

Transcript of the Testimony of

Date: July 29, 2014

Case: Arkansas State Board of Embalmers and Funeral
Directors: Humphrey Family Properties, LLC and Jim Bob
Humphrey

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BEFORE THE ARKANSAS STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

HUMPHREY FAMILY PROPERTIES, LLC and JIM BOB HUMPHREY

APPLICANT

BE IT REMEMBERED that on the 29th day of July, 2014, before the Arkansas State Board of Embalmers and Funeral Directors, in Russellville, Arkansas, the above-entitled cause came on for hearing as follows:

APPEARANCES

ON BEHALF OF THE APPLICANT:

ROBERT M. VEACH, ESQUIRE PEEL LAW FIRM, P.A. 120 SOUTH GLENWOOD AVENUE RUSSELLVILLE, ARKANSAS 72801 (479) 968-4000

ON BEHALF OF THE BOARD:

MARK OHRENBERGER, ESQUIRE OFFICE OF THE ARKANSAS ATTORNEY GENERAL 323 CENTER STREET, SUITE 200 LITTLE ROCK, ARKANSAS 72201 (501) 682-2007

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APPEARANCES (CONTINUED)

THE ARKANSAS STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS:

MR. TERRY WOODARD, CHAIRMAN

MS. AMY GOODE, EXECUTIVE SECRETARY

MS. LESLIE STOKES

MR. JERRY ADAMS

MR. BOBBY THURMAN

MR. BOBBY BURNS

MR. BEN BRAZZEL

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PROCEEDINGS

MAYOR BILL EATON: I want to welcome everyone here to this meeting. I want to thank Mr. Woodard and Ms. Goode and all the other people that are here with us here today. We're glad to see this turnout and the interest in our community.

I just wanted to say I hope everybody has had the opportunity to see where the restrooms were. When you came through the hallway there and you exit at the rear of the Council Chambers, just make a quick right. They're down the hallway there.

With this many people, I always like to advise everyone about the safety exits: Obviously, the way you came in, up the stairs, or on the elevator to the rear of our room. Also, we have an exit over here at this side, and you can go through that door and there's another door immediately there that will take you downstairs and right outside, so -- for the safety issues here today.

Again, welcome. I want to say that the City is providing this room and this opportunity here today for this hearing. Mr. Humphrey has -- has hosted this and is paying for the recording of this, and I wanted everybody to understand that

1 this is not a City function, per se, but we
2 certainly support this for our city, and thank you
3 all for this time.

4 CHAIRMAN WOODARD: Thank you, Mayor. I'll call
5 this public hearing to order. We are the Arkansas
6 State Board of Embalmers and Funeral Directors. At
7 this time, I'd like to introduce the Board.

8 She's not a board member, but our court
9 reporter today is Ms. Patti Rice to my far left.
10 Our inspector is Ms. Leslie Stokes. Professional
11 member is Mr. Jerry Adams. Professional member is
12 Mr. Bobby Burns -- no, Bobby Burns is on this side.
13 Bobby Thurman is on this side. Excuse me.

14 Our Executive Secretary is Amy Goode. I'm
15 Terry Woodard, chair. Mr. Mark Ohrenberger is our
16 attorney from the State Attorney General's office.
17 And the last one is Mr. Ben Brazzel.

18 At this time, this public hearing is all
19 about the Humphrey Family Properties LLC has
20 applied for a building permit for a cemetery and a
21 crematory.

22 And the Arkansas statute 17-29-313 states
23 that (as read): No crematorium should be
24 constructed in this state without a permit issued
25 by the State Board of Embalmers and Funeral

1 Directors. Upon receiving an application for
2 construction of a crematorium, the Board should
3 cause to be published in a newspaper having general
4 circulation in the county where the a crematorium
5 is being proposed to be constructed a notice of the
6 date and time of a public hearing on the
7 application. The notice must be published no more
8 than two weeks nor less than one week prior to the
9 public hearing.

10 The owner of the properties located within
11 250 feet of the proposed site of the crematorium
12 should be notified by the Board by registered mail.
13 The public hearing should be held in the city or
14 county where the proposed crematorium is to be
15 located.

16 It's my understanding that all of this has
17 been followed.

18 MS. AMY GOODE: Yes, sir.

19 CHAIRMAN WOODARD: Okay. At this time the way
20 we're going to conduct this public hearing, the
21 applicant is going to have an opportunity to
22 present their case, then the opposition, and then
23 we will allow the applicant for rebuttal.

24 The board is not here to answer no
25 questions. We're here to listen to both sides.

1 And at the end of this hearing, which I will
2 declare the end, we will have a board meeting.

3 At this time, Mr. Humphrey, do you have a
4 presentation, sir?

5 MR. JIM BOB HUMPHREY: I'd like to ask my
6 assistant to pull up our PowerPoint presentation.
7 First of all, let me begin by saying I'm Jim Bob
8 Humphrey, the president and general manager of
9 Humphrey Funeral Service, and it's a privilege for
10 me to be here to speak to my distinguished
11 colleagues on this board and also the members of
12 our community.

13 I would like to point out to the
14 community -- and first of all, again, thank you,
15 board members for traveling, in some cases, a very
16 long way to be here. And I'd like to say to my
17 community that seated at this table are colleagues
18 who have in excessive of altogether 200 years of
19 experience in serving families in the funeral
20 service, so I appreciate very much you coming.

21 I also want to express my appreciation to
22 the community members for being here on either side
23 or both sides. It is my thinking or thought that
24 this represents the very best example or a good
25 example of the Great American Experiment, which is,

1 an idea is presented, and two opposing viewpoints
2 come together to discuss that idea and to let there
3 be public comment on it and then to have decisions
4 made as part of our process of democracy and law.

5 So put our PowerPoint up there. Okay.

6 Thank you. Next slide. I'd like to give you a
7 brief history -- next slide -- of this project, and
8 it goes all the way back to 1928. My father, the
9 late Herman Humphrey, was a funeral director in his
10 community for 56 years. In his career, he served
11 over -- between his career and my career, served
12 over 16,000 families in the Arkansas River Valley.

13 Let's go back one more, back to that school.
14 This is a photograph taken in about 1928 of the old
15 Center Valley Elementary School, and that's the
16 class, and on the left arrow is my father -- I'm
17 sorry. Let's see. Well, one of those is my
18 father, and one of them is my uncle. I think the
19 left is Herman Humphrey and the right is my Uncle
20 Louis, and in addition to that, my Uncle Davie and
21 my Uncle Max. And my Uncle Davie still lives here.
22 In addition, my grandfather, James David Humphrey,
23 also lived the Center Valley community, and his
24 father built a homestead in that area.

25 Next slide. The land that's in question

1 today is composed of about 35 acres. I realize I'm
2 talking about a cemetery, but we're also -- we're
3 talking about a crematory, but the
4 cemetery/crematory property are integrated for my
5 purposes. And, so, I'm going to be talking about
6 them in unison because one is not doable without
7 the other. Thirty-five acres at one end.

8 Let's see it with the next slide then. Keep
9 going. Back up two. Sorry. So this does not show
10 all of our land, but what it does show is,
11 primarily, the school. The red rectangle
12 represents nine acres of land that in 1985 my
13 father and I sold to the Russellville School
14 District because they wanted to construct a brand
15 new elementary school there, and that's what you
16 see, the building through there.

17 About three or four years later -- next
18 slide -- the -- sorry. Once again, back up. My
19 apologies. About three years later, the blue
20 rectangle, the school needed some additional
21 playground space, so we traded with them for the
22 land in green, so some nice, cleared land and
23 dry -- well dried land, and we exchanged that for
24 the land in the lower part in the green. But it
25 also gave us access to Highway 124.

1 The price at which we sold this land to the
2 school district was \$3000 per acre, a total of
3 \$27,000. And my friend was a former superintendent
4 here at that time, R.C. Floyd, and so we gave a
5 very -- we would not have sold the land to any
6 other individual or group. It was important to
7 support the school system.

8 Next slide. This is what the land looked
9 like about two years ago. About ten years ago, I
10 planted about 10,000 pine trees and other trees in
11 that area on 10-foot centers with the idea that
12 maybe it would be useful someday.

13 Next slide. About a year ago, I began to
14 dream about the possibility of a perpetual care
15 cemetery there, and the first step was to go out
16 and clean the land up. And I've had some wonderful
17 experiences doing that, clearing that land.

18 Next slide. Not only has that land been
19 cleared by -- been cleared by machine, it's also
20 been cleared by hand. This creek at the south part
21 of the property was all brambles and briars that
22 were all the way to the top of the trees, and it
23 was mostly cleared by machete.

24 Next slide. Then one day about eight months
25 ago, I climbed this big pine tree and I took this

1 photograph. And I thought, you know, maybe this is
2 going to work. This is a pretty piece of land, and
3 it's got a nice layout, and this is going to be a
4 real nice addition for our community.

5 Lots of background to go into that
6 decision -- additional decision such as the fact
7 that our city cemetery, Oakland, was filled up, in
8 essence. And, so -- next slide, next slide -- so I
9 contacted a company named [indiscernible] out of
10 New York and they began, at my request, to design a
11 perpetual care cemetery for this land.

12 The large-scale drawing there shows a pond
13 that will be created with about 3 acres of water in
14 it, about 10 feet deep. The initial development is
15 left, or west and south -- left and south of the
16 school, which is to the right. There will be a
17 building centered in the property, about 600 feet
18 from the fence.

19 Next slide. The property is going to
20 include beautiful upright monuments. I've always
21 liked the history of the upright monuments. They
22 tell a great story about people who are -- who
23 lived and died. I have a 3-acre pond which will be
24 not just a nice water feature, but it will also be
25 a water source for the cemetery, about 10 feet

1 deep.

2 And it's also going to have something new to
3 the River Valley, relatively, and that's
4 columbarium space. We currently have in Arkansas
5 about a 22 percent cremation rate, and in Pope
6 County, in particular, about 20 percent. And, so,
7 columbarium are structures that hold cremains.
8 When a person is cremated, their cremains are
9 placed into an urn, and then that urn can be kept
10 or those ashes can be disseminated or they can be
11 placed in a perpetual -- a permanent display place
12 like this called a columbarium.

13 Next. It's also my hope to build a
14 beautiful memorial section for our veterans.
15 That's been a dream of mine for the last 15 years,
16 and so I think that would be something we'd be able
17 to accomplish in the years ahead.

18 Next, next. We'll also have some estate
19 gardens. Estate gardens are something that's a
20 very old idea actually. So a family comes together
21 and they purchase 12 or 15 or 16 plots, and then we
22 will plant gardens around those and then have a
23 nice standing monument. So estate gardens.

24 Next. And here we get more to the issue.
25 This will be -- this is a conceptual design of the

1 building that will be located roughly in the middle
2 of the 13 acres of the property, and this building
3 is multipurpose. It will serve as our
4 administrative offices, arrangement conference
5 space. And it also will have a chapel, and it will
6 be the location of our crematorium. And, so, there
7 really comes the focal point of our discussions
8 today.

9 Next slide. We are -- this represents a
10 real departure for funeral homes throughout the
11 United States and, particularly, in Arkansas.
12 There may be one other that I know about in
13 Arkansas that has some similarities. But you take
14 a building which contains a chapel, a crematorium,
15 office, and arrangement spaces -- is fairly new and
16 unique.

17 And I'd like to share with you very briefly
18 a reason for -- the reason for this passion. It is
19 my belief that the human body, whether it's buried
20 or cremated, should be handled with the same level
21 of dignity and concern. Regrettably, it's my
22 opinion that's not always happened in my industry.
23 And without going into a great deal of detail, what
24 I want to accomplish here -- next slide, next
25 slide, next slide.

1 This is a conceptual photograph of a
2 crematory facility in Halle, Belgium. This is
3 vastly different from what you would see in typical
4 crematories in the United States. A typical
5 crematory in the United States is built in an
6 industrial area. It's built in a cinder block or
7 steel structure. It is innocuous. It doesn't have
8 a nameplate on it. It's not visited by the public.
9 It does not serve the public. It's a private
10 contract facility working for funeral homes.

11 This concept that is widely found throughout
12 Europe and throughout Canada and also Australia is
13 a different approach. And it's an approach wherein
14 there -- well, first of all, it's an approach that
15 involves a great deal of dignity. The investment
16 that the funeral home has to make in order to place
17 is -- just to put it in place is very significant.

18 More importantly, although, typically,
19 people will not go to the actual cremator unit, it
20 is important to me that my staff and my colleagues
21 know what it is we're doing because that investment
22 represents -- is a strong indicator of how we feel
23 about the bodies that are placed in our care.

24 Next slide. Because this has created
25 somewhat of a controversy, it's been important --

1 and I -- I expected that -- but it's been important
2 for us to communicate with the community, so we've
3 done a great deal of that. And I don't have dates
4 with me, but they are in my exhibits.

5 Initially, several months ago, there was a
6 meeting at the Center Valley Elementary School for
7 parents and community members with about 65 people
8 in attendance. It was very well received, but we
9 did have a discussion such as I'm doing now, a
10 presentation. It also was followed by a
11 question-and-answer session.

12 Like I said, about 65 people were there in
13 attendance, school board members, principles,
14 teachers, parents. And I thought the meeting went
15 very well and was very informative and was well
16 received by the community. Later, I met with the
17 Russellville School Board and -- okay.

18 Publicity. So the Courier, our local
19 newspaper, also lots of publicity and information
20 given to the community about this project through
21 our local newspaper with three separate front-page
22 articles discussing both sides. Also, River Valley
23 Leader and Click River Valley are the digital media
24 services in our community, and they've carried
25 information on this extensively.

1 Next slide. We also were required to notify
2 neighbors within 250 feet of the facility itself.
3 That might be somewhat question to interpretation,
4 so we decided to go by the fence and notified any
5 people that were within 250 feet of our outlying
6 property. In reality, the unit itself, our closest
7 neighbor would be the school's feet, which would be
8 600 feet from our unit, if you will, or our
9 crematorium. This was placed in various sources
10 with the media.

11 Next. More media coverage. Next. More
12 media coverage.

13 We also attended a meeting of the Pope
14 County Quorum Court. Members of the Quorum Court
15 were asked to vote on a resolution in opposition or
16 in favor of it. I attended that meeting along with
17 an opposition group, and the Quorum Court decided
18 not to make a decision either way.

19 Next slide. This is a overview of the land
20 and each one of those squares represents
21 approximately 1 acre. And I don't have a pointer
22 here, but the initial development, if you look at
23 the west fence, if you go left of the school,
24 you'll see two, four, six, seven -- about seven
25 acres there. Those two, four, six will be

1 developed first, and then one to the left of that
2 one -- two, three, four -- about those four, that's
3 ten. That will be the -- roughly the develop --
4 the initial development of the cemetery and will
5 accommodate something about, like, 13,000 ground
6 burials.

7 Next slide. I just like that one.

8 Next slide. We've already seen it.

9 Next slide. The actual unit -- the other
10 photograph or the other picture before was a
11 concept. This is also conceptual, but I've asked
12 my architect to make the crematorium housing room
13 look like this as close as possible. The unit that
14 you see there is a Power-Pak II by Matthews. It
15 has a little bit nicer facade than some other
16 units. But it will actually be backed up to that
17 wall, the back-end of it. That will be our actual
18 further processing station in place of the first
19 one.

20 Next slide. Information about mercury. I'm
21 not going to really get into all of that.

22 Next slide. I don't want to watch that
23 either.

24 Next slide. Next slide. I'd like to close
25 with this one final photograph. About six months

1 ago, I had an opportunity to visit a colleague in
2 Quebec -- Victoriaville, Quebec, Dennis Durocher
3 (phonetic) and his daughter, Veronica. They own an
4 amazing funeral home, a very state-of-the-art
5 funeral home facility and crematorium in Canada, in
6 Quebec.

7 And this is their crematory unit, and you'll
8 see the stack there. And it is running at full,
9 100 percent force. And this was a real
10 high-resolution photograph, and I even tried to
11 enhance it to see if I could see any -- anything
12 visible coming out of the stack and I wasn't able
13 to. And they were running a Power-Pak II, also,
14 made by Matthews.

15 I look forward to a good discussion today,
16 and I also look forward to continuing to serve this
17 community in days ahead with more options for --
18 for families in the Arkansas River Valley. Thank
19 you.

20 CHAIRMAN WOODARD: At this time, we will allow
21 anyone that's in favor of this crematory to be
22 constructed, to allow them at least three minutes
23 of speak -- ones in favor.

24 MR. ROY REAVES: Good afternoon, and welcome
25 to Russellville. My name is Roy Reaves. I'm a

1 retired banker here. I'm also a neighbor, live
2 down the street at Center Valley Road -- at 1601
3 Center Valley Road, about a mile from the proposed
4 crematorium site.

5 And, obviously, I'm here in favor of it. I
6 don't have any personal investment in Humphrey
7 Funeral Homes. However, I'd like to, Jim Bob, if
8 you'll sell some stock. I have no personal
9 investment in the equipment. I have no financial
10 interest in this in any way other than as a
11 neighbor.

12 One neighbor and I were visiting and he
13 said, "Well, do you think this will hurt our
14 property values?" I said, "No, sir. I think it
15 will help it."

16 I've seen the site. In fact, occasionally,
17 my wife and I will ride around over to the site. I
18 told her, "This is where I want to be buried some
19 day." I just hope it's some time in the future.

20 Anyway, I think it's great that Jim Bob and
21 his family are going to make this kind of an
22 investment in our community. We need this service.
23 I know he will do it right. And by that, I mean it
24 will be a class act, and I think that's important.
25 That's important to all of our community that when

1 we do something that we do it right.

2 I don't see any dangers to this. I think
3 the dangers have certainly been exaggerated. I
4 have grandchildren that do not go to the Center
5 Valley School today. Some of them very well will
6 in the next year or two, but not at the moment.

7 I'm 100 percent in favor of it, and I
8 certainly hope that this board will approve it.
9 Thank you.

10 CHAIRMAN WOODARD: Anyone else? Mayor?

11 MR. JOCK DAVIS: Ladies and gentlemen --

12 MR. JIM BOB HUMPHREY: You're next, Jock --
13 sorry -- after Bill. Sorry.

14 MAYOR BILL EATON: You go right ahead.

15 MR. JOCK DAVIS: No. I believe --

16 CHAIRMAN WOODARD: Your name -- your name,
17 sir?

18 MR. JOCK DAVIS: My name is Jock Davis.

19 CHAIRMAN WOODARD: Okay.

20 MR. JOCK DAVIS: I've been a resident of
21 Russellville for nearly 70 years. I came to Tech
22 from South Arkansas. And when I graduated from
23 Tech, it was too pretty to leave, and I've been
24 here about 70 years. But I have -- I'm so happy
25 that they had the G.I. bill because that's why I

1 came to Tech and graduated with the G.I. Bill.

2 And Russellville has been so good to myself
3 and my family. And during -- of course, I was a
4 World War II veteran, and it means a lot to me
5 because there's not many of us left. But I work on
6 Jim Bob's task force for Veterans Day. And I can
7 say this: There's no other city in Arkansas that
8 puts on a parade and memorial to our veterans than
9 ours here in Russellville, and Jim Bob is
10 responsible for that.

11 I worked with Jim Bob real close on several
12 volunteer efforts and one of them being
13 Build-a-Bear for our veterans' families when they
14 go abroad. And you ought to see the outpouring of
15 care and love for Jim Bob and the tears in the
16 parents' and the child's eyes when they see one of
17 these bears.

18 This is just one of many things that I could
19 say about Jim Bob. But he's a good man, a
20 Christian man, a loving man. And I -- like my
21 brother, Roy, I'd like to be buried there someday.

22 And I can't believe that Jim Bob would sell
23 anything that wasn't of the highest integrity and
24 truth, and I highly recommend this program to
25 anyone. Thank you.

1 CHAIRMAN WOODARD: Thank you, sir.

2 Mr. Roy -- your last name is Reaves?

3 MR. ROY REAVES: Reaves, R-E-A-V-E-S.

4 MAYOR BILL EATON: Thank you, ladies and
5 gentlemen. My name is Bill Eaton, and I also want
6 to speak in favor of this. I am the mayor of
7 Russellville. And even though this facility will
8 not go inside the city limits of Russellville
9 today, at some point in time, it probably will be
10 inside the city limits.

11 And I, too, have to also share what these
12 two gentlemen have said about the integrity of
13 Mr. Humphrey. And I believe that whatever facility
14 he determines that he will build here will be of
15 the highest quality and will be of a nature that
16 not only those who utilize that facility will be
17 proud of, but I believe that he will leave his mark
18 on that as being what it should be in the eyes of
19 our community and for our posterity.

20 I can say that in the late 1950s before
21 many of you that are in the audience was born, I
22 was around and I ate cranberries when the Secretary
23 of the Department of Health, Education, and Welfare
24 warned us about what was going on with some farmers
25 in the area for cranberries. And this came about

1 just prior to Thanksgiving in the late '50s there.
2 And what had happened was that a weed killer known
3 to create the possibility of cancer that was
4 identified in lab rats was identified as being
5 sprayed upon the cranberries that we were getting
6 ready to eat for Thanksgiving that year.

7 Now, then, the outcome, analysis of that, it
8 was determined that a person would have to consume
9 about 15,000 pounds of the affected berries every
10 day for years for a human being to contract that
11 kind of cancer that had been showing up in lab rats
12 because they were given excessive amounts of that
13 chemical.

14 Later, it was also discovered that some of
15 the edible turnips that we have contain a hundred
16 times more anti-thyroid potency and various types
17 of chemicals than did this particular chemical that
18 was put on the cranberries.

19 Likewise, how many of you drink coffee? You
20 know, your average cup of coffee contains many
21 natural occurring chemical compounds which in large
22 doses can cause cancer in lab rats. Every year an
23 article or two about the effects of coffee on us
24 appears. And people have a tendency sometimes to
25 go over the edge when things like that show up.

1 I can also remember a scare around 1989
2 about alar on apples and what was happening there.
3 And there was a questionable partnering between the
4 Natural Resources Defense Center and CBS, which was
5 a negative campaign that was spread about that.

6 The things of that nature are not of the
7 best order. We need to be aware of that kind of
8 campaigning and what, to me, seems to always happen
9 is the words like "cranberry" or "apple" are always
10 spoken at the same time using the term "children"
11 without the qualifying descriptive words as part of
12 that sentence.

13 So if I can just say, let's not be alarmists
14 about what the issues are that have been brought up
15 about this. Because I think, from what I
16 understand -- and I'm not a chemist nor am I a
17 scientist or anything else. But I have seen and
18 observed and been through many alarming issues in
19 my lifetime and what, I believe, here is a concern
20 about something that's so infinitesimal that it
21 borders on ridiculousness.

22 And I am in favor of this and recommend that
23 it go forward. Thank you.

24 CHAIRMAN WOODARD: Thank you. Is Mr. Robert
25 Graybill here?

1 DR. ROBERT GRAYBILL: Yes.

2 CHAIRMAN WOODARD: Would you like to speak,
3 sir?

4 MR. JIM BOB HUMPHREY: Mr. Woodard, Chairman
5 Woodard, I have these, so far, character witnesses
6 in favor of it. Dr. Graybill is among expert
7 testimony witness along with an engineer --

8 MR. BOB VEACH: Offered for rebuttal.

9 MR. JIM BOB HUMPHREY: -- offered for
10 rebuttal.

11 CHAIRMAN WOODARD: How about Mr. Scott
12 Gilligan? Is he here?

13 MR. JIM BOB HUMPHREY: Who is that? Scott
14 Gilligan? No that -- he will not be here. And
15 Barbara Kemper, that will be an expert witness,
16 also will be in favor and agreed to testimony, will
17 not be here.

18 CHAIRMAN WOODARD: So does anyone else in
19 favor need to speak?

20 At this time, opposition. Who would like to
21 speak first?

22 MS. LONI ICE: My name is Loni Ice.

23 CHAIRMAN WOODARD: Would you come to the
24 podium, please, ma'am? Three minutes, please.

25 MS. LONI ICE: Yes, sir. Hello. My name is

1 Loni Ice, and I'm a farrier and blacksmith. And my
2 son is autistic, and he attends school at the
3 Center Valley Elementary. Center Valley Elementary
4 has a -- one classroom for special-needs children
5 and, of course, many, many classrooms of children
6 who don't require such intervention.

7 One of the problems that has historically
8 come about with crematoriums that are set in
9 industrial areas is a spike in mercury coming out
10 of the smoke stack. It sits and it loses
11 temperature and accumulates in the air, the soil,
12 and the water table. I'm not familiar with the
13 conception and design that is being proposed here.
14 But that is historically the reason, among others,
15 that crematoriums have been placed in industrial
16 areas, along with furans, dioxins, cadmium,
17 chromide, and other heavy metals.

18 The CDC permits no safe level of these heavy
19 metals in dosage. The CDC also states that young
20 children are more prone to damage from them than
21 full-grown adults. The higher the ingestion rate,
22 the worse the damage. Children run, scream, get
23 over-excited, breathe harder. The possibility of
24 bioaccumulation over time is fairly high.

25 As I said, this is with traditional units.

1 I heard Mr. Humphries [sic.] when he said that this
2 was a new concept that was based on one. Was that
3 one next to a school? Have there been any studies
4 on this new sort of unit? On this new sort of
5 concept on our children? On human beings? On
6 grown adults?

7 The studies that do exist say that there are
8 very, very good reasons for putting crematoriums
9 away from residential areas. And I would ask that
10 this crematorium be located somewhere not next door
11 to a school where the prevailing winds will push
12 any -- any smoke from the pipe right over on the
13 school. If you don't know, I'd like to not use my
14 son for a guinea pig. Thank you.

15 CHAIRMAN WOODARD: Thank you, ma'am.

16 Mr. Hugh Laws?

17 MR. SCOTT STUEBER: My name is Scott Stueber.
18 I've spoken out two or three times on this and
19 appreciate the board coming to Russellville and
20 hearing what we have to say. I'm not an alarmist.
21 I hope my comments don't border on ridiculous.
22 I've done a lot of looking at this and talked to a
23 lot of people to get both sides of the argument.
24 I don't want the crematorium going next to
25 Center Valley School because it exposes both of my

1 sons who are 6 and 4 to known pollutants. If this
2 school was within the city limits, none of us would
3 be here like this because it would be zoned, and I
4 don't expect the City would allow this to be going
5 in next to an elementary school. We would not be
6 allowing a known source of pollution to go in next
7 to an elementary school that consists of 383
8 children between the ages of 5 and 10.

9 Per Mr. Humphrey's permit from the ADEQ, it
10 will produce 2400 pounds of particulate matter,
11 1000 pounds of sulphur dioxide, 1000 pounds of
12 volatile organic compounds, 2000 pounds of carbon
13 dioxide, nitrogen oxide, and, of course, the
14 mercury that we've all talked about and seems to be
15 brought up quite a bit. This is all from his
16 permit. These aren't numbers that have been pulled
17 off Google. We know that this unit will produce
18 this.

19 Over a five-year period while my boys are
20 going to school, they'd be exposed to 12,000 pounds
21 of particulate matter, 5000 pounds of sulphur
22 dioxide, 5000 pounds of volatile organic compounds,
23 10,000 pounds of carbon dioxide. At Sequoia
24 Elementary, those kids will not be exposed to any
25 of this.

1 Based on the Cremation Association of
2 America's 2010 statistics, Humphrey's Power-Pak II
3 unit could do all the cremations in the state of
4 Arkansas. It's large. It's very large: 764 tons,
5 1.5 million pounds, 350 feet from the playground.
6 From a business standpoint, it looks like to me he
7 wants to do every cremation in the state of
8 Arkansas.

9 If it was safe, why would Matthews, the
10 manufacturer of the equipment that's building
11 Mr. Humphrey's crematorium, sell filtration
12 equipment to clean up emissions?

13 And this is a quote directly from Matthews'
14 own site: "Matthews has the capability to adapt an
15 array of abatement solutions to meet the highest
16 environmental standards in the world. We
17 effectively clean the emissions from your
18 incinerator and minimize the environmental impact.
19 Our filtration systems can neutralize acid gas,
20 absorb heavy metals, and filter particulates in
21 your flue gas."

22 I can't think of a place to have higher
23 environmental standards than next to an elementary
24 school. Contrary to previous statements made in
25 regard to availability of this equipment in the

1 United States, Steve Shaw, president of the North
2 American division of Matthews, said this equipment
3 is available for sale in the United States.

4 We wouldn't build an elementary school next
5 to a source of known pollution, so why would we do
6 it backwards? The EPA has guidelines for the
7 construction of new schools and discourages and
8 advises not to put them next to sources of
9 pollution. Common sense would lead us to conclude
10 that the ADEQ regulates and permits crematoriums
11 that they shouldn't be allowed to be put next to an
12 elementary school.

13 ADEQ has some history recently of having
14 some issues with how they're writing these permits.
15 If anybody is familiar with the C&H Hog Farm that's
16 gone in on the Buffalo River in North Central
17 Arkansas, they issued a permit for a 6500-head hog
18 farm within a rock's throw of America's first
19 national river.

20 They don't really take into consideration
21 surrounding areas. They rely upon public hearings,
22 public notice, zoning, et cetera, to keep these
23 things from going in where the citizens don't want
24 them. I feel like ADEQ is doing the same thing
25 with this crematorium: Sensitive area, did not

1 give adequate notice to private citizens because it
2 operates underneath a general permit that's very
3 vague and we're notified -- on how these things are
4 notified. And we were kind of in the dark when it
5 came out.

6 Another statement from Matthews' own
7 website: "Cremated remains contain dust" -- a fact
8 which anybody who has ever worked in a crematorium
9 can confirm. "This dust consists of ash, bone from
10 the body in the cremation container. Dust is not a
11 hazard during cremation. It flows with the
12 internal gases out of the stack, away from the
13 loading board and the operator, so it's blown out
14 the top. We recommend that all operations wear
15 dust masks during clean-out when handling the
16 remains."

17 This is going to be 350 feet from the
18 playground. I have letters from United States
19 Congress on Oversight and Government Reform to the
20 EPA. They feel like the EPA has underestimated the
21 effect and the amount of mercury pollution coming
22 from general amalgam.

23 I have a letter from the EPA, response to
24 Congress, saying, The EPA recognizes the pollution
25 of [indiscernible] to mercury exists and is a

1 concern to human health and the environment. The
2 EPA estimates emissions from crematoriums to 6630
3 pounds a year. The EPA says the problem with
4 regulation of crematories are considered non-solid
5 waste incinerators and do not follow -- follow
6 under the regulation of the Clean Air Act.

7 There is no safe level of mercury, so the
8 argument, "There is a little mercury," does not
9 provide me with peace of mind in regards to my
10 kids' safety.

11 In wrapping up, we've learned from our past
12 that we've gotten things wrong before. Some
13 examples are DDT. I can remember growing up in
14 St. Louis, Missouri. They'd spray DDT in the
15 streets, and I would run in it. The EPA banned DDT
16 in 1972. We thought we had it right. We didn't
17 and we fixed it. We used to use lead-based paint.
18 No more. We thought we were right. The government
19 regulated it. Asbestos, another one. All of these
20 we thought would be -- thought by the government to
21 be safe.

22 The FDA changes their mind weekly on what
23 they deem safe. And I think putting a crematorium
24 next to an elementary school falls into the same
25 category. I don't think we have room for error

1 with something like this. I'm afraid we're going
2 to figure out in 10 to 20 years that we've made a
3 mistake in exposing a generation of children to
4 multiple toxins and pollution that could have been
5 put somewhere else. That's the thing: We're not
6 against the crematorium. We're against it being
7 next to the cemetery.

8 If the board in deciding which of the facts,
9 legal arguments, industry advocates, concerned
10 parents are left with a question mark, please side
11 with the safety of the children. If the board
12 would not deny a permit next to an elementary
13 school, where would you? Thank you.

14 CHAIRMAN WOODARD: Thank you, sir.

15 MR. ALAN COVINGTON: Hello. I'm Alan
16 Covington. I'm also a resident in the Center
17 Valley area. I live just north of the school, a
18 little less than 2 miles away, but my children do
19 attend the school.

20 You know, not only do we have the children
21 out on the playground during recesses running,
22 playing, breathing the air, we have soccer teams
23 come and practice, basically, year-round. Another
24 business in the community has donated thousands of
25 dollars, and they're building a walking trail

1 around the school right now.

2 You know, that is our community area, that
3 we're not in -- inside the city limits. That
4 school's not inside the city limits. There's no
5 one -- no zoning to protect us. There's no real
6 EPA rules about this crematory to protect us.
7 There's no rules with the AD -- the ADEQ.

8 You know, we, the people in that community,
9 don't have experts, although Scott does sound like
10 our expert because his passion in protecting his
11 children has driven him to do all his studies and
12 find this information out.

13 But what it boils down to is we have y'all.
14 This board is the only people that can make the
15 decision to protect our children and our families
16 from a potential hazard. You know, and no matter
17 how small those potential hazards may be, the
18 children that are at this school are going to be
19 more affected by any hazard at all than anybody in
20 this community, and they're going to be right
21 there. Not only is it -- it's not just 600 feet,
22 it's 350 feet to where the children's going to be
23 running and playing, you know, right there at the
24 fence.

25 So I would -- I would like for y'all to take

1 that into consideration. If you approve this
2 project, then you're basically -- you're the ones
3 guaranteeing to us in the community that there will
4 not be any hazards to our children.

5 I'm not concerned about property values.
6 Hey, I chose to buy property out in the country.
7 Someone could put in a chicken house right beside
8 me. You know, that happens. I understand that.
9 But I never in my dreams would have imagined that
10 an industrial business would've come out right next
11 to our school system -- you know, right next to our
12 school.

13 No one in the farming industry would have
14 done this. No one would have built a hog house
15 right beside the school, chicken houses right
16 beside the school, charcoal plant right beside the
17 school. No one would have done that. I know this
18 family has had that property, but they sold the
19 property to the school. They knew the school was
20 there. They've known the school was there for
21 years.

22 And I don't have a problem with the
23 cemetery. I can see the need for a cemetery in our
24 community. And, you know, with the memorials and
25 I'm sure as beautiful as this place will be, it

1 probably won't hurt the, you know, property values,
2 and it will be a beautiful place that I might want
3 to be buried someday.

4 But I can't understand wanting to build a
5 crematory that would put out potential hazards to
6 the children 350 feet away from where they play.
7 So thank you.

8 CHAIRMAN WOODARD: Let me say -- let me say
9 this: When the notice was sent out, we asked
10 anyone that wanted to speak at this hearing, please
11 submit your name. When you arrived this evening,
12 we asked -- there was a list over there for anyone
13 to sign in to speak. So we have this list, and in
14 all due respect to you, Mr. Covington, your name
15 wasn't on this list, but I didn't want to disturb
16 you, so --

17 MR. ALAN COVINGTON: Well, I appreciate that.

18 CHAIRMAN WOODARD: So at this time, is
19 Ms. Carol Patterson --

20 MS. CAROL PATTERSON: My name is Carol
21 Patterson and I am a resident of Center Valley, and
22 we have been out there for, oh, since the '70s, I
23 guess. And I live just northeast of the proposed
24 site of the crematorium. I have nothing against
25 crematoriums. I want to be cremated. I just don't

1 want it done next to my home.

2 And I am rather surprised that some people
3 seem to think that this will not lower the property
4 values. Every bit of research I have done, every
5 realtor I have spoken to has said that, yes, it
6 will cause property values to fall in the
7 surrounding area. We have already had people who
8 have had someone back out of buying their home when
9 they find out that a crematorium is proposed to be
10 built there. So it's already happening.

11 I do also have concerns about the mercury
12 levels, sulphur dioxide levels. Sulphur dioxide
13 will be emitted. It is of particular concern to
14 children and adults who are asthmatics, people who
15 have heart conditions.

16 We are not alarmists. Most of us -- many of
17 us are very well-educated. We know how to go out
18 and do research. We know what research is -- can
19 be substantiated and which we should overlook. I
20 think that Mr. Eaton, wherever he is now, who does
21 not -- is not an elected official who represents
22 our community, when he spoke about being an
23 alarmist.

24 I would like to leave you with a thought.
25 Several years ago, we had an asbestos industry in

1 this country that many people worked in. My
2 grandfather, my cousin, most people thought it was
3 fine. Shipyards, diesel houses worked in it with
4 their brakes and all.

5 Then we found out, well, yes, there is a
6 problem. So a few years ago, they started putting
7 limits on what you could be exposed to. Now we
8 know that even one strand of asbestos embedded in
9 the lungs can cause mesothelioma. It can cause the
10 crystallization of the lungs. We know that now.
11 Millions of dollars in lawsuits, millions.

12 So to say that we're alarmists because we're
13 concerned because the research is not there to
14 support that any amount of mercury vapor is safe, I
15 think, is being a little shortsighted.

16 I, again, would like to say that living in
17 this valley, it's beautiful. I think the cemetery
18 would be beautiful. I have nothing against
19 crematories. However, I do feel they should be
20 located in industrial areas, not in residential
21 areas.

22 I don't like the fact that my property
23 values are going to fall. I don't like the fact
24 that he says, Oh, I'm building this big ole place,
25 but I'm only going to do two or 300 a year. Mr.

1 Humphrey, I'm sorry. I don't believe that. I
2 think you're a very smart businessman, and you
3 don't build something that large and spend that
4 money on that without intending to use it. Okay.

5 CHAIRMAN WOODARD: Thank you, ma'am. Terry
6 Altman?

7 MR.TERRY ALTMAN: I'm Terry Altman and I do
8 have property out in Center Valley, and I do have a
9 grandson that's going to start there in the fall.

10 One thing that I believe has always been
11 true is the price for progress is the pain of
12 change. I think that we all agree to that. It
13 doesn't matter what you do, whether you get an
14 education or you build a house, you get in shape,
15 or in this case, build or grow a business.

16 One thing that I think is unfair is that I
17 don't believe that our goals should inflict pain or
18 loss to innocent bystanders. It's just not right.
19 That's a win/lose. In this case, they get a
20 crematory and we get health and safety issues.
21 Win/lose. They get a crematory; we get diminished
22 property values. Win/lose.

23 I've talked to a lot of people in this
24 community, Center Valley, and outside the community
25 just to share this idea with them just to see what

1 they would say. And they would say, "That just
2 sounds wrong. It's creepy." It's just -- you
3 know, in today's economy, an unstable economy, it
4 just seems like a loss to that community. There
5 are people that can't sell their house right now.
6 And I'm sure there are people that don't want to
7 move that are about a mile up wind instead of down
8 wind.

9 It looks to me like if you wanted to win the
10 hearts of a community and build your business, you
11 wouldn't work -- you wouldn't try to start this
12 right in -- in the center of opposition. There may
13 be something else that would be better suited for
14 this property next to an elementary school like a
15 tennis court or a ball field or a walking trail, a
16 lot of things, or leave it alone. And I'm not that
17 opposed to a cemetery, but it looks like adding a
18 value to the community instead of taking it away
19 would be a win/win. Thank you.

20 CHAIRMAN WOODARD: Thank you, sir.

21 Wes Freeman?

22 MR. WES FREEMAN: My name's Wes Freeman. I am
23 also a resident of Center Valley. My son will be a
24 senior in Russellville High School this year, so I
25 do not have any children that will be going to

1 Center Valley School.

2 I do value that area, and I value consumer
3 rights and consumer property values. I have been a
4 realtor in Russellville for the last 12 years. I'm
5 on the Russellville Board of Realtors' board of
6 directors as the incoming president next year. I'm
7 on the Arkansas Real Estate Association board of
8 directors as a zone director serving my third term.
9 So I think when it comes to talking about property
10 values and the impact of industry like this on
11 property values, I think I have a little bit of
12 background to be able to speak about that.

13 With all due respect to those that spoke
14 before me that may not think it will impact the
15 property values, find a realtor that will tell you
16 it's easy to sell a home next to a cemetery. There
17 are some people that will not even drive by there.

18 I know that Center Valley School is not a
19 residence for one person or ten people or a
20 subdivision. Essentially, that's the subdivision
21 for approximately 380 homes. You have 380-plus
22 children going there. Approximately 380 home
23 dwellings will be affected. That's not just Center
24 Valley area. You're looking at Shadow Lantern.
25 You're looking at Cove Landing. Cove Landing is no

1 where near, but they're in the Center Valley School
2 District.

3 One of the major determining factors when
4 buyers look for a home is, where is my child going
5 to school. When they find out it's next to a
6 cemetery or a crematorium, basically, those kids
7 are living at school eight hours a day, nine months
8 out of the year. That has a large impact on your
9 property values.

10 In an article from the Weatherford Democrat,
11 it says, "In communities across the country, city
12 leaders have begun to deny conditional use permits
13 for crematoriums near schools and homes. Besides
14 protecting the health of residents, there are
15 financial issues to consider. City tax revenues
16 could decrease because property values of homes and
17 businesses located near the crematorium will go
18 down, according to a 2010 article in 'Applied
19 Economics.'"

20 The 2010 article in "Applied Economics,"
21 this is a research done by Penn State University.
22 It's a 27-month research, 7 months before, 20
23 months after. It says, "Results indicate that
24 proximity measured both in terms of direction and
25 distance from the crematory imparts a statistically

1 significant negative impact on average house
2 sales."

3 So you can see it's not only going to affect
4 those of us in the Center Valley area, it's going
5 to affect the 380 homes that are represented at
6 Center Valley School across the city of
7 Russellville.

8 Now, you think about how much of a firestorm
9 that it started when Walmart Neighborhood Market
10 wanted to come in just right down the road.
11 There's no health concerns there. Everyone was
12 worried about their home values. Can you imagine
13 if they would've tried to put a crematorium where
14 Walmart is right now, the Walmart Neighborhood
15 Market? Do you think that would have ever
16 happened?

17 Why -- if it won't happen there, then why
18 should it happen in our neighborhood by our kids?
19 And when I say "our kids," it may not be my blood
20 child, but every kid out there is our kid, and we
21 have to look out for them. Thank you.

22 CHAIRMAN WOODARD: Thank you, sir.

23 Mr. James Dougal?

24 MR. JAMES DOUGAL: I don't have anything to
25 add at this time.

1 CHAIRMAN WOODARD: Ms. Gayla Scott?

2 MS. GAYLA SCOTT: I yield my time to that
3 gentleman over there that has already spoken.

4 CHAIRMAN WOODARD: Okay.

5 Nathan Harrison?

6 MR. NATHAN HARRISON: Yes, sir. Right here.
7 Hey, y'all. I'm Nathan William Harrison. I live
8 on Center Valley Road with my wife, my three
9 children, and my in-laws on my 22 acres.

10 All I wanted to get up and say today is that
11 there's been absolutely nothing that's been told to
12 me that this will not be toxic to our kids. That's
13 what you-all need to think about. There's been
14 nothing offered that says that this will not affect
15 the children. We can say all day long that it
16 will. Nobody's ever said that it will not.

17 My issue with this is I have two children,
18 one who's already been a student there, and another
19 who's starting kindergarten this year, and a
20 two-year-old who has asthma problems at two years
21 old. I don't want the dust and ash of human
22 remains being spread on the playground where he's
23 going to go in three years. I'm sure that lots of
24 people in this room would feel the exact same way.

25 I don't have a problem with crematories. I

1 don't have a problems with cemeteries. And I
2 certainly don't have a problem with Mr. Humphrey.
3 What I do have an issue with is that I haven't seen
4 anything proposed for alternative sites for this
5 actual crematory. As a matter of fact, I'm in
6 favor of the cemetery in the area. I think it
7 would be a great place to honor some of the folks
8 that have grown up, lived there, and had farms
9 there and want to be out there for the rest of
10 eternity.

11 We're not here to debate whether or not
12 Mr. Humphrey's a good man or the business
13 enterprise is good or bad, whether or not anything
14 that has been talked about, people being good
15 Christian folks or anything else. This is about
16 the health and safety of children. This is about
17 your ability to issue a permit as a rule-making
18 board for this specific type of crematory.

19 If there is another suitable sight within
20 Russellville or close by -- maybe even Mayor Eaton
21 has said -- he got up and spoke on behalf of
22 Mr. Humphrey. He certainly could help out with
23 something like that. Maybe he could help out
24 finding an alternative location that provides no
25 economic loss to Mr. Humphrey at all and propose

1 that site for the crematory as opposed to right
2 next to an elementary school.

3 If that could be identified and found, I
4 think that you'd find a whole lot more support
5 within the community, the city of Russellville, and
6 all the people that are here today. And I thank
7 you for your time, and I appreciate it.

8 CHAIRMAN WOODARD: Thank you, sir.

9 That's everyone on the list, as far as
10 opposition, that had signed in. At this time, we
11 would allow anyone else that would like to speak in
12 opposition.

13 Mr. Laws?

14 MR. HUGH LAWS: Chairman, this Dr. Dunn is on
15 the list and I would like to allow him to speak for
16 me, if that's possible.

17 CHAIRMAN WOODARD: Okay. Jacky Dunn?

18 MR. HUGH LAWS: Yes.

19 CHAIRMAN WOODARD: He didn't sign in. That's
20 why I didn't call him.

21 DR. JACKY DUNN: I apologize for that,
22 Mr. Chairman.

23 CHAIRMAN WOODARD: No problem. Now, a point
24 of clarification, what's your name sir?

25 MR. WES FREEMAN: Wes Freeman.

1 CHAIRMAN WOODARD: No, no. The other one.
2 The one that came up to talk in the blue -- in the
3 blue jacket there with the tie.

4 MR. HUGH LAWS: Me?

5 CHAIRMAN WOODARD: Yes.

6 MR. HUGH LAWS: I'm Hugh Laws.

7 CHAIRMAN WOODARD: Okay.

8 DR. JACKY DUNN: It's my understanding that
9 this public hearing is for the community of
10 Russellville and Pope County. In addition to this,
11 it is my understanding that the honorable gentlemen
12 and ladies that are present are also on a mission
13 around the state reviewing similar crematoriums and
14 where they're going to be placed. So the
15 information that they are receiving today is very
16 valuable for us in our communities, but also for
17 folks around the state.

18 And, so, with that being said, I'm going to
19 have to go through this very quickly because we
20 have a 10 minute limit with what we can talk about.
21 And a lot of you-all have already talked about
22 the -- in an eloquent manner and in compassion
23 about what's going on in your own families.

24 So with that being said, I want everybody to
25 understand that Center Valley is really special to

1 the community of Russellville. Center Valley
2 Elementary School is the largest elementary school
3 in the Russellville School District, and the
4 children that are there will be graduating and
5 going on to the middle school in the fifth grade.
6 So you have children who are starting this public
7 education and to begin the learning process in that
8 facility. Excuse me.

9 Some of them that will be going there are as
10 young as three to four years old. They will
11 continue their education in the fifth grade at the
12 age of nine years old, and if my math is correct,
13 by the time these 100 fourth graders will graduate,
14 these children will have spent approximately 925
15 days on the playground of this elementary school,
16 give or take a few days of bad weather.

17 On any given day, there are approximately
18 440 students on that playground. In addition to
19 that, some of our brightest and most respected
20 child-bearing aged teachers are on that playground
21 over that same period of time. So I believe that
22 these small children, their teachers, and their
23 teachers aides should not be considered transients
24 for the purpose of this public hearing.

25 This public hearing is the voice of all

1 these small children to protect these children who
2 do not have the knowledge to speak for themselves
3 or better yet, potential to the brains of these
4 small children and the teachers so that they may
5 achieve their destiny through education.

6 The public hearing was scheduled at the
7 request of small children, at the request of the
8 parents of these small children, the teachers of
9 these children, and the residents of Pope County
10 who are concerned about the health and
11 environmental impact of the proposed crematory to
12 be located approximately 381 feet from the
13 playground of Center Valley Elementary School.

14 For those of you who do not know, a
15 crematory is essentially a blast furnace
16 constructed to heat -- to heat up or incinerate the
17 contents of a specially constructed box containing
18 the body an individual.

19 I personally had to construct a crematorium
20 even within a rudimentary form -- and, of course,
21 when that was constructed next door to an apartment
22 complex, and those individuals living in that
23 apartment complex were continually complaining of
24 smoke being emitted and the odors being emitted.
25 But granted, the equipment now is much more

1 sophisticated than it was 35 years ago.

2 The temperature reached in a crematorium
3 must reach 1400 to 1800 degrees Fahrenheit to
4 reduce the remains to ashes and bone dust. This
5 process essentially takes the place of burying an
6 individual in a large casket.

7 The cremation process has become more common
8 in the last eight years with approximately
9 30 percent of all Arkansans choosing cremation
10 after that rather than traditional burial. The
11 percentage is expected to rise to 43 percent during
12 the next 25 years, as cremation is becoming more
13 popular and more accepted and even more financially
14 necessary.

15 The problems associated with the cremation
16 process are now becoming more evident and/or
17 concerning. Our discussions today have been
18 brought to the forefront today for that very
19 reason. We live in the River Valley, and we love
20 our homes, we love our schools, and we love our
21 neighbors.

22 We live in the shadow of A&O Nuclear 1. We
23 live here without fear because we trust the
24 Arkansas Health Department and the Nuclear
25 Regulatory Commission and our neighbors that work

1 at Nuclear 1 to make it safe. We never worry about
2 the steam being emitted into the sky in our
3 environment. We know it's safe.

4 Unfortunately, in Arkansas, especially on
5 the playground of Center Valley Elementary School
6 in rural Pope County, the United States
7 Environmental Protection Agency does not plan to
8 regulate human crematoriums.

9 In a letter on the letterhead of the
10 Environmental Protection Agency from Arvin Ganesan
11 (phonetic), the Deputy Associate Administrator of
12 Congressional Affairs, penned to the Honorable
13 Dennis Kucinich, Chairman of the Subcommittee on
14 Domestic Policy, Community Oversight, and
15 Environmental Reform, it was made clear that the
16 human body is not a solid waste. And the
17 Environment Protection Agency concluded that human
18 crematories were not solid waste incinerators, and,
19 therefore, it is not appropriate to regulate them
20 under the Clean Air Act 61.9.

21 So that being said, it's become imperative
22 to educate you, the public, on behalf of the
23 children of Center Valley Elementary School with
24 regards to the dangerous gases, chemicals, dust,
25 and particles that will be released into the air

1 and will be circulating over our children's heads
2 and lungs each time smoke is emitted from the
3 crematory's smoke stack by day or by night.

4 According to the manufacturer of the
5 Power-Pak II Plus cremation equipment planned for
6 installation approximately 381 feet from the Center
7 Valley Elementary School playground, the emissions
8 from the equipment in this facility include sulphur
9 dioxide, carbon monoxide, nitrogen oxide, volatile
10 organic compounds, and particulate matters. These
11 are a result of incomplete combustion. But there
12 is no admission of the most dangerous chemicals
13 including mercury and dioxins.

14 As noted in the final report to the Senate
15 Crematory Study Committee in 2012 in the State of
16 Georgia, according to this committee in the state
17 of Georgia, when mercury is burned, the element
18 becomes colorless and odorless, and this gas --
19 welcome, kids. Appreciate you being here.

20 When mercury is burned, this element becomes
21 colorless and odorless, and this gas can travel
22 large distances. Mercury exposure has the
23 potential to cause a variety of health problems
24 including harm to the brain and kidneys. Pregnant
25 women and small children are especially vulnerable

1 to harm from mercury exposure as mercury exposure
2 can inadvertently and adversely affect neurological
3 development in developing fetuses.

4 The issue today is emissions from the
5 proposed crematory. It is the understanding
6 regarding the [indiscernible] in the state of
7 Arkansas, the filtration system designed to remove
8 mercury and dioxin as well as the emissions data
9 monitoring system will not be included in the
10 proposed function of the crematorium in discussion
11 today. That being said, all emissions from this
12 crematorium will contain mercury and dioxin.

13 Dioxins have been called the most toxic of
14 all man-made chemicals. The problem is that
15 dioxins are not water-soluble. Dioxins travel
16 through the air and deposit on water or land. In
17 water, dioxin bands -- binds with small particles.
18 On land, dioxins deposit on plants and bind to the
19 soil.

20 In the information directly from the
21 Environmental Protection Agency, dioxin science
22 assessment in a consumer fact sheet: Studies have
23 shown that exposure to dioxin at high enough levels
24 may cause a number of health effects including
25 cancer. The health effects associated with dioxin

1 depend on a variety of factors including, one, the
2 level of exposure; two, when someone was
3 exposure -- exposed; three, for how long; and four,
4 how often someone is exposed.

5 Most dioxin exposure occurs through the diet
6 with small amounts of exposure from breathing air
7 containing trace amounts of dioxin and from
8 inadvertent digestion of soil containing dioxin.

9 Other non-cancer effects of exposure to
10 large amounts of dioxin over a chronic low-level
11 exposure includes developmental and reproductive
12 effects, damage to the human system, interference
13 with hormones including male hormones, skin rash
14 and skin discoloration, excess of body hair, mild
15 liver damage, and diabetes, and cancer as mentioned
16 above, and even death in some situations.

17 In the EPA's 2000 Inventory of Dioxin
18 Emissions in the United States published in 2005,
19 they estimated that a crematorium emitted 410
20 nanograms of dioxin toxic equivalence per human
21 body. This equates to as much dioxin as burning
22 3205 [indiscernible], 320 pounds of trash in the
23 trash incinerator, 426 pounds of hazardous waste in
24 a hazardous waste incinerator.

25 The other chemical under discussion today

1 that is being released is mercury. As a direct
2 result of the effects of public dental health over
3 the years, there has been a significant increase in
4 the number of individuals who have had dental decay
5 and resulting cavities abated and additional trips
6 to the dentists to have these cavities filled
7 and/or pulled.

8 These cavities over the years have been
9 filled with various -- a mixture of various metals
10 to ensure the longevity of the fillings and
11 preventing further decay. Dental amalgam used in
12 the filling of cavities in teeth is composed of
13 approximately 50 percent mercury. In addition, not
14 as many people are dying now with dentures because
15 we're able to salvage their teeth.

16 During the cremation process of human
17 bodies, the mercury in dental amalgam is vaporized
18 and released out of the smoke stack. Most of the
19 emitted mercury is in the form of gaseous elemental
20 mercury and can be transported over thousands of
21 kilometers.

22 Studies have shown that mercury may be
23 inhaled deep in the lungs where it is readily
24 absorbed into the bloodstream. In addition, this
25 airborne mercury and dioxin may also be deposited

1 on soil, grass, water, and, in this case, the
2 playground equipment at Center Valley Elementary
3 School in the form of dust, which also contains
4 ashes and bone dust.

5 The signs of exposure to chronic low doses
6 of mercury include excitability, tremors, and
7 gingivitis. Toxic effects may result in damage
8 because mercury deposits mainly in the brain and
9 the kidneys in small amounts. You have emotional
10 changes; a change in nerve responses; kidney
11 failure; respiratory failure and neuromuscular
12 changes; headaches; impairment of cognitive
13 function; cardiovascular toxicity; high blood
14 pressure; muscle weakness; mental disturbances such
15 as mood swings and memory losses; impairment of
16 speech, hearing, peripheral vision; and impairment
17 of coordinated movement such as walking and riding.

18 A study at the University of Texas indicates
19 that there is an increase in special education
20 necessity and autism in children as a result from
21 mercury exposure. The halflife of mercury is up to
22 60 days. However, deposits in the kidney and the
23 brain last for years. It causes axonal
24 degeneration of the dorsal root ganglion and
25 affects the cerebellar cortex which results in

1 numbness and pins-and-needles feeling in the hands,
2 feet, and sometimes around the mouth associated
3 with the peripheral neuropathy.

4 In addition to the dioxin and mercury --

5 CHAIRMAN WOODARD: Mr. Dunn --

6 DR. JACKY DUNN: Yes, sir.

7 CHAIRMAN WOODARD: Your time was 10 minutes.

8 We allowed the 10 minutes, sir. How close are you
9 to finishing? All right.

10 DR. JACKY DUNN: Thank you, sir.

11 The health effects of particulate matter of
12 dioxin, sulphur dioxide includes a reduction in
13 lung function, and asthma, emphysema, bronchitis,
14 aggravation of heart disease, and the increase in
15 hospital admissions.

16 So with that being said, the problem is, is
17 that the length of exposure to the children at the
18 Center Valley Elementary School, the halflife of
19 dioxin is 4 to 11 years, so the potential exposure
20 to those children can have catastrophic events in
21 the lives and minds of approximately 2200
22 Russellville and Pope County students over that
23 period of time.

24 This has been a very difficult speech for me
25 because I consider Mr. Humphrey a personal friend,

1 and my wife plans to be cremated. But in light of
2 the ongoing studies by governmental agencies
3 regarding dioxin and its potential as a causative
4 agent of cancer, state agencies and leading medical
5 authorities of prestigious universities show a
6 direct correlation of brain adaptation taken in
7 fetuses and small children, and has a resulting
8 increase in damage to the neurological functions of
9 the brain that include autism and an increase in
10 financial expenditures to educate and develop these
11 small children, I have no choice but to recommend
12 the relocation of a crematorium to a safe zone
13 established by local governmental agencies and the
14 use of sophisticated -- and/or the use of
15 sophisticated filtration and data emission control
16 and monitoring to eliminate the emission of mercury
17 and dioxin be required for a crematory located
18 within a close proximity of a school of any kind in
19 the state of Arkansas.

20 Knowingly allowing this exposure of small
21 children at Center Valley Elementary School to
22 toxic chemicals would expose the Russellville
23 School District to a potential liability. Thank
24 you.

25 CHAIRMAN WOODARD: Thank you, Mr. Dunn.

1 Anyone else?

2 MR. HUGH LAWS: Good afternoon. I'm Hugh
3 Laws. I'm a practicing attorney here in
4 Russellville. I've lived here in the community for
5 over 40 years. I would like to address my comments
6 from a legal perspective. I know you have legal
7 counsel here who is advising you. I've been an
8 attorney trying cases on the plaintiff's side and
9 on the defense side, so I think that I have a
10 perspective of issues regarding liability and
11 issues also regarding defense of folks that are
12 being sued.

13 This is not a new issue. This has been a
14 long-standing issue. It's been developing over a
15 good length of time about crematories and toxic
16 effects of them. I can tell you, based on
17 research, there are communities that absolutely ban
18 them. There are six communities in the state of
19 Connecticut. I will list them if you like. They
20 are -- I know there's Rocky Hill. There's at least
21 six communities there in Connecticut that have
22 banned them entirely.

23 And the point that I'm making is, if you can
24 ban them entirely to withstand some legal challenge
25 on reasonableness for banning them, there has to be

1 good reason. It's not made-up science. There has
2 to be good reason.

3 The State of New York, there -- they require
4 medical devices be removed. They also require that
5 you have restrictions in distance even though they
6 are required to be in industrial areas. The states
7 and the zoning that have municipalities and
8 permitting authorities have recognized these as
9 pollutants and require them to be in appropriate
10 areas.

11 The reason I say that is this is not made-up
12 stuff and there's good reasons and that it's -- the
13 legal challenges have not overturned those bans or
14 those restrictions on distances. I can tell you
15 based on my research, the minimum distances even in
16 commercial zones have been 500 feet. But the
17 majority of them have been 1000 feet to property
18 lines.

19 So this -- although there's no scale that
20 has been placed on the application -- the plat of
21 the application, I looked at that and there's no
22 scale there, it says how far it is to the fence
23 line. I have presented a Google map of the
24 approximate distance. I think it's been said
25 several times in here 350, 400 feet, less than 1000

1 feet for sure, and certainly close -- less than
2 500 feet to the property line of the Center Valley
3 Elementary School.

4 Now, with that said, Arkansas law has left
5 it up to the board, this board, to permit -- to
6 grant or deny permits to crematories. And Arkansas
7 law has also given this body to make the rules and
8 regulations regarding the granting of the permits.
9 So it is this board that who -- you follow -- you
10 have to make and approve certain rules, and you
11 have to follow those rules. So -- and the law has
12 given this authority to you.

13 Now, in this instance, you've heard it is
14 not in the city. There's no zoning regulations.
15 In this instance, it's in the county. There are no
16 zoning regulations. Why do we have a public
17 hearing? Why does the law -- the State say that
18 you guys have to have a public hearing?

19 It's because of a situation just like this
20 where there is close proximity to schoolchildren,
21 young schoolchildren, that you are to take the
22 types of concerns and the data and the research
23 that zoning and planning uses to prevent it, and
24 that's your job now.

25 I think there's plenty of testimony and

1 evidence in the record that shows there's public
2 safety and health concerns from the emissions that
3 are obviously admitted to being pollutants. And
4 it's not -- these findings are not in lab rats.
5 These are findings in human beings, and
6 particularly susceptible to this is young children
7 on the playground who are at play, who are
8 respirating fast and breathing hard, that is down
9 wind of this crematory.

10 I think there's -- Dr. Jacky Dunn, who's a
11 medical health professional, he's testified that,
12 in his opinion, based on his research and based on
13 his reading of -- of things and based on his review
14 of the application, that he doesn't feel it's
15 appropriate, not as it's being built, not where
16 it's being built.

17 There's neighbors, there's parents, there's
18 a realtor with -- talking about the decrease in
19 property values. All of this is not -- this is a
20 residential school community, all of which will be
21 affected by this. These are all valid reasons
22 legally to deny the permit.

23 I cited in my material -- I gave you a
24 written packet. I don't know if any of you had a
25 chance to review that, but I've also cited in my

1 packet the case of Butler versus City of Clinton,
2 and it comes out of a North Carolina case, and for
3 the benefit of legal counsel, that cite is 584 SE
4 2d 102 2003. And the reason I've cited that is
5 because, in that case, the permitting authority
6 denied the permit to the crematorium.

7 In the basis for the denial of the
8 crematory, they used the same things that are
9 before you today as their basis, and the courts
10 upheld it. The court said, You have reasonable
11 grounds to -- that are specific and articulated
12 that -- to deny the permit. And I think that's
13 what you've got here.

14 Some of you may be sitting there and saying,
15 "Well, you know, our rules just say the rules that
16 we promulgated." There's no offense. There have
17 been board members before you guys. The rules
18 that's promulgated that we made just says, well, if
19 it meets all applicable zoning and all applicable
20 building codes, you know, we permit it.

21 The problem with that is, you can't just
22 rely on that for the very reasons I'm telling you.
23 The law, the legislature of the State of Arkansas,
24 gave you guys the rule-making, and your rules have
25 to take into account, and the public hearings are

1 for this very thing.

2 Now, from a legal standpoint, if you deny it
3 based on the record, I think you will be upheld on
4 any appeal to circuit court. As I understand it,
5 there may have been one denied that there was a
6 specific -- asked the specifics and testimony given
7 in the record and then it was overturned. But in
8 this case, there are specifics.

9 Now -- but opposed to that, if you think
10 about the opposite of that, what if you permit it?
11 Then are you knowingly permitting something that
12 testimony is in the record that's potentially toxic
13 and harmful to elementary schoolchildren?

14 When you weigh those two legal liabilities
15 and those two legal risks, I think it's just very
16 simple. You err on the side of caution. And you
17 say in your mind when you -- any one local
18 permitting authority that would be going through
19 this exercise or process would not permit this
20 here. It would not be within the certain
21 parameters of the zoning and planning commission of
22 a school.

23 Also, they've -- states have included
24 playgrounds, parks where children are at play, but
25 this certainly falls within those parameters. It

1 is about the protection of the children. It is our
2 children.

3 There's lots of laws for protection of the
4 children. We make it a criminal penalty to have a
5 drug house or to deal drugs within a thousand feet
6 of a school. Those types of things have been
7 upheld. We make it requirements for daycares to
8 put padding under their daycare equipment for the
9 protection of children so that they don't break
10 bones.

11 There's all kinds of rules and regulations
12 that are for the protection of children, and that's
13 what we're asking this board here to do today is
14 take what has been given to you, apply it to what
15 has been done before in other instances for the
16 protection of children. Make specific findings
17 that are before you here with the testimony of
18 these individuals and err on the side of caution
19 and deny the permit.

20 I appreciate your time and attention very
21 much.

22 CHAIRMAN WOODARD: Thank you, sir.

23 Anyone else? At this time, Mr. Humphrey, I
24 will allow your side a rebuttal.

25 MR. DAROL HARRISON: My name is Darol

1 Harrison. I am a resident of the Center Valley
2 area. I'm a licensed professional mechanical
3 engineer in the state of Arkansas, and I'm here
4 today to provide some information concerning
5 emissions from power plants and -- in the state of
6 Arkansas.

7 I have worked at the Steam Electric Station
8 in the Newark area. I've worked at Arkansas
9 Nuclear 1, and I have over 32 years of experience
10 in industrial applications. I have a private
11 consulting company that is involved in helping
12 businesses with common sense solutions and helping
13 them with design of and monitoring and testing of
14 buildings and facilities to meet current
15 regulation, which includes emissions and includes
16 environmental contaminants and being able to manage
17 those.

18 With respect to the Independence Steam
19 Electric station, that plant generally releases
20 about anywhere from 400 to 600 pounds of mercury
21 per year depending on which studies that you see.
22 The closest school to that is approximately 4 miles
23 away, the Cedar Ridge School in the town of Newark,
24 which was a consolidation between Newark and the
25 Fort Charlotte School District several years ago.

1 Of course, that plant is regulated by the
2 Environmental Protection Agency under the Clean Air
3 Act. And with regard to mercury, the obvious and
4 simple reason why that's regulated is because of
5 its potential to affect the health and safety of
6 the public.

7 When you compare the potential mercury
8 emissions from the crematorium to something such as
9 the Independence Station, if you use the maximum
10 number of estimated cremations for Mr. Humphrey
11 over about a ten-year period of 200, you would be
12 looking at -- assuming that 100 percent of the
13 bodies had dental fillings and an average of
14 2 grams per filling, you're looking at
15 approximately 400 grams of mercury which is
16 essentially about 14 ounces.

17 So even if you wanted to increase the
18 numbers based upon some of the comments today to
19 500, you're still looking at just a little over a
20 pound of mercury that is released and not
21 necessarily deposited into the area, but released
22 in the environment.

23 And studies certainly differ. Some of that
24 goes into the general environment and it's carried
25 away, and some of it may be deposited, a minor

1 amount, inside the crematorium. Some of it may be
2 deposited in the general area, typically, real
3 close to the crematorium. But the studies
4 certainly need to be looked at closer to get the
5 more appropriate response or answer.

6 With regard to equipment that can be used
7 and is used at places such as the Independence
8 Station, there are a number of types of filtration
9 equipment, precipitators, scrubbers, and things
10 that are installed and are used to remove
11 contaminants. Those are very expensive pieces of
12 equipment and --

13 MR. JIM BOB HUMPHREY: Why don't we put the
14 photograph of that up here.

15 MR. DAROL HARRISON: Sure.

16 MR. JIM BOB HUMPHREY: Are you able to
17 override it to the PowerPoint and go to the --
18 yeah.

19 MR. DAROL HARRISON: This is a -- I believe
20 this is one that is provided by the Williams
21 Company that is supplying the crematorium in
22 question. And this -- it's hard to get a scale
23 other than the individual. The person or man
24 that's drawn in there, you can see kind of in the
25 lower left third a person that you can scale in,

1 the various equipment including filters, fans,
2 heaters, and various devices that are used to
3 remove contaminants; once again, the things that
4 are used in coal plants and other industrial
5 facilities.

6 If you look at something of that nature
7 across the world with respect to crematoriums,
8 Europe does use devices such as this. It's really,
9 predominantly, either the kingdom or the government
10 owns the crematoriums. And they are, once again,
11 very, very large and expensive.

12 If we were to look at something of this
13 nature for a proposed crematorium in Center Valley,
14 the Williams Company estimated approximately three
15 quarters of million to 1.2 million dollars just to
16 purchase that equipment. That would -- does not
17 include installation costs. It does not include
18 start-up costs and does not include ongoing
19 maintenance costs.

20 So just the cost alone, you're looking at
21 probably two to three million dollars to install
22 that, just for your information. Once again, that
23 does not include ongoing maintenance costs. The
24 current cost of the facility is about \$150,000.
25 And the cost of the crematory itself, the machine,

1 is about 150, so that part of the project is around
2 \$300,000, but a considerable increase in the -- in
3 the funding.

4 MR. JIM BOB HUMPHREY: Darol, can we show one
5 other photograph --

6 MR. DAROL HARRISON: Sure.

7 MR. JIM BOB HUMPHREY: -- that shows the
8 center piece in actual scale? That's just one
9 piece.

10 MR. DAROL HARRISON: Okay. So in my
11 conversations with Mr. Humphrey, the actual cost of
12 installing this equipment would make this project
13 not economically feasible. And that's really with
14 regard to both the crematorium and cemetery,
15 because the cemetery alone would not be a viable
16 solution without the crematorium.

17 I'd like to just comment on some of the
18 things that have been stated today with respect to
19 science. As an engineer, I've been involved in a
20 number of scientific studies and work over the
21 years both in and out of power plants. And just
22 generally would state that there certainly is --
23 there's good science and there's bad science. And
24 we've heard a lot of good science today, some
25 things that have been said that I don't doubt that

1 they are accurate.

2 But also know that there are scientific
3 studies that would disagree with the ones that have
4 been presented here. I think a good way to make a
5 comparison to that would be our current, ongoing
6 national and worldwide debate with respect to
7 global warming. There are very, very good studies
8 that say this is a problem. There are very good
9 studies that say it's not a problem. So we are in
10 a similar situation.

11 But one thing I can say is that the
12 emissions that would be ejected from this
13 crematorium are within the existing regulations
14 that govern industrial and power plant applications
15 such as the Independence Steam Electric Station.
16 We're talking about in the order of, at worst case,
17 a pound, pound and a half of mercury that is
18 released over 10 years versus thousands of pounds
19 that would be released from a fossil plant.

20 So I guess what I'd like to do is close with
21 the fact that -- that in our scientific studies, we
22 have to make sure that we have them placed in the
23 proper context. A study that is done in one
24 location may have been in the proper context for
25 that. It may not be in the proper context for

1 other locations even though they may both be solid
2 and excellent studies.

3 And, so, we need to keep that in mind as we
4 talk about the information here, not that the
5 things that have been presented have been wrong,
6 but that we know that this is within the current
7 regulations. And I'm not trying to state that
8 anything is correct or incorrect. I'm just trying
9 to say that they're within the current regulations
10 that are out there, recognizing that crematoriums
11 are not specifically regulated in this state or in
12 this country.

13 And, so, I guess I'll conclude with one
14 offer of what might be a simple solution. There's
15 a centuries-old principle called Occam's Razor
16 which says the simplest solution is usually the
17 best. And, so, when it comes to something such as
18 mercury, then the simplest solution would be,
19 likely, to remove the source. So one option would
20 be to remove the dental fillings that cause a
21 source, and pull something such as mercury off the
22 table as a potential contaminant in the area.

23 MR. BOB VEACH: Mr. Chairman, may we introduce
24 these diagrams as exhibits to the record here
25 today, please, sir?

1 (WHEREUPON, the document was identified
2 and marked as Exhibit No. 2.)

3 CHAIRMAN WOODARD: Anyone else?

4 MR. JIM BOB HUMPHREY: I'd like to address my
5 next comments, in addition to the board, primarily,
6 to the community.

7 I really appreciate the people who have
8 spoken today even in opposition to this program. I
9 very much appreciate the people who have spoken in
10 support. Thank you. But I also appreciate the
11 people who have spoken in opposition to it. And I
12 have looked you in the eye and I have heard you and
13 I actually have been hearing you for some weeks.

14 My industry -- I'm going to be real
15 transparent here. My industry for 25 years has
16 fought this issue. In Minnesota some years ago --
17 and when I say "this issue," I'm talking,
18 specifically, mercury. And let me clarify: In all
19 of the major studies I've looked at -- actually, I
20 would call it debates -- were a really serious
21 contest between my industry and environmental
22 groups. 98 percent of the concerns was mercury.

23 The other issues can be dealt with pretty
24 effectively. Mercury becomes the one that is the
25 greatest public attention, the greatest fear, the

1 greatest risk on the part of those who are opposed.
2 The solutions that are proposed, typically, are
3 what has been said here today: Move it to an
4 industrial area, don't put it anywhere near
5 neighborhoods or children or schools.

6 The other is to spend a million or two
7 million dollars on abatement equipment. And I find
8 it interesting that -- well, I won't go into it,
9 but Matthews Cremation makes both the cremation
10 equipment and also the abatement equipment which
11 they sell extensively in Europe, but have not been
12 able to sell in the United States with the
13 exception of one installation in Florida.

14 My colleague and my friend, an engineer,
15 mentioned Occam's Razor: The simplest solution is
16 the easiest one. And, actually, my daughter,
17 Elizabeth who -- she's a kind of environmentalist
18 and helicopter parent -- can I say that -- with her
19 four-year-old.

20 And she said to me some months ago, she
21 said, "Dad," when I was making my very, very best
22 argument, my very best calculated estimate of the
23 danger -- 2.5 grams of mercury emitted,
24 volatilized, and evaporated into the air in nearly
25 one cubic acre over the crematory. And a friend of

1 mine helped me with some of the math. He's a
2 mathematician and he came up with something like
3 four parts per billion.

4 And I said to her, I said, "You know, that's
5 the same amount of mercury that's in a vaccine for
6 flu. And I expected her to say, "Well, yeah, Dad,
7 you're right. You know, that's the argument.
8 That's the winning argument. It's scientific, it's
9 mathematical."

10 And she said, "No, you're wrong." And I
11 said, "Well, tell me how I'm wrong." And she said,
12 "Well, the parents are getting something for their
13 flu vaccine." And I said, "Well, okay. What?"

14 She said, "They're getting protection for
15 their children. In exchange for the possibility
16 that there's a little infinitesimal amount of
17 mercury in that vaccine, they're getting protection
18 for their children from flu." And she said, "From
19 you, they're not getting anything." And she said,
20 "And they're getting this once in several years,
21 and you're cremating 100, 200 times a year."

22 And I found that argument irrefutable. I
23 really hate that word especially when I'm arguing
24 with my kids. And, so, I said, "Okay. What is
25 your solution?" This happened about three weeks

1 ago. She said, "Pull the teeth. Pull the teeth.
2 What's the big deal? It's teeth. It's fillings."
3 She said, "You've never had a filling fall out of
4 your mouth?"

5 I said, "Well, yeah." She said, "Well, what
6 happened?" I said, "I don't know. I was eating
7 walnuts or something and I got this hull in my
8 tooth and I got it filled." And I said, "Yeah, but
9 my industry is going to hate me. Because out of
10 20,000 funeral homes in the United States or in
11 North America, no one -- not one funeral home in
12 the United States of America is doing that
13 process."

14 Instead they were having fights like this.
15 They're fighting, you know, stuff about -- they're
16 fighting the fight of mercury. A thousand pages of
17 this study, a thousand pages of that study proving
18 or disproving it's dangerous, instead of just doing
19 what's simple, actually; instead of doing what
20 is -- expressing the real concern about children.

21 You know, I was saying to my staff this
22 morning, "See, and what we do for a living is we
23 care about people, and that's what we do everyday,
24 is we fundamentally care about people."

25 And then she pointed out the inconsistency.

1 You know, if I do something that demonstrates that
2 I don't care about your children, that's wrong. So
3 what I'm going to tell you today is not probably
4 going to be well received in my -- among my
5 colleagues today, but it will be eventually, I
6 believe.

7 Let me give you a little bit of support so
8 that you'll know this is more than rhetoric. Scott
9 Gilligan is not able to be here today. Scott is
10 the representative -- he's legal counsel for the
11 National Funeral Directors Association. You know
12 him, Bob. You've heard his philosophy lots of
13 times. You gentleman all know Scott Gilligan. He
14 is the legal authority -- he's the ultimate legal
15 authority in funeral service law in the United
16 States of North America. He goes to -- he presents
17 seminars all over the United States on a regular
18 basis discussing funeral service law.

19 And he and I've talked several times, and I
20 asked him a simple question. I said, "Scott, is
21 there any prohibition, is there any state law,
22 medical law, funeral service law that you know of
23 and about that precludes me from removing a filling
24 from a human body prior to cremation?"

25 He said, "I don't know. I'm going to look

1 and do some research." So he called me a few days
2 later, and he said, "There are no prohibitions."
3 And he knows every law in every state when it comes
4 to the funeral service. I said, "Okay. We'll
5 clear that hurdle."

6 One of the things that is in a cremation
7 authorization election -- you guys know what these
8 are -- but this is a cremation authorization. It
9 is a rather lengthy document which describes
10 cremation, the process. It also says that I am --
11 My mother is X name. I am her son. I am legally
12 entitled to carry out and give my authorization to
13 this disposition and cremation. No one else is
14 entitled to do it. If I had other siblings, they
15 must sign. So this is an authorization and
16 identification. Part of this document talks about
17 the disposition of the remains and they go to -- if
18 they go to the family.

19 There's an entire section that my colleagues
20 are very familiar -- it says, "mechanical devices,
21 implants." And the traditional language says,
22 "Mechanical or radioactive devices implanted in
23 remains of the decedent, such as cardiac
24 defibrillators, pacemakers, and insulin pumps may
25 create a hazard in the cremation process."

1 And, so, what my colleagues know is that
2 when you have a pacemaker for a person who has
3 died, we remove it. That's the basic. We remove
4 the pacemaker. If they have a pump -- I'm sorry, a
5 strontium implant that deals with the direct
6 infusion of chemotherapy, it's removed because it's
7 a hazard. A pacemaker can explode in the
8 crematorium, and the strontium is dangerous as
9 well.

10 So my question became, Why don't we remove
11 dental fillings? So first, we cleared that legal
12 hurdle. The next thing to do was to contact CANA.
13 And I'd like to enter all of this document into
14 evidence which has been modified.

15 Let me read the modification (as read):
16 Some dental fillings -- this is the Mechanical
17 Devices, Implants, and Dental Fillings -- contain
18 mercury. Some dental fillings contain mercury
19 inside the rosin known as dental amalgam. While
20 most amalgam fillings contain less than 25 grams of
21 mercury, some statements have shown that mercury
22 may create a hazard during the cremation process
23 involving the possibility of vaporization of
24 mercury into the atmosphere.

25 The crematory -- this is our crematory, the

1 only one in North America -- our crematory will not
2 cremate any human remains which contain any type of
3 implanted mechanical or radioactive device or teeth
4 filled with dental amalgam containing mercury. In
5 the event remains of the deceased contain such a
6 device, implant, or dental fillings, the person --
7 I said, I hereby authorize the funeral home, its
8 agents, and employees to remove any such mechanical
9 devices, dental fillings, and/or teeth containing
10 dental amalgam from the remains of the deceased
11 prior to cremation and dispose of such items at its
12 legal discretion in compliance with EPA procedures.
13 And then they initial.

14 (WHEREUPON, the document was identified
15 and marked as Exhibit No. 3.)

16 Secondly, I'd like to introduce this letter
17 from Barbara Kemmis. Barbara Kemmis is the
18 executive director of CANA, Cremation Association
19 of North America, and has nearly 1000 crematory
20 members in North America. And she writes this
21 letter of today.

22 "Dear members of the Arkansas State Board of
23 Embalmers: I write in support of Humphrey Funeral
24 Service and Jim Bob Humphrey's plans to build and
25 install a state-of-the-art crematory. After

1 reviewing his plans for the building and equipment,
2 I can attest that his facility will join a small
3 number of such facilities across North America
4 committed to the highest standards of safety and
5 service" -- a small number committed to the
6 standards of safety and service.

7 "Furthermore, Mr. Humphrey's innovative
8 approach to mercury abatement in the form of
9 removing dental amalgam in fillings and crowns
10 prior cremation is unprecedented. The concept has
11 been discussed in California and Minnesota --" In
12 fact, in Minnesota it almost -- got very close to
13 passing this into law -- "but to my knowledge,
14 Humphrey Funeral Service will become the first
15 funeral home in North America to implement the
16 procedure.

17 "Mercury emissions, while not regulated in
18 crematories by the US EPA, is of serious concern to
19 the death care industry. The Cremation Association
20 of North America is engaged with several state and
21 provincial agencies to participate and advise on
22 mercury studies at this time. Mr. Humphrey's
23 procedure -- proposed procedure is of great
24 interest to the CANA leadership and will influence
25 the national discussion on mercury abatement.

1 "Thank you for your consideration, Barbara
2 Kemmis, Executive Director of CANA."

3 I'd like to introduce that into the record.

4 (WHEREUPON, the document was identified
5 and marked as Exhibit No. 4.)

6 If I were in your position, parents, I would
7 say, "Well, that's nice, but is he really going to
8 do that?" So I'd like to call Dr. Robert Graybill.

9 Yes, sir. Do you mind coming up to the --
10 Dr. Graybill, can you come up to the witness stand?

11 Dr. Graybill, for those of you know him, is
12 an oral surgeon. He has been an oral surgeon in
13 this community for -- how long, Dr. Graybill, have
14 you been --

15 DR. ROBERT GRAYBILL: For 32 years.

16 MR. JIM BOB HUMPHREY: For 32 years. He
17 recently retired. Congratulations. And, so, I'd
18 like to ask Dr. Graybill to talk for a few moments
19 about our discussions recently in regard to the
20 procedure and the training. Nobody's going to
21 faint. It's okay.

22 DR. ROBERT GRAYBILL: I'm Dr. Robert Graybill,
23 as Mr. Humphrey said. I practiced for
24 31-and-a-half years and I've had to retire after
25 little surgery.

1 Mr. Humphrey approached me with this idea
2 that instead of removing teeth from people which
3 seems rather devastating to me, why not just remove
4 the amalgam fillings, eliminate the mercury
5 process. He approached me on the proposal of
6 trying to train the funeral home personnel on doing
7 the procedure which would be fairly simple, same as
8 going to your general dentist and having an old
9 filling removed and a new filling put in and try to
10 be as, you know, kind to the patient as you can be
11 and eliminate the effects of the mercury vapor.

12 CHAIRMAN WOODARD: Excuse me, Dr. Graybill.

13 DR. ROBERT GRAYBILL: Yes, sir?

14 CHAIRMAN WOODARD: Can you talk into the mike?
15 The court reporter can't hear you.

16 DR. ROBERT GRAYBILL: Jim Bob asked me to come
17 and see if anyone had any questions regarding what
18 we would be doing. I'm not here to advocate or --
19 one way or the other for the crematorium. I'll do
20 what I can to make it, hopefully, easier and
21 eliminate whatever process of pollution that I can.
22 I'm willing to take any questions or whatever you'd
23 like to at this point.

24 MR. JIM BOB HUMPHREY: Dr. Graybill, can you
25 tell a little bit about the amount of time that you

1 think it will take my staff after you train our
2 staff on this procedure, about how much time do you
3 think it will take our staff members to perform the
4 procedure after they're properly trained and about
5 what kind of an investment am I going to need to
6 make in order to have the equipment to do this?

7 DR. ROBERT GRAYBILL: Okay. The investment
8 essentially involves just a high-speed end piece
9 like you've seen in any dental office, high-vac
10 suction unit, which removes all the amalgam. It
11 would be in a medical waste container at the end of
12 the procedure and be disposed of properly. You're
13 probably speaking in terms of 3000 -- 3500 for the
14 pieces of equipment.

15 Training the personnel, well, it depends. I
16 mean, everyone -- a lot of it depends. I mean,
17 you'll run in to a lot of patients that have no
18 amalgam fillings. A lot of people have had their
19 amalgams removed because of mercury toxicity, and
20 some patients may have several.

21 To remove a filling -- most of you have been
22 in a dental office. To remove a filling takes
23 about two minutes for a filling, if that length of
24 time. You can either go through the process of
25 removing a filling and putting a new filling

1 composite right back in the same area if somebody's
2 really concerned with that. So I'd say, on
3 average, a patient could probably be done in
4 20 minutes, 20-30 minutes.

5 MR. JIM BOB HUMPHREY: And this is prior to
6 embalming. Prior to embalming, Doctor.

7 We appreciate it, Dr. Graybill. Thank you.

8 I just have a closing statement I'd like to
9 make.

10 Do you have a question of the dentist?

11 MR. HUGH LAWS: I did.

12 MR. JIM BOB HUMPHREY: Dr. Graybill, I think
13 we need you to come back up here for a second.

14 MR. HUGH LAWS: I don't know if I can speak
15 from here, if I could be heard well enough.

16 MR. MARK OHRENBERGER: Come right in front of
17 us.

18 MR. HUGH LAWS: Okay. If I can be heard well
19 enough -- obviously, this is information that was
20 not provided for in the application that was before
21 the board today. But is there -- I don't know.
22 Maybe you know the answer to this.

23 Is this -- have you looked at it from the
24 standpoint of: Is this practicing dentistry, if it
25 requires licensing rather than you training some

1 unprofessional people? Have you looked at it from
2 all the kinds of perspectives that make -- if this
3 was presented to the board before today in a timely
4 fashion that these things could have been looked
5 at?

6 DR. ROBERT GRAYBILL: Yes, sir. The problem
7 is that even with the state dental board, there are
8 no regulations. This will be the first time it's
9 ever been done in the state of Arkansas. There
10 are, essentially, no regulations. But I want
11 everything above board with the Arkansas Dental
12 Board and probably the American Dental Association.
13 It will all be okayed before I do anything with
14 them.

15 MR. HUGH LAWS: So you're talking about
16 something that would have to be approved in
17 advance?

18 MR. JIM BOB HUMPHREY: My family.

19 MR. HUGH LAWS: Sir? I don't know where that
20 came from, but --

21 DR. ROBERT GRAYBILL: I don't know whether it
22 would have had to be approved, but I'm sure it will
23 be discussed with the state dental board.

24 MR. HUGH LAWS: That's all I have.

25 MR. JIM BOB HUMPHREY: Thank you, Doctor.

1 MS. LONI ICE: I have a quick question. This
2 dental abatement process where you take the
3 fillings out prior to internment, would it do
4 anything about any of the sulphur dioxide?
5 Dioxins? Furans? Any of the other pollutants?

6 DR. ROBERT GRAYBILL: Probably not. A lot of
7 the others are in other places in the body.

8 MS. LONI ICE: Thank you.

9 MR. JIM BOB HUMPHREY: I'd just like to thank
10 Robert Graybill for being here and for his
11 willingness to assist my company in doing a
12 groundbreaking procedure.

13 And I'd like to close with this statement.
14 Actually, I wanted to add one little scientific
15 note here. In terms of -- and this really
16 addresses Hugh's question. In terms of medical
17 procedures, embalmers in Arkansas are routinely
18 trained, as some of my colleagues are, for eye
19 nucleation. We remove eyes. That's where the
20 Arkansas Eye Clinic gets their eyes, special
21 training in that. I'm not a doctor, but that's
22 where the eyes come from.

23 My point is licensed embalmers get training
24 in eye nucleation. Mr. Cawley (phonetic), you've
25 been trained, and I'm sure, some of my colleagues.

1 Additionally, we routinely remove mechanical
2 implants without the supervision of a doctor, so
3 I'd just like to clear up that issue.

4 I'd like to close by saying this: I love
5 this town. This town is unique because when you
6 have a problem and you have a disagreement, you can
7 come together and come up with a solution that
8 other people don't come up with. Some people in
9 Christianity call it the "third way." It's not
10 your way or my way, it's the third way. It's a
11 different way of doing things. And it tends to
12 make people uncomfortable, but it tends to
13 accomplish a great deal of good.

14 I'll just close by saying, then, that I
15 appreciate very much the board hearing this today.
16 I also definitely appreciate all of the involvement
17 by members of the community. I appreciate your
18 comments. I appreciate your candor, your
19 frankness. That's all I have to say. Thank you
20 very much.

21 MR. BOB VEACH: Mr. Chairman, I would like to
22 address Mr. Laws' legal arguments, if I could.

23 CHAIRMAN WOODARD: Mr. Veach?

24 MR. BOB VEACH: Yes, sir. Thank you. And I
25 do have a few more exhibits that I need to add to

1 the record here for the court reporter. One is an
2 actual flash drive.

3 CHAIRMAN WOODARD: Excuse me. Can we take
4 five minutes?

5 MR. BOB VEACH: Five minutes. Absolutely,
6 sir.

7 CHAIRMAN WOODARD: We're off the record.

8 MR. BOB VEACH: Mr. Chairman, can we go back
9 on the record just so I could add these exhibits?

10 CHAIRMAN WOODARD: Yes.

11 MR. BOB VEACH: Okay. I'm handing Madam Court
12 Reporter here a flash drive which we're introducing
13 as an Exhibit to the record here that includes the
14 PowerPoint that was presented by Mr. Humphrey.

15 I'm also adding six additional letters here
16 of support; one from Jeff Smith, who is president
17 of the Arkansas Funeral Directors Association; one
18 from Veronica Desrochers; one from Denis
19 Desrochers; one from Gail and Don Lutrell,
20 L-U-T-R-E-L-L; one from John W. Shoptaw; and one
21 from Donna Frick, F-R-I-C-K. All of those will
22 collectively be a separate exhibit.

23 And lastly, as one exhibit, I'm introducing
24 expert research from the Arkansas Department of
25 Health, the EPA, as well as other officials here,

1 including the CANA, C-A-N-A, Institute for our
2 additional exhibits.

3 (WHEREUPON, the documents were
4 identified and marked as Exhibit Nos. 5, 6,
5 and 7.)

6 (WHEREUPON, after a break was taken,
7 the proceedings resumed as follows, to-wit:)

8 CHAIRMAN WOODARD: Excuse me. I'd like to
9 call this hearing back to order.

10 MR. BOB VEACH: Thank you, Mr. Chairperson.
11 Bob Veach, and I'm counsel for the applicant here.
12 While we were off the record, so to speak, the
13 court reporter and I were on the record, and I
14 added additional letters as well as some expert
15 research we're presenting.

16 Really, the most important letter that I did
17 add as an exhibit here is from Jeff Smith, who is
18 president of the Arkansas Funeral Directors
19 Association, who is in support of our project here.

20 And just so the record is clear, I'm not
21 testifying here on behalf of Humphrey. I'm here to
22 address Mr. Laws' legal arguments that he set out,
23 primarily, in the packet that he sent you-all.

24 And he said that for two reasons, legally,
25 our permit should fail here, and he is incorrect on

1 those. And he did not address them today at the
2 hearing, but I wanted to go through each one of
3 those with you-all to -- so that you know why it's
4 not correct.

5 Number one, he cites this board through its
6 own rules -- I believe it is Rule IV. It's Rule IV
7 which is "IV" and then four, which set out
8 licensures, not permits. And as the board is aware
9 today, we're here for the permit application, not
10 the licensure.

11 And whenever someone is submitting an
12 application for licensure, they have to do a few
13 additional things that we have not yet done because
14 we've not been granted a permit, so we've not been
15 asked to apply for the license yet. Mr. Laws says
16 we've failed to describe the type of structure and
17 equipment with our permit application.

18 Well, we've completed the permit application
19 that the board puts out. There's no place on there
20 to mark either one of those because it's for the
21 permit. It's not for the license. So we're not to
22 that point yet, so that reason that we should not
23 be granted the permit must fail.

24 Now, I'd like to make an alternative
25 argument there for purposes of the record in the

1 event it's denied, and through the Administrative
2 Procedures Act it goes to circuit court in the
3 event the board does not see our reasoning on that.

4 The rules that are set out by this board,
5 they're not statutes. As Mr. Chairman set out, the
6 first order of business here was to read,
7 word-for-word, the statute. These are y'all's
8 internal procedural rules. Those are flexible.
9 Y'all use those to your discretion.

10 And there's a case that is directly on point
11 on that that went up many years ago from our
12 neighboring county over here in Yell County. For
13 the purposes of your counsel, it's Yandell,
14 Y-A-N-D-E-L-L v. the Havana Board of Education.
15 And what the -- I believe that's the Arkansas
16 Supreme Court. It is.

17 It's an Arkansas Supreme Court case from
18 1979 that sets out -- and just a summary of it
19 says, This agency is better equipped based upon
20 it's specialization and insight through experience
21 and more flexible procedures than the courts to
22 determine and analyze these issues.

23 The rule we're talking would be a rule of
24 internal procedure if you even get there. I,
25 again, refer to my first argument that a body like

1 this is free to adopt its own rules of internal
2 procedure within its own discretion from
3 supervision. So even if y'all don't agree with my
4 theory on, well, this is a permit, not a licensure,
5 the fall-back -- it's a rule of internal procedure.
6 It's not mandatory. Y'all are free to do with it
7 as you wish.

8 Next in his letter, he addresses the zoning
9 issue. And like everyone here has testified, there
10 is no zoning that we would be violating here, but
11 Mr. Laws says that maybe in the year 2020, I
12 believe, we may be violating zoning laws if that,
13 in fact -- the city of Russellville expands out
14 that far. But right now, we're not doing it. We
15 complied with all the zoning laws that are in
16 effect at this time or apply at this time. And
17 that's when you look, right now, not in 20 years.

18 Lastly, Mr. Laws advised that y'all heard
19 everything here and he goes into some discussion
20 and makes an argument, and his letter does, too,
21 and that is out of that North Carolina case which
22 is -- for y'all that's -- that doesn't mean
23 anything. What he's talking about is, once we get
24 to a circuit court through the Administrators
25 Procedure Act, should that be appealed, at that

1 point, the circuit court's going to look at that
2 and say that's North Carolina law. That's
3 persuasive at best.

4 And the same cases that I cited earlier
5 actually set out what courts in Arkansas look at in
6 the event there is an appeal. They will look to
7 see this board, one, violated any of its statutory
8 provisions. Mr. Chairman, you read the statute.
9 Ms. Goode advised we complied word-for-word with
10 that. The notice has been run, we sent our
11 application in and included all the blanks there so
12 the board will not be reversed under part one.

13 Number two: In excess of the agency's
14 statutory authority. The Arkansas legislature has
15 provided you-all with the authority to grant this
16 permit, no one else. So there's no way it's going
17 to be exceeding your authority to grant us the
18 permit, so you will be upheld under number two.

19 Number three: Made upon unlawful procedure.
20 We have done everything by the book. The only true
21 procedural aspect of the statute is for us to have
22 a public hearing. We are having a public hearing
23 today. Ms. Goode was to notify in writing,
24 certified mail, all of the property owners within,
25 I believe, 250 feet. There is no property owner

1 within 250 feet. So we've already run the notice
2 in the newspaper, so there's no way that we're
3 going to be struck down here under number three.

4 Number four: Affected by other error of a
5 court of law. That does not apply at all. That
6 would mainly concern this board trying to issue us
7 an application for a gas well permit. That's not
8 y'all. Y'all can't do that. The AOGC can't issue
9 us a crematory permit. So that's not going to be
10 affected here.

11 Number five: Not supported by substantial
12 evidence of record. We have put forth both lay and
13 expert testimony showing we're not going to be
14 harming anyone, particularly the children, and
15 there is no risk of harm here.

16 Lastly, was that this board arbitrarily,
17 egregiously -- or abused its discretion in granting
18 us the permit. And the board's actions today were
19 very appropriate and very proper. This entire
20 hearing was done by the book, and there's no way
21 this board will get overturned if it issues the
22 permit.

23 I truly appreciate y'all's time and look
24 forward to working with y'all in the future.

25 CHAIRMAN WOODARD: Thank you, Mr. Veach.

1 MR. MARK OHRENBERGER: Mr. Chairman, I'd like
2 to ask that we introduce at this time as well the
3 Notice of Public Hearing into the record. I have a
4 copy here.

5 (WHEREUPON, the document was identified
6 and marked as Exhibit No. 8.)

7 MR. BOB VEACH: As well as the permit
8 application -- I believe it is.

9 MR. MARK OHRENBERGER: This permit
10 application's already part of the record.

11 MR. BOB VEACH: All right. Thank you, sir.

12 MR. MARK OHRENBERGER: And Mr. Chairman, that
13 Notice has been marked as Exhibit No. 8.

14 CHAIRMAN WOODARD: Thank you.

15 At this time, we've heard from the
16 applicants, we've heard from the opposition, and
17 we've heard the rebuttal. I would like to close
18 the hearing at this time.

19 (WHEREUPON, the hearing concluded at
20 3:10 p.m.)

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CERTIFICATE

STATE OF ARKANSAS)
)ss
COUNTY OF PULASKI)

I, Patricia Rice, CCR, Notary Public and Certified Stenomask Court Reporter No. 752, before whom the foregoing testimony was taken, do hereby certify that the same is a true and correct transcription of proceedings before the Arkansas State Board of Embalmers and Funeral Directors, that the same was heard by the board on July 29, 2014, that said testimony was reduced to typewritten form under my direction; and that the foregoing pages constitute a true and correct transcription of all evidence heard and proceedings had in said matter.

I FURTHER CERTIFY that I am not a relative or employee of any attorney or employed by the parties hereto, nor financially interested otherwise, in the outcome of this action, and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial

1 attorney, or that requires me to provide any service
 2 not made available to all parties to the action.

3 WITNESS MY HAND AND SEAL this 11th day of August,
 4 2014.

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PATRICIA RICE, CCR

Arkansas State Supreme Court
 Certified Court Reporter No. 752

