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Heart of the Matter – Ingram Gets His Day In Court - Three Weeks Late

Commentary By Tom Kocal | Prairie Advocate News

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APRIL 27, 2012, APPLE RIVER, IL – The little town of Apple River in northeast Jo Daviess County, Illinois is the hometown of a big man - Terrence Ingram. Though not big in a physical sense, when it comes to saving the American Bald Eagle, there is hardly anyone in the United States held in higher regard than Ingram. His years of documented research and expertise regarding eagles and the work of the Eagle Nature Foundation, founded by Ingram, is in great part responsible for the bald eagle being removed from the "Threatened Species List" in the United States.

Unfortunately, it was not his knowledge of eagles that the Illinois Department of Agriculture sought when they paid an unannounced visit to his home in March. It was his bees.

In the March 21, 2012 issue, The Prairie Advocate published a news release from Ingram that reported the theft of \$5000 of his bees and bee hives on March 14. Ingram said that before they had left for their granddaughter's wedding in Texas, the hives had been cleaned and made ready for new spring swarms.



I received a phone call from an area County Farm Bureau manager about the article, asking how I had come across the information. He knew that the equipment was not stolen, but "destroyed" by the Illinois Department of Agriculture (IDofA). The hives were infected with foulbrood, and Ingram was doing nothing about it.

It was not until during a hearing at the IDofA in Springfield on April 4th that Ingram found out who "the culprit" was. The hearing, held 3 weeks after the IDofA removed most of his bees and hives from his property, was to determine whether or not Ingram had American Foulbrood in his hives.

There are 2 questions that Ingram wants answered:

- 1) Did the IDofA, a state agency, have the right to enter Ingram's property and confiscate a suspected "nuisance," before Ingram had his day in court?
- 2) Where are his bees? The "evidence" has disappeared, and the IDofA refuses to tell Ingram where they are, before, during, and after the hearing.

"I have been keeping bees for 58 years," Ingram said during an interview at his home and apiary. "I am not a newcomer to beekeeping, and I definitely know what I am doing. I have been teaching beginning beekeeping classes for 40 years. In fact, it was my recommendation to some of my students who wanted to keep getting together to form a club. Today, the Stateline Beekeepers Association is one of the largest in the state."

A timeline of events

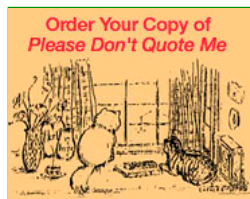
In the summer of 2011, at a beekeepers picnic in July, Ingram gave Susan Kivikko, the new local bee inspector for the IDofA, a frame of comb that the bees would have nothing to do with. Ingram wanted to know what chemicals were in it, but Kivikko informed him that the IDofA did not have the funds to test for chemicals, just funds to test for foulbrood.

Following the Illinois Bees and Apiaries Act (510 ILCS 20/1 et seq.), Ingram received an IDofA "Apiary Inspection Site Report" in November that said on Sunday, October 23, 2011; Inspector Susan Kivikko examined his apiary.

In the report, Kivikko commented that "foulbrood [was] present - Colonies weak." She said that out of 19 colonies, 15 were examined and 15 samples of suspected foulbrood were gathered. 11 were "dead."

Next, Ingram received a "Disease Notice" dated November 9, 2011, and a copy of the "Bee Disease Diagnosis" submitted by Kivikko to the USDA Bee research Laboratory in Maryland, received at the lab 10/27/11, and diagnosed 11/01/11. The notice stated that yes, Ingram's apiary was infected with foulbrood, and that treatment by burning is ordered in accordance with Sec. 60.50(b) of the Bees and Apiaries Act.

Going back to the summer beekeepers picnic in July, in a phone call to Kivikko on Monday, April 30, she confirmed that



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The box stalls in Grand-dad's Lanark barn were made of solid walnut timber. That barn was known to me and my brothers because our dad had a postcard of it. Grand-dad had taken the old barn, raised it up with the help of movers and built a lower floor under it.



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yes, Ingram had asked her to look at a frame that his bees ignored, and asked her to test it for chemicals. She did have the comb tested for foulbrood, and yes, the comb did test positive. Ingram did not receive an Apiary Inspection Site Report, since he gave the frame to Kivikko at a picnic. But he did not receive a Disease Notice or Bee Disease Diagnosis from that sample.

"All combs, frames, honey and bees must be destroyed by burning . . . Hive bodies, supers, bottom boards, inner and outer covers may be salvaged by sanitizing with a scorching flame, such as a propane torch." The notice was signed by Kivikko, and said Ingram must comply with the order by November 25, 2011.

"They gave me 10 days to destroy it," said Ingram. "Destroy what? She had identified the hives by their numbers. That's how beekeepers keep records, that's the first thing we do is number the hives. Well, the end of October came, and it was still warm in early November, so I painted all of my equipment, so it would be ready for my beginning beekeeping class. How could I know what numbers they were that she was referring to? Under oath, she said she could see the numbers under the paint. She must have better eyes than me." (Note: this reporter could not see the numbers)

The diagnosis from the USDA lab stated that "Hives #9, 11 (smear). 11 (comb), 13, 13B, 15, 15B, 18, 19, 22, 28, 29, Dead, Comb (no label), and 12 - American Foulbrood (*Paenibacillus larvae*). Hives #4 and 28 - No disease was found.

"Additionally, positive American foulbrood samples #9, 11 (smear), 15, 22, and 29 were cultured and checked for sensitivity to Terramycin and Tylan. The samples were found to be susceptible to both antibiotics."

IDoFA allegedly sent another Site Report to Ingram that said on Thursday, December 8, 2011, Kivikko again visited the apiary. (Ingram said he never received it, but was presented a copy at the April 4, 2012 hearing). Kivikko's report said that the status of the "infected colonies" was unchanged. It was noted that she had taken photos during her observations.

On January 3, 2012, Ingram's wife, Nancy, signed a return receipt request for a Certified Letter sent by the IDoFA Apiary Inspection Supervisor Steven D. Chard on December 30, 2011. The letter stated that "During a routine inspection of your honeybee colonies by . . . Inspectors Susan Kivikko and Eleanor Balson on October 23, 2011, the bacterial disease 'American Foulbrood' was detected in a number of colonies located behind your house . . . Presence of the disease in some of your colonies was confirmed via test results from the USDA Bee Research Laboratory in Beltsville, Maryland that analyzed samples collected from your apiary . . . Subsequently, in accordance with the . . . Act, an official disease notice was issued to you for destroying the infected colonies. On a return trip to your apiary [Dec. 8] to verify that you had complied with the instructions specified by the disease notice, Ms. Kivikko found that the infected colonies had in fact not been destroyed."

The letter continued with a full description of the proper procedure to "abate the nuisance" as per the above Act. According to the definitions in the Act, "Abate" means the destruction or disinfection of bees, colonies, or items of bee equipment by burning or by treatment specified by the Department.

In the letter, Ingram was "required to abate the nuisance by burning all bees, combs, frames and honey in a pit at least 18 inches deep and then covering the ashes with at least 6 inches of soil. You are to carry out this procedure within 10 days from the date of this letter [Jan. 9, 2012] and Ms. Kivikko will visit your apiary to ensure that the subject colonies have been destroyed. Evidence of the burning pit will confirm that you have complied with this notice."

This requirement is noticeably different than the requirement stated in the Nov. 9 Disease Notice.

Chard advised in the letter that failure on the part of Ingram to follow the instructions "can result in the Department abating the nuisance and charging you for associated costs incurred or conducting an administrative hearing on this matter . . ." Chard also confirmed that American foulbrood "is a deadly disease that can easily spread to other honeybee colonies . . ."

Two more Apiary Inspection Site Reports were produced by IDoFA, stating that on Tuesday, Jan. 10 and Thursday, Jan. 19, Kivikko had revisited the apiary to check on Ingram's compliance of previous notifications.

A hearing was set for April 4, a full 3 weeks after the events of March 14, when the IDoFA confiscated the bees.

Yet, another part of the statute states, "No person shall transport a colony of bees or items of used bee equipment between counties within this State without a permit or compliance agreement which shall be issued based upon an inspection certificate from the Department. (Source: P.A. 88-138.)

"No person" - except that it's OK for the IDoFA to transport apiary equipment and bees intrastate - especially potentially contaminated equipment and bees?

Of course. They have a permit! This double standard makes no sense, especially if the disease is as contagious as they claim.

Statutes and due process

That 3-week delay is the most disturbing aspect of these incidents, Ingram said.

"The State Department of Agriculture came in and inspected our hives 4 times, 3 times when we were not home, and without due process. I have never received or found a Search Warrant. I own four businesses. I am here all the time. Yet they took our bees and hives when we were not home. What did they do, sit up on the hill and watch until we left? We had not yet had our day in court to prove that our hives did not have foulbrood!"

Steve Chard, IDoFA Apiary Division Supervisor, was asked why the hearing took place 3 weeks after the abatement on March 14. Chard stated that he was more than happy to answer any questions, but had to wait until the determination of the hearing was made, which should be by the middle of next week. Chard said Ingram would receive a copy as well. Because the determination of the legal proceeding had not been made, the IDoFA attorneys instructed him not to comment at this time.

"The only time I was here during any of these inspections was when it was 3 degrees out," the January 19 visit. "What

she (Kivikko) was doing in the yard, I don't know. When she saw me coming down, she very quickly came up and met me before I could get down there and see what they were doing. I have no idea what they were planning to do, or what they did."

Ingram said he knew that the inspectors could not tell what they were seeing and had warned the Department that if any of them came back it would be considered a criminal trespass. "But they came back when I was not home, stole my hives and ruined 15 years of research."

When asked about the March 14 incident, Jo Daviess County Sheriff Kevin Turner said he was informed by the Asst. State's Attorney by email that yes, the IDofA has the right to "abate the nuisance," as stated above.

Sheriff Turner said that he had been contacted by Supervisor Chard before the events of March 14 took place. He confirmed that a Sheriff's Deputy was at the scene with the representative from IDofA for observation only, but that there was not a search warrant issued.

Sheriff Turner was asked to comment on the fact that if there was a nuisance, and as Ingram said, the IDofA did confiscate and not destroy his hives, where is the evidence? The evidence is gone. Is that proper procedure?

Turner stated that, "We do not destroy evidence," but did not want to comment about the procedure, or any other observations about the incident.

In October, "She (Kivikko) cut out a section of comb and sent it to a lab in Maryland, that detected foulbrood," Ingram said. Ingram explained that she had cut out samples, up to 6x8 inches, from the very center of the brood frames, ruining every comb she sampled.

All of the live hives had a full super of honey placed on them before they left for their granddaughter's wedding. The two hives that were left did not have the supers of honey on them. They were removed along with the other equipment. Ingram said he checked the hives recently, and neither one has a queen.

A honey super is a part of a commercial beehive that is used to collect honey. When the honeycomb is full, the bees will cap the comb with beeswax. Beekeepers take the full honey supers and extract the honey. Honey supers are removed in the fall when the honey is extracted and before the hive is winterized.

"Could the queens have been up in the supers when they were removed? Or did this inspector kill the queens, either on purpose or unknowingly, when she inspected the hives in October? I will never know."

At the April 4 hearing, Ingram said he felt he was able to show the court that the inspector could not tell the difference between "chilled brood" and foulbrood. He also proved to the court that the inspectors did not know the symptoms of foulbrood. The Ingrams used to manage over 250 colonies of honeybees, breeding their own queens for traits which they deemed necessary for successful survival, and charge they were all killed by Round-Up. "When Round-Up kills the adult bees there are not enough bees left in the hive to keep the young bees (brood) warm, and the young bees die from the cold (chilled brood).

"I tried to prove that just because foulbrood can be detected once the hive has been disturbed, doesn't mean the hive has foulbrood. Inside a honeybee hive is one of the cleanest places you can find. Anything that is a problem, if the bees can't remove it, they cover it with propolis, which is an antiseptic."

Propolis is a resinous mixture that honey bees collect from tree buds, sap flows, or other botanical sources. It is used as a sealant for unwanted open spaces in the hive. But propolis also prevents diseases and parasites from entering the hive, inhibits bacterial growth, and prevents putrefaction within the hive. Bees usually carry waste out of and away from the hive.

"If a mouse finds its way into the hive and dies, bees wouldn't be able to carry it out," Ingram said. "They would cover it up in propolis. It would be a big, brown lump, making it odorless and harmless to the hive. Same as with any disease. They cover it up.

"When you go into the comb and cut it up, disturb it like the investigators did, then send it to a lab, it exposes foulbrood to the world. In the beehive, it's covered up. The bees aren't affected by it. But you can find it by sending it in to a lab."

Ingram admits he has had foulbrood - 30 years ago. He has killed two hives that had foulbrood in the 58 years that he's been a beekeeper. He caught a swarm that was infected, and killed them within 3 weeks.

"When I was breeding my own bees, before they were killed by Round Up, I had foulbrood in one hive. I left it there all summer, just to see if the other hives would pick it up. They never did. That's when I knew that it's not as bad as people let on. Bees can take care of it. I had an inspector come in and examine for it, and he said the yard was clean, and I knew it wasn't.

"Doctors don't treat patients until they see the symptoms, right? When does a beekeeper have to watch his hives for foulbrood? When he gets symptoms. There is no way that any beekeepers are going to be able to spend \$60 to send a sample to a lab in Maryland, to find out he has foulbrood. The sample may have foulbrood, but it doesn't say that the rest of the hive, or his other 5, 15, or hundred hives have it. He can't go and destroy his hives because one sample has detected it.

"That's the determination that the hearing officer has to make - am I breaking the inspection law, if they can detect it. Because they sure can't identify it."

For the past 15 years, Ingram said he has been conducting research on the effects of Round-Up on honeybees. He feels he had accumulated the necessary data to document the fact that Round-Up was not only the cause of his bees dying, but also possibly the cause of Colony Collapse Disorder (CCD).

"CCD is a calamity that is affecting honeybee colonies across the nation. In fact, I had one queen, which had survived three summers of spraying and three winters. I was planning to raise daughters from that queen to see if she may have had some genetic resistance to Round-Up. But she and her hive were taken during the theft. I don't even know where

the bees and my equipment are. They ruined 15 years of my research.

"When I asked when the best time was to inspect for foulbrood, the inspector said any time. I told her, 'Lady you better not look in my hives when it's 3 degrees! You do not disturb the bees at that time. That would be like inspecting for a child's disease. Do you look for it when they are adults? She was looking for the brood when the brood was not there. She could not tell us that. The inspector did not understand that by the end of October my bees had quit brood rearing and were already getting into their winter cluster. They were moving slowly to conserve energy. She testified to the court that the bees were sick and lethargic, as if they were sick from foulbrood. She didn't seem to know that foulbrood only affects the young bees, because there was no brood there. Adult honeybees are not affected by foulbrood."

A photo taken during the Jan. 19 inspection, submitted by Kivikko, showed bees at the entrance of one of the hives that were deemed healthy, in the dead of winter. Ingram told the court that the inspectors did not understand honeybees, especially when they could not even tell a live bee from a dead bee.

Ingram told the court that, "From the Chief Apiary Inspector down to the individual inspectors, there is no longer a requirement that the person needs to know anything about honeybees, let alone anything about their diseases. These people just got political appointments to their positions. Years ago inspectors had to pass a test to be qualified for the position and document that they knew honeybees and their diseases, but not today.

"At least [Kivikko] did know that foulbrood only affects honeybees and that if there should be any of the virus in honey it would not affect people."

Although Inspector Kivikko is relatively new to the IDofA inspection team, she said she has over 12 years of experience in the apiary field.

"I had been called by many area beekeepers because of my experience," Kivikko stated. "That's why I was called in by the IDofA to do the job. I'm good at it."

When Ingram asked the Chief Apiary Inspector if he had ordered the theft, Chard answered, "yes," before the IDofA attorney could object. This was the first time that Ingram knew, for certain, who had taken his bees.

Unfortunately, rumors have been circulated, suggesting no one buy honey produced by the Ingrams. Apple Creek Apiaries markets close to 4 tons of honey a year. Ingram said they have to buy extracted honey that they sell from beekeepers in Wisconsin and Iowa who are not yet affected by Round-Up.

"We have not produced one gallon of extracted honey since 1995 when our 250 hives were killed. I have replaced some of them each year only to have most of them killed before winter. I can produce comb honey, but it takes all of the extracted honey for the bees to get past the late summer use of Round-Up and have anything left for their winter feed. Last year, I had 20 hives during the height of the summer, but only went into the winter with 4 live hives, three of them headed by queens I had raised. But all the queens are gone now."

Questions unanswered

Ingram believes that a comprehensive letter he wrote to Gov. Pat Quinn on January 7, and another to Rep. Jim Sacia Feb. 9, raised the ire of the IDofA.

"I wrote Gov. Quinn that the order to destroy my bees was the result of an unknown inspection, conducted by our local neophyte bee inspector, without my knowledge, and without my presence. When checking the date on which this order claims the inspection was done against our own daily log, I was either at home, or at the office 1/2 mile away, but she never had the courtesy to let me know that she was in the area."

The statute gives the Department the right of entry "to inspect or cause to be inspected from time to time any bees, colonies, items of bee equipment or apiary. For the purpose of inspection, the Director is authorized during reasonable business hours to enter into or upon any property used for the purpose of beekeeping. (Source: P.A. 88-138.)

For most businesses, a Sunday is not "during reasonable business hours."

"I asked Rep. Sacia to take the teeth out of the current law, preventing untrained inspectors from doing sneak inspections without the beekeeper present, killing their bees and burning their equipment, or forcing organic beekeepers out of business, telling them that they have to use chemicals to keep bees in Illinois. Are the chemical companies really running our food supply?"

On February 14, Rep. Sacia sent a letter to Marc Miller, Director of the Dept. of Natural Resources, saying that Ingram "asks some pointed, thought provoking questions and I'm hoping that your professionals can respond to Terry and me regarding his points."

Exactly one month later, on March 14, an elected official and one of his constituents, a citizen of Illinois, got their response directly from the Illinois Department of Agriculture in the form of their "abate the nuisance" policy. Is that how a State Representative is treated by an unelected government agency? Just who is running this state?

"Is Illinois becoming a police state, where citizens do not have rights?" Ingram asked in desperation. "Knowing that Monsanto and the Dept. of Ag are in bed together, one has to wonder if Monsanto was behind the theft to ruin my research that may prove Round-Up was, and is, killing honeybees. Beekeepers across the state are being threatened that the same thing may be done to their hives and livelihood. I was not treated properly, I don't want to see this happen to anyone else in this state, and I want this type of illegal action to end."

What is most disturbing to the Ingrams is that the State Department of Agriculture came in and inspected their hives when they were not home and without due process, took their bees and hives. At the time of the theft the Ingram's had not yet had their day in court to prove that their hives did not have foulbrood. Ingram knew that the inspectors could not tell what they were seeing and had warned the Department that if any of them came back it would be considered a criminal trespass. Yet they came back when he was not home, stole his hives and ruined his 15 years of research.

"What was the value of that 3-year-old queen?" Ingram asked. "It could have been that she would have a resistant trait

that we could expand into the whole bee culture to help them survive this Round-Up thing. How can you place a dollar value on that potential?"

Considering the fact that Ingram's queens, bees, and hives were taken off his property on March 14, rather than being "abated," as was the "requirement" stated in the notices from the IDofA, the dollar value of such a queen cannot be disregarded as a major motivation for such an act.

Ingram said that during the hearing he asked "both the inspector and her boss to name one person in the state that is doing research on Round-Up and honeybees. They couldn't name one. Of course, they didn't know if I was doing it either . . . I sent him a copy of my results 2 years ago. Under oath, he can say no, he didn't know about it. It burns me, it really burns me."

There are other unanswered pertinent questions as well. Is the Illinois Dept. of Agriculture, and the legislation that empower it, unconstitutional?

Article I, Section 8 of the United States Constitution gives the federal government the power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Does that mean a state agency has the legal right to regulate the conduct of individual businesses, with no due process? Has recent loose interpretation of the Commerce Clause given them the ability to shut down businesses they don't like?

Why does the IDofA forcibly "recommend" the use of antibiotics prophylactically over the concerns of Ingram and other organic beekeepers who know that the drugs create resistance to the antibiotics? Ingram knows that most insects and plants take care of themselves. Most become naturally resistant to the affects of many unnatural environmental influences over the eons. They survived.

In the letter to the governor, Ingram said he was "afraid that someone may come in when I am not home and burn these hives just because they say the letter of the law gives them that power and they have that right. I feel that my rights and potential livelihood may be taken away."

The fears expressed by Ingram to Gov. Quinn on Jan. 7 have, unfortunately, come to pass.

The next, and most troubling, unanswered question is this: Who's next?

(Mr. Ingram's views expressed during the course of this interview are not necessarily the views of this newspaper.)

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