abadi	Have conducted joint verification BLH North Minahasa Regency
5.	Village Public Complaints regarding alleged Wangurer air pollution (dust) by PT. Mapalus Makawanua	BLH has delegated management to Bitung
6.	Village Public Complaints regarding alleged Pollution Madidir (dust) in the Village Madidir Bitung City by PT. Multi Vegetable Sulawesi	Have delegated handling of the BLH Bitung.
7.	Village Public Complaints Taas (Mr. Rival Dotulong) regarding alleged air pollution residential land ripening activities by PT. Dream Living	Have delegated handling of the BLH Manado
8.	Complaints regarding alleged Kembes Village Community Air Pollution (Bau) activities chicken farm by Mr. Liling	Have delegated handling of the BLH District. Minahasa
9.	Complaints regarding alleged Werot Village Community forest damage near the fountain by Mr. Village Head	Has been transferred to the handling of related sectors (Forest Service District. North Minahasa).
10.	Complaints regarding alleged Village Community Inobonto discharge wastewater without management by PT. Tolutug Marindo Primary	Have delegated handling of the BLH Distric. Bolmong
11.	Public Complaints through the mass media about the alleged pollution of river water by PT. Tri Mustika Cocominaesa	Has conducted field verification by BLH BLH North Sulawesi province and district. Minahasa South

Source Environmental Agency of the Province. North Sulawesi 2013

Implementation of Law No. 32 of 2009 on the Protection and Environmental Management not only addressed to the government and businesses, but the main goal is to communities

where community participation in environmental management is desirable.

Form products in the field of environmental law that have been and will be issued by the Provincial Government of North Sulawesi :

1. Draft Local Regulation Tondano watershed is one of the products in the field of environmental law that will be set by local governments to regulate Tondano watershed management as one of the natural resources play an important role in people's lives, especially in North Sulawesi regency / municipal government and other parties directly utilize the Natural Resources, Stages Tondano watershed Local Draft Regulation :
 - Agenda The draft Regulation (Ranperda) draft started from the year 2006 which is the period of making an academic paper.
 - 2007 was a period of preparation The draft Regulation (Ranperda).
 - 2008 was a period of socialization The draft Regulation (Ranperda).
 - The year 2009 has been processed by the Legal Secretariat North Sulawesi.
 - Year 2010 Regional Regulations will be discussed at the Parliament of North Sulawesi.
 - In 2012 the Regional Regulation is still under discussion at the level of the North Sulawesi Provincial Parliament (process validation phase)
2. In support of surveillance activities to businesses in North Sulawesi, North Sulawesi Provincial Government issued a legal product in the form of Governor Regulation No. 48 Year 2010 on the types of business / activity which must be equipped UKL / UPL.
3. In addition to the in 2010 have also been established Mangrove Working Group of North Sulawesi Province 2010-2014 through Letter Governor Decree No: 186 2010 with the task is :
 - a) Formulate and develop appropriate action plans and regional strategies mangrove ecosystem management;
 - b) Encourage synergy mangrove ecosystem management by the parties;
 - c) Recognize which problems and giving out alternative solutions to problems in the management of mangrove ecosystems;
 - d) Socializing on mangrove ecosystem conservation;
 - e) Implement rehabilitation programs / restoration of mangrove ecosystems;
 - f) Implement monitoring the implementation of mangrove ecosystem management;
 - g) Developing and integrating data / information management of mangrove ecosystems.

But the provincial government report Manado, contrary to the environmental reality of reclamation in the city of Manado, according to environmental experts Manado city, Prof. Mark, argued that, with the reclamation in the bay of Manado, causing environmental damage and provincial and local governments do not coordinate with each other and do not carry liability for environmental damage in the Gulf of Manado as the legal implications authority of the provincial government and the

Government of the city. Yet the implementation of good laws in the field of environmental protection in North Sulawesi.

3. Principle Division of Local Government Efficiency Up Pollution Control and / or destruction of the environment

Basically decentralization as a policy in governance, based on the fact that not all administrative matters can be carried out centralization, given the geography, demographics, complex problems in society, conditions of social structure and cultural diversity areas, as well as their demands for democratization in governance, In Indonesia, decentralization has become a consensus by the founder of the state, as provided in Article 18 of the Constitution of the Republic of Indonesia in 1945 which has been amended so that Article 18 increased to Article 18, Article 18A and Article 18B, these chapters that provide the legal basis for the implementation of decentralization.

In the division of government affairs, decentralization policies can reduce the workload of the government. According to G. Shabbir Cheema and Rondinelli that Decentralization could lead to the development of greater administrative capability Among local government and private institutions in the regions late provinces, Thus expanding Reviews their capacities to take over functions that are not usually performed well by central ministries, such as the maintenance of roads infrastructure investments in areas remote from the national capita. It could give local Officials Also the opportunity to develop skills Reviews their managerials (Cheema G. Shabbir & Dennis A. Rondinelli (1983: 15)[5]. Cheema and Rondinelli revealed that decentralized development programs in the hope of limitations can be reduced thereby maximized. With the implementation of a government based on the Aspirations of the people can be done ceoat, precise, effective and efficient.

The conception to increase the effectiveness and efficiency of governance by Maddick (Khoirun, 2005: 17) that decentralization is a way to improve the ability of local government officials and obtain good information about the local situation, to draw up programs more responsive areas and to Anticipate Arise quickly intervening when problems in implementation. Both decentralized concept built by Maddick is deemed Able to increase of the effectiveness and efficiency of the regional administration, in line with what is obtained from several regions in Indonesia that gives regional autonomy joyous face, the authority given to the regions has been able to improve the quality of public services and human development index. The local government is able to improve the welfare of society has always been characterized by political skills and managerial capabilities of regional heads.

Study of the positive impact of the implementation of the decentralization policy did little that can be felt by people who have a high commitment to the organization of government, but not a few who feel not optimal achievement of effectiveness and efficiency of the policy. Implementation of the regional authority in managing the household has not run optimally, due to the granting of authority is not matched by the ability of the region to develop its capacity as an autonomous region. Besides granting authority without fixing the characteristics of each region is also one of the causes of suboptimal local authorities in governance. In terms of effectiveness and efficiency of government implementation, can not be said to have been effective and

efficient for the implementation of Reviews their affairs authority of the provincial government is not yet clear, Although it is set by law and local government law on the management and protection of life environment. The implication is that there is a tug authority to take care of the affairs of the city of Manado administration. In the Data Showed that government Relating to pollution control and environmental degradation is found that basically the governance ince some regional autonomy policy has been Carried out by local Governments Manado, such as licensing, but will the policies issued by the government of the city of Manado is Often conflicting or inconsistent with the policy of not running the government. By Because of government policy and local government, then the potential for Disputes authority can occur. Their authority Possessed by the local government in running the affairs of government is the delivery or affairs delegated by the government, the which Became the basis of the relationship between the government and local authorities.

The relationship between the government and local government can be understood by using the theory of "gain power: (bevoegdheidverkijsing) which can be divided into two, namely:

1. Recognition of power (attributie) and
2. The delegation of power (overdracht) (Soewoto, 1990: 275)[6].

Then the delegation of power that can be divided into two kinds: the authorization (mandataisverlening) and delegation (delegatie). On the basis of the theory of the relationship between the government and local Governments can be classified into two kinds:

1. Relationships in relation to decentralization,
2. ties related to deconcentration and principles of assistance or medebewind.

Based on this view can be explained that in the context of this decentralization of local Governments act as delegataris and government as delegant. Local Governments as delegataris perform tasks on its own Behalf and responsible internal and external. Accountability addressed to the government internally while externally accountable to the public. Governments provincial and municipal governments to provide / issue permits reclamation support each other. In the initial process of processing and managing internal conflicts EIA parties and the inclusion of bureaucratic interference so that it can be said EIA only as a complement to the formal requirements to Obtain a permit, the monitoring Carried out has no effect on the licensing process (Makanahap Emmanuel Philip, 1999)[7]. Manado bay waters located in the western part of the capital of North Sulawesi province is geographically located on 124,38° east span and 1,23° east span 124,51° north latitude up to 1,40° north latitude. Bodies has a wide ± 150 000 hectares and is part of the Sulawesi sea.

General Spatial Plan of the City (RUTRK) Manado Year 1990-2010 was essentially a revision of the City Master Plan (CMP) Manado Year 1985-2005. In accordance with RUTRK Manado years 1990-2010 integrated action plan the location of Manado bay reclamation included in Section Urban Area (BWK)

I namely Titiwungen region, Wenang South and North Wenang, BWK II, namely Malalayang I, Malalayang II, and BWK III namely, Shoulder, Sario Tumpaan, and North Sario. The purpose of BWK I was a major center of the city with the main function of trade. BWK II directed as residential development, health services, inter-city terminal, development of beach tourism area. BWK III, an education center with a variety of complementary facilities. Then the material resources of land located in the region Tikala BWK New V and VII of the region Kairangi BWK I. BWK V directed as office area / administration and settlement limited. BWK VI functioned for the development of residential areas and small-scale industry.

Manado Bay reclamation activities are activities Whose implementation in the form of integrated circuits ranging from hoarding itself up to the government utilization. For construction on reclaimed land is an attempt to provide a new area in order to build the business activities and strategic steps that can Anticipate the future era of globalization. Development and utilization of land reclamation Carried out by :

- a) PT. Megasurya Nusalestari
- b) PT. Multicipta Perkasa Nusantara
- c) PT. Shoulder Cipta Perkasa
- d) PT. Papetra Perkasa Utama

Overall width is 98.5 reclaimed coastal Ha, with details of PT. Megasurya Nusalestari area of 65 hectares. PT. Multicipta Perkasa Nusantara area of 24.5 hectares. PT. Cipta Perkasa shoulder area of 7.5 hectares, and PT. Papetra Perkasa Utama with area of 1.5 ha. This beach reclamation scattered in several area District and Sub namely:

No	Executive	Sub-district	Political District Administered By The Lurah
1	PT. Megasurya Nusalestari	Wenang, Malalayang	Wenang Selatan Malalayang I Malalayang II
2	PT. Multicipta Perkasan Nusantara	Sario	Sario Tumpaan Sario Utara Titiwungen Wenang Utara
3	PT. Bahu Cipta Persada	Malalayang	Bahu
4	PT. Papetra Perkasa Utama	Wenang	Wenang Utara

Source : Center for the Study Environment The Role Research Against Coastal Reclamation Manado municipality.

However, the legal issues, cooperation in the field of issuance of a license is not in line with the liability in the event of pollution and / or destruction of the environment in the Gulf of Manado, each work unit be it government, provincial government, district / municipal governments each appoint to undertake responsibility regarding the result of the reclamation the beach.

IV. CONCLUSION

Based on the results of research and discussion above, it can be concluded as follows: (1) setting the division of affairs and local government in the field of the environment is still not mandatory that basic services are not fully embody the principles of local autonomy. (2) Licensing of businesses or activities between the provincial and regency / municipality does not reflect the arrangement of public space, industrial and residential;

V. ADVICE

1. Setting affairs division and local government should be based on the principle of local autonomy, namely the strengthening of the real autonomy.
2. Setting a business license or the activities between the Province and District / Municipal must be based on integration between sectors of other activities

REFERENCES

- [1] Nurtcholis. Hanif. 2005. Teori dan Praktek Pemerintahan dan Otonomi Daerah. Jakarta: Grasindo.
- [2] Wijoyo Suparto, 2013. Pengkajian Hukum Tentang Perlindungan Kepada Masyarakat Dalam Sengketa Lingkungan Hidup. Kementerian Hukum Dan Hak Asasi Manusia Republik Indonesia, Badan Pembinaan Hukum Nasional. Jakarta

- [3] Murhani Suriansyah. 2008. Aspek Hukum Pengawasan Pemerintah Daerah. Yogyakarta: Laksban Mediatama.
- [4] Syahrul Mahmud. 2012. Penegakan Hukum Lingkungan Indonesia. Graha Ilmu: Yogyakarta.
- [5] Cheema G. Shabbir & Dennis A. Rondinelli, 1983. Decentralization and Development Policy Implementation in Developing Countries. Beverly Hills/London/New Delhi : sage publications
- [6] Soewoto, 1990. Otonomi daerah Suatu Kajian Historik. Teoritik dan Yuridik Pelimpahan Kekuasaan Kepada Daerah. YudikaMajalah Fakultas Hukum Unair.
- [7] Makaanahap Emmanuel Philip, 1999. Peranan Pusat Studi Lingkungan Terhadap Reklamasi Pantai Kotamadya Manado, Manado: Unsrat.

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