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**STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN
THE ASIA-PACIFIC : DEVELOPING ENVIRONMENTAL LAW CHAMPIONS**
Chiang Mai, 19-23 June, 2017

Case Study: Rajatewa Landfill

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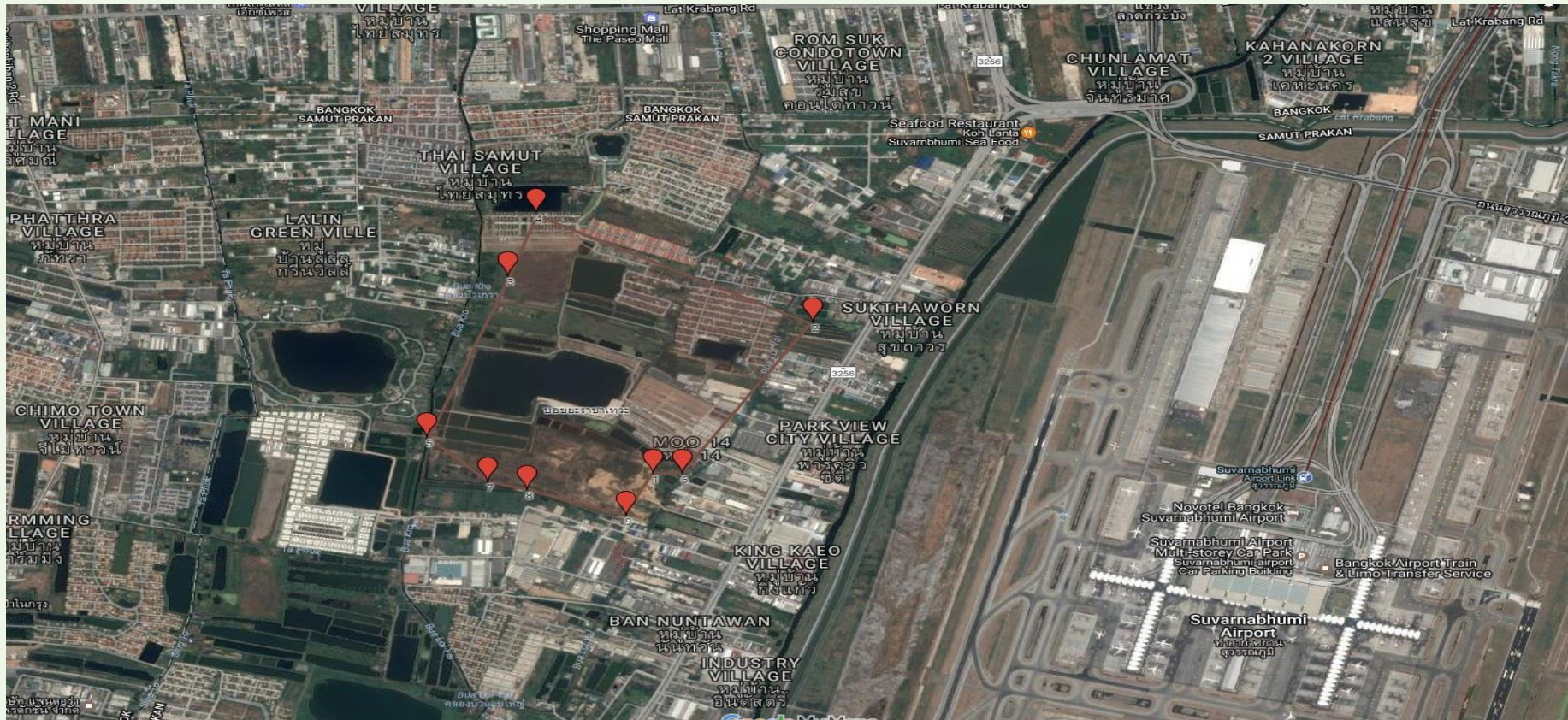
- **Objectives of this case study:**
 - **Planning law & zoning**
 - **Standard of environmental management & nuisance**
 - **Public participation and the environmental management**
 - **Individual rights and community rights**
 - **Good governance and corruption**
 - **Citizen suit**

Reference:

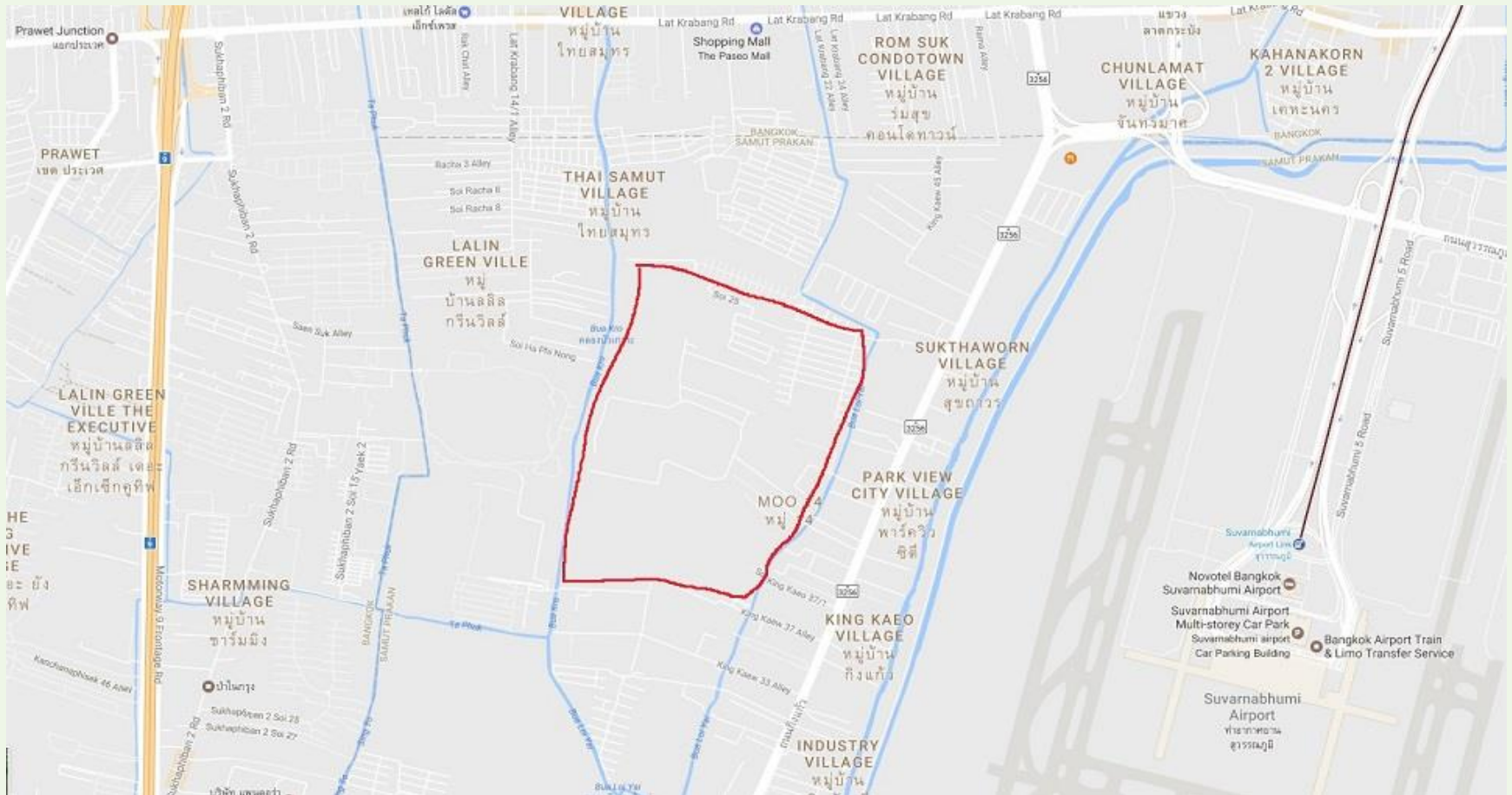
Central Administrative Court Decision 296/2546 (2003)

Supreme Administrative Court Decision 79/2547 (2004)

The area of Rajatewa landfill - near Suvarnabhumi Airport



Landfill located among the residential areas



Rajatewa landfill



Facts

- **In residential area in Tambon Rajatewa, the private land owner of the 200 Rai signed contract with Bangkok Metropolis to arrange his land to be a landfill, received the sewage from On Nut Sewage Treatment Plant**
- **The 780 million baht contract started from July 2000 to July 2004 with the conditions that the private company must cover the sewage and must not create any odor (need to cover everyday), use the bio-treatment to eliminate the odour, and must not cause the leak of the wastewater**

Facts

- **But in fact, the landfill caused severe odour and flies affected more than 2,000 population until they had to protest this landfill operation**
- **26 June 2001 one of the protesters' leader got the gunshot and many of the protesters received life-threatening harassment**
- **The people brought the case to Administrative Court**

Controversial issues

- **The violation of the contract by the company did not have any action from the government agencies who are responsible**
- **The villagers drew the complaint to many of the government agencies but no response**
- **This residential area was the orange zone (high density of the residents) where cannot allow to have landfill, but the ministerial order had changed to legalize the landfill in the high density residential area in August 2000 (one month after the contract signed!)**

Controversial issues

- **The villagers submitted the complaint to the environment committee of the Senate**
- **This committee's investigation result showed that:**
 - **this landfill could not operate in this area although the ministerial order had amended**
 - **the company needed to eradicate the odour**
 - **the government must establish the monitoring agency to ensure that all requirement had been completed**
 - **if these suggestion could not been complied, this landfill should be removed to least low population density**

Controversial issues

- **The local administration has authority to sewage management,**
- **in practice, many local administration's projects do not submit environmental impact assessment**

The Movement - Facts

- **The protesters used social media to spread out the news**
- **The Prime minister went to the landfill area and accepted that it was severe odour (10 August 2002)**
- **The Administrative Court judges went to the landfill to examine the case and issued the court order to the Rajatewa TAO to stop the company's operation, but the company continued as normal**

The Movement - Facts

- **The police arrested the 5 suspects in the murder case of the protesters' leader (15 November 2002) later the Court of Justice sentenced to execute the instigator (who was the member of the Rajatewa TAO)**
- **The Administrative Court decision revoked the permit of the landfill that granted by the president of the Rajatewa TAO (16 March 2003)**

The Movement – Facts:

- **After the Administrative Court ruled in 16 March 2003**
- **The president of Rajatewa TAO signed the permit for the landfill to operate again right after the Administrative Court decision**
- **The reason to permit, the TAO explained, was the company promised to comply with the order of the Pollution Control Department to definitely odour free and no contamination to the water supply near by**

The Movement – Facts:

- **The villagers brought the case to the Supreme Administrative Court, and the Court revoked the license of the company (16 November 2004)**
- **The Supreme Administrative Court was merely effective, because the permission was ended by 30 November 2004**

The law concerning this case:

- **The Public Health Care 1992**
 - **The Rajatewa TAO bylaw on the sewage management 1992**
- **The City Planning 1975**
 - **The ministerial order no.173 (1994) and no. 453 (2000), no. 463 (2000) and the Samot Prakarn City Planning**
- **The Tambon Administrative Organization 1994, article 30**

Rejatewa Landfill Case Ruling:

- **The Supreme Court set the standard for the government officers concerning the sewage treatment to strictly meet the requirement of the Pollution Control Department**
- **If any of the government officers violated the Public Health regulations, she/he would be punished**

Controversies:

- **Lack of the EIA**
- **Compliance of the Administrative Court decision**
- **The implementation of the standard regulation, but still nuisance for daily life of the people**
- **The implementation of the standard regulation, but still nuisance for daily life of the people**
- **The serious sanction to the government officers who do harm to the environment**
- **Justice delay!**

Questions:

- **What do we learn from the Rajatewa Landfill case?**
- **What was an argument in the case and what are the key problems to comply with the law concerning protection of the environmental right?**
- **What was the loophole of the government practice?**
- **How should we resolve this loophole?**

The future?



คำสั่งคสช.ฉบับที่ 4/2559
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