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## Procurement of Land for the Development of Pekanbaru-Kandis-Dumai Toll Road on the Land of Oil and Gulta Business Concession in Riau Province

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### Abstract

National development is an effort to improve all aspects of the life of the people, nation and state. Land Procurement for public interest is an activity of providing land for public / public interests for the implementation of development projects carried out by the government or agencies that require land. Riau Province is one of the provinces in Sumatra which is very strategic. The movement of goods and services greatly affects the amount of traffic in the province, especially in the cities of Pekanbaru and Dumai. To overcome and accelerate the movement of goods and services, access is needed to anticipate traffic burdens. One alternative solution is to build the Pekanbaru-Kandis-Dumai Toll Road that connects the movement from Pekanbaru to Dumai. There are problems in the implementation of land acquisition, Commitment Making Officers and the Land Acquisition Committee encounter obstacles in providing compensation because the land / land owned is the land / concession area of PT. Chevron Pacific Indonesia is listed as an asset of the State Property, so the releasing party is the Directorate General of State Assets. The State Property and has been submitted to the Ministry of Finance the Director General of State Assets to be transferred for use of the toll road by the Ministry of Public Works and Public Housing.

The method used is analytical descriptive, which reveals laws and regulations relating to Land Acquisition and law in its implementation in the community regarding the resolution of the Land Acquisition problem. This research uses an empirical juridical approach that is conducting research with emphasis on the application of paying land acquisition law in the form of laws, PPs, Permen, Perkaban and other regulations on Land Procurement. Data collected in the form of primary data, obtained from relevant parties in the Land Acquisition in the research location, secondary data obtained from secondary legal materials, primary legal materials and linear legal materials.

From the research it was found that the concessionaire PT. Caltex Pacific Indonesia (PT.CPI) based on Decree of the Head of the Riau Level I Swatantra Region in Tanjung Pinang dated June 5, 1959 Number: 091/48/59. The status of land such as the concession must be converted by the concession holder into a Land Right in accordance with the conversion provisions regulated in the Basic Agrarian Law Number 5 of 1960 concerning Basic Agrarian Rules Article IV. But based on DJKN letter No. S-884 / KN.4 / 2017 dated November 7, 2017 concerning the Statement of State Property, the land has been registered as State Property.

**Keywords:** *Land Procurement; State Property; Toll Roads*

## **Introduction**

Development carried out by the State of Indonesia is currently faced with the problem of providing land. Land is needed by many people while the number is not increasing or fixed, so that the available land is no longer able to meet the increasing needs, especially the need for land to build housing as a residence, for agriculture, and to build various public facilities in order to meet the demands for progress in various fields of life.

Basically, land issues in the Republic of Indonesia are clearly regulated in the Basic Agrarian Law which is the implementation of Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia and constitutional basis for the formation of politics and the National Agrarian Law, which contains orders to the state, so that the earth, water, and natural resources contained therein placed in the control of the country are used to realize the greatest prosperity of all the people of Indonesia.

In Article 2 Paragraph 2 of the Basic Agrarian Law, details of the authority to control the State are given in the form of activities:

1. Organize and carry out the designation, use, supply and maintenance of earth, water and space.
2. Determine and regulate legal relations between people and the earth, water and space.
3. Determine and regulate legal relations between people and legal actions concerning earth, water and space.

Procurement of land for development in the public interest is a political step by the government in providing land for development as an instrument to carry out the country's legal politics. Therefore, the first step taken by the government is to procure land through a process of relinquishment and lead to the revocation of rights. Land Procurement is any activity to acquire land by providing compensation to those entitled to or releasing or surrendering land, buildings, plants and objects related to the land.

Pursuant to the provisions of Law Number 2 of 2012 that land acquisition is an activity of providing land by providing appropriate and fair compensation to entitled parties. The law specializes in regulating land for development in the public interest. Public interest is defined as the interests of the nation, state and society that must be realized by the government and used as much as possible for the prosperity of the people.

Expropriation of community land in the context of land acquisition for development must be accompanied by compensation for the party whose land was acquired. The term compensation is interpreted by Law Number 2 of 2012 as an appropriate and fair compensation to the party entitled to the land acquisition process. Then Article 36 of Law Number 2 of 2012 confirms that the Provision of Compensation can be given in the form of:

- a. Money
- b. Substitute Land
- c. Resettlement
- d. Share Ownership and
- e. Other forms agreed by both parties.

Land acquisition for toll road construction which is a public road, including in the acquisition of land for public purposes, as contained in Article 10 letter b of Law Number 2 of 2012 concerning Land Procurement for Development for Public Interest as outlined in the National Medium-Term Development

Plan (RPJMN) 2015-2019 was formed as the third stage of the 2005-2025 National Long-Term Development Plan (RPJPN) established through Law Number 17 of 2007 concerning the 2015-2019 National Medium-Term Development Plan with the umbrella of the 1945 Constitution of the Republic of Indonesia. The RPJMN was prepared as a translation of the Vision, Mission and Agenda (Nawa Cita) of the President / Vice President, Joko Widodo and Muhammad Jusuf Kalla, using the Technocratic Draft prepared by Bappenas and guided by the 2005-2025 RPJPN. The RPJMN is a guideline to guarantee the achievement of the 1-2 President's vision and mission which is realized through Nawa Cita.

Based on Presidential Regulation of the Republic of Indonesia Number 56 Year 2018 concerning Second Amendment to Presidential Regulation Number 3 Year 2016 Regarding the Acceleration of the Implementation of the National Strategic Project, land acquisition activities for the Construction of the Pekanbaru-Kandis-Dumai Toll Road which are part of the National Strategic Project in part of 8 sections Trans Sumatra. Planning for the Pekanbaru-Dumai toll road, which extends 131.5 km, began in 2013 in accordance with the determination of the location of the Governor of Riau on May 4, 2015 Number: Kpts. 408 / V / 2015 concerning Determination of the Location of Construction of the Pekanbaru-Kandis-Dumaidan Toll Road, extended according to the determination of the location of the Governor of Riau on May 18, 2017 Number: Kpts. 387 / V / 2017 Extension of Establishing Pekanbaru-Kandis-Dumai Toll Road Development.

In order to improve services to the community and overcome various traffic congestion and in an effort to develop the community's economy, especially in the area of Riau Province, the Pekanbaru-Kandis-Dumai Toll Road needs to be built. In connection with this matter, the Ministry of Public Works and Public Housing has been appointed as the executor of the land acquisition, and the task of the Committing Officer of the Ministry of Public Works and Public Housing is to carry out the land acquisition activities of the Pekanbaru-Kandis-Dumai Toll Road.

Riau Province is one of the provinces in Sumatra Island which is very strategic. One of the natural resources that strongly supports the economy is petroleum mining. So that the movement of goods and services greatly affect the amount of traffic in the province, especially in the City of Pekanbaru and Dumai. Pekanbaru City is the economic center in Riau Province, so it has an impact on the density of vehicle loads in the city. To overcome and accelerate the movement of goods and services, access is needed which can anticipate traffic burdens. One alternative solution is to build the Pekanbaru-Kandis-Dumai Toll Road that connects the movement from Pekanbaru to Dumai.

The intent and purpose of the Pekanbaru-Kandis-Dumai Toll Road development plan in accordance with the mandate of the RTRW of Riau Province is to overcome and accelerate the movement of goods and services and provide alternatives to road users so that they can reduce and anticipate the traffic burden that they cause. And is expected to support the development of the Sumatra region and good national economic growth and can improve the lives of the surrounding communities, and can increase productivity through reducing distribution costs and providing access to regional markets.

There is a problem in the implementation of land acquisition, Commitment Officer and Land Acquisition Committee encountered obstacles in providing compensation because the land / land owned is the land / concession area of PT. Chevron Pacific Indonesia is listed as an asset of State Property, so that the releasing party is the Directorate General of State Assets. 253 State Property Land areas covering 196,412 m<sup>2</sup> have been submitted to the Ministry of Finance Director General of State Assets to be transferred for use of the toll road by the Ministry of Work Public and Public Housing but no answer.

On the land of the concession there is ownership of this citizen carried out in good faith and so far there has been no interference or objection from the concession holder, so that a compensation statement has been issued by the local village government and some have been certified in the name of the residents and parties PT. Chevron Pacific Indonesia (CPI) did not take any action against the people who controlled the land and in fact there was ownership / ownership of the residents that took place until now,



besides that there were no boundary markers which should be managed by PT. Chevron Pacific Indonesia (CPI).

Based on the description above, the author intends to seek answers about how the implementation and resolution of the problem of the Pekanbaru-Kandis-Dumai Toll Road Procurement manifested in the form of a legal writing entitled "**Procurement of Land for the Development of Pekanbaru-Kandis-Dumai Toll Road About the Hulu Business Concession Oil and Gas in Riau Province**".

### **Research Methods**

To answer the problem examined in this study, a method is needed so that the results of the research to be obtained can be justified. The method is a method used to obtain data that can later also be accounted for scientifically. The research method used here is Sociological Juridical, which is an approach that emphasizes field practice associated with aspects of the law or legislation in force. This research is descriptive-analytical in nature, that is, research that describes or depicts research objects which are then analyzed through qualitative juridical analysis.

### **Research Result**

#### **Problems in the Implementation of Land Procurement for the Construction of the Pekanbaru-Kandis-Dumai Toll Road**

Problems of State Property on PT. CPI Starting from SK Gub. No. 091/48/59 dated June 5, 1959 to provide facilities to make roads that are given a safe distance of 100 meters left and right of the pipe. But the situation on the ground has already been established by the community in the form of houses, shops, markets, and others. PT. CPI both recognize ownership of rights by both showing evidence of ownership. The solution to this problem has been submitted to the community by giving the KJPP assessment results for the land of State Property is Rp. 0, - and only replaced for plants and buildings. There are several landowners who disagree with the results of the KJPP assessment but do not submit objections to the local District Court.

Responding to the truth about the land ownership, the community submitted a letter regarding the Clearing Point / ROW BMN Point explanation for 100 m right and left of the Pekanbaru-Dumai road on January 22, 2018 addressed to the Governor of Riau Province, signed by Medan Ribka Bru Surbakti, Robertus Jamin Barus, Jonathan Ginting, Ramauli Sembiring, Erwin Siregar, Hormat Surbakti, Remon Ginting and Erniwati Br Tarigan, the community asked the Governor of Riau to provide an explanation of the truth of PT. CPI

In February 2019 the Justice Seekers Community Forum submitted an application to the Ministry of Agrarian Affairs and the National Land Agency, the Ministry of Public Works and Public Housing and the Presidential Chief of Staff, which in essence conveyed the existence of injustice and legal uncertainty regarding the Compensation Money (UGR) received by the affected community Land acquisition of the non-compensated Pekanbaru-Kandis-Dumai Toll Road and the land that is not compensated on the grounds that the land located along the Pekanbaru-Dumai road is owned by PT. Caltex is based on the Decree of the Riau Governor in 1959 and its derivative Governor's Letter in 1974, while the local community has a Certificate of Property Rights (SHM) and a Compensation Certificate (SKGR) as the basis / proof of ownership.

Even this issue has received attention from the Siak Regent who has submitted a letter No. 590 / BPT / I / 2020/09 dated 9 January 2020 regarding Request for Evaluation / Review of the Clearing Limit / ROW of Pekanbaru-Riau Road addressed to the Governor of Riau Province, who said that since the process of land acquisition for the public interest of the Pekanbaru-Dumai Toll Road, most of the Right of Ownership Certificates (SHM) and the basis of rights in the form of Land Certificates, Indemnification Certificates and Information on Ownership Ownership History of Land in the right 100 meters Clearing Limit / ROW area and left of the Pekanbaru-Dumai road is not accepted by the banks as collateral / loan guarantees, as well as the Transfer of Land Rights at the Siak Regency Land Office, Issuance or Management of Land Certificates (SKT), Indemnification Certificates (SKGR) and Historical Certificates Land Use Ownership (SKRPPT) is not served by the Government of the Village and District even though the land is not in the Pekanbaru-Dumai Toll Road.

### *Efforts to Settle Land Procurement Problems for the Construction of the Pekanbaru-Kandis-Dumai Toll Road Above the Upstream Oil and Gas Business Concession in Riau Province*

In the Pekanbaru-Kandis-Dumai Toll Road Coordination Meeting on December 30, 2019, on October 26, 2017 a Deliberation was Formed in the Form of Large Amounts of Damages to the Land of the community affected by the National Strategic Project for the Construction of the Pekanbaru-Kandis Toll Road Number: 06 / P2T / Und. / X / 2017 in the Village of Telaga Sam-Sam, there are 8 landowners who have expressed their disapproval of the amount of the Compensation Money (UGK), but did not submit a price objection to the Siak Sri Indrapura District Court within a period of 14 working days as regulated in Article 38 Paragraph (1) of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest.

On October 31, 2017, in the Village District of Kandis Kota, a meeting was held in the form of Compensation for the Amount of Damages to the Land of the residents affected by the National Strategic Project for the Pekanbaru-Kandis Toll Road Development Number: 07 / P2T / Und. / X / 2017 there were 13 owners land stating that it disagrees with the amount of the Compensation Money (UGK) value, but does not submit a price objection to the Sri Indrapura Siak District Court within a period of 14 working days as stipulated in Article 38 Paragraph (1) of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest.

On January 10, 2019 the application for Depository / Consignment of Redress Money was registered, one of them in the name of Medan Ribka and Jonathan Ginting was registered as Depository / Consignment at the Sri Indrapura Siak District Court, with Register Number 14 / Pdt.P.Kons / 2019 / PN. Siak on behalf of Medan Rebekah and Register Number 29 / Pdt.P.Kons / 2019 / PN.Siak on behalf of Jonathan Ginting. March 19, 2019 the Minutes of the Deposit of the Compensation Money have been signed by the Applicant with the Registrar of the Siak Sri Indrapura District Court. On 28 March 2019 Siak Sri Indrapura District Court issued Stipulation Number 14 / Pdt.P.Kons / 2019 / PN.Siak on behalf of Medan Ribka and Number 29 / Pdt.P.Kons / 2019 / PN.Siak on behalf of Jonathan Ginting the ruling of declaring that it is Legitimate and Receiving Custody of Compensation.

Pursuant to Article 43 of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest, at the time of the granting of Compensation and Relinquishment of Rights as referred to in Article 41 paragraph (2) letter a has been implemented or the Provision of Compensation has been deposited at the District Court as referred to in Article 42 paragraph (1), Ownership or Land Rights of a Party entitled to be written off and proof of rights are declared invalid and the land becomes land under direct control by the State. Then based on Article 95 of Presidential Regulation Number 71 of 2012, as several times the latest amendment to the Presidential Decree Number 30 of 2015 which states that in the right has been deposited in the District Court and the party entitled to still control the object of

Land Acquisition, the Agency that requires the land to apply for emptying the land is to the District Court in the area of the land acquisition location

Based on an interview with Mr. Muhammad Ganjar Nugraha, as Staff of the Directorate General of State Assets of the Ministry of Finance, according to Regulation of the Minister of Finance Number 135 / PMK.06 / 2009 concerning Management of State Property Originating from Cooperation Contractors Article 1 number (3) states that the goods State property / assets originating from the Cooperation Contract, hereinafter referred to as State Property, are all goods and equipment purchased by the KKKS and which are directly used in the Upstream Business Activities.

Assets of State Property can be transferred in accordance with Regulation of the Minister of Finance of the Republic of Indonesia Number 111 / Pmk.06 / 2016 concerning Procedures for the Implementation of the Transfer of State Property, Article 7 reads:

- 1) Transfer of BMN as referred to in Article 3 for:
  - a. land and / or buildings;
  - b. other than land and / or buildings that have a value of more than Rp 100,000,000,000 (one hundred billion rupiahs); carried out after obtaining the approval of the House of Representatives.
- 2) The transfer of BMN in the form of land and / or buildings as referred to in paragraph (1) letter a does not require the approval of the House of Representatives, if:
  - a. it is no longer in accordance with the regional spatial layout or city planning;
  - b. must be written off because the budget for a replacement building has been provided in the budgeting document in the form of a list of budget implementation, work reference framework, work plan and budget of the Ministry / Agency, and / or operational instructions for the activity;
  - c. intended for public servants;
  - d. intended for public use; or
  - e. controlled by the state based on court decisions that have permanent legal force and / or based on the provisions of the Laws and Regulations, which if their ownership status is maintained is not economically feasible.
- (3) The proposal to obtain the approval of the House of Representatives as referred to in paragraph (1) shall be submitted by the Property Manager.

Grant transfers have been carried out in the City of Dumai in the form of grants to the Regional Government and borrow and use on certain conditions. Currently the Ministry of Finance is waiting for valid data from the user of goods, namely the Ministry of Energy and Mineral Resources, which is currently SKK Migas as the Implementing Agency regarding the certainty / clarity of the status of the asset. The Ministry of Finance is only an institution that records State assets. For the Procurement of Toll Road Land, this will be the same as the transfer process through a grant from the ministry to the ministry.

According to the Regulation of the Minister of Finance Number 02 / PMK.05 / 2011 concerning Accounting Guidelines and Reporting on Assets in the Form of State Owned Goods Originating from Cooperation Contracts Article 18 states:

- 1) KKKS assets obtained and / or purchased and used by KKKS since 2011 are recognized directly as State Property.
- 2) KKKS assets obtained and / or purchased prior to 2011 are recognized as State Property after an inventory and / or assessment.

As a result of the meeting between the Ministry of Energy and Mineral Resources, SKK Migas, DJKN and all KKKS, a participatory certification program is needed that is carried out simultaneously for BMN in upstream oil and gas lands that have met the requirements for certification. Through a Special Power of Attorney (SKU) Number 118.a / MK.6 / 2015 dated 30 January 2015 the Minister of Finance cq the Director General of State Assets authorized the Head of SKK Migas to represent the Government of Indonesia cq the Minister of Finance cq the Director General of State Assets as the Manager of BMN, acting for and on behalf of the Special Authorization Authority to carry out the certification activities.

### **Conclusion**

Toll road is one of the road infrastructures that has a strategic role in Indonesia's economic development. Increasing the number of vehicles that are not accompanied by the addition of the length and width of the road, causing various transportation problems, Obstacles in the provision of compensation because the land / land owned is the land / land concession of PT. Chevron Pacific Indonesia which is listed as an asset of State Property. Most of the land owned by the State has been controlled by other parties into settlements, on top of which stands permanent buildings such as houses, shop houses, houses of worship and even government facilities with ownership documents. Land that is State Property must not be paid Compensation Money, except if filing a lawsuit in court, and the court decides to pay Compensation Money. Which is based on the results of an assessment by the Public Appraisal Service Office (KJPP) that can be compensated for only plants growing on the land of the State Property, but land that is a State Property is given a compensation money (UGR) of Rp. 0 (Zero Rupiah).

Steps taken to resolve the tenure / ownership issue of residents' land at the PT. Chevron Pacific Indonesia (CPI) is carried out with the issuance of Legal Opinion (LO) from the Riau Provincial Prosecutor's Office and holds a meeting at the Committee for the Acceleration of Priority Infrastructure Provision. As a result of the meeting between the Ministry of Energy and Mineral Resources, SKK Migas, DJKN and all KKKS, a participatory program is needed that is carried out simultaneously for BMN Tanah Hulu Migas who have met the requirements for certification.

### **Reference**

#### **Books**

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- Urip Santoso, Agrarian Law Comprehensive Study, Kencana Prenadamedia Group, Jakarta, 2012. Thing. 46.



### **Interview**

Interview with Ms. Eva Monalisa as the Commitment Making Officer

Interview with Mr. Muhammad Ganjar Nugraha, as Staff of the Directorate General of State Assets of the Ministry of Finance.

### **Regulation**

Application letter from the Community Search for Justice Forum on 27 February 2019

Siak Regent Letter Number 590 / BPT / I / 2020/09 dated January 9, 2020

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