

Considerations of the Judges Panel on the Decision of Environmental Criminal Case Number 142/PID.B.LH/2020/PN.MNK at the Manokwari District Court

David Rumbiak¹, Eko Agus Martanto², Anton Sinery^{2,*}, Yubelince Runtuboy², Bud Setiawan³, Ice Anugrah Sari³ and Amisah⁴

¹ Master Program of Forestry Science, Universitas Papua. Jl. Gunung Salju, Manokwari 98314, West Papua, Indonesia.

² Postgraduate Program, Papua University. Jl. Gunung Salju, Manokwari 98314, West Papua, Indonesia. Tel./fax.: +62-986-211065.

³ Forestry Department, Forestry Faculty, Tadulako University. Jl. Soekarno Hatta Km 9, Tondo, Mantikulore, Palu 94148, Central Sulawesi, Indonesia.

⁴ Caritas Indonesai University., Jl. Lembah Hijau, Manokwari Papua Barat, Indonesia, 98314.

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Abstract

Environmental criminal case Number 142/PID.B.LH/2020/PN.MNK within the scope of the Manokwari Court was one of the cases with a focus on lawsuits based on Article 36 of Law Number 32 of 2009 concerning PPLH which had permanent legal force in 2020. The research purpose was to describe the considerations of the panel of court judges in the judge's decision on the case decision. The judge's decision in the environmental criminal case Number 142/PID.B.LH/2020/PN.MNK consisted of fulfilling all elements in Article 378 of the Criminal Code according to the Public Prosecutor's indictment, there were no legal facts that could be used as a reason to eliminate the defendant's guilt in the form of a forgiving reason, the purpose of punishment was not solely for revenge (repressive) but also preventive purposes (preventing criminal acts and to protect and served the state and society), the defendant's actions caused damage to the environment and the defendant was cooperative and polite in court. Furthermore, the prison sentence was as long as determined in the verdict, the defendant had been arrested and detained, so the period of arrest and detention that had been served by the defendant would be deducted entirely from the sentence imposed, furthermore, because there was no reason to release the defendant from detention, the evidence was determined as in the verdict, the defendant was declared guilty and would be sentenced, so the defendant must also be burdened with paying court costs as stated in the verdict and paying attention to Article 109 in conjunction with Article 36 paragraph (1) of the Republic of Indonesia Law Number: 32 of 2009 concerning Environmental Protection and Management and Law Number: 8 of 1981 concerning the Criminal Procedure Code and other laws and regulations.

Keywords: Criminal Environmental Case; Judicial Consideration; Manokwari District Court; Environmental Protection; Environmental Law

1. Introduction

Environmental management efforts through law enforcement were heavily influenced by optimizing the performance of law enforcement officials, as well as community participation and other aspects. According to [1], [2], [3], the implementation of law enforcement was influenced by weak substance (proposed ecocide article), weak institutional capacity (coordination), professionalism and integrity of law enforcement, weak indictments/lawsuits, and weak public oversight. According to Sinery [4], several community groups respond differently within the context of legal culture

* Corresponding author: Anton Sinery

through community participation, thus influencing law enforcement in addition to more humane environmental management mechanisms.

In general, environmental management through environmental law enforcement (administrative, criminal, and civil) had not have a significant impact on environmental protection. The reality showed that the rate of forest destruction, especially in Papua, continued to increase, affecting environmental quality. This was not limited to production forests but also conservation forests, with the presence of open areas that should support life, as illustrated by the suboptimal law enforcement in the Papua ecoregion [5]. According to [6], of the 10 cases of disturbance in the Gunung Meja Natural Reserve (TWA) area, wildlife hunting, land grabbing, and plantation development were ongoing activities from year to year (frequency), reflecting the quality of environmental management.

Environmental criminal case management was directed at investigating and prosecuting acts causing environmental damage, which certainly required strong evidence. Civil cases were directed at resolving environmental disputes through civil law, with the principle of absolute liability. This was not an easy matter due to various obstacles, included the complexity of prosecution and the implementation of court decisions. [6] stated that environmental law enforcement required enormous effort and complexity stemming from the legal substance, law enforcement officers, supporting facilities and infrastructure, and community participation (legal culture).

One environmental criminal case that had received assistance from the government, particularly the Maluku Papua Environmental and Forestry Law Enforcement and Security Center, and the community was environmental criminal case No. 142/PID.B.LH/2020/PN.MNK within the Manokwari District Court. This case took place at the Manokwari District Court in 2018, involving several witnesses, including government officials and environmentalists from universities and other parties. The lawsuit focused primarily on Article 36 of Law Number 32 of 2009 concerning Environmental Management and Environmental Management (PPLH). The lawsuit resulted in a final and binding decision. However, the profile and considerations of the panel of judges in this case were currently unknown.

2. Research method

2.1. Research Time and Place

This research was conducted at the Manokwari District Court and the Maluku-Papua Regional Environmental and Forestry Law Enforcement and Security Agency for the Maluku and Papua Region for three months (May–July 2025). The study encompassed preparation, implementation, and data analysis. The Manokwari District Court was chosen as the research location based on its position as a law enforcement agency in West Papua, having handled numerous environmental cases and being easily accessible to researchers. Furthermore, the Maluku-Papua Law Enforcement Agency served as a special unit handling case number 142/PID.B.LH/2020/PN.MNK in 2019.

2.2. Tools and Materials

The equipment used in this study was a camera, writing instruments, a computer as equipment for data collection and analysis. The materials used were in the form of criminal case report documents number: 142/PID.B.LH/2020/PN.MNK at the Manokwari court and other documents at the West Papua Gakum Center including primary legal materials in the form of legislation related to the problem being studied, especially Law Number. 32 of 2009 concerning Environmental Protection and Management as Law Number. 6 of 2023 Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation to become Law.

2.3. Research Procedure

The data collected included general conditions at the Manokwari District Court, including institutional competence in handling environmental criminal cases, the basis and alternatives for imposing sanctions in case No. 142/PID.B.LH/2020/PN.MNK at the Manokwari District Court, as follows:

- Profile of environmental criminal case No. 142/PID.B.LH/2020/PN.MNK at the Manokwari District Court and the Maluku and Papua Regional Environmental and Forestry Law Enforcement and Security Agency through observation and interviews.
- Decision on environmental criminal case No. 142/PID.B.LH/2020/PN.MNK at the Manokwari District Court through observation and interviews.

2.4. Data Analysis

The data collected in the form of identification results and interview data were then analyzed descriptively according to the research objectives.

3. Results and Discussion

3.1. Case Profile

Environmental criminal case No. 142/PID.B.LH/2020/PN.MNK was a regular criminal case filed by the Manokwari District Court, proceeding from the registration process to the withdrawal of the appeal. This case became legally binding after the first-instance appeal process, chaired by Sonny Alfian Blegoer Laoemoery (Chief Judge), assisted by Faisal Munawir Kossah (Member Judge) and Akhmad (Member Judge). This case proceeded smoothly and could be archived in the Manokwari District Court's case tracking information system, as shown in the following table.

Table 1 History of Environmental Criminal Case No. 142/PID.B.LH/2020/PN.MNK

No	Time	Stage	Process
1	Tuesday, 18 Aug. 2020	Registration	Case Registration
2	Tuesday, 18 Aug. 2020	Determination	Determination of the Panel of Judges/Judges
3	Tuesday, 18 Aug. 2020	Determination	Appointment of a Substitute Clerk
4	Tuesday, 18 Aug. 2020	Determination	Appointment of Bailiff
5	Tuesday, 18 Aug. 2020	Determination	Determination of the First Session Date
6	Thursday, 27 Aug. 2020	Determination	First Trial
7	Thursday, 03 Sept. 2020	Trial	Trial
8	Thursday, 10 Sept. 2020	Trial	Lawsuit
9	Monday, 21 Sept. 2020	Decision	Decision
10	Monday, 21 Sept. 2020	Decision	Notification of Decision
11	Monday, 21 Sept. 2020	Decision	Minutation
12	Friday, 25 Sept. 2020	Appeal	Appeal Request
13	Tuesday, 29 Sept. 2020	Appeal	Notice of Appeal
14	Monday, 05 Okt. 2020	Appeal	Withdrawal of Appeal Case

The data in the table above showed that the process of handling environmental criminal cases at the Manokwari District Court could be completed within a duration of two months including appeals and decisions on appeals. This showed quite good performance in the case resolution process. This case began with PT. Mitra Silva Lestari (MSL) obtaining a Location Permit based on the Decree of the Regent of South Manokwari Number: 520/24b/V/2015 of 2015 located in the Tahota and Isim Districts, South Manokwari Regency, with an area of 11,214 hectares. The location of PT. MSL was in two blocks, namely Block I in the Tahota District with an area of 8,975 hectares, and Block II in the Isim District with an area of 2,239 hectares. Based on the PT. MSL Location Permit Map, it was known that the location in question was in the Other Use Area. In 2017, the Regent of South Manokwari issued Decree Number 74 of 2018 dated October 19, 2018 concerning Extension of Location Permit and Addition of Oil Palm Plantation Area to PT. MSL. Based on Company Data of the Directorate General of AHU, Ministry of Law and Human Rights, Number SP: AHU-AH.01.03-0053658, dated February 2, 2018, it was known that there was a change in management and transfer of shares of PT. Mitra Silva Lestari with the address: Jalan Nusantara 04, Wosi Village, West Manokwari District, Manokwari Regency, West Papua, as follows:

President Director: Marthin Supit Pirri
 Director: Vivi Oey
 President Commissioner: Busono Wibawanto
 Shareholder (II): Ie Tjoeng Benyamin Marthen
 Dominant Shareholder: PT. Papua Sawit Permai,

PT. Papua Sawit Permai was known, based on SP Data Number SK AHU 0032003.AH.01.01, dated July 27, 2017, and was located at Jalan Prajurit KKO Usman Harun, Senen, Central Jakarta. The management and shareholders were Busono Wibawanto, Director and shareholder, and Irdina, Commissioner and shareholder.

3.1.1. The case chronology was outlined as follows

From March 2019 to August 2019, or at least sometime between March and August 2019, PT. MSL cleared, cleared, and demolished a forest area in Yarmatum Village, Tahota District, South Manokwari Regency, West Papua Province, to create a palm oil plantation. This clearing was carried out using Komatsu bulldozers. The company also operated oil palm nurseries at the site. From the time of the forest clearing to plantation development, PT. MSL only had a Location Permit from the Regent of South Manokwari based on Decree Number: 520/24b/V/2015 of 2015 concerning the Granting of Location Permits for the Purposes of Developing Oil Palm Plantations to PT. Mitra Silva Lestari in the Tahota and Isim Districts, and Decree of the Regent of South Manokwari Number: 74 of 2018 dated October 19, 2018 concerning the Extension of Location Permits and the Addition of Oil Palm Plantation Areas to PT. Mitra Silva Lestari in the Tahota and Isim Districts; however, the company PT. MSL did not yet had AMDAL, UKLUPL and Environmental Permit documents as regulated in laws and regulations, nor in the Regent's Decree regarding Location Permits, in point 13 it states "after this location permit was issued, you were requested to conduct an Environmental Impact Analysis Study for the AMDAL".

In August 2019, Daniel L. Haumahu, Head of the Environmental Management and Enforcement Division of the West Papua Provincial Environment and Land Agency, acknowledged that PT. MSL did not yet had an Environmental Impact Analysis (EIA). "We haven't yet processed PT. MSL's EIA. They previously invited us to conduct EIA outreach to the community in South Mangrove, but we felt that the mechanism wasn't followed, so we recommended that the initiator participate or coordinate with us first, involving the relevant Provincial Government Agencies (SKPD) (Tabura Pos, August 8, 2009).

In August 2019, A.J. Siregar, Head of PT. MSL, confirmed to the press that his company had established oil palm nurseries at the request and insistence of local residents. Meanwhile, regarding the processing of the Amdal documents, he admitted that it was in the process of being processed" (Source: Tabura Pos print, August 8, 2019). September 2019, the Papuan Arrow Association, which conducted monitoring activities, informed the media that at the location of the land clearing of PT. MSL, located in Yarmatum Village, Tahota District, South Manokwari Regency, there was a KLHK seal board and police line prohibiting the activity (<https://taburapos.com/2019/09/26>). The clearing of the area was carried out with a bulldozer and previously large forest vegetation was cut down using a chain saw, followed by land clearing. The land was then used to build a nursery to support the provision of oil palm seedlings for future planting activities.

In December 2019, indigenous people holding customary rights in Tahota District detained PT. MSL's heavy equipment because they had not yet paid compensation for the nursery land (<http://penatelukcenderawasih.com/2019/12/14/>). In January 2020, investigators from the Maluku-Papua Regional Environmental and Forestry Law Enforcement Agency (Gakkum) summoned potential suspects. "The first summons was sent on January 9, 2020, while the second summons was issued on January 20, 2020," (<https://taburapos.com/2020/01/23/aktivislingkungan-apresiasi-kinerja-balai-gakkum-klhk>). In August 2020, the PT. MSL case was tried at the Manokwari District Court by examining the suspect and continuing with witnesses and hearing expert testimony from the Technical OPD (Bappedalda Papua Barat) and the Academy from the University of Papua. August 2020, the PT. MSL case was tried at the Manokwari District Court. In the Public Prosecutor's Indictment, the defendant was Jantino Bunardi (JB), as the recipient of the power of attorney from the power of attorney witness Marthin Supit Pirri as Director of PT. Mitra Silva Lestari to take care of the permits required for oil palm plantation activities located in South Manokwari Regency, West Papua Province, based on a power of attorney dated June 11, 2018. Then the defendant JB based on his initiative orally appointed witnesses Soringolu Munte, witness Santo and witness Syaiful Ibrahim Siregar to carry out oil palm plantation business activities in Yarmatum Village, Tahota District, South Manokwari Regency without the knowledge of the President Director of PT. Mitra Silva Lestari. The defendant who carried out land clearing activities to carry out oil palm plantation business activities was only based on a statement letter from the Head of the Tahota Tribe, namely Salmon Sayori dated March 25, 2019 and the Decree of the Regent of South Manokwari Number: 520/24b/V/2015 of 2015 concerning the Granting of Location Permits for the Purposes of Developing Oil Palm Plantations to PT. Mitra Silva Lestari in the Tahota and Isim Districts and the Decree of the Regent of South Manokwari Number: 74 of 2018 dated October 19, 2018 concerning the Extension of Location Permits and the Addition of Oil Palm Plantation Areas to PT. Mitra Silva Lestari in the Tahota and Isim Districts. That the defendant Jantino Bunardi carried out a palm oil plantation business or activity without an environmental permit as regulated in:

Law number 32 of 2009 concerning Environmental Protection and Management, Article 36 paragraph (1), which states "every business and/or activity that was required to had an environmental impact analysis or UKL/UPL must had an environmental permit." The defendant's actions were regulated and subject to criminal penalties in Article 109 in conjunction with Article 36 paragraph (1) of Law of the Republic of Indonesia number 32 of 2009 concerning Environmental Protection and Management. b. Law number 39 of 2014 concerning Plantations, Article 45 paragraph (1) letter a, which stated "to obtain a plantation business permit, the requirements for an environmental permit must be met," and to obtain the plantation permit, the plantation company, namely PT. Mitra Silva Lestari must submit a written application on sufficient stamp duty to the Governor or Regent/Mayor according to their authority as stipulated in Article 48 paragraph (1) letter a.

Law Number 39 of 2014 concerning Plantations stated, "Plantation business permits as referred to in Article 47 paragraph (1) were granted by the Governor for areas across districts/cities, and letter b stated, "Plantation business permits as referred to in Article 47 paragraph (1) were granted by the Regent/Mayor for areas within a district/city."

Indonesia Republic Government Regulation of Number 27 of 2012, Chapter I, Article 2, paragraph 2, stated, "Environmental permits as referred to in paragraph (1) were obtained through a series of activities that included: a. Preparation of AMDAL and UKL-UPL (Environmental Management Efforts-Environmental Monitoring Efforts); b. AMDAL Assessment and UKL-UPL Examination; c. Application and Issuance of Environmental Permits (http://sipp.pn-manokwari.go.id/index.php/detil_perkara)

On September 21, 2020, the Manokwari District Court hearing, led by Chief Justice Sonny A.B. Laoemoery, SH, delivered the verdict Number: 142/PID.B/LH/2020/PN.MNK, stated, "Considering Article 109 in conjunction with Article 36 paragraph (1) of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management and Law Number 8 of 1981 concerning the Criminal Code," he continued:

Declaring that the defendant Jantino Bunardi had been legally and convincingly proven guilty of committing the crime of "Conducting Business and/or Activities Without an Environmental Permit;

Sentencing the defendant Jantino Bunardi to 1 (one) year in prison and a fine of Rp. 1,000,000,000, with the provision that if the fine was not paid, it would be replaced with a reduced sentence of 3 (three) months;

Ordering that the defendant not had to serve the sentence unless, at a later date, a legally binding judge's decision was made. The defendant was given another order on the grounds that the defendant was found guilty of committing a crime before the end of the two-year probationary period;

Determining that the following evidence, consisting of one Komatsu D68ESS bulldozer from Kuningan, be returned to its owner, PT. Mitra Silva Lestari; 15,000 polybags filled with soil be confiscated for destruction;

Ordering the defendant to pay court costs of Rp. 5,000 (five thousand rupiah).

On September 25, 2020, the Public Prosecutor filed an appeal against decision Number: 142/Pid.B/LH/2020/PN.Mnk. This was conveyed by Public Prosecutor Muslim, SH, to Tabura Pos (September 30, 2020). On October 5, 2020, the appeal was withdrawn, and the case was subsequently declared closed at this stage.

3.2. Considerations of the Judges Panel on the Case Decision

The handling of environmental criminal case No. 142/PID.B.LH/2020/PN.MNK was a continuation of the investigation and prosecution phases conducted separately by the Maluku-Papua Environmental and Forestry Law Enforcement and Security Agency (BPPHLHK). The case resolution process, starting with the filing of the case with the Court Clerk, proceeded to the trial, and the court's decision, was a unified process that required synergy between all law enforcement agencies, particularly the courts. This process could be carried out effectively if there was integration between units to achieve results in accordance with judicial provisions. Based on the results of interviews and review of the decision on environmental criminal case number that the defendant Jantino Bunardi in March 2019 until Tuesday, August 27, 2019 or at least at some time in March to August in 2019 or at least at some time in 2019, located in Yarmatum Village, Tahota District, South Manokwari Regency, West Papua Province or at least in a place that was still included in the jurisdiction of the Manokwari District Court which had the authority to examine and try anyone who carried out business and/or activities without having an environmental permit as referred to in Article 36 paragraph (1), the act was carried out by the defendant in the following manner: That the defendant Jantino Bunardi around June 2018 received power of attorney from the attorney of witness Marthin Supit Pirri as Director of PT. Mitra Silva Lestari obtained permission to

clear land/locations located in Yarmatum Village, Tahota District, South Manokwari Regency, West Papua Province, based on a power of attorney dated June 11, 2018.

Then, around March 2019, PT. Mitra Silva Lestari obtained permission to clear land/locations located in Yarmatum Village, Tahota District, South Manokwari Regency, West Papua Province from Salmon Sayori, the Chief of the Tahota Tribe, as stated in a statement issued on March 25, 2019, which stated, "We hereby grant permission to PT. Mitra Silva Lestari to clear land/locations for planting oil palm seedlings (seedlings) on community customary land located in the Tira River area. PT. Mitra Silva Lestari had already paid land compensation (GRL) for an area of 145.10 hectares." Then, on March 28, a Land Compensation Agreement was signed by Salmon Sayori, the owner of the land located in Yarmatum Village, Tahota District, South Manokwari Regency. with the defendant as the authorized representative of PT. Mitra Silva Lestari.

That the defendant then, based on his initiative, verbally appointed witnesses Soringolu Munte, Santo, and Syaiful Ibrahim Siregar to conduct oil palm plantation business activities in Yarmatum Village, Tahota District, South Manokwari Regency without the knowledge of the President Director of PT. Mitra Silva Lestari. In March 2019, defendant Jantino Bunardi, using 1 (one) yellow Komatsu D68ESS bulldozer, conducted land clearing activities for oil palm plantation business activities covering an area of approximately 4 hectares in Yarmatum Village, Tahota District, South Manokwari Regency for oil palm nurseries and also had approximately 15,000 polybags filled with soil in the land.

That the defendant who carried out land clearing activities to carry out oil palm plantation business activities was only based on a statement letter from the Head of the Tahota Tribe, namely Salmon Sayori dated March 25, 2019 and the Decree of the Regent of South Manokwari Number: 520/24b/V/2015 of 2015 concerning the Granting of Location Permits for the Purposes of Developing Oil Palm Plantations to PT. Mitra Silva Lestari in the Tahota and Isim Districts and the Decree of the Regent of South Manokwari Number: 74 of 2018 dated October 19, 2018 concerning the Extension of Location Permits and the Addition of Oil Palm Plantation Areas to PT. Mitra Silva Lestari in the Tahota and Isim Districts which in essence stipulates granting location permits to PT. Mitra Silva Lestari whose address was in Ransiki, South Manokwari Regency and in point 13 explained "after this location permit was issued, you were asked to conduct an Environmental Impact Analysis Study (Amdal)" with the following considerations:

- All elements of Article 378 of the Criminal Code, as charged in the Public Prosecutor's indictment, had been fulfilled in the Defendant's actions, and there was no justification that could eliminate the unlawful nature of his actions. Therefore, the Defendant must be declared legally and convincingly proven to have committed the crime as charged in the Public Prosecutor's indictment. However, further consideration would be given to whether the Defendant could be blamed for his actions and therefore be held criminally responsible and therefore deserved to be sentenced.
- During the Defendant's examination of the case, the Panel of Judges did not obtain legal facts that could be used as a reason to eliminate the Defendant's guilt in the form of excuses. Therefore, the Defendant must be declared legally and convincingly proven guilty of committing the crime as stated in the Public Prosecutor's indictment with the qualifications as stated in the verdict. The Defendant, who was physically and mentally healthy, could therefore be held responsible for his actions and must be sentenced appropriately;
- The purpose of sentencing was not merely revenge (repression) for the criminal act committed by the Defendant, but also served an educational and corrective purpose for the Defendant, so that the Defendant improved his or her attitude and actions so that he or she could return to being a useful member of society. Furthermore, sentencing also served a preventive purpose, namely to prevent further criminal acts and to protect and served the state and society.
- Before the Panel of Judges imposed a sentence, the following factors must be considered: Aggravating factors:
 - The Defendant's actions caused damage to the environment.
 - Mitigating factors: The Defendant was polite during the trial.
- The sentence deemed justly imposed on the Defendant was a prison sentence of the length specified in the verdict.
- If the Defendant had been arrested and detained, the period of arrest and detention already served by the Defendant would be deducted entirely from the sentence imposed. Furthermore, since there was no reason to release the Defendant from detention, the Defendant was ordered to remain in detention. The status of the evidence would be determined as stated in the verdict.
- If the defendant was found guilty and sentenced, the defendant must also be burdened with paying the court costs as stated in the verdict.

- Considering Article 109 in conjunction with Article 36 paragraph (1) of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management, Law Number 8 of 1981 concerning the Criminal Procedure Code, and other relevant laws and regulations
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4. Conclusion

The judge's consideration in the verdict of the case was that all elements in Article 378 of the Criminal Code as charged in the Public Prosecutor's indictment had been fulfilled in the Defendant's actions and there was no justification that could eliminate the unlawful nature of his actions. Furthermore, there were no legal facts that could be used as a reason to eliminate the Defendant's guilt in the form of a reason for forgiveness, the purpose of punishment was not merely to take revenge (repressive) for the criminal acts that had been committed by the defendant, but also aimed to be educational and corrective for the Defendant, so that the Defendant improved his attitude and actions so that he could return to being a useful member of society, in addition to that punishment also aimed to be preventive, namely to prevent the commission of criminal acts and to protect and serve the State and society. The aggravating factor was that the Defendant's actions caused damage to the environment and the mitigating factors were that the Defendant was polite in court. The sentence that was considered fair to be imposed on the Defendant was a prison sentence of the length as determined in the verdict. The defendant had been arrested and detained, so the period of arrest and detention that had been served by the defendant would be deducted entirely from the sentence imposed, furthermore, because there was no reason to release the defendant from detention. The status of the evidence was determined as stated in the verdict. The defendant was found guilty and would be sentenced, so the defendant must also be burdened with paying the court costs as stated in the verdict. Taking into account Article 109 in conjunction with Article 36 paragraph (1) of the Republic of Indonesia Law Number: 32 of 2009 concerning Environmental Protection and Management, Law Number: 8 of 1981 concerning the Criminal Procedure Code and other relevant laws and regulations.

Compliance with ethical standards

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Disclosure of conflict of interest

The authors declare no conflict of interest regarding the publication of this paper.

Statement of informed consent

Informed consent was obtained from all individual participants included in the study.

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