www.bircu-journal.com/index.php/birci
Budapest International Research and Critics Institute-Journal (BIRCI-Journal)
Humanities and Social Sciences
ISSN 2615-3076 Online)
ISSN 2615-1715 (Print)
Budapest Institute

Administrative Law Enforcement through Supervision Instruments on Brantas River Pollution

Eduardo Saratoga Wrahatnala[1], Suparto Wijoyo[2],Radian Salman[3], Rosa Ristawati[4]
[1,2,3,4]*Science Law and Development Master, Postgraduate School, Universitas Airlangga, Surabaya, Indonesia*
ardozeus05@gmail.com, Supartowijoyo@fh.unair.ac.id, radian.salman@fh.unair.ac.id, rosa@fh.unair.ac.id

Abstract

The Brantas River, which is a national strategic area, is currently experiencing pollution. The massive pollution of the Brantas River and causing its water quality to decline is a problem that must be taken seriously. The worrying quality of the Brantas River shows the performance of the Indonesian government at the central, provincial, and district/city levels in managing river quality. Although there has been a Supreme Court decision regarding the pollution of the Brantas River, the government does not yet have a comprehensive plan and serious political will to restore the polluted Brantas River. This paper aims to analyze the enforcement of environmental administrative law through monitoring instruments as the implications of a lawsuit for pollution of the Brantas River based on the Supreme Court of the Republic of Indonesia Decision No. 08/Pdt.G/2019/PNSb. Based on the results of the analysis, it is necessary to take concrete actions from executive institutions and the community so that the pollution of the Brantas River is immediately resolved and does not recur in the future and so that the water quality can improve better.

Keywords
administrative law; the instrument of supervision; lawsuit for pollution of the Brantas River; decision of the Supreme Court

I. Introduction

Human activities have an adverse effect on the environment by polluting the water we drink, the air we breathe, and the soil in which plants grow. Although the industrial revolution was a great success in terms of technology, society, and the provision of multiple services, it also introduced the production of huge quantities of pollutants emitted into the air that are harmful to human health (Manisalidis, 2020). The Brantas River, which is a national strategic river area and is the basis for information on water quality, is currently experiencing pollution. The Water Quality Index (WQI) of the Brantas River in 2020 is 48.77, or under the Water Quality Standards (Government Regulation No. 82 of 2001), and parameters Biochemical oxygen demand (BOD) 6.75 mg/liter, phosphate 0.302 mg/l, fecal coliform 2,373.88 mg/l, detergent 32.98 mg/l, and total coliform 25.424.48 mg/l, meaning the river is in a polluted condition or the water quality is low.

In developing countries Manucci (2017) states that the problem is more serious due to overpopulation and uncontrolled urbanization along with the development of industrialization. There is a gap between practices in water quality management and governance practices in developing countries. In some countries, lawsuits in the restoration of river quality can be used as an instrument to solve problems of pollution and low quality of river water by requiring specific actions to be taken to protect the environment.

To solve environmental problems in the case of Brantas River pollution in Indonesia today, it is important to guarantee legal certainty in law enforcement. The goal is to achieve compliance with applicable laws and regulations, through the supervision and application of administrative, civil, and criminal laws. The regulation of environmental problems in Indonesia began with Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management (LEPM).

In the context of environmental management based on LEPM based on administrative law. Enforcement of administrative environmental law can be done in two ways, namely preventive and repressive. Preventive enforcement of administrative law is carried out through supervision, while repressive law enforcement is carried out through the application of administrative sanctions. The supervision and application of administrative sanctions aim to achieve public compliance with the legal norms of the administrative environment. The concept of environmental management supervision policy in the context of LEPM is regulated comprehensively. The main supervision comes from the licensing agency, the second supervision from the provincial or government (central) agencies (Mukhlish, 2016). To make supervision effective, it is necessary to have an appropriate punishment strategy (sanctioning strategy) starting from the application of light administrative sanctions to revocation of permits. This sanctioning strategy is needed to avoid sanctions based on arbitrariness (Fadli, 2016).

In the framework of environmental law enforcement, administrative legal sanctions in the form of government coercion (bestuursdwang) are one of the most effective and widely used, apart from revocation of permits. The form of imposition of bestuursdwang sanctions can be in the form of cessation of activities, closures, and forced money (dwangson). The existence of bestuursdwang in administrative law cannot be separated from the nature of the relationship between the parties (legal subjects) in administrative law. Bestuursdwang can be defined as a state administrative authority in a situation where there is a violation of administrative law norms to end the situation by taking concrete actions. The authority that exists in the administration is part of the authority given to realize the (certain) goals desired by administrative law. The existence of an act that violates the law creates an impetus for the state administration to react to the circumstances arising from the violation. The purpose of the article is to describe the enforcement of environmental administration law through a supervisory instrument by analyzing the judge's considerations in the Supreme Court's decision No. 08/Pdt.G/2019/PNSby. concerning the Brantas River Lawsuit.

II. Review of Literature

2.1 The Considerations of the Panel of Judges on the Decision of the Brantas River Pollution Lawsuit Number 08/PDT.G/2019/PN SBY

The considerations of the Supreme Court judges in the decision of the last case were the lawsuit against environmental pollution and damage submitted by Ecoton number 08/Pdt.G/2019/PN Sby. described as follows. The consideration of the Panel of Judges on the evidence submitted by the Plaintiff is as follows; (1) The argument that the Defendants did not make efforts to handle and control environmental pollution and was contrary to Article 13 point 3 of the LEPM was not based on law and was therefore rejected by the panel of judges; (2) There have been complaints and reports of mass dead fish for a long time, but no action has been taken against perpetrators of water pollution that causes mass death of fish continuously from 2011 to 2018; Although there has been Regulation of the Minister of Public Works Number 4 PRT/M/2015 and Decree of the Governor of East Java 188/229/KPTS/013/2014; but the follow-up did not show significant results; (3) Based on the

Plaintiff's Monitoring Results (Ecoton) regarding the Quality of Industrial Wastewater in the Brantas River Basin in 2015, the Mass Death Fish Report on 25 July 2019 in Driyorejo, the Plaintiff's Environmental Advocacy Report, “”Jawa Pos” Press on 12 August 2019 and the Report on Fish The Mass Death on August 17, 2019 shows that these evidences mutually reinforce one another regarding the arguments of the Plaintiff's lawsuit; and from the statements of 4 (four) witnesses who were presented in court by the Plaintiff, all of them are in agreement and support each other's claim, so according to the Panel of Judges, the Plaintiff has succeeded in proving the arguments of his lawsuit.

Based on the legal considerations as stated above, the Defendants are deemed unable to prove their rebuttal arguments, therefore the arguments and evidence of the defendants must be set aside; and because the Plaintiff has succeeded in proving his claim, the Plaintiff's claim can be partially dismissed. After observing from the considerations of the Panel of Judges against the plaintiff's claim based on all the arguments and evidence that has been considered by the judge, it is proper that the Plaintiff's claim is granted. Even though laws and regulations already exist, they have even reached the setting of standards or thresholds for permitted water quality. Therefore, it is considered appropriate if the panel of judges (1) accepts and partially accepts the plaintiff's claim; (2) stated that the defendants had committed an unlawful act; (3) ordering the defendants to apologize to the public in 15 Cities/Regencies that the Brantas River passes through for neglect of management and supervision that causes mass death of fish every year; and (5) ordering the defendants to include a program to restore the water quality of the Brantas River in the 2020 State Budget of Republic of Indonesia Government.

2.2 The Environmental Law Concept

Article 1 paragraph (1) LEPM 2009 that "The environment is a unitary space with all objects, forces, conditions, and living things, including humans and their behavior, which affect nature itself, the continuity of life, and the welfare of humans and other living creatures." Meanwhile, paragraph (2) states "Environmental protection and management is a systematic and integrated effort carried out to preserve environmental functions and prevent environmental pollution and/or damage which includes planning, utilization, control, maintenance, supervision, and law enforcement. ” According to Article 2 of LEPM 2009, the Principles of Environmental Protection and Management are implemented based on the principles of (a) state responsibility; (b) sustainability and sustainability; (c) harmony and balance; (d) cohesiveness; (e) benefits; (f) prudence; (g) justice; (h) ecoregion; (i) biodiversity; (j) polluter pays; (k) participatory; (l) local wisdom; (m) good governance; and (n) regional autonomy.

Based on the Supreme Court document, the principles of environmental policy (principles of environmental policy) which include: (1) Substantive Legal Principles of the Environment; (2) the Principles of Process (Principles of Process); and (3) the Principles of Justice (Equitable Principles). The principle of the substance of environmental law (substantive legal principles). Some of the substantive principles of environmental law that need to be the basis for judges' consideration in examining and adjudicating an environmental case are: (1) the Principle of Prevention of Harm; (2) the Precautionary Principle; (3) the Polluter Pays Principle; and (4) Principles of Sustainable Development. The understanding of the principles of the process is that when a judge examines and adjudicates an environmental case, at that time he is ensuring the process of compliance and good environmental law enforcement. Several principles that must be considered by judges to ensure that the process of compliance and enforcement of environmental laws run well are: (1) the principle of people's empowerment; (2) The Principle of Recognition of the Carrying Capacity and Sustainability of Ecosystems; (3) The Principle of Recognition of the Rights of Indigenous

Peoples and Surrounding Communities; and (4) the Principle of Enforceability. The principle of justice (equitable principles). Judges in examining and adjudicating environmental cases must consider the principles of environmental justice, including (1) Intergenerational Justice Principles, (2) Proportionate Sharing of Shared Responsibility Principles, and (3) Resource Utilization Fairness Principles.

III. Discussion

3.1 The Environmental Law Enforcement

Law enforcement is an effort to enforce the norms/rules and legal values that lie behind these norms. Legal value is the achievement of conditions for the preservation of the ability of the environment. In order to achieve a good and healthy environment, it is necessary to have the ability of law enforcement officials and the compliance of citizens to the applicable laws and regulations. The law in question includes administrative, criminal, and civil law. Environmental law enforcement is an effort to achieve compliance with regulations and requirements in general and individual legal provisions, through supervision and application of administrative, criminal, and civil means (Rangkuti, 2005). In general, environmental law enforcement officers are qualified as Police, Prosecutors, Judges, Legal Advisors, Officials/institutions authorized to issue permits (Rangkuti, 2005). A number of parties related to environmental management include Non-Governmental Organizations (NGOs), communities, Entrepreneurs, and the Press. Environmental law enforcement can be carried out preventively and repressively, according to its nature and effectiveness, while preventive and repressive environmental law enforcement are: (Rangkuti, 2005) Preventive law enforcement means that active supervision is carried out in compliance with regulations without direct incidents involving concrete events that give rise to suspicions that legal regulations have been violated.

Preventive law enforcement instruments are counseling, monitoring, and the use of supervisory powers. The main law enforcers are government officials/apparatus authorized to issue permits and prevent environmental pollution. Repressive law enforcement is carried out in terms of actions that violate regulations and aim to directly end prohibited acts. In the use of administrative, civil, and criminal law enforcement facilities, there are at least a number of conditions for prosecution and the use of law enforcement facilities that must be considered, namely (Sudarsono, 2007): (1) Three conditions for prosecution according to State Administrative Law (administrative sanctions), namely (a) There are articles of state administrative law that are violated; (b) Any of these activities clearly violates one or more articles of laws and regulations which clearly state the sanctions; and (c) The imposition of sanctions is carried out by an Official who is authorized to impose such sanctions based on statutory provisions or based on the provisions/requirements contained in the permit issued by the Official who imposed the sanctions; (2) Three conditions for the use of civil law enforcement facilities (through the courts or through deliberation outside the court), namely: (a) The actions that occur must be unlawful acts ; (b) That the unlawful act causes harm that can be clearly stated; and (c) The plaintiff's authority to file a lawsuit (ius stand/ standing rights); (3) Four conditions for the use of criminal law enforcement facilities, including: (a) The offense must be a criminal act (there is an article on the occurrence of a crime; (c) The existence of a suspect in a criminal act; and (d) Criminal law enforcement searches, arrests, delegating cases to courts, examining cases in court, etc. are carried out within the limits of the authority granted to him by law and in ways that do not conflict with the provisions of the applicable criminal procedural law.

3.2 The Administrative Law Concept

Administrative law enforcement is part of the governing power (besturen). So the enforcement of state administrative law is subject to general principles (government law), namely: the principle of validity (rechtmatigheid van bestuur); the principle of efficiency and effectiveness (doelmatigheid en doeltreffendheid); the principle of openness (openbaarheid van bestuur); and the principle of planning (planmatigheid). J.B.J.M. ten Berge stated that the administrative law enforcement instrument includes two things, namely supervision and enforcement of sanctions. Supervision is a preventive measure to force compliance, while the application of sanctions is a repressive measure to force compliance. Santosa, stated that the administrative law enforcement tools in a legal and government system include at least five tools which are the initial prerequisites for the effectiveness of administrative law enforcement in the environmental sector. The five tools are: (1) Permit, which is used as an instrument of supervision and control; (2) The requirements in the permit with reference to the Environmental Impact Analysis, environmental quality standards, laws, and regulations; (3) Mechanism of supervision of the arrangement; (4) The existence of adequate supervisory officials (inspectors) both in quantity and quality; and (5) administrative sanctions. The enforcement of administrative law in the environmental field has several strategic benefits compared to other legal instruments (civil and criminal) as follows: (1) Enforcement of administrative law in the environmental field can be optimized as a preventive tool; (2) Administrative law enforcement (which is preventive in nature) can be more efficient from a financing point of view than criminal and civil law enforcement. Funding for administrative law enforcement includes costs for routine field supervision and laboratory testing, which is cheaper than efforts to collect evidence, field investigations, employing expert witnesses to prove causality in criminal and civil cases; and (3) Administrative law enforcement has more capacity to invite public participation. Community participation can be from the licensing process, supervision, and filing objections, and asking administration officials to impose administrative sanctions.

a. The Environmental Administration Law Enforcement

Administrative law enforcement is part of the governing power (besturen). So the enforcement of state administrative law is subject to general principles (government law), namely: the principle of validity (rechtmatigheid van bestuur); the principle of efficiency and effectiveness (doelmatigheid en doeltreffendheid); the principle of openness (openbaarheid van bestuur); and the principle of planning (planmatigheid). J.B.J.M. ten Berge stated that the administrative law enforcement instrument includes two things, namely supervision and enforcement of sanctions. Supervision is a preventive measure to force compliance, while the application of sanctions is a repressive measure to force compliance. Santosa, stated that the administrative law enforcement tools in a legal and government system include at least five tools which are the initial prerequisites for the effectiveness of administrative law enforcement in the environmental sector. The five tools are: (1) Permit, which is used as an instrument of supervision and control; (2) The requirements in the permit with reference to the Environmental Impact Analysis, environmental quality standards, laws, and regulations; (3) Mechanism of supervision of the arrangement; (4) The existence of adequate supervisory officials (inspectors) both in quantity and quality; and (5) administrative sanctions. The enforcement of administrative law in the environmental field has several strategic benefits compared to other legal instruments (civil and criminal) as follows: (1) Enforcement of administrative law in the environmental field can be optimized as a preventive tool; (2) Administrative law enforcement (which is preventive in nature) can be more efficient from a financing point of view than criminal and civil law enforcement. Funding for administrative

law enforcement includes costs for routine field supervision and laboratory testing, which is cheaper than efforts to collect evidence, field investigations, employing expert witnesses to prove causality in criminal and civil cases; and (3) Administrative law enforcement has more capacity to invite public participation. Community participation can be from the licensing process, supervision, and filling objections, and asking administration officials to impose administrative sanctions. The law turns out to be able to provide solutions to so many impasse problems that cling to the human mind (Hartono, 2020).

b. The Administrative Sanction Setting

The imposition of administrative sanctions aims to: (a) protect the environment from pollution and/or damage resulting from a business and/or activity; (b) tackling pollution and/or environmental destruction; (c) restore the quality of the environment due to environmental pollution and/or destruction, and (d) provide a deterrent effect for those in charge of businesses and/or activities that violate the laws and regulations in the field of environmental protection and management and the provisions in environmental permits. Administrative sanctions can be carried out directly by the state administrative body and/or officials themselves, without going through the intermediary of judges, although that does not mean that there is no application of administrative sanctions through the intermediary of judges. That is, sanctions in state administrative law are all sanctions that are not only applied by the government but also imposed by administrative judges or administrative appeal agencies. Therefore, in the protection and management of the environment, administrative sanctions apply if a person or business entity violates the provisions of the environmental administration law. To enforce environmental administration law, the Central Government, the Provincial Government, and District/City may apply several types of administrative sanctions, especially those that have an instrumental function, namely controlling prohibited acts. In addition, administrative sanctions are primarily aimed at protecting the interests protected by the violated provisions.

Some means of enforcing environmental administration law can be in the form of written warnings, government coercion, suspension of permits, and revocation of environmental permits. The types of administrative-legal sanctions in LEPM can be explained as follows: (a) written warning, this type of sanction can also be said to be a warning of government coercion. In general (except for situations that require quick resolution) government organs before carrying out real government coercion, must send a written warning and/or a written warning to the person in charge of the business/activity if in the supervision a violation of the environmental permit is found, the written warning is carried out with due observance of the general principles of good/decent/or proper governance, in this case, the principle of accuracy; (b) Government coercion. According to Spelt & Berge, in the opinion that the government's coercive authority is: “The authority of a governmental organ to adjust a situation is illegitimate, which occurs because an obligation arising from the norms of administrative law is not fulfilled, is manifestly in this norm. This includes administrative law norms, as generally accepted, as well as permit provisions. A characteristic feature of the government's coercive power is that it gives the organs of government the authority to, if necessary, without the need for the mediation of a judge, to act in a real way." Spell & Berge, concluded that government coercion is as follows: (a) Concerning ending situations that are contrary to the provisions of the law. So, government coercion is shown in law enforcement and is corrective; (b) It concerns the independent authority of the government. To carry out government coercion does not require power from other organs. So there is no need for a judge's decision in advance; (c) The government is allowed to determine for itself whether or not government coercion will be applied as a

sanction for violations; (d) The application of governmental coercion may be carried out at the expense of the violator. However, government organs are not obliged to demand it; and (e). In general (except in urgent circumstances) the actual implementation of government coercion is preceded by a warning. The warning provides the opportunity for the person concerned to within a certain period of time eliminate the consequences of the violation and thus prevent the application of government coercion.

Regarding the types of administrative-legal sanctions, namely government coercion sanctions in LEPM, as follows: (a) Temporary suspension of production activities; (b) Transfer of production facilities; (c) Closure of sewerage or emissions; (d) Disassembly; (e) confiscation of goods or equipment that has the potential to cause violations; (f) Temporary suspension of all activities; and (g) other actions aimed at stopping violations and restoring environmental functions. The imposition of government coercive sanctions can be imposed without being preceded by a warning if the violation has resulted in: (a) Very serious threat to humans and the environment; (b) The impact is bigger and wider if the pollution and/or destruction is not immediately stopped, and (c) greater harm to the environment if the pollution and/or destruction is not immediately stopped. The imposition of fines in government coercive sanctions can apply if every person in charge of businesses and/or activities that do not carry out government coercion can be subject to fines for any delay in the implementation of government coercive sanctions.

The imposition of administrative sanctions in the form of freezing of environmental permits or revocation of environmental permits as referred to in Article 76 paragraph (2) letter c and letter d of LEPM is carried out if the person in charge of the business and/or the person in charge of the activity does not carry out government coercion. As for Article 71 paragraph (1) Government Regulation Number 27 of 2012 concerning Environmental Permits, namely: Environmental permit holders who violate the provisions referred to in Article 53 are subject to administrative sanctions which include: (a) Written warning; (b) Government coercion; (c) Freezing of environmental permits; or (d) Revocation of the environmental permit. The application of administrative sanctions as referred to in Article 71 paragraph (2) is based on: (a) effectiveness and efficiency in preserving environmental functions; (b) the level of severity of the type of violation committed by the environmental permit holder; (c) the level of obedience of the environmental permit holder to the fulfillment of the orders or obligations specified in the environmental permit; (d) history of compliance with environmental permit holders; and/or; (e) the level of influence or implications of violations committed by environmental permit holders on the environment.

c. The Supervision Concept

Supervision is the beginning of environmental law enforcement, weak supervision will not indirectly support administrative environmental law enforcement. Enforcement of administrative law in the environmental field includes 2 (two) matters: (1) legal efforts aimed at preventing and overcoming environmental pollution and destruction through administrative utilization following the mandate given by law; (2) court review of the decision of the State Administration at the State Administrative Court. This paper is only limited to the aspect of administrative law enforcement in the environmental field, the first being preventive in nature. The meaning and function of supervision in the administration of government from the point of view of State Administrative Law (SAL) is to prevent the emergence of all forms of deviation from the government's duties from what has been outlined and to take action or correct the deviations that occur. Supervision of the optical SAL lies in the SAL itself, as a working basis or guideline for the state administration in carrying out its duties of administering the government. This is by the function of law in people's lives which are conditi sin quanon (Basah, 2001), (a) Directive, as a guide in building to form a society to be

achieved following the goals of state life; (b) Integrative, as a builder of national unity; (c) Stable, as the custodian (including the results of development) and the custodian of harmony, harmony and balance in the life of the state and society; (d) Perfection, as a complement to the actions of state administration, as well as the attitudes of citizens in the life of the state and society; and (e) Corrective, both to citizens and the state administration in obtaining justice.

An effective monitoring system is the best means to make things work well in the State Administration, especially preventive supervision. Repressive controls are only useful when; (a) carried out comprehensively and quite intensively; (b) if the report is sufficiently objective and analytical, and (c) if the report is submitted quickly enough. Furthermore, Atmosudirdjo (1983), supervision is the process of activities that compare what is being carried out, implemented, or carried out with what is desired, planned, or ordered. From the above description, it can be concluded that the notion of supervision is an activity to assess whether it is as expected, planned, and determined, in order to prevent deviations from occurring (preventive) and to take immediate action on these deviations (repressive). This paper is normative legal research, or also called doctrinal research, which looks at the purpose of the law, values of justice, and the validity of the rule of law, legal concepts, and legal norms. Data collection is done by means of literature study and data from the field in the form of official government documents. Data analysis was carried out in a qualitative juridical manner based on legal theory, legal principles or principles, and normative provisions related to environmental supervision.

3.3 Increasing Monitoring For the Recovery of the Brantas River

In Indonesia, regulations to tackle water pollution still rely on a command and control approach. In this regulation, the Government has the mandate to establish quality standards and requirements that must be complied with by the public. Among them are determining water classes such as classes I, II, III, and IV which are considered still suitable for use for certain purposes, including the determination of water quality standards in order to regulate the maximum level of pollutants with certain parameters. In Government Regulation Number 82 of 2001 concerning Water Quality Management and Water Pollution Control Article 8 paragraph (1), it is stated that; (a) Class I, water whose designation can be used for drinking water raw water, and or other designations that require the same water quality as that use; (b) Class II, water whose designation can be used for water recreation infrastructure/facilities, freshwater fish cultivation, animal husbandry, water for irrigating crops, and or other uses that require the same water quality as that use; (c) Class III, water whose designation can be used for freshwater fish cultivation, animal husbandry, water for irrigating plantations, and or other designations that require the same water quality as that use; (d) Class IV, water whose designation can be used to irrigate crops and or other uses that require the same water quality as that user.

Environmental supervision is a series of activities carried out directly or indirectly by the Environmental Supervisory Officer and/or Regional Environmental Supervisory Officer to determine, ensure, and determine the level of compliance of the person in charge of the business and/or activity to the provisions stipulated in the environmental permit and regulations. Legislation in the field of environmental protection and management Supervision in the environmental field is regulated in Articles 71 to 74 of LEPM 2009. Supervision in the environmental sector is in the hands of the Minister of the Environment, Provincial Government, and Regency/City. Both the Minister, Governor, and Regent/Mayor have the right to appoint Environmental Supervisory Officers. Article 71-74 of LEPM 2009 confirms that it is the obligation of the Minister, Governor, and Regent/Mayor to supervise the person

in charge of businesses and/or activities as an implication of their authority in granting environmental permits. LEPM 2009 applies a two-track monitoring mechanism, what is meant by a two-track mechanism is that in principle the Governor and Regent/Mayor have the authority to supervise the environment following their respective scope of authority, respectively, but if the authority for environmental supervision is not implemented so that a serious violation occurs in the field of environmental protection and management, The Minister of the Environment can supervise the compliance of the person in charge of the business/activity whose environmental permit is issued by the Regional Government. Environmental Supervisory Officer and/or Regional Environmental Supervisory Officer to determine, ensure, and determine the level of compliance of the person in charge of the business and/or activity to the provisions stipulated in the environmental permit and regulations.

IV. Conclusion

The Brantas River has an unfavorable reputation due to pollution. Various population and industrial activities on the banks of the Brantas River should be suspected as a contributor to the damage, and it is undeniable that domestic activities also contributed to this. The above has described how the contribution of the population and industry to the existing damage, especially the use of hazardous and toxic materials and other chemicals. The management of the polluted Brantas River is in complete contradiction with the performance of the Indonesian government at the central, provincial, and district/city levels. Although there has been a Supreme Court decision regarding the pollution of the Brantas River, the government so far does not have a comprehensive plan and serious political will to restore the polluted Brantas River. So it is difficult to eliminate these materials and their disposal. A precautionary approach in the use of hazardous chemicals is needed or at least prioritizes the precautionary principle as an effort that must be considered from the start. Stopping the disposal of household and industrial waste requires commitment from the public and industry, as well as political will in managing and controlling the Brantas River environment. The problems that occur over the pollution of the Brantas River are currently the subject of an in-depth evaluation of the behavior of the community and hundreds of industries in the recovery of the Brantas River. AEI is one of the main requirements in obtaining environmental permits and part of preventive efforts in the context of controlling environmental impacts as a reference in conducting supervision. However, repressive measures must also be taken immediately. If damage has occurred, there must be effective law enforcement against the perpetrators of the destruction or pollution. The point is the emphasis on absolute responsibility for businesses or activities that have an impact on the environment. Recognizing the various negative impacts that can be caused by a business or activity requires prioritizing an early prevention approach. In addition to using all environmental instruments that must be met, public involvement as a form of social participation must also be emphasized, one of which is by providing sufficient information on a business or activity including input and output information at each stage of production.

References

Atmosudirdjo, Prajudi, State Administrative Law, Revised Edition, Jakarta: Ghalia Indonesia, 1982.

Basah, Sjachran, Three articles on Law, quoted by Diana Halim Koentjoro, Meaning, Methods and Functions of Supervision in Government Administration from the Optics

SAL, Dimensions of State Administrative Law Thought, SF Editor. Marbun et.al, Yogyakarta: Faculty of Law UII Press, 2001.
Benuf, Kornelius & Azhar, Muhamad, Legal Research Methodology as an Instrument to Unravel Contemporary Legal Problems. Echo Justice Journal (ISSN: 0852-011), Vol. 7 Edition I, June 2020, pp. 20-33.
Berge, JBJM ten, Course Book, Recent Development in General Administrative Law in the Netherland, quoted by Reynaldo Sembiring (et al), First Edition, Annotation of Law Number 32 of 2009 concerning Environmental Protection and Management, Jakarta: Indonesia Center for Environmental, 2014.
East Java Provincial Environment Service, Report on the Results of Water Quality Monitoring Activities in the Surabaya Region which includes Surabaya River and Mas River, Surabaya: East Java Provincial Government, 2020.
Fadli, M., & Lutfi, M., Environmental Law, and Policy, Malang: Brawijaya Press University, 2016.
Hadjon, Philipus M., "Enforcement of Environmental Law in Environmental Management" in B. Arief Sidharta, ed., Items of Ideas on Implementing Law and Proper Governance, Bandung: Citra Aditya Bakti, 1996.
Hamidi, Jasim, Application of General Principles of Good Governance in the Indonesian Administrative Court, Bandung: Citra Aditya, 1999.
Hartanto, D. (2020). Sociology Review of Social Phenomenon, Social Rules and Social Technology. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 3 (2): 1175-1184.
Manisalidis I, Stavropoulou E, Stavropoulos A and Bezirtzoglou E (2020) Environmental and Health Impacts of Air Pollution: A Review. Front. Public Health, February 2020. DOI: 10.3389/fpubh.2020.00014, accessed 5 October 2021.
Manucci PM, Franchini M. Health effects of ambient air pollution in developing countries. Int J Environ Res Public Health. (2017) 14:1048. DOI: 10.3390/ijerph14091048 CrossRef Full Text | Google Scholar, accessed 5 October 2021.
Marzuki, Peter Mahmud, Legal Research, Jakarta: Kencana Prenada Media Group, 2014, pp., 89-90.
Ministry of Environment and Faculty of Law, Guidelines for Enforcement of Environmental Criminal Law, First Edition, Bandung: Ministry of Environment and the Faculty of Law, Padjadjaran University, 2003.
Mukhlish, M., Environmental Administrative Law Concepts in Realizing Sustainable Development. Journal of the Constitution, 7(2), 2016, p. 067-098.
Padjadjaran University, Guidelines for Enforcement of Environmental Criminal Law, First Ed., Bandung: Faculty of Law Padjadjaran University, 2003, p. 3.
Priyono, Ery Agus, Research Methodology Lecture Material, Notary Masters Study Program, Semarang: Diponegoro University, 2003.
Purbopranoto, Koentjoro, Some Notes on Governance Law and State Administrative Courts, Bandung: Alumni, 1975.
Rangkuti, Siti Sundari, Environmental Law and National Environmental Policy, Third Edition, Surabaya: Airlangga University Press, 2005.
Ridwan H.R, Three Dimensions of Administrative Law and Administrative Justice, Yogyakarta: Faculty of Law UII Press, 2009.
Santosa, Mas Achmad, Development and Enforcement of Administrative Law in the Environmental Sector in the Context of Regional Autonomy, Quoted from Moh. Hasyim, "Administrative Law Enforcement against Industrial Business Permits as Juridical Instruments for Environmental Management (Study on Supervision and

Application of Administrative Sanctions in Semarang City)", Journal of Law Ius Quia Iustum, Edition No. 27 Vol. 11, 2004, p. 27.
Soemantri, Sri, Anthology of Indonesian Constitutional Law, Bandung: Alumni, 1992.
Soekanto, Soerjono & Mamudji, Sri, Normative Legal Research a Brief Overview, Jakarta: Raja Grafindo Persada, 2001.
Spell, N.M. & Berge, J.B.J.M. ten, Introduction to Licensing Law, edited by Philipus M. Hadjon, Surabaya: Yuridika, 1993.
Sudarsono, My Country Reaps Ecological Disaster Ignoring Religious, Customary, and Legal Norms Repositioning and Revitalizing Environmental Law Enforcement, Second Edition, Yogyakarta: Java Regional Environmental Management Center, 2007.

Regulations
Government Regulation Number 82 of 2001 concerning Water Quality Management and Water Pollution Control. State Gazette No. 153.
Law Number 32 of 2009 concerning Environmental Protection and Management, State Gazette of the Republic of Indonesia of 2009 Number 140.
Join Regulation of the State Minister for the Environment and the Head of the State Civil Service Agency Number: 09 of 2012, Number: 06 of 2012 concerning Provisions for Implementation of the Regulation of the State Minister for Administrative Reform and Bureaucratic Reform, Number 39 of 2011 concerning Functional Positions for Environmental Supervisors.
Minister of Environment Regulation Number 5 of 2014 concerning Waste Quality Standards.
Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 36/KMA/SK/II/2013 concerning the Enforcement of Guidelines for Handling Environmental Cases.
East Java Provincial Government, Main Report- Document of Environmental Management Performance Information for East Java Province, East Java Provincial Environmental Service, Surabaya, 2017, p. III-104-105.