



(PHOTO: CHURCHILLMINING.COM)

## Mine Wars

Churchill Mining Plc is in dispute with the East Kutai district chief and companies controlled by Prabowo Subianto and Anthony Salim over a massive undeveloped coal asset. It threatens to take the dispute to international arbitration.

Illustration of the dock in the Churchill Mining project in East Kutai.

**E**VERYBODY smiled in agreement at a lunch in Jakarta, on a day in January 2007. It was a follow-up meeting, after the one in November the year before where representatives from PT Ridlatama approached the Nusantara Group, controlled by former Indonesian Army General Prabowo Subianto. Ridlatama received clear signals from Nusantara, through the series of discussions that occurred over time, that the latter was no longer interested in the 35,000-hectare coal mine site in East Kutai, a coastal district in East Kalimantan.

Apart from Anang Mudjiantoro from Ridlatama and Prabowo Subianto himself, among those present at the lunch was former Foreign Affairs Minister Alwi Shihab, as one of the consultants to the major investor, London-based Churchill Mining Plc. "Nusantara was no longer interested in the site when the mining licenses (IUP) it had, lapsed in March 2006 and March 2007," according to Paul Graus, Churchill Mining's Chief Operations Officer

for the coal mine project in East Kutai. *Tempo* met him at his offices on Tuesday last week.

Based on the fact that Nusantara's mining licenses had lapsed, Ridlatama proceeded to file a request for four general survey licenses over the site after the regional administration declared the area 'open' to other companies. Those licenses were received by Ridlatama in May and November 2007, and were signed by East Kutai district chief Awang Faroek Ishak. Around the same time, discussions were held between Ridlatama and Churchill, ending with the former granting exclusive rights to the latter to purchase a stake in Ridlatama's four licenses. In March 2008, Churchill bought a 75 percent stake in those licenses.

Up to that point, everything was bright and sunny for Churchill, Graus said. They were very enthusiastic and did not mind spending more than US\$40 million to finance explorations and other operations to approach the people living in the areas covered by the mining licenses. Some months later, they announced the findings of coal deposits of approximately 150 million tons.

Churchill's share price in London soared once again when they claimed even more spectacular findings. The engineers in the field reported that the black gold content within their site reached approximately 1 billion tons in the Joint Ore Reserves Committee survey standards. From several drillings, the estimated deposit potentials could even exceed 2.8 billion tons of coal reserves. "If we could produce with such huge reserves, we estimated that revenues would be worth about US\$2 billion," said Churchill Executive Chairman David F. Quinlivan. "Alas, since the big findings were announced, problems started to surface."

The problem started when Nusantara began processing the extension of the six licenses that had lapsed. Most of the locations were on the concessions being worked by Ridlatama and Churchill, and therefore, there arose the matter of overlapping claims. The extensions of the six licenses were granted in July 2008 when Isran Noor became acting regent of East Kutai.

In the beginning of the following year, Nusantara reported suspicions of a crime committed by Churchill on their mining site in East Kutai. The report was dismissed by the local police several months later; they issued an order to terminate the investigation.

However, another report surfaced. This time it was the turn of the Supreme Audit Agency. They detected the possi-

bility of forgery in the issuance process of the licenses for minority partner Ridlatama. The institution also questioned the overlapping claims of the site by Churchill and Nusantara Group.

The hardest slap however endured by Churchill Mining came during the second half of 2009. At the time Isran Noor had been installed as East Kutai district chief, replacing Awang Faroek who had been elected East Kalimantan governor. Based on the suspicions of forgery and reports on forest destruction allegedly committed by Ridlatama, Noor sent a letter to the authorities at the London Stock Exchange in the UK.

He guaranteed that his administra-



Worker at Churchill Mining in Kutai.

tion had never once issued mining licenses to Churchill. The district chief also explained that the licenses in Ridlatama's name that Churchill claimed to be theirs was fraught with problems. "We're not aware of Churchill's existence in East Kutai," said Noor to *Tempo* on Thursday of last week. "Even if there are any mining activities by Churchill through Ridlatama, it must be illegal."

Several months later, the death knell for Churchill's mining activities in East Kutai came in the form of a letter. While the firm was persuading Credit Suisse in Singapore to provide them with a loan on May 10, 2010, the staffers at the bank presented them with a copy of a document signed by Noor the week before. The document revoked the four licenses that had been once awarded to Rid-

latama.

Churchill sued the district chief at the State Administrative Court. However, the lower courts declared that the district chief's measures did not violate any regulations. Churchill refused to surrender. It is currently awaiting the results of the appeal process filed with the Supreme Court.

The company started to pay lobbyists at high levels, such as former US Ambassador in Jakarta, Robert S. Gelbard, to assist them in resolving this dispute. They also use diplomatic channels at the British embassy. However, if all these measures meet with a dead-end and the Supreme Court ruling does not work in their favor either, they have threatened to take the case to international arbitration.

Churchill's high officials suspect that the regent's actions are spurred on by the interests of a third party behind him, with the purpose of taking over the coal-rich underdeveloped asset. In response to the charge, Isran Noor claimed that he did not care. "I have no business with Churchill. I do know Prabowo well. But my friendship with him is not the reason for my defending him."

Nusantara and Prabowo are unable to provide any information on the case. A person close to Prabowo, Fadli Zon, claimed that he did not know much about the issues at East Kutai. Prabowo, contacted through his adjutant, Sudaryono, did not give any response. A similar reply was given by Hotman Paris Hutapea law firm, which represented Nusantara in the conflict. "For the time being, we can't give any explanation," said Nisa, Hotman's secretary.

While the disputes and the battles at court continue, they do not stop each company from moving forward with their corporate actions. In July 2010, Nusantara relinquished 60 percent of its shares in the subsidiary which controlled the six concessions in East Kutai, namely, PT Nusantara Energiindo Coal. The buyer is PT Ithaca Resources, whose majority shareholder is PT Cahaya Bumi Makmur. The company is indirectly controlled by tycoon Anthony Salim.

Ithaca Resources' lawyer Lucas said that he could not comment on the topic. "For the time being, I can't give any information," he said last Friday.

On Churchill's part, it has taken the strategic steps of collaborating with top businesspeople in Indonesia. In May 2011, they were successful in inviting Rahmat Gobel to listen to their cause. The head of PT Gobel International now controls 16.5 percent of Churchill Mining Plc's shares together with his part-

ner, Fara Luwia, at a value of US\$12.8 million or approximately Rp115 billion. "The cooperation within management will certainly have a huge influence on Churchill's operations in Indonesia," David Quinlivan said at the time.

Gobel's presence will hopefully assist them in taking care of high-level lobbying with the government in Jakarta. "At the moment, we're preparing a presen-

tation on this case to President Yudhoyono," said Paul Benjamin, President Director of PT Indonesia Coal Development, who is assisting Churchill's project. "We submitted a preliminary report at the end of last year."

Regent Isran Noor, however, is already one step ahead. The head of the Democrat Party Leadership Board in East Kalimantan, who is getting ready

to run for East Kalimantan governor in next year's elections, has already made advances towards Cikeas. "I reported to the President on January 21. He understood, thanked me, and was pleased with my actions," he said. "Don't threaten with arbitration. If you want to invest here, comply with our regulations. If not, I'll wipe you out."

Y. Tomi Aryanto, Firman Hidayat (East Kalimantan)

## Isran Noor: The President likes my actions

**G**OVERNING a region overflowing with natural wealth, Regent of East Kutai Isran Noor claims to be unafraid of threats made by Churchill Mining company, which is now suing him at the Supreme Court. He doesn't believe his decision to revoke the mining license held by PT Ridlatama-Churchill will affect the investment climate and discourage investors. "That's nonsense. They are lining up to invest in East Kutai," he told *Tempo* reporter, Y. Tomi Aryanto, at the Jakarta airport Garuda executive lounge, last week.

Isran Noor replaced Awang Faroek Ishak, who was elected governor of East Kalimantan for the 2008-2013 period. In the local elections on November 27, 2010, he was elected regent of East Kutai for the 2011-2016 term. Isran is also listed as chairman of the East Kalimantan Democrat Party Executive Board, and is currently thinking about running for the governor's seat in the local elections next year.

**The lawsuit by Churchill Mining is now with the Supreme Court. How sure are you that you will win?**

I don't know Churchill Mining and I have no business with them. We have never given any concession to any Churchill in East Kutai. I only know of Ridlatama, and I revoked their license because it was illegal. They also falsified documents and the signature of the previous regent. So, let them sue. They will never win. They have lost twice in the administrative court.

**Why are you so insistent on revoking their license?**

Because they violated Law No. 41 on forestry. The decision to revoke their license was at the recommendation of Forestry Minister Zulkifli Hasan.

**Churchill obtained their concession by taking over part of the area owned by Ridlatama.**

Even so, it must be illegal. If they want to collaborate, go ahead. But there is a procedure. They are foreign investors. If they want to mine, it shouldn't be with a mining license

but through a coal contract of work scheme. The transfer of shares is also illegal because it was done without the knowledge of the regent. That regulation is quite clear on the clause regarding mining. This is one violation, among others. With this breach alone the regent can revoke their license.

**The Churchill people suspect there are other parties behind you who want to grab the concession after they learned of the discovery of the huge deposit there.**

I stress once again, I have nothing to do with Churchill. So, let them make accusations. They are Englishmen, they should obey regulations, no violate them when they come here. Who do they think Indonesians are?

**What is being done by the Nusantara Group in the concession area?**

Whatever they want to do, it's their right, because they acted according to procedures and regulations. Besides, they are owned by Indonesians.

**Do you know Prabowo Subianto, the owner of Nusantara Group?**

I've known him for a very long time. When *Pak* Prabowo was sworn in as commander of Kopassus (Special Forces, in December 1995), I was invited (to the ceremony). But it's not because we are good friends that I support him. It's because he has done everything according to procedures.

**The UK government is actively helping Churchill through their embassy and other channels.**

Let them lobby whomever. Let them take us to international arbitration. I don't see any problem. We should not allow ourselves to be threatened. I will face this.

**They say your actions can upset the investment climate in Indonesia.**

That's a lot of nonsense. Many are lining up to invest in East Kutai, both in the plantations and in the mining sector. Indonesia has become the investor's heaven. I will cater to them when they come here, according to the regulations of the nation. But if

they violate regulations, I don't care who they are, I will act against them. No fooling around.

**Has there been any pressure from the government, which has been the main target of Churchill's lobbying?**

None. I already reported it to the President at Cikeas when they started threatening us, I think it was January 21. The President understood and approved of what I am doing. He thanked me and was very pleased. ■



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