

Buying Land for Conservation Purposes in Sonora, Mexico

S. Lucía Perez-Weil, Juan Carlos G. Bravo

Naturalia, Comité para la Conservación de Especies Silvestres, A.C., Northern Jaguar Project, Hermosillo, Sonora, México

Abstract— The Northern Jaguar Reserve is 50,000 acres and one of the largest privately owned wildlife preserves in Sonora. Buying land in remote parts of Sonora takes special knowledge as ownership rules may not be clear and boundaries may not be defined in the records. There are complex legal procedures to guarantee ownership in which letters of intent play a crucial role, and there are special complexities for ejido lands. In addition, only a presidential decree as a natural protected area can prevent mining in the long term. The lessons learned at the Northern Jaguar Reserve for conservation land purchases will be described.

Introduction

Land purchase by organizations or individuals with the purpose of preserving its natural resources is only one of many other mechanisms for conservation with its advantages and disadvantages like any other. In the case presented here, it has been the most suitable mechanism because of the land tenure conditions in the Sierra of Sonora and because of the conflict between the main economic activity in the region, cattle-raising, and the main objective of the project developed by Naturalia, A.C. and the Northern Jaguar Project, protection of carnivores and their habitat. The expansion acquired by Naturalia and Northern Jaguar Project in the Sahuaripa municipality increases the number of acres to 51,346.10, becoming the largest private reserve in the State.

This paper presents a glance of the road followed to acquire that property, the obstacles found, and the remaining work to strengthen this conservation strategy, through appropriate legal means, which can guarantee our conservation objective in perpetuity. Land purchase is shown as a means to a goal—conserve jaguar habitat—not as a goal by itself. Learning from its limitations we must find alternative ways to preserve jaguar habitat, through community work or implementing public and governmental mechanisms that can achieve this goal.

Biodiversity Conservation In Mexico

Nature Preserves known as Natural Protected Areas (NPA) in Mexico have been the most common mechanism to protect representative portions of natural environments in the different biogeographic and ecological regions of the country's territory when these portions deserve to be preserved or restored because of their good condition

and their fragility or relevance on the maintenance of the regional ecological balance. For that purpose, the Mexican Legal System assigns to them a special protecting regime by the issuing of a presidential decree that limits land and natural resources use. Most of the NPAs are being established on private or social property, such as marine areas and island territories, with only a few terrestrial areas (e.g., the San Pedro's Sierra National Park in Baja California) demarcated in national property. More than 70% of the territory within NPAs is owned by private parties (Gutiérrez and others 2002). States and municipalities also have faculties to create NPAs in their own territories and by their own competence. Those areas, like the federal ones, can be established on private and social property.

The government has tacitly recognized that it is incapable of being in charge of protecting or restoring all the areas of biological importance that require it. This is evident in the increasing new rules directed at recognizing and encouraging civil society participation on conservation matters. Legal reforms to environmental Mexican Law (LGEEPA, its acronym in Spanish) in 1996 opened the door for registering units for wildlife management and conservation (UMA), which are private properties where the environmental authority allows wildlife management for restoration, protection, research, exhibition, recreation, and environmental education or sustainable development activities. With this mechanism, habitat preservation is also promoted, not just wildlife populations.

Since 1996, the 59th Article of LGEEPA provided for the possibility for owners and possessors who have biologically relevant lands to promote, by themselves, the establishment of a federal NPA for them. However, a decree process can take a long time and requires certain qualitative and quantitative land specifications to be able to be considered for some of the existing NPA categories. To improve and make this mechanism more inclusive, LGEEPA's regulations on NPA matters were issued in 2001. The Seventh Title of this regulation provided specific regulation for the referred article so that interested private owners could voluntarily request a certification of their properties as designated for protection, preservation, or restoration purposes of their land's natural resources. In contrast with federal, state, or municipal NPA, while those areas do not imply a decree process, they can be established temporarily for no less than 10 years. They do not require a minimum land extension but only well preserved conditions

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and it is the owner who defines the measure of the restriction for the use of his land and its resources. The Environmental Ministry (SEMARNAT) issues a certificate to the owner, which can be revoked if the conservation objectives are not met.

In some states, including Sonora, legislation has replicated these certification schemes with a few differences. Moreover, some states have recognized through their environmental laws some other mechanisms such as **conservation easements**—contractual commitments between private owners or between them and a government entity for natural resources protection in which the owners impose limits to their properties' use as recognition of the environmental services they provide; **rural reserves**—social properties destined for conservation purposes by the agrarian groups (from ejidos and communities) who are their owners; and **private gardens** with the objective of advancing native species conservation and regeneration.

Although governments have shown interest in integrating society to national conservation efforts, regulation is almost non-existent. Furthermore, paperwork requirements for getting a certification or a NPA decree are linked to the time and budget of the Public Administration. Another concern is that there is not any guarantee that a decreed NPA is effectively protecting the land and its resources because of many reasons including the lack of a designated budget, territory management issues, and diverse disagreements on public policies. Because of this, organized civil society has tried to apply or develop alternative mechanisms using existing civil regulations such as voluntary easements.

Any of those mechanisms require the owner's willing participation because the owners are the ones who will ultimately commit to manage land in an environmentally responsible way. However, it is common for owners' interests to change or to be incompatible with natural resources conservation. It is in these cases when non-governmental organizations with conservation purposes seek ownership of strategic properties to guarantee their long-term protection. In this manner, land purchasing constitutes another alternative mechanism to obtain the protection of ecosystems.

Northern Jaguar Reserve's Case

As part of the "borderlands jaguars" research efforts between Mexico and the United States, David E. Brown and Carlos A. López G. found that most of the available jaguar records of dead, captured, or photographed animals in Sonora between 1996 and 2000 were within a 50-mi radius where the Aros and Yaqui Rivers converge—they called this area Huasabas-Sahuaripa. The jaguar population in the area was still self-sustainable even though it had been over exploited (Brown and López 2001). Since then, the area has attracted the interest of researchers and has been visited or explored regularly. The area was also defined as the most northern region of jaguars in Mexico. Moreover, it has been cataloged as a Priority Terrestrial Region for Conservation by the National Commission for Biodiversity's Knowledge and Use (CONABIO) (Arriaga and others 2000). One of the land owners near the Aros River, close to where the Bavispe joins it to form the Yaqui River, offered one of his properties for sale in 2003, opening a unique land-purchase opportunity.

To obtain the first property for creating a "private reserve" where jaguars along with other associated species could be monitored and preserved, Naturalia, A.C. bought the property known as *Los Pavos de Arriba* and *Los Pavos de Abajo*, an area of 10,001.48 ac, on July 15, 2003. This is the how "Northern Jaguar Reserve" (RJN) was created. In the closing process, Naturalia was supported by the newly-formed Northern Jaguar Project. This purchase involved relatively little paperwork because the owner initiated the negotiation and there was

a proper title issued by Agrarian Ministry (SRA), which is not common in the region. Most of the lands are only "possessions," that is, irregular settlements where ranchers have lived for several generations. The Mexican Government recognizes these ranchers as "possessors" but not as owners because the properties that have not been titled in someone's name but rather are called original properties belong to the Nation. The process for obtaining a property title issued by the SRA begins through the possessor's request for buying the possession. The rancher must then demonstrate that he has been living on the land or that he has used that land for at least 3 consecutive years; that nobody argues against the boundaries of the requested land; and that the possession has to be paid to the Nation at a price depending on the land's quality or aptness for agricultural or forestry activities.

The Nation usually does not take actions to claim its property rights and, therefore, the possessors seldom need more legitimacy than that which already results from the acknowledgement of neighbors and the local authorities, the *Ayuntamientos*, which in fact recognize possession rights by registering them at the local cadastral office and by giving them access to productive subsidies. This way possessors do not feel compelled to regularize their possessed land while in practice they act as owners without needing to spend money they do not have in buying what they consider to be their own land.

Once Naturalia acquired the referred property, the livestock were removed and wildlife monitoring began though camera-traps placed on it and the neighboring properties once a signed collaboration agreement was in place. The results from the monitoring effort confirmed the presence of jaguar and other carnivores such as puma, ocelot and bobcat. Moreover, some other endemic species like eared trogon or endangered animals like military macaw occurred on the property. All of this increased the interest in this area and motivated the expansion project.

Expansion

After buying Los Pavos, Naturalia with its partner, NJP began negotiation with the owner of Zetazora, a group of four ranches adjacent to the south-side of Los Pavos. This negotiation was complicated, however, since the owner's expectations after the Los Pavos purchase had increased considerably. On the other hand, although all the properties had a proper title, not all of them came from SRA. They had diverse registration records and had belonged to different owners with some of them "regularized" by a declaratory judgment of ownership though a civil law procedure.

It is common among the possessors that have not obtained title by an agrarian procedure to go before a civil judge to ask for the "prescription" of their possessing rights through a voluntary jurisdiction—a non-contentious trial. Sonora's Civil Code and most of the civil law from other states allow a possessor to ask for a prescription that recognizes the possessor as the owner when they possess the land as if they were owners. That possession is recognized by society and, importantly, the owners of adjacent properties. The possession does not have to be registered under a person's name at Property and Commerce Public Register (RPP). In this case, the possession had been exerted for at least 3 or 10 years without anyone discussing.

Possessors usually do not have a problem in demonstrating their lawful possession as it is already recognized by municipal authority. The Municipality, moved by raising more taxes, gives them a cadastral number, but they do not have a public statement even though the land belongs to the Nation and, because of that, are not prescriptible. While there is not a Civil Code, a binding procedure that calls SRA to defeat Nation's interests when there is no public records at the RPP, a

judge can assess the requirements specified by that Code and grants land to the possessors applicant by prescription.

Having to deal with the owner through the different negotiation obstacles, Naturalia with NJP support acquired the group of four ranches, 34,904.87 acres in total size, on July 2, 2007, with an agrarian title and civil regularization. This purchase increased the area of the NJR three times. In 2008 and 2010, a search was made of the Sahuaripa's Municipal RPP and the Cadastre and Registration Institute of Sonora State (ICRESON) in Hermosillo, Sonora, to determine the status of each of the properties next to the NJR. This search was necessary because of the interest in acquiring some of these properties, and, therefore, knowledge of their legal status was necessary to determine that the lands were free from any lien or trial. Lands were removed from consideration when they lacked any kind of agrarian or civil regularization; were titled twice or had unfinished agrarian and civil procedures; were regularized by a civil procedure that had on-going agrarian procedures; had been decreed officially as public property; had prescription rights with non-viable limits or boundaries on reality; or lacked a will, were mortgaged without any kind of record, or had a lien.

This scenario led to negotiations with owners or possessors who had the "best titles," that is, at least had a civil title. This purchasing strategy has led to obtaining those ranches that were best located, favored reserve integrity, allowed for better management, and whose owners had wanted to sell. The last acquisitions were done on 2011. El Carricito, an area of 393.86 ac, was acquired as a possession in February so it had to be regularized through a civil procedure that was obtained by a favorable judgment on October of the same year. The property's use had been granted for life to her possessor to avoid destroying Sierra's culture and taking into account that livestock activity would be reduced considerably. The acquisition of Los Tezotaz' 5,873.62 ac followed in August. This ranch was partially titled because the will that entitled to the seller as possessor of the land referred to the "approximate surface" that coincided with the acreage surface for which a property tax was paid at the Municipality. It was necessary, however, to make a surface rectification. Finally, a small paddock of 171.66 ac was purchased. This paddock was inside Zetazora, one of the ranches already titled in Naturalia's favor and with an agrarian title. Even though the paddock was Naturalia's property, it had to be paid for to avoid a conflict by a possession that existed before Zetazora was purchased. Moreover, the paddock was a possession of the same person who sold Los Tezotaz; an opportunity of solving two negotiations in just one operation.

On-Going and Future Actions

Steps are being carried out to obtain an agrarian title from SRA for a ranch of about 5,239.17 acres called Los Pavos de Abajo or Cajón Babizoso. We are also waiting for the owner of the only legally titled ranch, Tinaja Ahogadora, to complete a divorce process so that he can dispose of the property as sole owner. In parallel, since about a year ago, we have been correcting the previous justification study through which Naturalia had proposed as NPA to the NJR under the category of a "flora and fauna protection area" to Environmental Ministry. The main purpose of this request is to protect the area from one of its principal threats—mining—since planned gold extraction is becoming more imminent.

The Mexican Constitution, in its 27th Article, states that mining veins, ledges, masses, or deposits are national property. If it is accepted that both mining and environmental protection are public utility causes, it is desirable to avoid getting into a debate of which one of them should prevail. Moreover, an NPA establishment will

allow a guaranteed federal zone or a riverbank strip of 10 m wide measured starting from the highest water river level destination of Aros' riverbed on the adjacent portion to the NJR for conservation purposes. This is because once the area had a formal decree, the National Commission of Natural Protected Areas would be able to request it for its own destination. At this time, Naturalia could only request it as a concession that must be paid periodically, being unaffordable on the long term.

Establishing NJR as an NPA perpetuates the area purposes even if Naturalia is absent. The actions of NPA administered by public administration are compensated because there is only one owner who is committed to conservation purposes. The owner would be in charge of its management having the advantage of possibly obtaining more financial resources, capturing greater economic incentives, and having access to some technical support and participation of the regional conservation strategy.

Conclusions

Even though there have been advances in regulations for encouraging participation of organization and civil society in environmental conservation matters, irregularities confronting land tenants are still an impediment for its consolidation. A clear title is required for developing or carrying out any environmental conservation activities. However, clear titles do not always exist, so buying possessions always carries a risk that not everybody is willing to afford or finance. Meanwhile, while inefficiency in the regulations of land possessions often forces an immediate review, it also allows working with local community since a different perspective, promoting that way an important social change.

While land purchases may not be the only means nor be isolated from other mechanisms to integrate governmental participation at almost any level, the purchases allow participation by the local population in an area's conservation. While the acquired properties may be a core area, their connection through biological corridors should be resolved with more than one organization and with people's support. Land purchases should be conceived as an additional protective layer that becomes a whole piece with all other environmental efforts directed to ecosystems' and priority regional species' conservation efforts.

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