

International Journal of Biological and Natural Sciences

CASE STUDY - SUPPRESSION OF NATIVE FOREST IN LEGAL RESERVE

Adriana Seregatti Gnann Vallim dos Santos
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Hyago Brito Carvalho
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Júlio César Leite dos Santos
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Lucas de Oliveira Ribeiro
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Marco Patrik Gilioli
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Pedro Henrique Palhares Lopes dos Santos
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Romeu Aparecido Máximo
Graduating, Agricultural Engineering,
UNIFEOB, São João da Boa Vista - SP/Brazil

Fernanda de Fátima da Silva
Professors, Agronomic Engineering,
UNIFEOB

Juliana Marques Borsari
Professors, Agronomic Engineering,
UNIFEOB

All content in this magazine is licensed under a Creative Commons Attribution License. Attribution-Non-Commercial-Non-Derivatives 4.0 International (CC BY-NC-ND 4.0).



Abstract: The damage caused by suppression of the legal reserve affects all terrestrial spheres, where exploration must be responsibly and permitted by law, the present work is a case report for a possible solution of suppression of native forest in a legal reserve area, in which the owner was fined for administrative infraction, and the damage was caused by Plant X, formerly the lease is in use by Plant Y, which claims to be exempt from environmental responsibilities caused by the first plant. There was an environmental crime, an act committed without a license, both are responsible for the damage caused, and it is possible to regularize it through the elaboration and execution of the PRAD.

Keywords: Forest code; Environmental policies; Logging; Shared responsibility.

INTRODUCTION

According to Law 12.651/12 (BRAZIL, 2012), “Legal reserves comprise an area designated within the property with the function of ensuring the sustainable economic use and regeneration of natural resources and conserving biodiversity.”

According to Vulcanis (2022), “The reasons for not obtaining the proper environmental authorizations in areas subject to deforestation are several, including, from the lack of ownership and land tenure regularization of properties, difficulties in obtaining licenses, involving study costs and analysis deadlines”.

According to Borges (2010), the legal reserve area is untouchable for alteration purposes, but can be economically exploited through sustainable forest management without compromising the forest ecosystem.

According to Ramos (et. al 2014), it is necessary to combat the damage and minimize the impacts caused by the suppression of the legal reserve where greater applicability of environmental policy instruments is needed.

All deforestation, whether necessary or

not, affects the entire planet, with climate changes interfering with cloud formation, rainy periods and temperature increases according to BBC News in 2019.

The report of the property in question, there was a change in the microclimate in the area due to the suppression of native forest coming from the legal reserve. The consequences of this practice are immeasurable for the environment, and the aforementioned may suffer administrative, civil and criminal punishments, as it is an environmental crime since it did not obtain the necessary authorizations for this practice.

OBJECTIVES

The objective of the work was to carry out an analysis of authorization and environmental crime of an agricultural property and subsequent environmental regularization, as well as the inferences provoked in the agricultural activity and measures to mitigate the effects.

DESCRIPTION

According to CONAMA Resolution Number 237/97 (BRAZIL, 1997), which provides for the procedures and criteria used in environmental licensing, any activity or enterprise that uses natural resources must obtain environmental authorization for its execution, therefore, there was the environmental crime by Plant X described in Law 6.938/81 (BRAZIL, 1981), art. 3 IV, for the suppression of vegetation cover, causing direct damage and without authorization from the competent bodies, being charged by state inspection and being subject to accountability in the administrative, civil and criminal spheres independently of each other, provided for in the Federal Constitution, article 225, §3°.

There was a causal link between the fact itself and the damage to the environment by

the person directly responsible (Plant X) and also indirectly by the landowner, through joint and several liability for omission or negligence, with the environmental infraction being carried out first according to Law Number 9.605/98 (BRAZIL, 1998), followed by criminal action and public civil action, which may be penalized with a fine, restriction of rights, community services or restriction of freedom in the case of an individual.

It is up to the owner to sue the public authorities against Power Plant X, and there has been financial damage caused to its property. For Plant Y, even if the contract is signed, it will not be exempt from liability, and Law Number 12.651/12 (BRAZIL, 2012), section II, §2, transmits responsibility to the successor.

The settlement of the property's environmental pending issues must be carried out with environmental agencies such as: CETESB, ``Fundação Florestal`` and through the study, preparation and execution of the PRAD, which, after being implemented, aims to alleviate the damage caused by the suppression of the legal reserve, since the damage. The elaboration and execution of the PRAD does not exempt the other environmental licenses with CAR, DCAA and Georeferencing.

The effects of deforestation can cause local and global losses with alteration in the types of macro and microclimates, increase in temperature, interference in the formation of rain and change in rainy periods, affecting the availability of water and development of plants, exposure of the soil, making it susceptible to erosion according to BBC News 2019. These damages are the same as those that occurred on the property, including the loss of production and quality, favoring the incidence of pests and diseases that develop better in hot and dry climates, in addition to the loss of fauna and local flora.



Figure 1: Deforested area in legal reserve. Photo: Bruno Kelly/Amazônia Real/08/10/2020

CONCLUSION

According to the proposed study, there was an environmental crime committed by Plant X, as it intervened in a protected area without a license for alternative land use. The producer was fined for the causal link provided for in Law 6.938/81 (BRAZIL, 1981), article 14. When Power Plant Y takes over the property, even with a clause in the contract, it will not be exempt from the responsibility guaranteed by

Law 12.651/12 (BRAZIL, 2012). The property must be regularized through the study, elaboration and execution of the PRAD. It is up to the producer to appeal against Plant X regarding the damage caused to his property.

REFERENCES

BBC News. **Porque futuro do Agronegócio depende da preservação do meio ambiente no Brasil**. Disponível em: <https://www.bbc.com/portuguese/brasil-48875534>. Acesso em: 11 nov. 2022.

BORGES, L.A.C.; REZENDE, J.L.P.; PEREIRA, J.A.L.; JÚNIOR, L.M.C.; BARROS, D.A. **Áreas de preservação permanente na legislação ambiental brasileira**. Disponível em:

http://www.scielo.br/scielo.php?pid=S0103-84782011000700016&script=sci_arttext. Acesso em: 11 nov. 2022.

Lei 12.651 /2012. **Dispõe sobre a proteção da vegetação nativa**; Disponível em: https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/l12651.htm. Acesso em: 03 nov. 2022.

RAMOS FILHO, L. O.; FRANCISCO, C. E. S. **Legislação florestal, sistemas agroflorestais e assentamentos rurais em São Paulo: Restrições ou oportunidades**. In: CONGRESSO BRASILEIRO DE SISTEMAS AGROFLORESTAIS, 5. 2005, Curitiba. **Anais...** Colombo: Embrapa, p. 211-213, 2004.

VULCANIS, ANDREA. ConJur – **Regularização de desmatamentos sem licença**. Disponível em: <https://www.conjur.com.br/2022-mai-02/ambiente-juridico-regularizacao-desmatamentos-licenca>. Acesso em: 03 nov. 2022.

Figura 1: **Área de floresta derrubada e queimada e vista na zona rural do município de Apuí, Amazonas**. Foto: Bruno Kelly/Amazônia Real/10/08/2020). Disponível em: https://commons.wikimedia.org/wiki/File:Desmatamento_e_Queimadas_2020_%2850224578572%29.jpg?uselang=pt-br