

**CHAPTER III**  
**LOCAL GOVERNMENT RESPONSE TO IMPROVE THE INVESTMENT**  
**CLIMATE IN 2014**

This chapter contains of results of the research. The component of the result regarding to the data from the Local Government Institutions and local Mining Company in Tanah Bumbu Regency. As stated in the first chapter the research method is describe in triangulation. There are the Local Government Institutions; BAPPEDA (Local Planning and Development Board), Distamben (Energy and Mining Agency), and BPPPMD (Local Licensing Service and Investment Board) arranged to be the informants in this research. Those three Local Government Institutions are the source of this research because the function and structure related to the topic of research.

**3.1 Informant Description**

**3.1.1 Local Government Institutions**

**a. BAPPEDA (*Badan Perencanaan Pembangunan Daerah/Local Planning and Development Board*)**

BAPPEDA in Tanah Bumbu Regency has core function to formulate Local Government Strategic Planning. The Vision of BAPPEDA Tanah Bumbu Regency in 2011-2015 is:

“CONDUCT AS A RELIABLE PLANNER INSTITUTION, DIGNIFIED, AND PROFESIONAL IN DEVELOPING TANAH BUMBU REGENCY”

Meanwhile the missions as follows:

- a. Strengthening the implementation of the regional development planning system quality and realistic;
- b. Increases human resource capacity and strengthening institutional regional planners;
- c. Realizing planning and development which based on data and information.

According to principal task and function Tanah Bumbu Regency No 27 of 2008, BAPPEDA is assigned to do the main duty as regional development planning, statistic, research and development.

**b. Distamben (*Dinas Pertambangan dan Energi*/Energy and Mining Agency)**

Distamben (*Dinas Pertambangan dan Energi*) is functioned as implementing a decentralized authority and duty of assistance in the field of Mining and Energy and the tasks given by the Regent of Tanah Bumbu. As for the job descriptions of Mining and Energy of Tanah Bumbu are:

- a) Establishing technical policies Mining and Energy in accordance with policies established by the Regional Head.
- b) Work Program establishes the Department of Mines and Energy in accordance with the technical policy department.

- c) Coordinating, coaching and controlling the implementation of the process of structuring the area, mining, energy and mining supervision.
- d) Controlling the management of administrative activities.
- e) Fostering and coordinating management unit technical implementation.
- f) Carrying out other duties assigned by the supervisor for the field tasks.

To carry out tasks in the field of mining and energy, the Energy and Mining Agency of Tanah Bumbu has a function as:

- a) Formulation of technical policy in the field of mining and energy in accordance with policies established by the Regent based on legislation in force.
- b) Technical guidance, regulation and supervision of the development activities of the mining area.
- c) Technical guidance and general supervision of mining business development.
- d) Technical development, regulatory and supervisory activities of energy and electricity.
- e) Approving licenses and public services.
- f) Management of administrative affairs.
- g) Guidance to the Technical Implementation Unit of the Energy and Mining Agency.

**c. BPPMD (*Badan Pelayanan Perizinan dan Penanaman Modal Daerah/Local Licensing Service and Investment Board*)**

The Local Licensing Service and Investment Board vision is:

“ACTUALIZING PROFESIONAL LICENSING SERVICES AND INVESTMENT, EASY AND TRANSPARENT BUREAUCRACY THROUGH GOOD GOVERNANCE AND CLEAN AS ONE OF THE REGIONAL ECONOMIC IMPROVEMENT EFFORTS”

To bring out the result of missions are:

- a) Creating professionalism personnel licensing services and investment;
- b) Creating quality licensing service and quality investment;
- c) Creating an investment climate that is safe and healthy as a source of local revenue in order to progress economic development.

Based on Tanah Bumbu Regency Regulation No. 17 of 2007 of long-term national development plan for 2005-2025, the Local Licensing Service and Investment Board (BP3MD) has the task of carrying out the preparation and implementation of regional policies in the field of licensing services and investment areas. To perform these tasks in accordance with Tanah Bumbu Regulation No. 30 of 2008 about BP3MD has the following functions:

- a) Formulating of technical policy in the field of licensing services and investments according to the policy set by the Regent based on the legislation in force;
- b) Coordinating and implementing in the field of secretariat;
- c) Coordinating and implementing of services and license;
- d) Coordinating and execution of recording, statistic and book keeping;
- e) Coordinating and implementing the provision of information and management in the field of investment.

### **3.1.2 Mining Company**

#### **a. Yiwon Mining**

PT YIWAN MINING *is a growing* company engaged in mineral mines, specifically in iron ore mine. Established since May 2005, *Yiwon Mining* is located in Mekarsari village, Tanah Bumbu Regency, South Kalimantan, Indonesia. After 1,5 years the area was explored by IMC Mining Solution Pty Ltd, Australia, *Yiwon Mining* started iron ore mining in 2007.

The Company also focuses on consistent portion and to pursue exploration strategies to further expands the resource in South Borneo. In the near future, *Yiwon Mining* is planning to explore other minerals, such as nickel, coal, iron, limestone and others.

Every year, Yiwon Mining produces 3,5 to 5 million tons of iron ores. In an area of 4.001 Ha, Yiwon Mining has around 252.6 million

tons of indicated deposit of iron ores, and 150 million tons accurately measured deposit. Since May 2007, Yiwon Mining has exported iron ore regularly to China. The production process starts with drilling crude ore and ends with shipping the products carried out in massive industrial facilities, 24 hours a day and 365 days a year.

From the mining stock pile, iron ore are transported to the port by a 20-30 tons' capacity dump truck. The range from mining stock pile to the current freight port is approximately 13 km. From the stock port to ship/mother vessel 50.000 mt the iron ore is carried by a 300-330 feet capacity barge. It pulled by a tugboat and brought 4-6 hours to the mother vessel in Tg Pemancingan, Kotabaru, South Kalimantan.

Pic 3.1

### Yiwan Mining Company Location



Source: Yiwon Mining, 2015

To repair and restore the former quarry land mines PT Yiwon Mining makes an arrangement to re-grading and re-vegetating the land especially in the mining site in Mekarsari Village. This re-vegetation process performed after the former quarry pit closed since the production started. The first step is to cover the land mines with topsoil mined functioning as growth media. Then, on top of this topsoil PT Yiwon Mining planting seeds.

Replanting is a routine activity for PT Yiwon Mining. These activities process as large as planting in the plantation. In the former mine however, re-vegetation is more challenging. The structure of the mine land is more moderate. The climate has unfriendly temperatures and erratic rainfall. It is also a problem with the selection of appropriate vegetation species for the location. Now PT Yiwon Mining has become far more knowledgeable for the environment surrounding the mining areas and knows what is best for the environment.

On the other side, PT Yiwon Mining does not only run the business inside the mining, but it also undertakes the responsibility to take care of the environment and its outer surrounding communities. As a growing company PT Yiwon Mining needs to work hard to sustain the company's operations of producing high performance (sustainability goals). There are three major foundations that the company must be focused on to achieve corporate sustainability goals: economic, environmental, and social.

Those three foundations are interrelated and should be well maintained. Without a conducive relationship with the community, the company is unlikely to succeed. The same as when it is sustainable environment, the company is lifeless. Because these major foundations are company's lives, so preserving is the responsibility. Therefore, PT Yiwon Mining has a full responsibility on the reclamation in the mining field. PT Yiwon Mining also intended other social things, such as donating to some elementary schools, Muslims schools, and more community development activities around the mining areas.

Current condition - The status now is non-operating (stand by) since January 12<sup>th</sup> 2014 (the mining law implemented), the company is only defending the location, waiting for both sides (investor and government) to deal with the solutions. The last time it had more than 350 workers, now it becomes less than 20 workers. That amount of workers is only to defend the location/site and also watch over the Blasting Storage.

The main reason why this company is shutting down the production and would not invest in smelter is because they have low grade iron ores which could not be proceed by the local smelter companies. Other than that, because the operational investment for smelter is too high, investor would invest because other than the smelter itself, the company should provide the operational facility such as road, electricity, port, and access needed.



The losses of the company in huge amount, even though the company is no longer do any production activity company should be able to pay annually tax, company tax, areal tax, salaries, and other monthly expenditures. Besides, they also have to compile and submit the annual report for the ministry level.

#### **b. Meratus Jaya Iron & Steel**

In the National Symposium on "Development of Steel Industry: Future and Challenges" which was held on 23 March 2006 in Jakarta, Vice President Jusuf Kalla gave a speech as a Keynote Speaker and assigned the Ministry of Industry to coordinate the various national potential for the development of steel industry based local resources in South Borneo. PT Krakatau Steel (Persero) or KS, a state-owned company and is the largest steel company in Indonesia, then carry out research for the development of steel industry in South Borneo. The studies are covering the aspects of technology, availability and supply of raw materials, availability of infrastructure and utilities, economic feasibility aspects, as well as the social impact of the economic aspects to local communities. The study concluded the following:

- Most of the iron ore are contained in South Borneo, includes the type of laterite.
- The appropriate technology to process iron ore is rotary kiln technology.

- The most appropriate location to set up the factory is in KAPET (*Kawasan Pengembangan Ekonomi Terpadu*/Integrated Economic Development Zone) Batulicin.
- The infrastructure and utilities steel industries are not available yet.
- The local communities strongly support the presence of the steel industry in the region.

Iron and steel industry project called as Borneo Project, built by MJIS in Batulicin, Tanah Bumbu regency, South Kalimantan. Factory built in this project is a steel plant that was first used laterite ore types that are often found in Borneo. The factory built in KAPET on an area of approximately 117 hectares that was originally the South Borneo provincial government assets then made capital investments into the company's equity MJIS.

Iron making Borneo project is located in Batulicin, or precisely in the Sarigadung Village, District Simpang Empat, Tanah Bumbu regency, South Kalimantan. Batulicin is the capital of Tanah Bumbu regency, located +/- 270 km southeast of Banjarmasin, South Kalimantan provincial capital. The travel time by road from Banjarmasin +/- 5 hours, and only takes +/- 45 minutes when using air transportation. The city is growing rapidly as the pace of economic growth that is still supported by mining are numerous in Tanah Bumbu. This district is rich in mineral resources mining, particularly iron ore

and coal. For these reasons Batulicin is chosen as the construction of Iron making Borneo Project.

Borneo Iron making plant built on land KAPET +/- 10 km from the city center of Batulicin. The road to the factory belongs to Tanah Bumbu regency administration that in its management cooperates with the private sector. Although the road has not been paved or concreted, every day many mining trucks are passing. It could be said that this road is an important route for mining companies in the vicinity.

Picture 3.2

Meratus Jaya Iron Steel Project Location



Source: Meratus jaya Iron Steel Website, 2015

Project Development in Borneo started to implement gradually with the development of iron making plant (iron ore processing) that use direct reduction technology (Direct Reduced Iron) Rotary Kiln installed capacity of 315,000 tons per year. Further upstream development will

be directed to own and operate iron ore and coal mines in order to secure the supply of raw materials, while the downstream development is focused on increasing production capacity towards production with the construction of a steel processing plant (steelmaking).

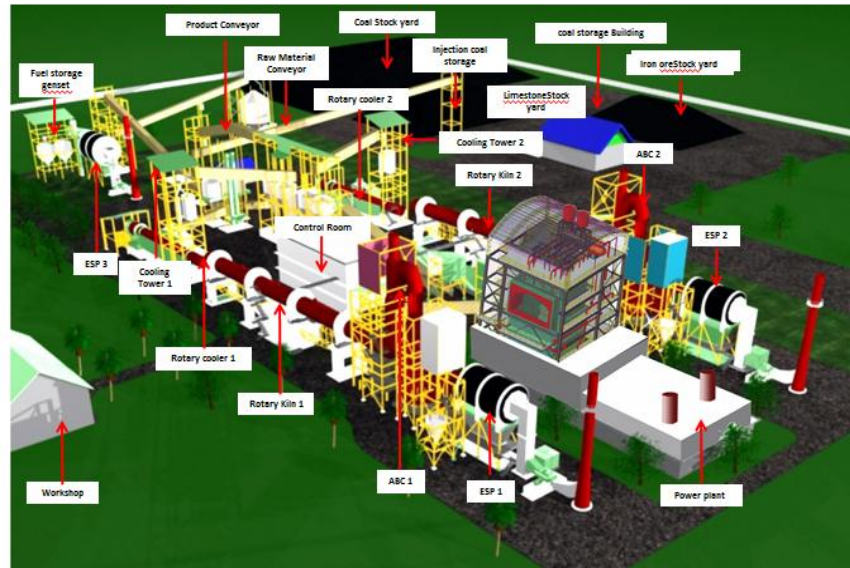
Iron ore processing plant currently has facilities including:

- 2 (two) units of Rotary Kiln with a capacity of 315,000 tonnes per year
- Electricity generation capacity of 2 x 14 MW
- Preparation of raw materials
- Boiler feed water treatment
- Material Handling

Mockups below shows the design of DI Rotary Kiln plant being built by PT Meratus Jaya Iron & Steel.

Picture. 3.3

## DRI-RK PLANT MOCK UP



Source: Meratus Jaya Iron Steel Website, September 2015

The main products of Direct Reduced Iron plant are also known as sponge iron due to its visual form. Currently KS is a product taker, so most of the products purchased by KS is used as a raw material feeder in the steel processing facilities.

- Clean water supply
- Supply limestone
- Labor supply operations, both skilled and unskilled
- Port services and stevedoring
- Provision of access road (between the factory and the port)
- Ground transportation for raw materials and products
- Related outsourcing services

To maintain the continuity of the supply local suppliers are encouraged to have a binding long-term supply contracts. While the infrastructure and utilities built through mutually beneficial cooperation with the Regional Government of Tanah Bumbu and local entrepreneurs.

At the time of MJIS is entering the necessity of commercial operations and employees which are approximately 200 people, the operational staff recruited are from mostly Tanah Bumbu and other districts in South Kalimantan. Local residents that were recruited reached approximately 55%. If everything is managed properly MJIS presence will surely provide economic multiplier effect, and thus the Company has contributed to the development of public welfare which is the most important task but it is difficult in the dimensions of Corporate Social Responsibility. There are several things has been done by MJIS regarding to CSR program, namely:

1. PT MJIS' concern to nearby community

Related to Corporate Social Responsibility MJIS has given some financial aid to build a mosque near MJIS' plant at Sarigadung Village, Simpang Empat Subdistrict, Tanah Bumbu Regency. Related to Corporate Social Responsibility MJIS has given some financial aid to build a mosque near MJIS' plant at Sarigadung Village, Simpang Empat Subdistrict, Tanah Bumbu Regency.

2. Greening program held by PT Meratus Jaya Iron & Steel

Plant Area Greening Movement, this movement is an employee self-funding that could collect donation of 309 trees which were planted in various locations in the plant area.

3. Charity event

Distribute the financial assistance and pray together with local's orphans.

4. Religious event in the community

The company join and celebrate the Moslem festival called Idul Adha with community living surround the mining area to express the tolerance and togetherness.

### **3.2 Stakeholders Response Toward Mining Law No 4 of 2009**

This section explains some points of the research results. the contents of each points in this section is in accordance with the points mentioned in the operational definition. Each point discussed in this chapter is inclusive of the two parties concerned that local governments and private parties (the mining company). The results obtained from the private sector (mining company) is useful as a encounter the results obtained from the local government.

#### **3.2.1 Regulate the Mining and Coal Sector (MCS)**

The data collected from the in-depth interview with every Local Government Institutions has shown that there is no exact Regulation in

Kabupaten (Local) level in of the terms respond to the implementation of Mining Law. There are several aspects mentioned by each institution, as follows;

Table 3.1 Local Institution Response Toward Mining Law Implementation

<i>No</i>	<i>Aspect</i>	<i>BAPPEDA</i>	<i>Distamben</i>	<i>BPPPMD</i>
1.	Impact	There is no major effect of implementation of Mining Law	The implementation of Mining Law affects the system and function of this institution.	The implementation of Mining Law does not really affect the investment, except on the iron ore mining investment
2.	Key Factor	No major changes of function in BAPPEDA	There are some changes as the direct implementer	No significant changes in the job desk except the statistic of investment
3.	Recommendation	Mining Engineer is necessary for every mining company	Mining company should be more cooperative to respond the new regulation	To maximize the natural resources potential, the use of high technology is necessary

As data presented in the table above bring the result that the Mining Law No 4 of 2009 is less affecting the function of the local government institutions. The major impact of the new regulation is mainly for Iron Ore Mining Company that could not export the raw



material directly before they upgrading the iron ore based on Article 102 and 103.

Based on the depth-interview that has been done to Mahyuni (chairman of BAPPEDA) on August 19<sup>th</sup> 2015, it is stated that there is no major impact for the local government especially for BAPPEDA due to Mining Law implementation. He said that the main concept of Mining Law is to burden the mining industry in exploiting the natural resources. Since there is a change in Work Contract into Mining Business Permit (IUP) in Mining Law No.4 of 2009.

However, due to the implementation of Mining Law local government could not respond massively in regulate mining industry. Based on the interview has been conducted in BPPPMD to Arif Fadillah (Chief of BP3MD) he stated that the newest Decentralization Law No 23 of 2014 regulate some points of local government authority. For the investment BPPPMD only release investment permit in which the nominal is supposed to be less than or 10 billion rupiahs (*Interview: August 13<sup>rd</sup> 2015*).

Meanwhile there are some changes in function of Distamben as stated by Mulyadi as the implementer of the regulation since the implementation of Mining Law in January 12<sup>th</sup> 2015. There are several points due to the Distamben function are mainly for publishing the technical permit for mining company and revise the last Work Contract

into the Mining Business Permit, moreover to process the renewing the permit once every five years.

The data shown in table 3.1 shows that actually the direct impact is not given to the governmental institutions. It is more about how mining company can follow the new regulation and the government functions only as the implementer and facilitator. Moreover, there is no actual new regulation could be made as the respond to Mining Law because local institutions only facilitate the implementation. In other words, that every decision is made by the central government (ministry). Another point has becomes burden for local government is the newest decentralization law No. 23 of 2014 about the authority of local government in regency level. Mulyadi added that the function is no longer in Distamben hand to publish the technical permit for mining company instead it is in provincial government. So the role of Distamben will later be decreasing (*Interview: August 18th 2015*).

### **3.2.2 Planning the Development of MCS**

There are several issues regarding to technical mining industry to develop Mining and Coal Sector. Coal mining is the biggest potential in the area, followed by iron ore. Generally, Indonesia is now an exporter for thermal coal. Almost of the coal is exported is the medium quality (between 5100 and 6100 Cal/gram), low quality (under 5100 Cal/gram) which exported annually to India and China. The stock of coal in Indonesia are spread in three main areas; South Sumatera, South Borneo,

and East Borneo. In South Borneo mainly in Tanah Bumbu Regency, coal mining is the mainstay industry. In 2012 Tanah Bumbu produced 24.096.296,521 Metric Ton of coal (*Potensi Investasi 2014*, by BPPMD).

To develop such potential, the local government of Tanah Bumbu needs to concern about the technology of mining production. It is stated by Arif Fadillah (chairman of BP3MD) that to increase the investment and to attract investor, the local government should support the mining technology in Tanah Bumbu, especially to facilitate every mining company to use more efficient technology in that sense (*Interview: August 13rd 2015*).

Meanwhile the technology used in the coal mining company is hauling technique, which called as the open pit mining. This mining system is digging the site that has been explored then collect the object by hauling them manually by trucks to the stockpile. Meanwhile more effective technique is by conveyor as stated by Sutarno (Operational Director of Jhonlin Baratama Coal Mining Company, in September 20<sup>th</sup> 2015). He also added that there is only few coal mining companies in South Borneo using this technique, one of those is located in Sungai Danau Regency. Generally, this mining method is difficult to be applied by mining company because it needs huge amount of investment. Briefly about this mining technique, mining company is no longer using trucks and vehicles to transport the coal, otherwise they use the long transporter

machine along the way, from the mining directly to the stockpile and port. Besides needed a large amount of investment, this technique needs more maintenance monitoring.

On the other hand, Distamben acts especially as the implementer of the development object has come with the following program. Stated in the Strategic Plan (Renstra) of 2011-2015 draft in mission part number two as leverage the mining industry based on the mining principles and environment based. Specifically, to implement mining industry that has environment based, Health and Safety Work (K3), is also proper and correct mining as stated on the law and regulation.

To reach those missions Distamben settled two targets; conducting the *Good Mining Practice* and increasing the knowledge of every mining industry stakeholder. The indicators for each target are; number of mining company (IUP holder) that conduct *Good Mining Practice*, and the number of mining company that follow technical education and training (diklat) by the Operational Controller division of Distamben, and last the socialization of the Mining Law. The *Diklat* which held by Distamben are conducted by inviting Pusdiklat Minerba to facilitate *Diklat* in regency level. Besides, if there is another *Diklat* which held by provincial level which mean that Distamben only participate as participant.

As stated in Mining Law No 4 of 2009 article 95 and 96, The *proper Mining Practice* carried in some conditions:

- a. Health and Safety Work (K3)
- b. Mining operation safety
- c. Mines environment management and monitoring, including reclamation post-mining activity
- d. Mineral and coal conservation
- e. Managing the last residual from mining activity, in solid form, liquid, or gas before release it to environment media.

The target number of mining company for *Good Mining Practice* as targeted in 2011 is 60 IUP, 65 IUP for 2012, 70 IUP for 2013, 70 IUP for 2014, and 75 IUP for 2015. Meanwhile for the training and education Distamben targeted to train 60 miners in 2011, and 70 miners for each following years until 2015. And for socialization of the new mining law it does not certain number of target. From the latest data from Distamben the number of the listed mining company could be seen in the following table:

Table 3.2 Mining License (IUP) Published by Distamben  
Year of 2009-2014

No.	Year	IUP Published
1.	2009	90
2.	2010	66
3.	2011	88
4.	2012	74
5.	2013	77
6.	2014	65

Source: *Dinas Pertambangan dan Energi*, 2015

Table 3.3 Coal Mining Production by Licensed Coal Mining Company  
Based on District in 2010

No	Mining Location/District	Company Amount	Calorie Range (Min-Max)	Production Amount (Metric Ton)
1.	Kusan Hilir	0	-	-
2.	Sungai Loban	1	5.100 - 5.500	1.108.155,780
3.	Satui	35	4.500 – 6.300	4.732.574,595
4.	Angsana	8	4.500 – 5.500	506.141,355
5.	Kusan Hulu	1	6.100 – 6.500	56.931,801
6.	Kuranji	0	-	-
7.	Batulicin	2	4.600 – 5.500	38.311,067
8.	Simpang Empat	8	4.600 – 5.500	7.308.377,537
9.	Karang Bintang	1	5.600 – 6.100	149.345,968
10.	Mantewe	9	5.300 – 6.500	1.743.863,163
	<b>Total</b>	65	4.600 – 6.500	15.643.661,266
	2009	83	4.600 – 6.500	11.647.888,483
	2008	62	4.600 – 6.800	10.251.551,187
	2007	46	4.600 – 6.875	7.272.718,543
	2006	33	4.600 – 7.442	3.353.803,956

Source: *Dinas Pertambangan & Energi*, Tanah Bumbu Regency

Table 3.4 Iron Ore Production Amount by Licensed Iron Ore Mining Company  
Based on Location (District) in 2010

No	Mining Company	Location (District)	Iron Rate (%)	Production Amount (Metric Ton)
1.	PT Buana Bimo Cahaya	Simpang Empat	48-50	0.000
2.	PT Yiwon Mining	Simpang Empat	48-50	1.588.860,129
3.	PT Surya Bersaudara	Simpang Empat	48-50	0.000
4.	CV Bina Usaha	Mantewe	48-50	0.000
<b>Total</b>			48-50	56.931,801
				2009
				472.159,996
				2008
				997.340,886
				2007
				600.742,204
				2006
				196.173,032

Source: *Dinas Pertambangan & Energi*, Tanah Bumbu Regency

From the number of mining company noted since the last six years, it showed that actually the work of the Distamben has not accomplished the target yet. Shown by the number of company in 2012 which was decreasing from 2011 amount and 2014 which the contains of the lowest amount of IUP published. It proves the impact of the Mining Law which has an adverse effect. Mining Lincense (IUP) system is indeed a serious impact especially on the authority of a mining company in the production run due to a system is different from the Working Contract (KK) on the previous regulation.

Based on the targets that have been determined, Distamben has not been able to overcome it. This is certainly influenced by several things including; the influence of global economic impact on coal prices then

led to mining companies to postpone production activity. It was done by coal mining companies by reducing production costs they incur while no corresponding revenue. It is shown by the largest mining company in Tanah Bumbu Regency, Jhonlin Baratama, that reduced the duration of production activity from 24 hours per day in the whole week into 12 hours per day in 6 days since mid August until September 2015. This effort has been done by the company to reduce the amount of the worker's salaries. By the time, they pile up the stock of production result and wait whether the price will rise up and ready to sell it (*Observation* in September 2015).

Another fact stated by Mahyuni (chairman of BAPPEDA) that beside on the global economy condition, the purchasing potential of Europe and Asia is decreasing lately. It is also related to the classification of the iron content of which Indonesian producer can produce. The iron content seek by the consumer now is military-based iron content. It is more than 90% iron content for military industry, while Indonesian product only contains of 70%-80% iron content including civil level such as profile steel.

### **3.2.3 Control the Development of MCS**

The development of MCS in Tanah Bumbu Regency is one of the main objects of the local government. To control the mining industry in Tanah Bumbu Regency, Distamben is focusing on the fuel distribution,



and captive power based on the regulation. Based on the observation in August-September 2015 fuel in Tanah Bumbu Regency is also became the major problem, it is proven as the queue in every fuel station was always long and terrible. This phenomenon is not because lack of distribution, but people now that it is one of the practice by collectors and locals. Collectors are usually collect diesel fuel when the distribution came to the station, of course it happens with some contributions of the apparatus. The type of the fuel they collected is usually diesel type because the consumption of diesel is more than premium. Then collectors collect as much as they could and sell it in very higher price. The normal price of diesel is 6,900 Rupiahs/liter in September 2015 and they sell it in between 7,500-10,000 Rupiahs/ liter. That reality caused a very long queue in every station even though collectors selling their fuel stock nearby the fuel station. It is very harmful for the people in industry mainly for medium-small industry using their trucks or vehicles that need diesel. The security of fuel is not a new phenomenon in Tanah Bumbu Regency, moreover in most of South Borneo. There are four fuel pump in Tanah Bumbu Regency but all of them always put the sign that diesel is sold out everyday afternoon. The difficulties Distamben in facing this problem is about local apparatus that involved in this practice. Some informations stated that the people behind collector or collector itself is local police.

Meanwhile Distamben has not focused in the illegal mining. Which actually became serious problem generally in Indonesia since Suharto era (Erman, 2004). Illegal Miners (PETI: *Pertambangan Tanpa Izin* or mining without license) are not only called illegal because they have no permits. They also operate within mineral tenures of legal companies. Besides operating without any care for the environment, this group of illegal miners are causing the biggest problem of all from commercial mining operators and to the government (Aspinall,2001).

Illegal gold mining activities that have spread throughout the country in the past few years have reportedly incurred state losses of over Rp 80 trillion (about US\$6.1 billion) annually (Gunawan in The Jakarta Post, Tue May 05 2015). Meanwhile one of the local media of Tanah Bumbu Regency stated that “Member of Commission III of the House of Representatives, Aditya Mufti Ariffin in an activity in Jakarta, said the illegal mining activity rife in South Borneo. The coal miners without permission, according Aditya Mufti, conducted in two districts of Tanah Bumbu and Tanah Laut with more than 23 distribution points is done at night” (*Fokus Batulicin*, Tue July 19 2011). To tackle this operation local government especially for Distamben actually need to do more effort and put it as the common issue. Regarding to secure the natural resources potential, moreover Distamben should cooperate with the local government institution such as Forest Police, Police, and Forestry

Agency. However, the fact that Distamben does not focus in this issue so is such a shortage for this Institution.

The other external condition that local government could not handle is the global economy which caused the coal price is getting lower lately since early 2014. Local miners stated that there are some factors regarding this situation. The major factor affecting the price of the coal is that there were some new techniques discovered in African mining which is more effective. This condition is affecting the global coal prices, mainly for Indonesian product which still using the manual technique in doing mining production (Mahyuni, *Interview on August 19<sup>th</sup> 2015*)

### **3.3 Improving Investment Climate in Tanah Bumbu Regency in 2014**

#### **3.3.1 Simplify the Procedures of Mining and Coal Sector (MCS)**

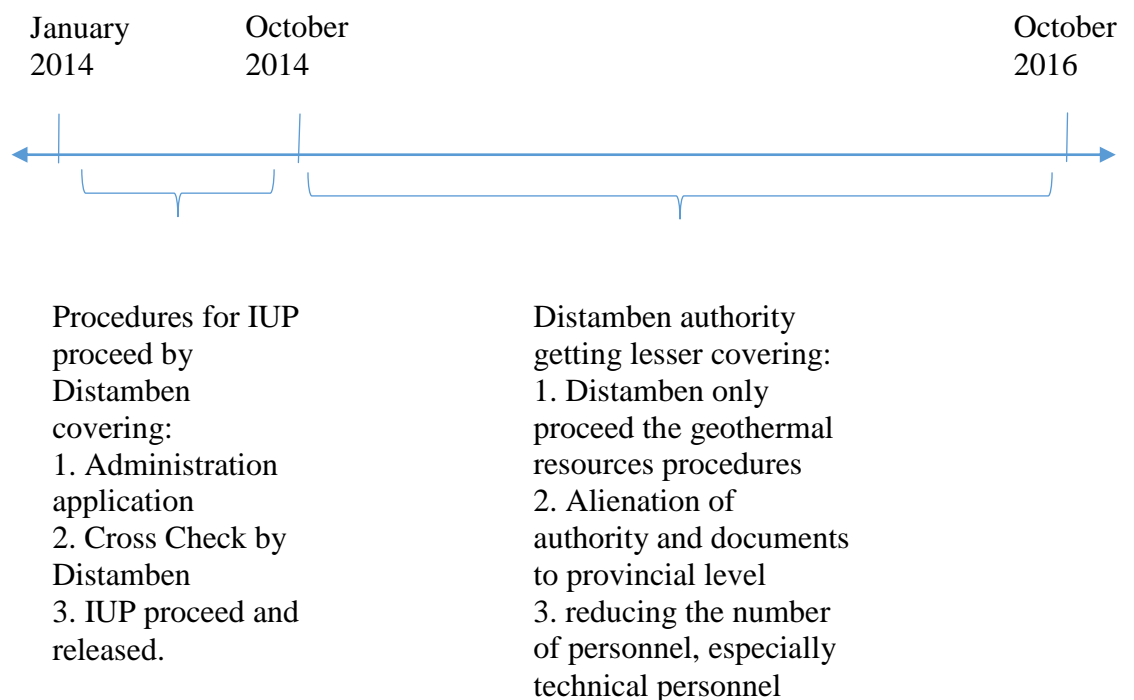
The procedures of doing mining industry in Tanah Bumbu Regency is not the major issue. Since the enactment of Mining Law of 2009 the Mining License (IUP) is given by the central government in the level of ministry. Local government (District) is only helping and assisting the technical procedures then report it to the minister. The main issue here is regarding to the investment of the mining company which is not handled by the BP3MD, in the interview with Arif Fadillah (chairman of BP3MD), he stated that "... the mining sector investment is not handled by the BP3MD, the big and strategic sector like that is handled by the other related agencies and local officials, we do not get into the big money". He also added that the practice of corruption,

collusion, and nepotism are still occurred in terms of local business. BP3MD is outside those circles to prevent those practices (*Interview: August 13<sup>rd</sup> 2015*).

Due to the simplifying procedures, local government institutions could not really implement this concept. This is because of the new decentralization law no 23 of 2014 that has been implemented since October 2014. The figure below describes the procedures cycle.

Figure 3.1

Procedures for IUP before and after Decentralization Law no 23 of 2014



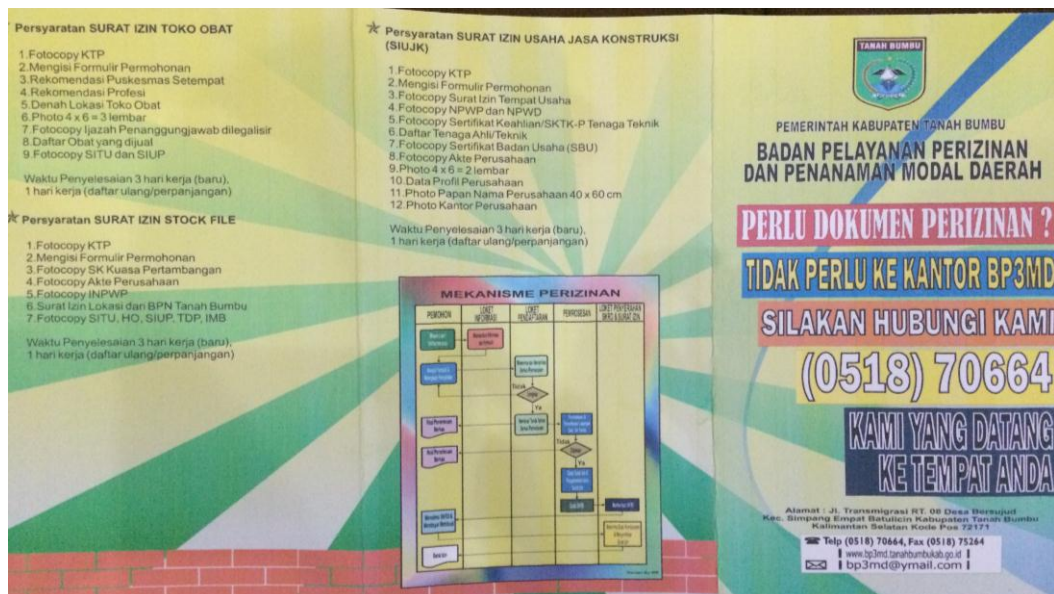
From the figure above it could be seen that the actual barrier for Distamben in Tanah Bumbu Regency is the latest decentralization law

no 23 of 2014. It could be concluded that the Distamben only role the mining law since January 2014 until October 2014 which is the enactment of decentralization law has been started which is less than one year.

Meanwhile, looking at the procedures that BP3MD gave, it is quite simple and developing in terms of doing public service. Such as shown in the brochure below that stated they do on the spot service, it means that applicant can call and the officer will come for checking the document.

Picture 3.4

BP3MD Latest Brochure



Moreover, BP3MD also do compensation in the case of the settlement permit that exceeds a specified time. In term of the openness and transparency BP3MD is implementing those elements which is proven by the openness of the officers that can the easiness to give any

data to the researcher and easily communicate with the applicants. Researcher has interviewed two of the officers from different section and the chairman. The officers are Gatot as in Sub-section, evaluation, documentation and reporting, also Aris Riadi as the Investment Section.

On the other side, Distamben do their tasks based on the Regent Regulation No. 21 of 2008 which is valid until the Strategic Plan period 2011-2015. Which basically needs to consider the newest Mining Law to do the tasks. It means that there was no major change in doing the tasks or procedures because the Regulation itself never been updated since the Regent changed in 2011. It shows that this institution moves very passively in doing change or responding the latest Mining Law. Meanwhile there are some points regarding to the Decentralization Law No 23 of 2014 and its impacts to regency and provincial level authority in dealing with the procedures issuance which is shown by tables below:

Table 3.5

Regency and Provincial Level Authority based on Mining Law No 4 of 2009

Regency Level Authority	Provincial Level Authority
<ul style="list-style-type: none"> <li>- - fostering the operations, mining technology, as well as capital and marketing</li> <li>- Controlling of Occupational Health and Safety (K3), post-mining reclamation</li> <li>- Mine inspectors assigned to carry out technical tasks field</li> <li>- Record production of every mining company</li> <li>- Guiding and controlling of the People's Mining (UPR)</li> <li>- Determining of the People Mining Areas (WPR)</li> <li>Issuance of Mining Permit (exploration and production operation) in one area of regency / city</li> </ul>	<ul style="list-style-type: none"> <li>- The delegation of authority from the minister to carry out supervision and oversight in the province</li> <li>- Publishing IUP (exploration and production operations) the Regional Mining License (WIUP) in inter-district / city in the province after receiving a recommendation from the regent / mayor</li> </ul>

The table above stated the differences and task delegation based on Mining Law No 4 of 2009 implemented since January 2014. However after Decentralization Law No 23 of 2014 enacted there are some points impacted related to the authority between regency and provincial level, those points are figured in the table below:

Table 3.6

Regency and Provincial Level Authority based on Decentralization Law No 23 of 2014

Regency Level Authority	Provincial Level Authority
<ul style="list-style-type: none"> <li>- Issuance the licenses of the direct use of geothermal energy in district / city</li> </ul>	<ul style="list-style-type: none"> <li>- Determination of WIUP (<i>Wilayah Izin Usaha Pertambangan</i>) from non-metallic minerals and rocks in one of the provinces</li> <li>- <b>Issuance of IUP in the context of domestic investments (metals, non-metals, coal, and rock)</b></li> <li>- <b>People Mining License issuance (IPR) for non-metallic mineral commodities, metals, coal, and rock</b></li> <li>- Pricing benchmark non-metallic minerals and rocks</li> <li>- <b>Publishing IUP Production Operation specifically for processing and refining License Mining Services (IUJP) and registered letters in the framework of domestic investment</b></li> </ul>

From the table above there are clear contradictory differences of authority possessed by both levels of government before and after the Decentralization Law No. 23 of 2014. In the implementation of the law, district / city governments are given a period of 2 years, until October 2016 for the submission of documents related. These documents include; IUP supporting statements, reports of Activity Plan Budget



(RKAB) by mining company, company reports quarterly, reports of K3 and reclamation of post-mining.

In the meantime the district / city government also reshuffle and the reduction of the number of personnel Distamben. Distamben currently has six mine inspectors assigned to carry out technical tasks that will be assigned to mine at the provincial level as technical personnel for the district / city has no longer technical duty. Meanwhile, staff in Distamben will be transferred to other *SKPD* (Government institution) that requires human resources due Distamben administrative tasks will be greatly reduced. While the main tasks of Distamben function itself is still waiting for the province if the province will give to the task of supervision and guidance or not at all. In the meantime, districts / cities still carry out the task of supervision and guidance because there is no budget that can still serve rest of the documents. Other duty is remained on the coal delivery management until the end of 2015.

### **3.3.2 Providing facilities and infrastructure of MCS**

Facilities and infrastructure is the most important aspect in developing the mining industry. To transport the result of the mining object, every mining company should have an easy access especially to the port. In terms of exporting the mining object should be sent to the port load it into a tugboat then it is sent it to the mother vessel to export.

To do this cycle is not easy if the location of the mining company is far from the port because it needs high cost. Such as stated by Khosim (Operational Manager of Yiwan Mining) as “a *company will not be able to build a smelter is because the operational investment for smelter is too high, investor would not be investing because other than the smelter itself, the company should be providing the operational facility such as road, electricity, port, and access needed*” he added that investment needed for a smelter is 1 trillion rupiahs, besides, they should pay more cost for the facilities and infrastructure for another 1 trillion rupiahs (*Interview: September 2015*).

According to Mahyuni (chairman of BAPPEDA) the mining companies are “*too lazy*” to build the smelter, because basically the smelter will bring more efficiency by adding more value for their product and also provide more work opportunities (*Interview: August 2015*).

Khosim also stated that actually there were some discussions and socialization held by the private sector and mining company (Yiwan Mining) to discuss several issues related to the implementation of Mining Law. That was held by the geology board, industry board, and several government institutions but it never finds any solution. Finally, the government let the companies seeking their own solution (*Interview: September 2015*).

### **3.3.3 Protecting Competition among Mining and Coal Companies**

The competition among mining companies are still occurs, especially between the local companies. Arif Fadillah said that ‘the competition is still occurring since the local companies is growing, and being complicated by the local politic. Most of the local leaders own the companies, and it is quite massive company. For instance, the political practice in local area tend to give more easy access for local leaders’ companies’. Moreover, he also added that local regulation already regulates in term of mining company’s competition. Nepotism is also the other problem in Tanah Bumbu Regency, it can be seen from the fact that the leading local mining company owner have a good relation with the local leader. Therefore, the intention of the BP3MD have no major role in the investment service (*Interview, September 2015*).

### **3.3.4 Assisting Business of MCS**

In terms of assisting the business of private companies, the local government still focuses on protecting more the small-medium industry. Especially outside of mining sector. This is shown by BP3MD assist the local Karaoke business. Arif stated that BP3MD help that company because the police forcibly seal the place on charge of not having the permit, in that case BP3MD succeed to tackle and handle the

case, assisting the company in terms of law protection. However, because BPPMD only oblige the company which value less than or 10 billion rupiahs, so almost of mining companies are not under protection of BP3MD.

On the other hand Distamben have more role in assisting the mining industry. This is because Distamben role is more focused and technical in mining sector than other institutions. According to Mulyadi (Distamben) 'Distamben only assists the central government to implement the regulation. Moreover, since the newest law for decentralization or local authority in Law No 23 of 2014 enacted the local government roles are not very clear yet. Since October 2014 local government (Regency) could not be freely to conduct or run the governance. Distamben itself need to wait for the next level of implementation of the decentralization law, now the status for local government (Regency) is in between ruling or not. Such as to release the IUP (Mining Permit) since it is no longer in Distamben authority. The other consideration for this regulation is difficulties that come from the small scale mining such as sand mining and other small scale mining if they need to apply the permit in the provincial level' (*Interview, September 2015*).