

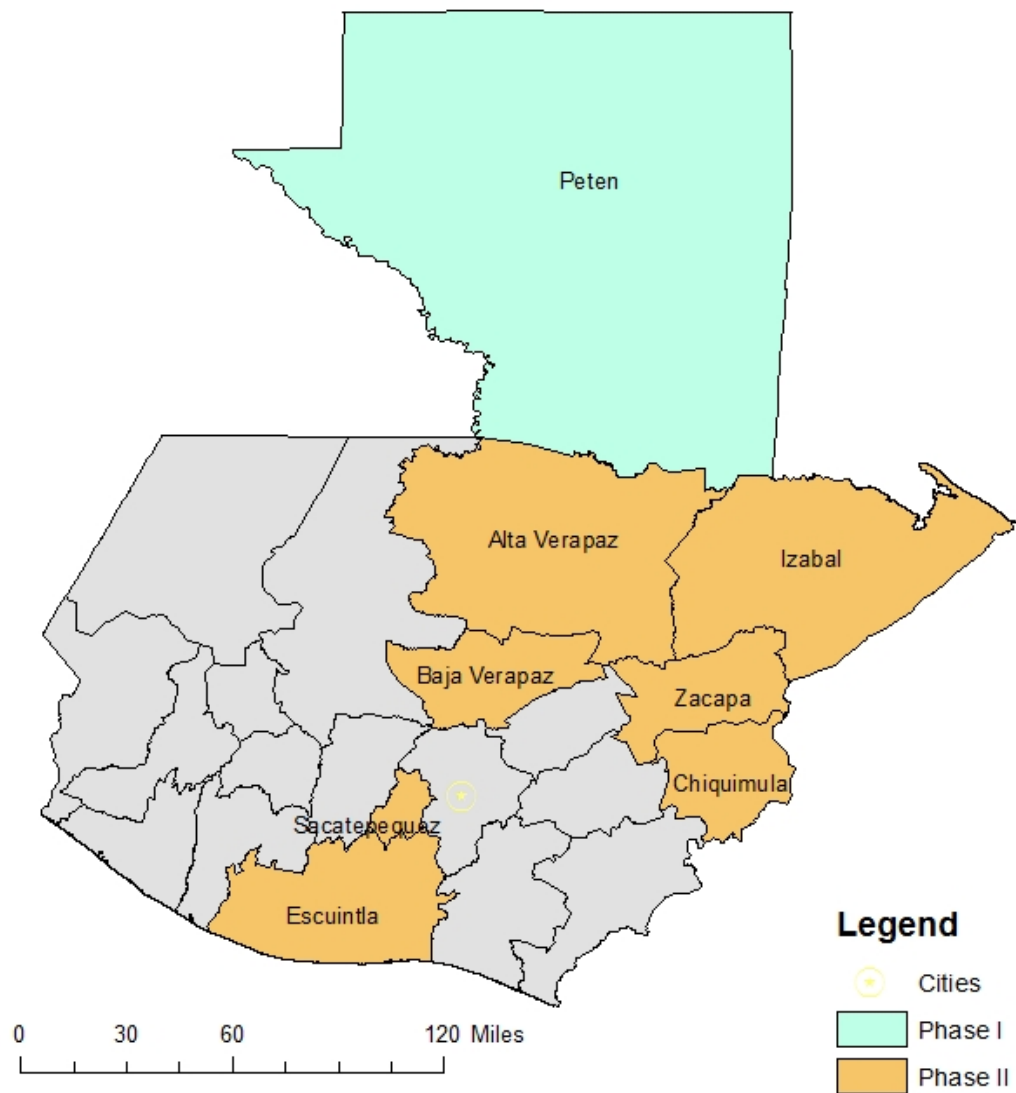
# SAFEGUARD ISSUES IN THE GUATEMALA LAND ADMINISTRATION PROGRAM

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**Safeguarding Land, Housing and Indigenous Peoples' Rights**  
Washington, DC, October 6, 2014

# Guatemala Land Administration Program

- Phase I (USD 36.0 million)
    - ▣ Concept Review: June 1997
    - ▣ Board Approval: May 1998
    - ▣ Effectiveness: July 2000
    - ▣ Closing: March 2007
  - Phase II (USD 62.3 million)
    - ▣ Concept Review: February 2005
    - ▣ Board Approval: December 2006
    - ▣ Effectiveness: May 2008
    - ▣ Closing: September 2015
  - Phase III (TBD)
- } 2005 - 2007
- } 2010 - 2012





# Project Preparation and Appraisal

# Phase I

- Peace Accords 1996
  - Geographical Targeting – Peten
    - Special Legal Status
    - National Lands
    - Fewer Conflicts
  - Project Development Objective:
    - Increase legal security of land tenure in Peten
    - Strengthen the legal and institutional framework for land registry and cadastre services in Peten
- Demonstrative Effect**

# Safeguard Arrangements at Appraisal

- The project triggered OD 4.01 (Environmental Assessment), OP 4.04 (Natural Habitats), OP 4.11 (Cultural Property), **OD 4.20 (Indigenous Peoples)**, and OP 4.36 (Forestry).
- Environmental Assessment
- **Social Assessment (Report/PAD annex)**
- **Local Community Participation and Support Plan (PAD annex)**
- Supplemental Letter on the demarcation of archeological sites

# Social Assessment – Annex 11

- “Most Q'eqchi' and Ladino colonists... prefer individual private land titles. The choice is more common among Ladinos than **Q'eqchi', who often want to combine individual parcels with common community property.**” (Para. 19)
- “Among many Q'eqchi' and some Ladinos, the tendency to prefer individual titles is based on their understanding of land laws, which **restrict their options.** Among the Itza and Q'eqchi' **existing legal options are in conflict with traditional beliefs about land holding.** Among Q'eqchi' the entire process is complicated by **lack of bilingual communications** programs and their mistrust of Ladinos” (Para. 20)

# Local Community Participation and Support Plan – Annex 12

- Social Communication Program
  - ▣ Active communication campaign
- Community Support Plan
  - ▣ Free bilingual legal services
- Strengthening of Institutional Mechanisms for Conflict Resolution
  - ▣ Conflict resolution services by CONTIERRA
- Social Monitoring
  - ▣ Public viewing



# Compliance with OD 4.20?

- Limited scope of direct consultation with indigenous peoples in Peten
- No Indigenous Peoples Development Plan:
  - ▣ No incorporation of indigenous knowledge or preferred options into project approach
  - ▣ No legal analysis to assist in the establishment of customary land tenure systems
  - ▣ No participation of indigenous peoples in decision making through planning, implementation, and evaluation



# Project Evaluation

# ICR (2007) – Moderately Satisfactory

- Satisfactory ratings during QEA and Implementation
- Outcomes:
  - ▣ Approval of Land Fund Law (land rights) and Cadastre Law
  - ▣ **78% of conflicts filed in CONTIERRAS were 'resolved'**
  - ▣ No integrated institutional structure between Cadastre and Registry established
- Intermediate Outcomes:
  - ▣ Urban: 67,706 parcels surveyed (135%) and 28,747 titled (192%)
  - ▣ Rural: 723,983 ha surveyed (111%) and **29,889 ha titled (9%)**

# IEG PPAR (2010) - Unsatisfactory

- Rated Bank and Borrower performance Moderately Unsatisfactory
- Questioned appropriateness of geographical targeting
- Pointed the sustainability risk due to lack of integration between Cadastre and Registry
- **Noted that the rural titling indicator was well below target**



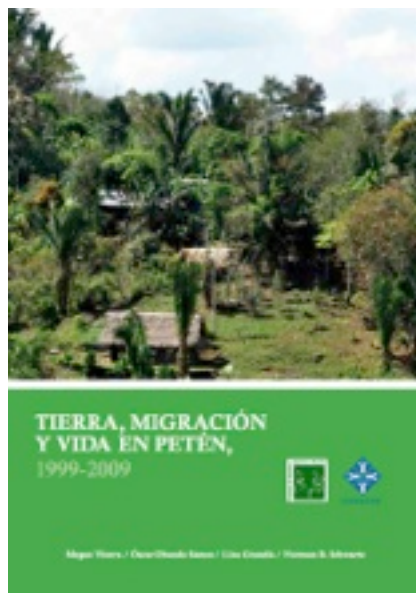
Grandia 2009



Hurtado 2009



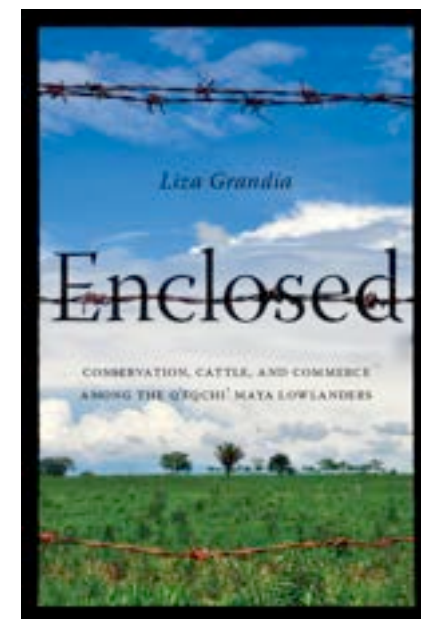
ProPetén 2009



Ybarra 2011



Zander & Dürr 2011



Grandia 2012



# Action Research

# Inter-Disciplinary Study (2011)



## Financed by:

Trust Fund for Environmentally and Socially Sustainable Development  
(Governments of Norway and Finland)

## World Bank management

- Enrique Pantoja
- Fernando Galeana

### □ Directors

- Liza Grandia, PhD, Co-PI
- Jorge Grunberg, PhD, Co-PI
- Bayron Milian, PhD, Field director

### □ Topical consultants

- Laura Hurtado, PhD
- Alberto Alonso-Fradejas, MSc.
- Julio Penados, Ing. Agr.
- Erick Cotom, Ing. Ind.
- Romeo Euler, Ing. Agr.

### □ Operations

- ProPetén Foundation - *logistics*
- Yadira Panti, Eliseo Rax, Alfredo Che, *community organizers*

### □ Advisory council

- Norman B. Schwartz, PhD, *U. of Delaware*
- Megan Ybarra, PhD, *Willamette U.*
- Marcus Zander, *DED*
- Susana Gauster, *CONGCOOP*

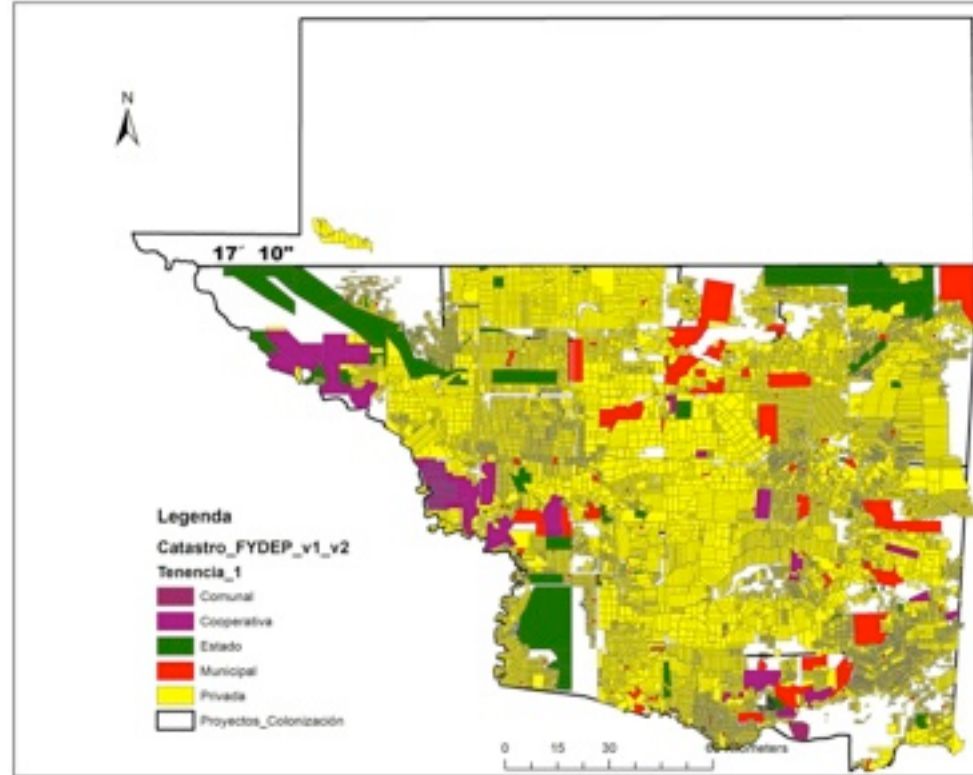
# Research themes & project assumptions

- **Agrarian structure, legalization rates & land sales:**  
Cadastral measurement and titling would provide land tenure security & stabilize the agricultural frontier.
- **Agroecology:** Through access to credit and reforestation incentives, Petén's new property owners would invest in more sustainable natural resource use.
- **Municipal uptake:** There would be improved regional land use planning, and progressive taxation to discourage idle land.
- **Conflicts:** An accurate land survey would help resolve latent & active conflicts.
- **Democratization:** As part of the Peace Accord implementation, these processes have special consideration for women and indigenous peoples.
- **Decentralization:** They would also contribute both to decentralization and better coordination among agricultural and land agencies.



# 1. Methodology: Institutional

- Integration of historic & contemporary cadasters
- Sample of the General Property Registry
- Land use change (satellite imagery)
- Data collection from banks and municipalities



## 2. Community investigation

- Consultation with grassroots leaders in research design
- Community survey (46 villages, 7% contextual sample)
- **Participatory mapping**
- Focus groups and interviews



# COMUNIDAD EL MANGO SANTA ANA



1:46,000





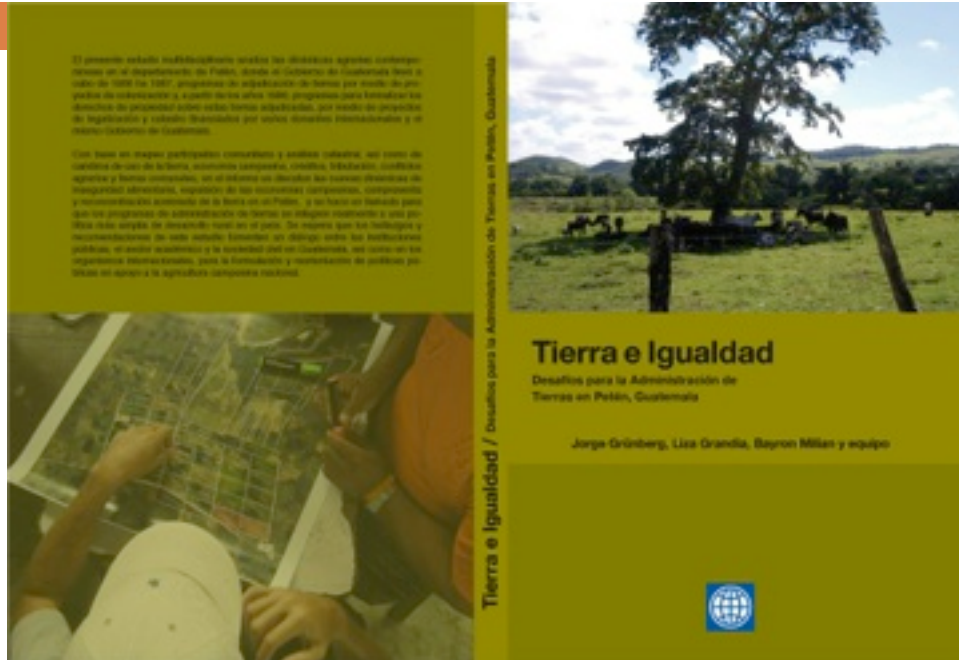
### 3. over 2012: vetting results



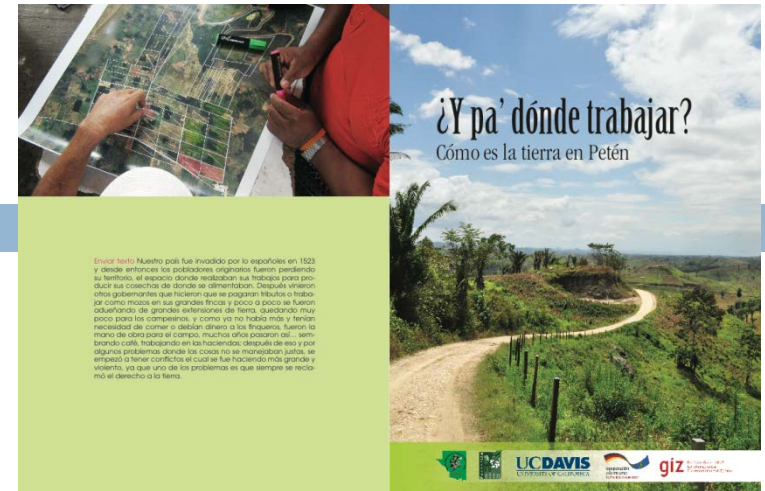
- Advisory council
- Public forums (4) with government, university, & civil society in both Petén & the capital
- Two government comment periods
- QER (Quality Enhancement Review)
- WB management



*for policy-makers*



Grünberg, Grandia & Milian 2012



Grandia 2013 with Fundación ProPetén and ACDIP

*for communities, without World Bank support*

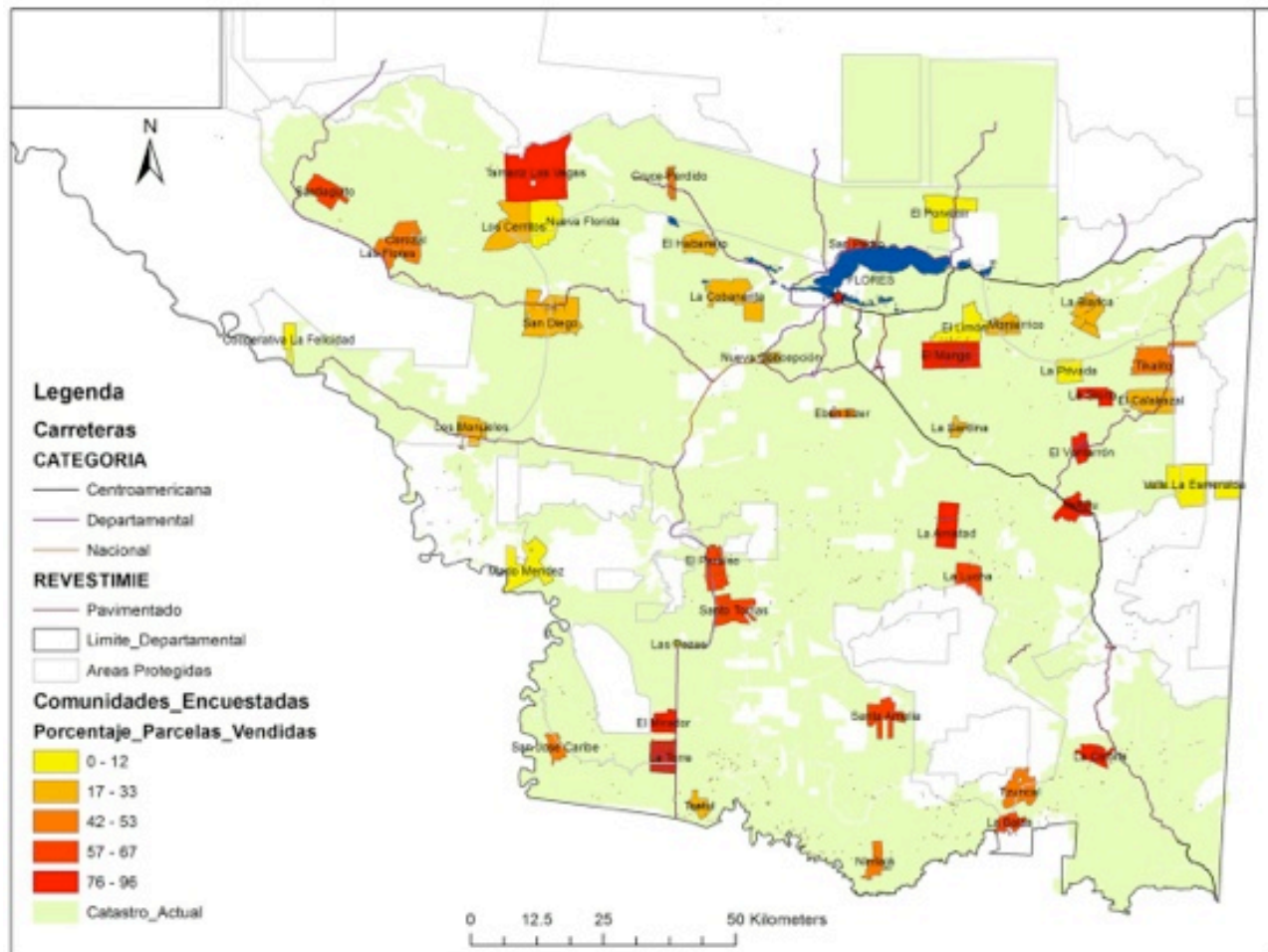
# Outcomes for Q'eqchi' and other indigenous communities



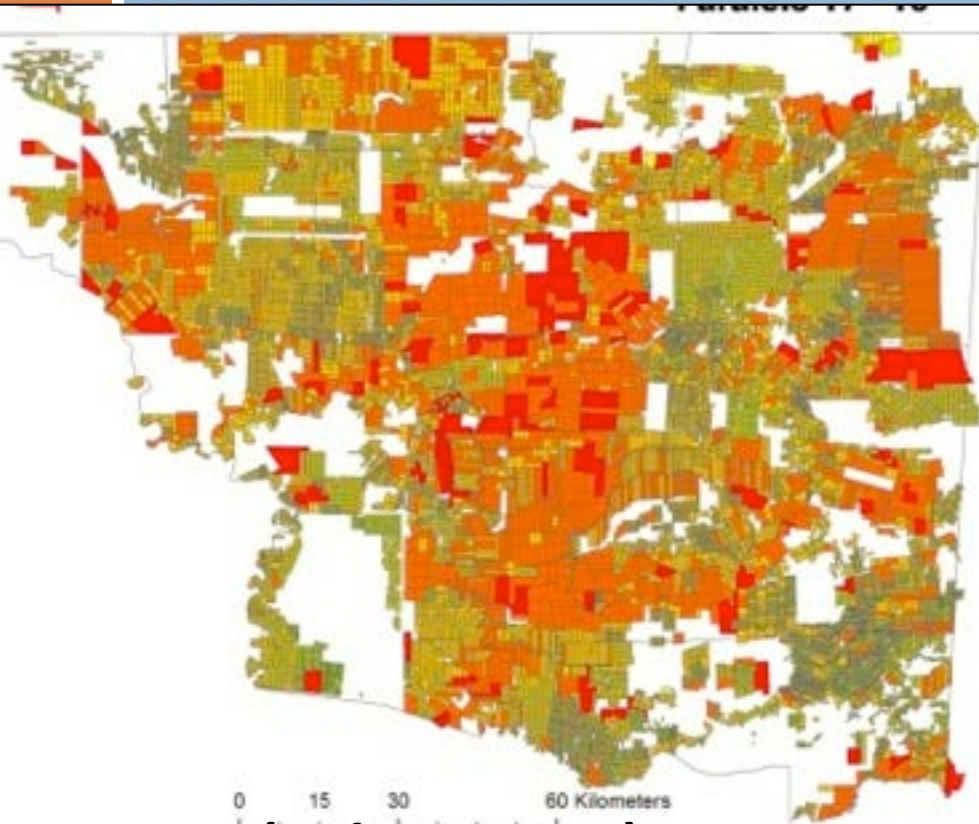
- 1) Land grabs
- 2) Solidification of historic inequities
- 3) Violation of Peace Accords
- 4) Denial of the option of collective tenure
- 5) Dispossession of sacred sites



# 1. Land sales - 46% of small holders, sold or been forced to sell within 5 years of close-of-project foreclosures (credit), cattle, narcotics, African palm, etc. *but also poor explanation of inheritance procedures*



## (2) Solidified historic inequities



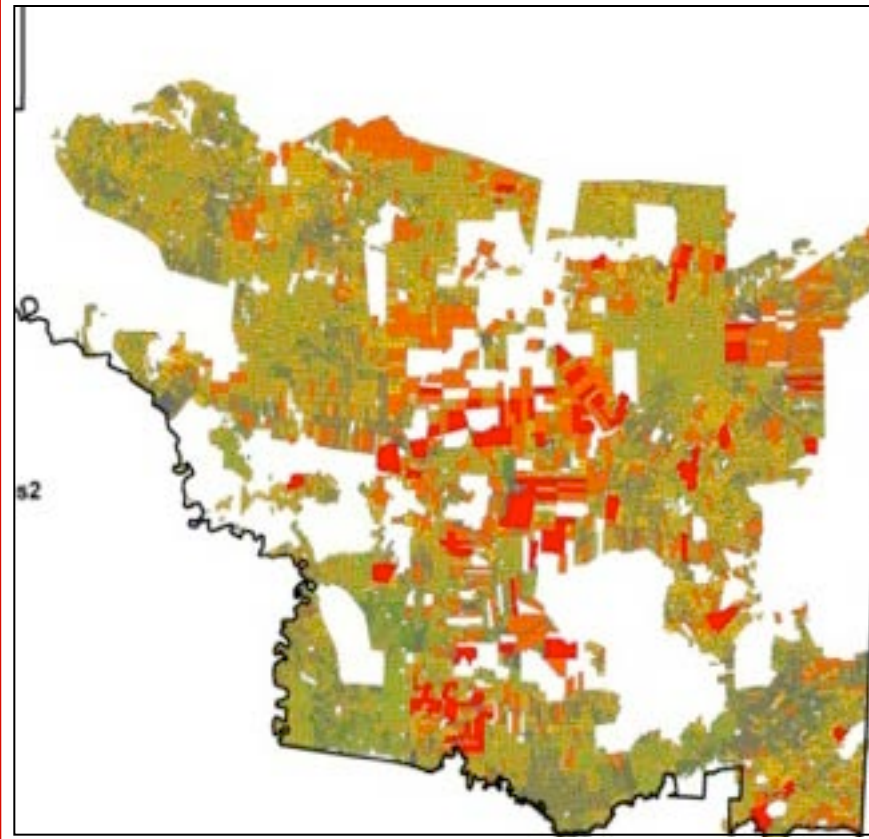
### BEFORE (Colonization)

Allotments of 22-45 ha. in indigenous regions (in green) compared with 625 ha.+ for cattle ranchers (in red)

## (3) In violation of Peace Accords

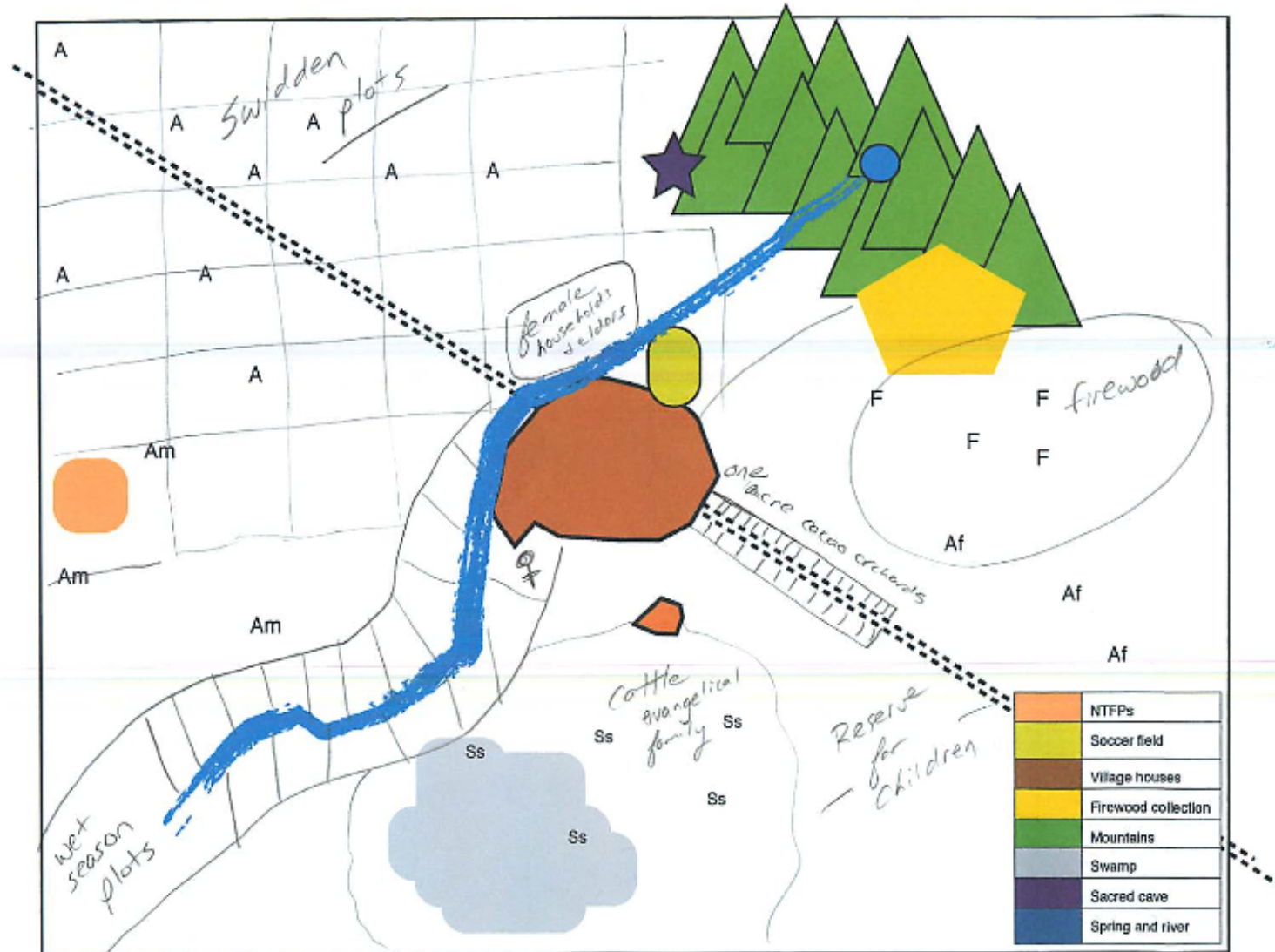
### AFTER

Average parcel holdings 40 ha. in Q'eqchi' regions compared with 70+ ha. elsewhere



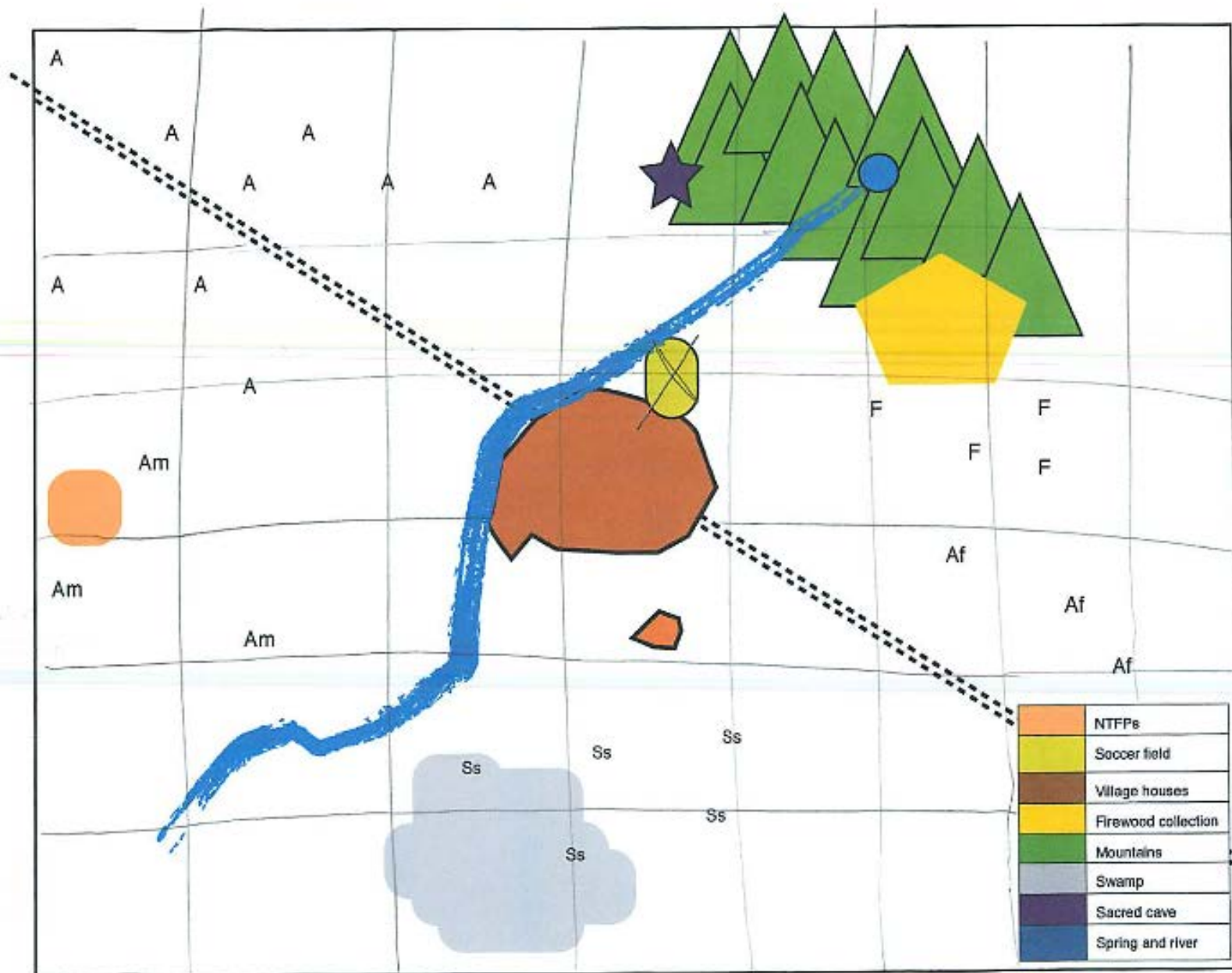


# 4. Customary Land Tenure System



Customary management

# Grid System



Typical cadastre

100



Typical cadastre

# 5. Sacred Sites

- Project identified and measured archeological sites
- Q'echi' sacred sites are “invisible” to surveyors (e.g. forest groves, caves, mountains, springs)
- Sacred sites were privatized





# Discussion

# Understanding Failure

- Missing Elements:
  - ▣ Lack of meaningful consultation in Peten
  - ▣ No IPDP
- Dominance of technical approach:
  - ▣ Cadastre reproduced grid system of previous land reform
  - ▣ No attention to community governance
- Lack of integration with a broader rural development program

# What is Different with the ESS?

- De-politicizing development
- Loss of collective attachment
  - ▣ Dispossession by land grabs?
  - ▣ Reparations
- Free, Prior, and Informed Consent
  - ▣ “Good faith” negotiation requires balancing an uneven relation
  - ▣ Direct role in organizing consultations and documenting consent
- Limited scope for legal recognition
  - ▣ Is the requirement for legal recognition weaker in ESS7 compared to OP 4.10?

## OP 4.10

17. Such legal recognition may take the following forms:

- (a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or
- (b) conversion of customary usage rights to communal and/or individual ownership rights.
- If neither option is possible under domestic law, the IPP includes measures for legal recognition of perpetual or long-term renewable custodial or use rights.

## ESS7

- 23. Where projects are likely to have significant impacts on land that is traditionally owned or under customary use or occupation by Indigenous Peoples, the Borrower will prepare a plan for legal recognition of their perpetual or long-term renewable custodial or use rights.