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Juridical Analysis of the Legal Consequences of Changes in Policies for Implementing Groundwater Usage Permits

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Abstract

Groundwater is water found in layers of soil or rock beneath the surface. Indonesia's largest water supply comes from groundwater. The use of groundwater is a must for approval of groundwater, from governments for its conservation of water environments. But its policies are often subject to change, which of course would have legal consequences. So in this study, we're trying to analyze the legal consequences. The method of research employed in this study is normatif juridical, with descriptive specs analysis. The data used is secondary to qualitative data analysis. Research shows that the legal result of the change in policy of the provision of groundwater agreements is that specific agricultural activities outside irrigation systems are not part of the arrangement for groundwater use and the geology of the energy and mineral resources resources resources. This arrangement is carried out by governments in order to prevent the groundwater from being damaged and thus could be used continually. Damage to groundwater would inevitably have a negative effect on environments such as land subsidence and Marine intrusion.

Keywords: *Consequence of Law; Policy; Arrangement; Agreement for Use of Water*

Introduction

Water is the basic requirement of human life granted to all indonesians (laws No 17 In 2019) about water resources, which are urgently needed by humans, animals and plants, apart from the need for air or oxygen. In its appearance water can be surface water, groundwater, rain, snow, and seawater. The focus of this study is groundwater. Under section 1, the minister for energy and mineral resources of the republic of Indonesia is number: 443.K/GL.01/MEM.G/2023 About the change of energy minister's decision and mineral resources Republic of Indonesia number: 291.K/GL.01/MEM.G/2023 As to the standard arrangement for approval of groundwater use, it explains that groundwater is water found in layers of soil or rock below the surface.

In this regard, Indonesia's largest source of water supply comes from groundwater. As much as 80% of people's net water needs come from groundwater, especially in urban areas, industrial centers, and thriving settlements. Meeting fresh water needs in those areas averts an average 90% of groundwater (Prafitri, 2020).

According to wahyuni (Volentino, 2003), The potential source of groundwater that can be directly harnessed is: a). Shallow groundwater (non-pressurized aquifer), which is the water stored in an aquifer near the surface to a depth (dependent on a deal) 15 to 40 m (50 to 100 ft). Shallow groundwater is directly used for nonagricultural activities, especially for housing purposes; B). The watery middle or deep (distressed aquifer), which is the water stored in the aquifer ata depth of more than 40 m (if a shallow water agreement to a depth of 40 m). Usually exploited by bottled water or industrial properties.

By the law number 17 in 2019 about the use of water resources, the use of water resources for business and need activities such as individual individuals, community groups, government agencies, corporations, and social institutions, under certain conditions or criteria can act on drilling or extracting soil for water, but must be done according to government approval.

Agreement for use of groundwater is a consent to obtain and/or take of groundwater to do activities rather than business. The agreement invoked to governments through the energy and mineral resources (ESDM), which is performed by the head of the body through the center of the groundwater and the geology of the environment (PATGTL) to harvest the groundwater. This assignment is a mandate from article 33 of the constitution of the republic of Indonesia in 1945, taking control of public activities by controlling water-use activities.

Overuse of groundwater by drilling or excavation in an effort to obtain overgroundwater can cause water damage, such as: a). It can result in a loss of land that, if left unchecked, land degradation. This means that some (large) coastal areas/near the oceans would be underwater; b). It creates an empty space in the ground, causing a hole in the ground. Thus it can affect existing buildings as with the tilt of a building, the decrease in the construction of a bridge so that water can gradually touch the bridge; c) the intrusion of seawater provides an alternative to existing freshwater; And d). The losses of damaged building infrastructure, Bridges and utility are immeasurable (Prafitri, 2019).

The agreement by the government to use the groundwater is necessary to preserve groundwater continuity, ensure legal certainty, and maintain the effectiveness and efficiency of the use of groundwater for non-business purposes, thereby preventing and controlling the decline of water (Arie, 2005). In view of the country's high cost of water conservation, the government has issued policies regarding the arrangement for water use agreements.

Policies regarding the arrangement for approval of groundwater over time are constantly changing. This change is influenced by a variety of factors, both economic, political, and social cultures (Iskandar, 2020). Talking about groundwater is interesting, as early researchers of prafitri, who discussed the implementation of the surveillance policy in the city of semarang. Based on the results of the study, there is still a challenge to the implementation of the surveillance policy in the semarang city of land management permits and has not been able to achieve optimum policy goals (Prafitri, 2019). The focus of the study by prafitri, the implementation of its monitoring policy in the city of semarang, is certainly very different from the focus of studies in the study asa result of the law on changing policy arrangements for the use of water.

Further extraction, also doing research on water, was the legal result of the use of unlicensed underground water in Bali province. Studies indicate that the result of breaches in the use of groundwater by breaking sides corresponds to chapter 15 of the verse (1) law Number 11 in 1974 about irrigation, it was stated that anyone who intentionally made water and or water sources without a permit from the

government was threatened with a prison term of 2 (two) years and or a maximum fine IDR 5.000.000 (five million Rupiah) (Artawan, 2020). The focus of extraction studies is due to the legal result of the unsanctioned use of underground water in the province of Bali, which is, of course, quite different from the focus of the study analyzing the results of the law on changing policy arrangements for water use. As for the purpose of this study, it is to know the changes in the policy of providing water use agreements.

Formulation of the Problem

1. What is the policy arrangement for a water usage agreement?
2. What resulted from policy laws providing agreement for use of water?

Research Methods

As a consequence of the selection of issues to which research subjects law (whereas law is a law code or norm in society), the type of legal research used is a normatized legal study. Research on normative law seeks to find rules of law, principles of law, as well as legal doctrines to address the legal issues at hand (Marzuki, 2009), When it comes to policy arrangements for the use of water. Analytical specifications, soerjono soekanto use descriptive as research intended to provide advanced data perhaps about humans, circumstances or other symptoms (Soekanto, 2008). The study would describe the results of an analysis of the policies that have been implementing groundwater agreements. Secondary and primary data collect is further qualitative and are drawn conclusively from generality to special.

Discussion

A. Policy Arrangement for a Water Usage Agreement

Current groundwater clearances in accordance with the regulatory regulations constituted the authority of the ministry of energy and mineral resources. The terms are embodied within minister of energy and mineral resources decisions of the republic of Indonesia number 291.K/GL.01/MEM.G/2023 about the standard provision for water use agreement, approved on September 14, 2023, was issued on 3 (three) months of the month's release of a change through the decision of the minister of energy and mineral resources of the republic of Indonesia Number: 443.K/GL.01/MEM.G/202 about change of energy and mineral resources decision Number: 291.K/GL.01/MEM.G/2023 about the standard provision of the agreement for use of groundwater, which was validated December 12, 2023. The minister's decision is the description of the law No.17 in 2019 About water resources and law No. 6 in 2023 on the regulation of government substitution laws, the law No. 2 in 2022 about copyright work

In this study, the minister of energy and mineral resources will be limited to changes in the decisions of the republic of Indonesia Number 291.K/GL.01/MEM.G/2023 about the standard provision of groundwater agreement, and the decision of the minister of energy and mineral resources of the republic of Indonesia Number: 443.K/GL.01/MEM.G/202 about change of energy and mineral resources decision of the republic of Indonesia Number: 291.K/GL.01/MEM.G/2023 tentang Standar Penyelenggaraan Persetujuan Penggunaan Air Tanah.

Agreement for use of groundwater is a consent to obtain and/or take of groundwater to do activities rather than business. This agreement is required in order to preserve groundwater sustainability, ensure legal certainty, and increase the effectiveness and efficiency of the operation of using water resources to the groundwater source for non-business use, as a major system for controlling and

harvesting water to maintain water conservation (Muhardia dkk, 2019). Agreement on the use of groundwater is part of the duties and functions of the ministry of energy and mineral resources in the ministry of groundwater.

1.The minister's decision Energy and mineral resources Number: 291.K/GL.01/MEM.G/2023 About the standard arrangement for groundwater approval

The terms of the government's compulsory application of groundwater agreements are specified into 3 (three) categories, which are:

a) Agreement for the discharge application of groundwater was less than or equal to 2 (two) liters per second From 1 (one) drill Wells/dikes and for applications filed by government agencies

b) Agreement on the use of groundwater for discharges of more than 2 (two) liters per second of 1 (one) drill well.

c) Groundwater approval for decontamination.

In view of the terms of agreement for the use of groundwater divided into 3 (three) categories, the study will be focused on 1 (one) a category only of the agreement for discharges of groundwater application of less than or equal to 2 (two) liters per second of 1 (one) a bore/excavated well and for applications made by government agencies.

Applications of groundwater use may be submitted by individuals, community groups, government agencies, corporations or social institutions. Application for approval of groundwater is done for activity:

a) Meeting basic daily needs, if:

   1) Groundwater use is at least 100 meters cubic per month per family head;

   2) Group use of groundwater Set to over 100 meters cubic monthly per cluster

b) Agriculture outside irrigation systems;

c) In Addition to meeting basic daily needs, people agriculture is outside irrigation systems already, among other things:

   1) Water Tours or sports that are managed for public good or nonbusiness activities;

   2) Use of groundwater for government research and development, education, and/or health;

   3) Free use of groundwater for city tamins, synagogues, public facilities, or other social facilities;

   4) Drilled/dig Wells for grouped use of groundwater by governments, private, or individual individuals;

   5) Use of groundwater for government agencies.

The application for approval of groundwater is addressed to the minister of energy and mineral resources through the head of the body by attaching requirements:

a) Request form loading:

1) The requester's identity
2) The location of the drilling/excavation of the groundwater.
3) The coordinates of a little decimal degree of groundwater exploration plan;
4) The proposed period of groundwater use;
5) The caption of the well drill/dig;

b) Property ownership/possession evidence could be a purchase deed (AJB), a property deed (SHM), a building (SHGB), or a lease agreement;

c) The sealed affidavit that the ground was used was not in the process of dispute;

d) Environment/document and/or ward approval;

e) Statement of ability to make a retraction/relapse well;

f) Plan on the number of discharge collected groundwater in m3/ day;

g) Plan for the use of groundwater; Dan

h) Construction of the drill well.

When application has been made, the head of the groundwater center and the geology of the environment (patgtl) performs verification and evaluation, establishing a technical team. Verification and evaluation results can be for publication or for reasons of objection. On the basis of the agreement the applicant would be required to undertake the longest waterworks of exploration in 60 (sixty days) of the calendar after the release of the consent letter, if not carried out then the application would be annulled and the petitioner could reapply

2.The Minister of energy and mineral resources decisions of the republic of Indonesia Number: 443.K/GL.01/MEM.G/202 about change of energy and mineral resources decision of the republic of Indonesia Number: 291.K/GL.01/MEM.G/2023 about the standard arrangement for groundwater approval

The terms of the government's compulsory application of groundwater agreements are specified into 3 (three) categories, which are:

a) Agreement for the discharge application of groundwater was less than or equal to 2 (two) liters per second From 1 (one) drill Wells/dikes and for applications filed by government agencies

b) Approval of the use of groundwater for discharge use of groundwater over 2 (two) liters per second of 1 (one) drill well

c) Groundwater approval for decontamination

In view of the terms of agreement for the use of groundwater divided into 3 (three) categories, the study will be focused on 1 (one) a category only of the agreement for discharges of groundwater application of less than or equal to 2 (two) liters per second of 1 (one) a bore/excavated well and for applications made by government agencies.

Applications of groundwater use may be submitted by individuals, community groups, government agencies, corporations or social institutions. Application for approval of groundwater is done for activity:

a) Meeting basic daily needs, if:

   1) The use of groundwater is at least 100 meters cubic per month per family head; or

   2) Land water use in groups with a provision of over 100 meters cubic monthly per cluster

b) In addition to meeting basic daily needs, people agriculture is outside irrigation systems already, among other things:

   1) Water Tours or sports that are managed for public good or nonbusiness activities;

   2) Use of groundwater for government research and development, education, and/or health;

   3) Free use of groundwater for city tamins, synagogues, public facilities, or other social facilities;

   4) Drilled/dig Wells for grouped use of groundwater by governments, private, or individual individuals;

   5) Use of groundwater for government agencies

The application for approval of groundwater is addressed to the minister of energy and mineral resources through the head of the body by attaching requirements:

a) Request form loading:

   1) The requester's identity

   2) The location of the drilling/excavation of the groundwater.

   3) The coordinates of a little decimal degree of groundwater exploration plan;

   4) The proposed period of groundwater use;

   5) The caption of the well drill/dig;

b) Property ownership/possession evidence could be a purchase deed (AJB), a property deed (SHM), a building (SHGB), or a lease agreement;

c) The sealed affidavit that the ground was used was not in the process of dispute;

d) Environment/document and/or ward approval;

e) Statement of ability to make a retraction/relapse well;

f) Plan on the number of discharge collected groundwater in m3/ day;

g) Plan for the use of groundwater; Dan

h) Construction of the drill well.

When application has been made, the head of the groundwater center and the geology of the environment (patgtl) performs verification and evaluation, establishing a technical team. Verification and evaluation results can be for publication or for reasons of objection. On the basis of the agreement the applicant would be required to undertake the longest waterworks of exploration in 60 (sixty days) of the calendar after the release of the consent letter, if not carried out then the application would be annulled and the petitioner could reapply.

B. As a Result of Policy Laws Providing Agreement for Use of Groundwater

Minister of energy and mineral resources provisions of the republic of Indonesia Number: 291.K/GL.01/MEM.G/2023 About the standard provision of groundwater agreement, and the decision of the minister of energy and mineral resources Number: 443.K/GL.01/MEM.G/202 On a shift to the energy and mineral resources minister's decision Number: 291.K/GL.01/MEM.G/2023 about the standard for the arrangement of groundwater agreements, as described above, seems to have changed at first glance, since it removed only one clause of the application of water to agricultural activities outside irrigation systems.

Based on the press release Number: 652.Pers/04/Sji/2023 On December 21, 2023, according to the ministry of energy and mineral resources of the republic of Indonesia, the ministry of energy and mineral resources has been making adjustments in the agreement to use water. In view of Indonesia's many gestated and geographic conditions with its many indonesianists, especially Indonesia's agricultural sector still in areas beyond the reach of irrigation systems, and in order to make it easier for people to host agricultural activities outside irrigation systems, A comprehensive assessment should be made as to the terms of the mechanism and effectiveness of the application of the agreement for the use of groundwater for agricultural activities outside irrigation systems.

The ministry of energy and mineral resources has adjusted the decision of the minister of energy and mineral resources Number: 291.K/GL.01/MEM.G/2023 about the standard provision of groundwater approval by issuing a minister of energy and mineral resources Number: 443.K/GL. 01/MEM.G/2023 about change of energy and mineral resources decision Number 291.K/GL.01/MEM.G/2023 about Standard provision of groundwater approval.

The new arrangement did not include the provision of public farming outside the irrigation system. The application for approval for water use is done for activities, That is, meeting basic daily needs when water is used at least 100 meters cubic per month per family head; Or land use in groups under the conditions of over 100 meters cubic monthly per cluster.

The government USES groundwater arrangements in order to keep groundwater from being damaged so that it can be used continually. Damage to groundwater would inevitably have a negative effect on environments such as land subsidence and Marine intrusion.

Some areas of Indonesia have been found to have suffered serious water damage Like, Jakarta, Bandung, semarang, south Sumatra, east kalimantan and Bali To repair the damage, conservation and management efforts will also need to keep the water supply continuous, including by regulating the use of groundwater, by reducing overexploitation, and by developing alternatives to clean water sources.

Conclusion

Based on the results of the previous research and discussion, it shows that the legal result of the policy of the establishment of the agreement for the use of groundwater is that specific agricultural activities outside irrigation systems are not part of the arrangement for the groundwater use and the geology of the energy and mineral resources resources resources. This arrangement is carried out by

governments in order to prevent the groundwater from being damaged and thus could be used continually. Damage to groundwater would inevitably have a negative effect on environments such as land subsidence and Marine intrusion.

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