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## **Authority of the Aceh Oil and Gas Management Agency in the Management of Upstream Oil and Gas State Property in the Form of Land**

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### **Abstract**

Aceh Province is one of the migas producing areas in Indonesia. In the past, migas management was centralized. However, currently, with the enactment of Law No. 11 of 2006 concerning the Aceh Government, the government has given authority, including migas management, as stated in Article 160 paragraph (1) and Government Regulation (PP) No. 23 of 2015 concerning Joint Management of Oil and Gas Natural Resources in Aceh which is given the authority to carry out joint management with the Government which is carried out by an agency, namely the Aceh Oil and Gas (Migas) Management Agency (BPMA). Aceh's abundant natural wealth, such as oil and natural gas, has the potential to improve the economy and prosperity of the people. This of course really requires support from all levels of society

and the government. In the implementation of joint oil and natural gas management in Aceh, apart from profit sharing funds or additional profit-sharing funds, of course there are other components that can be of concern to be managed jointly, such as land which is part of state property (BMN) in upstream businesses. migas. However, based on preliminary research that has been obtained, so far, any costs arising from the utilization of BMN Hulu Migas in the form of land within the Aceh jurisdiction are not included in the distribution of profits to the Aceh government. Therefore, a study is needed to analyze and study why BPMA does not get a share of the proceeds from the use of state property in the form of land in obtaining rights to use upstream migas state property.

**Keywords:** Authority, Aceh Oil and Gas Management Agency, Upstream Oil and Gas State Property, Land

### **Introduction**

Aceh is one of the oil and gas (Migas) producing regions in Indonesia. In the past, migas management was centralized. However, with the passage of the Aceh Government Law (Law No. 11 of 2006), the government recently transferred powers including migas management under Article 160 (1) and Government Regulation (PP) No. 23 of 2015 on Joint Ventures. The management of natural migas resources in Aceh is authorized to be jointly managed with the government (central government) by one agency, namely BPMA.

BPMA is the autonomous management agency for migas field exploration, exploration, exploitation and production in Aceh, and is also an authorized user of assets in the upstream migas industry. In comparison with the whole country, BPMA is the central task force for upstream migas business activities (SKK Migas). SKK Migas is the national-level upstream migas management agency. After the birth of BPMA, SKK Migas managed the national migas upstream minus Aceh, because Aceh's upstream migas was managed by BPMA.

BPMA is a government agency formed to carry out implementation, control and supervision of Cooperation Contracts (KKS) with other companies, namely regarding upstream business activities in the Migas sector located on land and sea, within the jurisdiction of Aceh (0 to 12 nautical miles)<sup>1</sup> with a revenue sharing for recipients of 30% for the government and 70% for the Aceh government. Meanwhile, the authority for natural migas resources located in sea areas 12 to 200 miles from Aceh's authority area, is implemented by the government by including the Aceh government, with a revenue sharing for the government

<sup>1</sup> Pasal 1 Angka 22 Peraturan Pemerintah Nomor 23 Tahun 2015 Tentang Pengelolaan Bersama Sumber Daya Alam Minyak Dan Gas Bumi Di Aceh.

of 70% for the government and 30% for Aceh.<sup>2</sup> BPMA not only carries out the duties and functions of SKK Migas but also carries out the duties of the Directorate General of Migas, Ministry of Energy and Mineral Resources (Ministry of ESDM). Thus, BPMA is not an affiliate, let alone a subsidiary of SKK Migas in Aceh.

Article 13 PP No. 23 of 2015 stipulates the duties and functions of BPMA, namely, the mission of BPMA is to implement, control and supervise the cooperation agreement on upstream business activities to develop national migas resources. Promote the development of the region on land and sea. The authority of Aceh can provide the greatest benefits and revenue to the state, thereby maximizing the welfare of the people.

Aceh's abundant natural wealth, such as migas, has the potential to improve the economy and prosperity of the people. This of course really requires support from all levels of society and the government. In this way, the government must really be able to make good use of the natural resources which constitute Aceh's natural wealth, so that it really has an impact that can improve the standard of living of the Acehnese people (the prosperity of the Acehnese people) and no longer be a disadvantaged area with poor people as per the data. So far, Aceh is the poorest province on the island of Sumatra. This is of course very painful, where Aceh is an area that has abundant natural wealth, but prosperity for the people has not yet been realized.

When implementing joint management of migas in Aceh, in addition to the profit sharing fund or additional profit sharing fund, there are of course other components that may be relevant and need to be jointly managed, such as: Land that is part of the government property (BMN) of the upstream migas company. Regulation No. 140/PMK.06/2020 of the Ministry of Finance (PMK) on the management of upstream migas with BMN stipulates that the cooperating contracting party (KKKS) has four types of assets when carrying out upstream migas business activities, namely: Land, Property Capital (HBM), Inventory Assets (HBI), and Inventory Materials (MP). In accordance with the PMK, precisely in Article 1 (5), all goods originating from cooperation contracts between contractors and the Government are state property. The provisions in the PMK were previously regulated in PP No.35 of 2004 concerning Upstream Migas Business Activities where it was stated that all goods and equipment directly used in upstream business activities purchased by the Contractor become state property/wealth whose management is carried out by the Government and managed by implementing agency. This provision causes all types of KKKS assets as referred to previously to be state property from the moment they land on the Indonesian mainland.

In the third part of Article 9 (1), (2) and (3) PMK No.140/PMK.06/2020 states the duties and authority of the Property User Authority (hereinafter abbreviated to KPB) in this case consisting of SKK Migas and BPMA as representatives of the Aceh government, one of which is providing guidance, supervision and control over the management of BMN Upstream Migas carried out by the Contractor and the authority to submit proposals for Utilization, Transfer, Destruction and/or Elimination to

Users Goods in this case the Contractor. Furthermore, Article 169 of PMK No.140/PMK.06/2020 concerning the management of upstream migas state property in the Aceh region also explains the Management of Upstream Migas BMN in the Aceh region which includes Grants, Sales, Exchanges, Central Government Capital Inclusion, Destruction, or Utilization must first obtain approval from the Property Manager on the proposal of the Head of BPMA, through the Governor of Aceh and the Property User.

On the basis of the above regulations, the position of the Aceh government through the BPMA is an inseparable part of the power of property users regarding the management of the utilization of BMN Upstream Migas, including land, so that the utilization of BMN Upstream Migas which is in the hands of Contractors or Property Users is carried out in the form of leases or loans. use.<sup>3</sup>

So that in the implementation of leasing or borrowing, there will definitely be a cost of profit on the land used, the Property User Authority, both SKK Migas and BPMA, should also receive the proceeds from the costs arising from this joint management as explained in PMK No.140/PMK.06 /2020 in Article 9 (3) letter d which states that KPB has the right to apply for Utilization, Transfer, Destruction and/or Removal to Users of Goods.

However, based on the research results, it was found that Muhammad Makmun, Staff for Formalities, Agreements and Land at BPMA, stated that so far any costs arising from the utilization of BMN Upstream Migas in the form of land in the Aceh region have not been included in the distribution of profits for the Aceh government. For example, PT. Medco E&P Malaka which borrowed land from the contractor to be used by PT. Perta Arun Gas is involved in upstream migas activities, however, from the costs incurred from the loan, the Aceh Government, represented by BPMA, does not receive the proceeds but instead flows entirely to the Directorate General of State Assets (DJKN), namely Non-Tax State Revenue (PNBP) in the migas sector. Even though the Aceh government, through BPMA, is involved as the Authorized User of BMN Upstream Migas Goods which has been mentioned in PMK 140/PMK.06/2020, and in PP Number 23 of 2015 concerning Joint Management of Migas Natural Resources in Aceh which is given the authority to carry out joint management with the Government is carried out by an agency, namely the Aceh Migas Management Agency (BPMA), so with these special regulations Aceh should also get a share of the utilization of BMN Upstream Migas.<sup>4</sup>

Therefore, it is necessary to investigate and analyze judicially whether Aceh is entitled to its portion, because specific regulations regarding migas joint management have been regulated which are stated in PP No.23 of 2015 but in PMK 140/PMK.06/2020 it is not stated what the portion of profits from utilization of BMN Upstream Migas for Aceh. So that later it will be known why BPMA does not get a share of the proceeds from the use of state property in the

<sup>2</sup> Pasal 69 Peraturan Pemerintah Nomor 23 Tahun 2015 Tentang Pengelolaan Bersama Sumber Daya Alam Minyak Dan Gas Bumi Di Aceh.

<sup>3</sup> Pasal 53 (1) Peraturan Menteri Keuangan Nomor 140/PMK.06/2020 Tentang Pengelolaan Barang Milik Negara Hulu Minyak Dan Gas Bumi.

<sup>4</sup> Wawancara dengan Muhammad Makmun, Staf Bidang Formalitas, Perjanjian dan Pertanahan di Badan Pengelola Migas Aceh, Selasa, tanggal 05 November 2024.

form of land and the obstacles in distributing rights to the use of upstream migas state property in the form of land.

### Research Methods

From the object that will be studied in this research, namely the fulfillment of the Aceh Government's authority in the management of Aceh's upstream migas state property in the form of land, this research is research that is based on the scope of legal analysis which includes, as follows;

- a) Current positive law.
- b) Investigation of existing laws.
- c) Investigation of laws that are expected to apply in the future.

This research is a type of empirical juridical research, used to discuss BPMA's authority in managing upstream migas state property in the form of land and whether Aceh is entitled to a portion of it, because the specific rules for this management have been regulated in government regulations and the regulations of the minister of finance.

This research was conducted in Aceh, specifically at BPMA. The sample in this research is the Aceh Government and related agencies regarding joint management of Aceh's upstream migas, in this case BPMA.

Meanwhile, the respondents were: Head of the BPMA Formality and External Relations Division, Formality, Agreements and Land Affairs at BPMA, BPMA Accounting and Taxation Division Staff in charge of KKKS Financial Reporting Staff, FQR and Asset Evaluation, Asset and Supply Chain Management Division Staff BPMA is in charge of Supervision and Evaluation of KKKS and Internal Procurement. Apart from that, there are also informants, namely academics who are competent in mastering the field of migas management, namely the Chair of the Center for Migas Studies, Malikussaleh University, Lhokseumawe.

Meanwhile, according to Nur Indrianto and Bambang Supomo, the data source is: "The data source is an important factor that is taken into consideration in determining the data collection method in addition to the type of data that has been created in advance."<sup>5</sup>

Primary data sources were obtained from directly selected respondents and informants, namely by oral interviews conducted with respondents and informants using previously prepared questions.

The data analysis used is qualitative juridical, the data collected, both primary data and secondary data, are selected, clarified and categorized so as to show the relationship between phenomena. Then, it is analyzed and an interpretation is made to then draw useful conclusions.<sup>6</sup> Based on the data obtained, data analysis was carried out using a qualitative approach using deductive and inductive methods.<sup>7</sup>

### Results and Discussion

#### 1.) The reason why the Aceh Migas Management Agency does not receive profit sharing from the use of upstream migas state property in the form of land

<sup>5</sup> Nur Indriantoro, Bambang Supomo. *Metodologi Penelitian Bisnis Untuk Akuntansi & Manajemen*. (Yogyakarta: BPFE, 2013), hlm. 142.

<sup>6</sup> Moh. Nazir, *Metode Penelitian*, (Jakarta: Ghalia Indonesia, 2003), hlm. 436.

<sup>7</sup> Samadi Suryabrata, *Metodologi Penelitian*, (Jakarta: CV. Rajawali, 1988), hlm.73.

BPMA's duties include the execution, control and supervision of labor contracts for joint management of upstream business activities to ensure that the exploitation of the country's onshore and offshore migas resources within Aceh's jurisdiction brings the greatest benefits and revenue to the state and maximizes the prosperity of the people.

The utilization of Indonesia's natural resources, including migas, is very important for the prosperity of the people. Because the statement "Indonesia's natural resources are used for the prosperity of the people" can be traced back to the objectives of the 1945 Constitution, especially Article 33 (3), which stipulates that natural resources are controlled by the state and their use that contributes to prosperity must serve the people. Therefore, the government does need to regulate and pursue the use of natural resources to increase the prosperity of the people and improve the living standards of the people throughout Indonesia.<sup>8</sup>

Aceh's abundant natural wealth, such as migas, has the potential to improve the economy and prosperity of the people. This of course really requires support from all levels of society and the government. In this way, the government must really be able to make good use of the natural resources which constitute Aceh's natural wealth, so that it really has an impact that can improve the standard of living of the Acehnese people (the prosperity of the Acehnese people) and no longer be a disadvantaged area with poor people as per the data. So far, Aceh is the poorest province on the island of Sumatra. This is of course very painful, where Aceh is an area that has abundant natural wealth, but prosperity for the people has not yet been realized.

The main aim of the statement above is to ensure that Indonesia's abundant natural wealth can be utilized fairly and equally for the welfare of the people, not just for the interests of a few parties or certain groups. In this case, the state has an important role as a regulator and supervisor to ensure that the use of natural resources is carried out in a transparent, accountable and efficient manner. The country also needs to ensure that natural resources are not overexploited or damage the environment, which could harm future generations.

BPMA is a special migas management agency which is a special government organ in the form of a state-owned legal entity which has a strategic role in acting on behalf of the government to carry out the function of state control over migas, especially upstream activities (exploration and exploitation) in the Aceh jurisdiction.<sup>9</sup> This means that all forms of upstream migas business activities in Aceh are the responsibility of the BPMA to provide maximum benefits and revenues to the Aceh government, including in terms of utilizing upstream migas state-owned assets in the form of land. Management of state property contains several aspects, namely aspects of management, utilization, use and transfer.<sup>10</sup>

<sup>8</sup> Suhaimi, Herawati, Mujibussalim, Penertiban Terhadap Hak Milik Atas Tanah Yang Terindikasi Terlantar Di Kota Banda Aceh, *Syiah Kuala Law Journal*, Vol.1(1), April 2017, pp.287-300.

<sup>9</sup> Buku Laporan Kinerja BPMA 2023, melalui situ <https://www.bpma.go.id/laporan-kinerja-bpma/>, diakses 05 Januari 2025.

<sup>10</sup> Kamaluddamairi Usman, *et al.*, Refusal of Extension of Building Use Rights Over Management Rights on Land (Study of Supreme Court Decision Number 1343/K/Pdt/2021), *International Journal of Multicultural and Multireligious Understanding (IJMMU)*, Vol. 10(8), 2023, pp.197-208.

However, in reality, so far, especially in terms of management and utilization of upstream migas state-owned assets in the form of land, it has still been neglected so that the receipts from the proceeds arising from both leasing and or borrowing-to-use land assets for Aceh have still not received a share of the results because these costs are completely went into the state account through the DJKN of the Ministry of Finance in the PNPB sector, and these costs were never allocated in the Special Allocation Fund for Aceh.<sup>11</sup> So this is a question mark and a problem in itself regarding the spirit of joint management of migas in Aceh.

Of course, the reason why BPMA does not receive a share of profits from the use of upstream migas state property in the form of land is due to the weak attention of the Aceh government, in this case the Governor of Aceh, to provide encouragement and attention to BPMA to ensure that all forms of upstream migas business activities in Aceh run maximally for any revenue related to upstream migas business activities and also other causes due to lack of coordination between stakeholders in the Aceh government and BPMA.<sup>12</sup> Even though the central government through PMK No. 140/PMK.06/2020, in this case Article 169 has given special authority to Aceh through authority in the Governor's approval of the BPMA head's proposal regarding the utilization of upstream migas state-owned assets including assets in the form of land.

## 2.) Obstacles to the Aceh Migas Management Agency in Distributing Rights to Utilize Upstream Migas State Property in the Form of Land

Based on PMK No.140/PMK.06/2020, it is explained that the management of state property in the upstream migas sector covers various aspects, one of which is: Provisions related to the distribution of production results between the government and oil/gas contractors and regulations related to tax obligations, royalties or other payments that must be made by contractors or companies involved in this industry. Meanwhile, according to PP No.35 of 2004, the Manajement of State Property in the Upstream Migas Sector has also been regulated, there are several main points including: This regulation stipulates the provisions that must be regulated in cooperation contracts between the government and contractors, such as work areas, time periods, distribution of production results, environmental obligations, as well as technical and financial obligations of contractors. Matters related to the transfer and acquisition of land required for migas exsploration and production activities are also regulated in this regulations.

Based on these regulations, the obstacle is that BPMA does not get a share of the proceeds from the utilization of BMN assets in the form of land because of BPMA's position as a Property User Authority which only has authority and responsibility for the managemen of upstrem Migas state-owned assets only. BPMA as an institution or attribution body only has the authority to use the goods under its control as well as possible so it does not have the right to take a share of the proceeds from the utilization of upstream

migas state property in the form of land unless there is discretion from the Aceh government to encourage BPMA to manage it as user authority. goods propose to goods users to be able to obtain these rights for Aceh with the opportunity through PMK No. 140/PMK.06/2020, which in Article 169 of the PMK states that the Governor of Aceh has the right to provide approval for the use of state-owned assets, including land.<sup>13</sup>

## 3. BPMA's Efforts to Obtain Rights to Utilize Upstream Migas State Property in the Form of Land

Good supply chain asset management is one of the determinants of the smooth running of a project in the field. Obstacles that have implications for the procurment of good's and service will of course also have a real impact on the completion of upstream migas projects. However, on the contrary, good supply chain management will have positive implications for supporting increased migas production.

In 2021, the value of Upstream Migas State Property (BMN) was recorded at IDR 696.96 trillion, including BMN recorded on the balance sheet of IDR 577.71 trillion, which consists of assets in the form of Land, Capital Assets, Inventory Assets and Inventory Materials. . This large figure makes the DJKN more focused on optimizing the management of BMN Upstream Migas in order to increase socio-economic benefits for the community. The Ministry of Finance continues to strive to support the optimization of management of BMN Upstream Migas, of course together with strategic partners in the Ministry of ESDM and BPMA.<sup>14</sup>

In an effort to continue to optimally optimize the management of Upstream Migas State Property, especially in Aceh, the Ministry of Finance together with strategic partners in the Ministry of ESDM and BPMA have carried out the signing and submission of a Special Power of Attorney (SKU) for certification by the authorizer, namely the Director General of Wealth. Country a.n. Minister of Finance, to the Secretary General of the Ministry of ESDM, SKK and BPMA as recipients of power of attorney, as well as signing a joint commitment for certification between DJKN, Ministry of ESDM, SKK Migas and BPMA.

The issuance of this power of attorney is expected to speed up the processing and completion of certification of upstream migas land used by Cooperation Contract Contractors (KKKS). Certification is an effort to legally secure land upstream of migas. This program is also a follow-up to the results of the inventory and assessment implementation which is still ongoing today.<sup>15</sup>

So that in the future, after the inventory is completed, it will be possible to detect how much proceeds Aceh received from the process of leasing and borrowing land assets from upstream migas state-owned goods. Another effort, if Aceh wants to be able to get results from the utilization of upstream migas state-owned land assets, it is hoped that BPMA can provide input to the Aceh government to

<sup>11</sup> Wawancara dengan Ilham Ar-Razi, Staf Divisi Akuntansi dan Perpajakan Bidang Pelaporan Keuangan KKKS, Evaluasi FQR dan Aset, tanggal 02 Januari 2025.

<sup>12</sup> Wawancara oleh Yunizal, Staf Bidang Pengelolaan Aset dan Rantai Supply Badan Pengelola Migas Aceh, Pada tanggal 03 Januari 2025.

<sup>13</sup> Wawancara oleh Muhammad Makmun, Staf Divisi Formalitas dan Hubungan Eksternal Bid. Formalitas, Perjanjian dan Pertanahan, Pada tanggal 03 Januari 2025.

<sup>14</sup> Purnama T. Sianturi, Direktur Pengelolaan Kekayaan Negara DJKN dalam Focus Diskusi Grup *Pengelolaan BMN Hulu Migas tahun 2023*, di Jakarta 06 Desember 2023.

<sup>15</sup> <https://www.bpma.go.id/djkn-terbitkan-kuasa-khusus-sertipikasi-tanah-hulu-migas-guna-optimalikan-pengamanan-aset-negara/> di akses 05 Januari 2025.

coordinate with the central government, in this case the Ministry of Finance and the DJKN as the user of the goods to carry out revisions. PMK No.140/PMK.06/2020 by adding points that explain in detail and detail regarding Aceh's rights to the utilization of land assets from upstream migas state property on the basis of Article 169 of the PMK which provides authority to the Governor of Aceh to grant authority to approve the utilization of these assets so that the spirit of joint management of migas in Aceh is maintained well and optimally.

If it is not possible to carry out revisions to add the points in question, then Article 169 contained in PMK No.140/PMK.06/2020 should be deleted because it does not provide any strength and impact with the provision of approval from the Governor of Aceh.

### Conclusion

BPMA is a special migas management agency which is a special government organ in the form of a state-owned legal entity that has a strategic role in acting on behalf of the government, carrying out the function of state control over migas, especially upstream activities (exploration and exploitation) in the Aceh jurisdiction to provide maximum benefits and revenues to The Aceh government includes the utilization of upstream migas state-owned assets in the form of land. In fact, so far, specifically in terms of management and utilization of upstream migas state-owned assets in the form of land, land has still been neglected so that revenue from the proceeds for Aceh has still not been received because these costs are fully entered into the state account through the DJKN of the Ministry of Finance in the PNPB sector. The reason is that BPMA does not receive a share of the proceeds from the use of upstream migas state property in the form of land due to weak coordination between stakeholders in the Aceh government and BPMA. In fact, the central government through PMK No.140/PMK.06/2020 in Article 169 has given special authority to Aceh through authority in the Governor's approval of the BPMA head's proposal regarding the utilization of upstream migas state-owned assets, including land.

The obstacle is that BPMA does not get a share of the proceeds from the utilization of BMN assets in the form of land because BPMA's position as the Property User Authority only has authority and responsibility for managing upstream migas state-owned assets, BPMA as an institution or attribution body only has the authority to use goods that are in their control as well as possible so that they do not have the right to take a share of the proceeds from the use of upstream migas state-owned goods in the form of land unless there is discretion from the Aceh government to encourage BPMA to, in its management as the proxy for the user of the goods, propose to the user of the goods to be able to obtain these rights for Aceh as it is opportunities through PMK No. 140/PMK.06/2020 where Article 169 states that the Governor of Aceh has the right to approve the use of state-owned assets, including land.

As for efforts to continue to support optimal management of Upstream Migas State Property, especially in Aceh, the Ministry of Finance together with strategic partners in the Ministry of ESDM and BPMA have carried out the signing and submission of Special Power of Attorney (SKU) in the context of land certification. Certification is an effort to legally secure land upstream of migas. So that in the future, after the inventory is completed, it will be possible to detect

how much proceeds Aceh received from the process of leasing and borrowing land assets from upstream migas state-owned goods. Another effort, if Aceh wants to be able to get results from the utilization of upstream migas state-owned land assets, it is hoped that the Aceh Migas Management Agency can provide input to the Aceh government to coordinate with the central government to carry out revisions to PMK No.140/PMK.06/2020 by adding points that explain in detail and detail regarding Aceh's rights or if it is not possible to make revisions for additions then article 169 in PMK number 140/PMK.06/2020 to be deleted because it does not provide any strength and impact by providing room for approval from the Governor of Aceh.

### Suggestion

All levels of society are expected to fully support the Aceh government's efforts to manage the natural resources that constitute Aceh's abundant natural wealth, such as oil and gas, in order to improve the economy and community welfare. Thus, the government must really be able to make the best use of the natural resources which are Aceh's natural wealth, so that they really have an impact that can improve the standard of living of the Acehnese people (the prosperity of the Acehnese people). and is no longer a disadvantaged area with poor people according to the data. So far, Aceh is the poorest province on the island of Sumatra. This is of course very painful, where Aceh is an area that has abundant natural wealth, but prosperity for its people has not yet been realized.

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