

Federal EAB Deregulation Response

Fond du Lac Band of Lake Superior Chippewa

Reginald DeFoe
Resource Management Division Director
Fond du Lac Band of Lake Superior Chippewa
November 19, 2018

It is the opinion of the Fond du Lac (FDL) Band of Lake Superior Chippewa that upholding a federal regulation of Emerald Ash Borer (EAB) is vital to the protections of important cultural and natural resources both on the FDL Reservation and within the 1837, 1842, and 1854 Ceded Territories. Upholding the federal regulation is also vital to keeping the spread of EAB at a manageable pace, while methods and measures to combat the effects of EAB will have time to take effect before the ash population is decimated. Keeping federal regulations in place is also crucial for states with high concentrations of monoculture ash stands, such as Minnesota, where it is estimated that there are 1 billion ash trees and in several communities ash can account for more than 60 percent of the trees¹. On the FDL Reservation within the land that FDL owns there are approximately 202 black ash stands totaling 1,307 acres. Black ash dominated forest stands comprise about 5% of our forested lands, with a much larger number of trees not accounted for where ash is present, but not the dominate forest type.

The view point favoring upholding the federal quarantine has been expressed and is shared with other tribal organizations. In a phone call with the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) taking place on February 13th, 2018 members of the FDL resource management division and individuals from other tribal organizations, mostly in the Northern United States, voiced their concerns and opposition to the federal deregulation of EAB. According to Executive Order 13175 issued by Bill Clinton on November 6th, 2000 “in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian Tribes, and to reduce the imposition of unfunded mandates upon Indian tribes... each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications... [and must have] consulted with tribal officials early in the process of developing the proposed regulation”.² Although tribal input was technically “obtained”, no significant changes were made to the federal deregulation proposal, though almost all voices representing tribal organizations in the early process of development were actively opposed to the elimination of quarantine boundaries.

There are several reasons FDL is specifically opposed to a federal deregulation of EAB, the first of which is a concern for the state to have continued funding to uphold the current state quarantines for the regulation of EAB without support of federal funding or federal quarantines. FDL is uniquely positioned to be in close proximity to the SAPPI paper mill. In 2016-2017 SAPPI requested to be included in the

quarantine boundaries for ash, decreasing the regulation of the transport, storage and use of ash would be less regulated, which would greatly increase the likelihood of EAB becoming established within the FDL Reservation boundaries much sooner than anticipated. Currently, SAPPI is restricted to receiving ash trees in the winter which must be processed and no longer stored on-site before May 1st. After this date the adults may emerge thus posing a serious risk of spreading off the site. FDL will face greater risks and challenges with keeping statewide quarantines in place for the protection of our culturally significant ash trees if a federal deregulation of EAB is no longer in place, and the states funding for EAB quarantines is reduced or eliminated due to a federal deregulation rule.

Another major concern for FDL is the loss of culturally significant resources including the ash trees themselves, which are traditionally used for snowshoes and basket making, but also the potential loss of wild rice due to drastic hydrological changes from losing a significant amount of ash trees in a short amount of time. According to a study by Van Grinsven et. al.³ black ash wetland areas potentially play a vital role in the stabilization of water tables, and “wetland water tables would be elevated following an... EAB infestation due to decreased transpiration with the loss of black ash”. For FDL this represents a significant threat to suitable wild rice habitat, since wild rice is sensitive to changing water levels. Although EAB coming onto the Reservation is at some point inevitable, we feel slowing the spread of EAB through the use of enforced quarantines is still crucial to mitigate the hydrological effects and cultural impacts of losing ash stands at a fast rate.

The FDL forestry and wetland programs are also taking steps to mitigate losses and hydrological changes through research with planting a diverse, new understory with trees that can potentially survive in the same types of habitat as ash wetlands. However, this again relies on a slow spread of EAB through the use of enforced quarantines. Although the seedlings planted seem to be having a high survival rate, they will need time to grow to have any significant effect at balancing the water table as ash starts to diminish. If quarantines are no longer enforced, or a “state-wide” quarantine is put in place, the movement of EAB is anticipated to be much faster, not allowing for adequate time for this and other planting research projects to mature and replace the hydrological functions of mature ash trees. Future plantings may also be planned both on the FDL Reservation, and with other tribal and non-tribal entities, all of which would depend on the slow spread of EAB to be effective.

Another major reason for opposition to this rule is due to where the remaining budget dollars will be placed in regard to EAB. In the rule summary it states that “funding previously allocated to the implementation and enforcement of these domestic quarantine regulations would instead be directed to a nonregulatory option of research into, and deployment of, biological control agents for emerald ash borer, which would serve as the primary tool to mitigate and control the pest”. Focusing dollars mainly on biological control would serve no purpose to the aid of FDL and many other tribal organizations that are faced with dealing with EAB, because biological control is not usually considered an acceptable form of management within the Reservation boundaries. Introduction of new invasive species to mitigate the effects of current invasive species is not embraced as an acceptable method of control, and any justification and use of such within the Reservation could prove challenging if not impossible. Thus, relying on only biological control for the management of EAB would be the equivalent of denying FDL and other organizations who do not agree with this management method from receiving any federal aid.

Currently, there is little research to support the effects of biological control in terms of preventing EAB from spreading to new ash sites. Emerald ash borer biological controls currently focus on aiding ash tree recovery after a site has been heavily decimated by EAB, but biological controls have not been proven to help with any sort of preventative measures. For the purposes of protecting those areas that are not currently affected by EAB such as the FDL Reservation, abandoning methods that are in place for the prevention of the spread, such as federal and state quarantines, and favoring only options that focus on rehabilitating a site after it has undergone a severe infestation, seems to be a large and unnecessary ecological risk. Invasive species programs have always focused on “prevention” of new infestations being the key to invasive species management. It seems counterintuitive now, that while we still have pristine woods and ash stands, we would eliminate the main source of preventative efforts and instead put funding only into control of those areas which have already undergone devastating ecological impacts. As EAB continues to spread throughout the United States it is possible there will be a time when quarantines are no longer effective, and management will become the only option to deal with EAB. However, there are still several areas in the United States, including the Midwest, specifically MN and FDL that contain ash stands with no detections of EAB, and who would greatly benefit from the federal quarantines being in place to slow the spread of EAB, and to regulate the movement and use of ash through timber and lumber industries.

Another area of concern is the changing of public opinion about the importance of EAB if it is deregulated at a federal level. Public perception of the importance of not spreading untreated firewood around, of planting to prevent harmful impacts, and of not harvesting trees at certain times of the year and other mitigation efforts may no longer be thought of as important preventative measures, if the federal government is not also pursuing regulating these preventative measures. Even if some education and outreach programs remain in effect once the deregulation is in place, the effectiveness of these programs may decrease if the public no longer views EAB as an important invasive species issue.

Conclusion

Fond du Lac supports the continued federal regulation and domestic quarantines in place for EAB. Fond du Lac also supports federal dollars being spent on continued research, and management efforts not focused around biological control to mitigate the effects of EAB when it inevitably does come through a majority of the United States. We support educational programs and outreach efforts to continue to show the potential devastating impacts of EAB, what people can do to prevent the spread, how to report a new infestation, and what current management options are available. Federal funding supporting new understory plantings in black ash dominated wetlands with other diverse culturally important species would also serve as a much better use of federal funds to tribal entities who are concerned about potential deleterious hydrological impacts and its effect on wild rice than focusing only on biological control.

REFERENCES

1. <https://www.dnr.state.mn.us/invasives/terrestrialanimals/eab/index.html>
2. <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>
3. Van Grinsven, M.J., Shannon, J.P., Davis, J.C., Bolton, N.W., Wagenbrenner, J.W.