

## **Engineering Statement**

This Engineering Statement has been prepared by Donald Lynch of Horizon Broadcast Solutions, LLC on behalf of Radio Training Network, Inc. (“RTN”), licensee of WPHH, Channel 228A, Facility ID No. 62206, Hope Hull, AL. The FCC accepted for filing on February 23, 2022, a minor modification application filed by RTN for WPHH which specified operation on Channel 293A (106.5 MHz) from a different transmit location. An Informal Objection was filed on April 4, 2022 by WKLF, LLC (“WKLF”), licensee of WJKF(AM), Facility ID No. 61222, licensed to Clanton, Alabama, claiming the WPHH application did not provide a 70 dBu contour over the entire principal community of Hope Hull, AL. The Commission released a letter dated October 6, 2022 partially denying and partially granting WKLF’s Informal Objection and requiring RTN to amend its WPHH application within thirty days to avoid dismissal of the application.

This statement is in response to the Commission’s October 6, 2022 letter. The Commission denied the WKLF claim that RTN must use the Hope Hull Alabama zip code as the community boundary. However, the Commission agreed with the WKLF claim that the WPHH application city grade exhibit does not reach 80 percent of the area of Hope Hull. RTN agrees that determining the boundaries of an unincorporated community can be very difficult and will always be subjective to some degree. The Commission suggested, unless other evidence can prove otherwise, the Hope Hull Census County District (“CCD”), would be used as the community boundary for Hope Hull. However, there are no references to previous FCC cases where a CCD was used to determine a community boundary. Here RTN attempts to demonstrate that the Census County District (CCD) is unworkable and ill-considered for determining an unincorporated community’s boundary. A clear distinction between community boundaries can

be made when compared to Zip Code boundaries or Census County Districts. Both Zip Codes and CCDs encompass 100 percent of the area in the United States. For this reason alone, a CCD should not and cannot be used to define the boundaries of unincorporated communities, even in the absence of other compelling evidence. RTN presents alternate methods to determine the boundary of unincorporated Hope Hull. RTN is also filing an amendment to relocate WPHH to a different transmit location. The amended WPHH city grade contour reaches a substantially larger percentage of the disputed unincorporated area south of Montgomery. RTN presents evidence that the Hope Hull CCD is far larger than even large incorporated cities. The Hope Hull CCD also contains several other recognized unincorporated communities and has large rural areas that do not qualify as a town or community. RTN demonstrates that the Commission's suggestion for RTN to use the Hope Hull CCD as the boundaries of the unincorporated community of Hope Hull is ill-conceived and untenable.

### **Methods of Determining Boundaries of Unincorporated Community Boundaries**

RTN here will examine several methods with the goal of more accurately determining the boundary of the unincorporated community of Hope Hull, Alabama. Those methods include using highway maps and other mapping sources, road signs, geographic features, areas without any settlement, Alabama laws of incorporation, a detailed review of Census County Districts (CCDs), Census Tracts, and Census Designated Places (CDPs) with a comparison of the area sizes of Alabama CCDs compared to CDPs including cases where, like unincorporated Hope Hull, the CDP and CCD share the exact same name. RTN offers two case studies where unincorporated community boundaries were determined for other purposes and describes the methods used. The Census Bureau definition of Urban and Rural areas is detailed, as well as two case studies of full power FM stations, KHRM Round Mountain, Nevada & KPUY Garwood,

Texas, that are licensed to unincorporated communities that have a CCD with the same name. There is a discussion of the Zip Codes and unincorporated communities inside the Hope Hull CCD, and the perceptions of local residents concerning the location and boundaries of unincorporated communities in the Hope Hull CCD. RTN researched the population growth in the Hope Hull area to determine if an increase could justify an increase in the size of its boundaries. There is comparison of the area of the Hope Hull CCD with major US cities. Finally, examples of local media reports are included and a discussion about the four locations the Commission referenced in their October 6<sup>th</sup> letter as being in Hope Hull.

### **Highway Maps and Other Maps**

RTN has included a number of maps showing the location of Hope Hull. These maps span over 100 years, from 1908 to the present day. Almost without exception all the maps show a dot or marker very close to the intersection of Interstate 65 and U.S. Highway 31. This appears to be the original community of Hope Hull. Very little remains of what was the community. The post office, community center and a couple of churches still exist and are all located close to each other, just to the west of the Hope Hull marker on most maps. There is no evidence that Hope Hull extends east of I-65 on any map. The original community of Hope Hull appears to have been quite small and gradually has almost disappeared. Montgomery has annexed much of the area where the original Hope Hull community was located. Using available maps it is difficult to pinpoint the exact boundaries of Hope Hull. However, the close proximity of other unincorporated communities shown on the maps indicates it is a relatively small area. There is nothing shown on any of the maps indicating that Hope Hull is or ever was anything other than a small community. The lack of evidence about the community's history differs from other unincorporated communities in Montgomery County. There is far more information about the

Snowdown and Pintlala unincorporated communities available on line than Hope Hull. It appears the primary basis for the name Hope Hull being associated with a larger area is the Hope Hull Post Office and the Hope Hull Zip Code 36043. The Commission has already dismissed the use of zip codes to define community boundaries. RTN was unable to find any maps that indicated Hope Hull extended more than a small area around the Hope Hull marker indicated on the maps.

### **Road Signs**

One community sign or city limits sign for Hope Hull was located. It is on Wasden Road (County Road 42) about 350 feet east of the Hope Hull Post Office (*see Signs Exhibit One*). The sign is on the south side of the road facing east indicating that the western community limit was at this location at the time the sign was erected. The sign is 0.8 km. (0.5 mi.) west of the intersection of Wasden Road and U.S. Highway 31, or 1.0 km. (0.62 mi.) west of the I-65 exit (U.S. Highway 31) Hope Hull exit. The sign's coordinates are shown on the exhibit. The I-65 Exit 164 sign says Pintlala and Hope Hull. There are signs at the top of the I-65 exit 164 ramp from both directions with arrows pointing west that say Hope Hull and arrows point east that say Pintlala (*see Signs Exhibit Two*). This indicates that Hope Hull is west of I-65. Exit 164 is the only exit that mentions Hope Hull. The I-65 Exit 158 sign has Pintlala and Tyson on the sign. The signs at the top of the ramp at Exit 158 have signs with arrows pointing west with the community names of Tyson and Haynesville and Pintlala pointing east. This appears to indicate that Hope Hull is not accessed from Exit 158. (*see Signs Exhibit Three*). All of the highway distance signs on I-65 reference Hope Hull as being at Exit 164. For example, the distance sign on I-65 north at the mile market 159 says Hope Hull 5 miles and Montgomery 14 miles. (*see Signs Exhibit Four*). It should be noted that there are six miles between the I-65 Exit 158 Pintlala Tyson exit and the I-65 Exit 164 Pintlala Hope Hull exit. There are no exits on

I-65 between mile markers 158 and 164. Furthermore, there are no access roads on either side of I-65 or highway over-passes or under-passes. This six mile stretch of I-65 is very rural with no evidence of a contiguous community. Driving along this portion of I-65 it's difficult to perceive this as being anything but rural countryside. The Alabama Safari Park is located off exit 158, and north east of I-65. It is accessible from the I-65 Exit 158 on Venable Road. The unincorporated community of Snowdown lies within the Hope Hull CCD. The highway distance sign on US 331 south at the US Highway 80 intersection on the south side of Montgomery implies Snowdown is its own community (*see Signs Exhibit Five*). Further evidence of Snowdown's existence as a separate and independent community from Hope Hull is provided later in this statement. Two other unincorporated communities within the Hope Hull CCD are Davenport and Fleta. Road signs on US Highway 31 reference both communities (*see Signs Exhibit Six*). Perhaps the most significant community in the Hope Hull CCD is the unincorporated community of Pintlala. A great deal of evidence of Pintlala's existence as a separate and independent community from Hope Hull is provided later in this statement. Community boundary signs, one on US Highway 31 north of Pintlala and a second sign west of Pintlala on Old Hayneville Road (County Road 24) appear to mark the Pintlala community boundaries (*see Signs Exhibit Seven*).

### **Geographic Features**

The use of geographic features is helpful in differentiating the Hope Hull community area from other parts of the Hope Hull CCD. The large flood plain of Catoma Creek is located just north of Hope Hull. Immediately to the south, the Pinchona and Pintlala creeks flood plain restrict development in a large area south of Hope Hull and north and west of Pintlala. The lack of population in these areas is clearly due to the presence of the flood plain. For example, Interstate

65 has a series of four bridges over a stretch of almost a mile where it crosses the flood plain. Google Earth views clearly shows there are no residences or buildings in this area. (See: *Geographic Areas Map One*). The large flood plain area runs from northwest to southeast and divides the area between the Hope Hull community and the Pintlala community. There is a very large unpopulated area that stretches from west of I-65 eastward to US Highway 31. There are only a few populated areas. Areas to the north appear to be geographically tied to Hope Hull and Montgomery. Areas south of the flood plain appear to be geographically tied to Pintlala, LeGrand, Davenport and other small unincorporated communities in southern Montgomery and eastern Lowndes counties. *Geographic Areas Map Two*<sup>1</sup> shows the flood hazard area. The outlined and blue shaded areas are described as floodplain hazard areas. *Geographic Areas Map Three*<sup>1</sup> shows the one percent chance flood depth areas. Pintlala is located between the Pinchona and Pintlala Creeks, which separates area development from the Montgomery and Hope Hull areas.

### **Areas without any Settlement**

The Oxford dictionary defines community as “a group of people living in the same place or having a particular characteristic in common”. In determining the boundaries of a community, a group of people living in the same places appears to be the correct interpretation. Locations where there are large areas without settlement would be considered rural and not a community. It is common to find areas without settlement and sparsely populated areas between communities. The map *Areas Without any Settlement Map One* is a Google Earth Screenshot that shows large areas of Montgomery County south of Hope Hull are unsettled. For purposes of

<sup>1</sup> Alabama Department of Economic and Community Affairs Office of Water Resources (Maps based on FEMA data)

this statement “areas without any settlement” is defined as lacking any commercial buildings, residences or residential buildings, whether occupied or unoccupied. This unsettled land is shaded in light red on the map. The vacant land includes a large area of marshland in the flood plain, large parcels owned by single landowners, agricultural areas, pasture areas and wooded areas. The red shading is only shown for the area in dispute. There are more unsettled areas that are not identified on the map. RTN believes those areas identified on the map provide sufficient evidence that a high percentage of the Hope Hull CCD and the Hope Hull community boundary area of dispute is located in areas without any settlement. There are many additional small unsettled areas within the Hope Hull CCD that are not identified. These unsettled areas do not appear to be a part of any community. *Areas Without any Settlement Map Two* also show these same unsettled areas with red shading but provides additional details. The four locations identified by the Commission as being located in Hope Hull are shown. Those locations are the Alabama Safari Park, Beulah Baptist Church, Pintlala Elementary School and Tankersley Rosenwald School. These four locations are all separated from the main area of Hope Hull by large areas without settlement. It can also be seen that most of the settled areas are along major highways. Most of the area between Alabama Safari Park and Pintlala Elementary School is unsettled due to the large floodplain area. For such a large area with so much unsettled land to be considered all part of one unincorporated community does not seem plausible. RTN states that the evidence provided suggested the area is made up of several small unincorporated communities that are separated by large sparsely populated rural areas.

### **Alabama Incorporation Laws**

One approach in attempting to approximate the boundaries of Hope Hull was to make the assumption that local residents decided they would like to incorporate. In order to do so, there

would be a lengthy process and specific population and geographic criteria that must be met. Much of the required criteria are not relevant here and RTN will only focus on the legal criteria that relate to defining the community boundary. According to the Alabama League of Municipalities<sup>2</sup>, the community must have a population of not less than 300 persons. The community's residences must be contiguous and form a homogenous community. RTN consultant Donald Lynch spoke with Alabama League of Municipalities attorney Rob Johnston for further clarification. The term contiguous refers to individual parcels of land with residences or occupied buildings which must touch other such parcels in order to be contiguous. If occupied parcels are separated by unoccupied parcels there is a process where a community boundary can extend over unoccupied parcels to connect with another occupied parcel. However, this process is limited and in many cases approval would require evaluation and approval by the Alabama legislature. For example if the occupied parcels are separated by a small unoccupied area the probability of being able to extend the boundaries to include the non contiguous parcel would be considered more favorably than if the populated parcels are separated large unoccupied or by multiple unoccupied parcels. Johnston was less certain about the meaning of homogenous but the implied meaning here is that the residents all share the belief that they are located in a community with the same name. RTN has attempted to apply the Alabama incorporation laws to the Hope Hull area. Using the Montgomery County GIS on-line mapping program, individual parcels were identified. Those parcels that had any residence or occupied structure on them were considered a part of Hope Hull if they were contiguous with other land parcels with residences or other occupied structures. Though a burdensome process, the results were revealing. The Hope Hull boundary area identified includes a population of 263

<sup>2</sup> Incorporating a Community

Prepared by The Alabama League of Municipalities © September 2017

Creation of Municipal Corporation Section 11-41-1, Code of Alabama, 1975, as amended.



persons and an area of 8.4 sq. km., which is 2.12 percent of the Hope Hull CCD. This close to the 2.38 sq. km. average ratio of the 12 CDPs in Alabama when compared to the same named CCD they are located in. The proposed total area of 8.4 sq. km. is slightly larger the 7.02 sq. km. average area of the 130 CDPs in Alabama. See the section titled *Census Designated Places (CDP)* later in this statement. Therefore, with only 263 persons, it would not be possible for Hope Hull to incorporate under current Alabama law. RTN followed the State of Alabama criteria with one exception. A large portion of the almost universally agreed upon small area of the Hope Hull community has been annexed by the city of Montgomery. Technically, any area inside Montgomery could not be included in the Hope Hull incorporated area. However, RTN overlooks this issue to more accurately describe the unincorporated community area. This has little to no impact on the ability of WPHH to cover the community with a city grade signal. The boundary areas in dispute are well to the south of this area.

The map included with this statement titled *Hope Hull Boundaries Map One* shows the predicted boundaries using Alabama law with exception of including the portion inside Montgomery. *Hope Hull Boundaries Map Two* is a close up view of the community with the predicted boundaries shown. *Hope Hull Boundaries Map Three* is a Google Earth Screenshot of the Hope Hull area with the predicted boundaries outlined in yellow. The boundaries of the unincorporated communities of Snowdoun and Pintlala were also approximated using the same incorporation criteria. The map titled *Unincorporated Communities in the Hope Hull CCD* shows the approximated borders of the three communities. The map shows the relatively small area each community would be able to incorporate and the much larger rural areas that separate the communities.

### **Census County Districts (CCD) and Census Tracts**

According to the Census Bureau a Census County Division (CCD) is a subdivision of a county used by the United States Census Bureau for the purpose of presenting statistical data. A CCD is a relatively permanent statistical area delineated cooperatively by the Census Bureau and state and local government authorities. CCDs are defined in 21 states that do not have well-defined and stable Minor Civil Divisions (MCDs), such as townships, with local governmental purposes, or where the MCDs are deemed to be "unsatisfactory for the collection, presentation, and analysis of census statistics". There is no evidence that a Census Tract is an attempt by the Census Bureau to define the boundaries of unincorporated communities. To the contrary a CCD is normally named after an incorporated community or Census Designated Place ("CDP"). CCD boundaries are typically the same as or quite similar to Census Tracts for the same area. In this case the Hope Hull CCD is identical to the Montgomery County, AL Census Tract 59.01. According to the Census Bureau, a Census Tract is a geographic region defined for the purpose of taking a census. Sometimes these coincide with the limits of cities, towns or other administrative areas and several tracts commonly exist within a county. In unincorporated areas of the United States these are often arbitrary, except for coinciding with political lines. Census Tracts are designed to be relatively homogeneous units with respect to population characteristics, economic status, and living conditions and average about 4,000 inhabitants.

The boundaries of Census Tracts are based partly on achieving a particular size population within each tract. For that reason Census Tracts in large urban areas tend to be very small and in rural areas they can be quite large. This appears to conflict with the idea that they should be used to define the boundaries of an unincorporated community. A CCD named after an

unincorporated community is quite rare. It appears to occur when no incorporated community is available. Until 1998 the only incorporated community in Montgomery County was the city of Montgomery. In 1998, Pike Road, a suburb of Montgomery, was incorporated as a town. As of the 2020 Census, Montgomery and Pike Road are the only incorporated communities in Montgomery County. Like Hope Hull, Pike Road is also a CCD. Included in this exhibit is a map titled *CCDs and Census Tracts Map One* that shows the corporate limits of Pike Road as well as the Pike Road CCD. The town of Pike Road total area is only 17.8 percent of the Pike Road CCD. It should be noted that the original 1997 corporate limits of Pike Road were much smaller than they are today. Through numerous annexations, due mainly to rapid population growth in the area, the Pike Road community boundaries cover a much larger area today. Like Hope Hull, a substantial part of the Pike Road CCD is inside the city of Montgomery. This lack of incorporated communities is due in part to Alabama law which requires a community to have a minimum of 300 persons in order to incorporate. Other requirements for incorporation are that residences must be contiguous and must form a homogenous community. The Hope Hull CCD and Census Tract 59.01 contain large areas of unpopulated and rural land. It clearly would not meet the state standard for incorporation. To further demonstrate that use of the Hope Hull CCD as the community boundary is inappropriate and ambiguous, two charts are included with this exhibit. The first chart titled *CCDs and Census Tracts Chart One* shows the 20 largest cities in Alabama ranked by total area. The Hope Hull CCD, if it were an incorporated community would be the third largest city in Alabama by area. Only Huntsville and Montgomery are larger. In contrast, the population density of the Hope Hull CCD is only 26.77 percent of the Hamilton CCD, the least densely populated CCD in the Top 20.

The second chart titled *CCDs and Census Tracts Chart Two* compares the Hope Hull CCD with the 130 Census Designated Places, or CDPs, in Alabama. Later, RTN will present additional evidence that CDPs are the closest government application of community boundaries to unincorporated communities. Here the difference in area is striking. The Hope Hull CCD area of 152.28 sq. mi. is 4.45 times larger than Alabama's largest CDP, McCalla, which has an area of 34.21 sq. mi. The average percentage of the area of the 130 CDPs in Alabama compared to the CCD they are located in is 2.71 percent.

### **Census Designated Places (CDP)**

Since 1950 the Census Bureau has utilized Census Designated Places or CDPs as a method to determine boundaries for unincorporated communities. According to the Census Bureau, CDPs usually physically resemble incorporated places in that they contain a residential nucleus, have a closely spaced street pattern and frequently have commercial or other urban types of land use. According to the Census Bureau, CDPs are the statistical equivalents of incorporated places. The primary differences are the lack of a legally defined boundary and an active, functioning governmental structure chartered by the state and administered by elected officials. The Census Bureau relies on the assistance of local census statistical areas committees (CSACs), various state authorities, and other organizations to identify potential CDPs and update existing ones. CDPs distinguish an area as being a community, distinct from other areas and communities. Other governmental agencies have copied the same geographic criteria as CDPs for gathering statistical data. An exhibit titled *Census Designated Places (CDP) Exhibits* is a comprehensive study comparing the Hope Hull unincorporated community and Hope Hull CCD to every CCD in the state of Alabama that has a CDP with the same exact name. Twelve CCDs were identified and mapped. They compare the area of the CCD to the area of the same named CDP. Each map

clearly identifies the CCD and CDP. The area and population of each is shown in the upper left hand corner of each map. One CCD, Millerville - Hollins includes two separate CDPs, Millersville and Hollins. It was included because it appears to meet the same name criteria. The area and population of the two CDPs was combined. A summary of the findings is at the beginning of the exhibit. It shows that the ratio of CCD to CDP area is striking. The average CDP in this group is only 2.37 percent the area of its corresponding CCD. The largest ratio was Lookout Mountain where the CDP area was 30.20 percent of the CCD. The smallest, the Peterman CDP was just 0.33 the area of the Peterman CCD. In conclusion CDPs are defined as being the statistical equivalents of incorporated places and they are used to distinguish the difference between unincorporated rural communities and unincorporated areas. A CDP boundary, or utilizing the criteria used to determine a CDP boundary, is a far more accurate and appropriate method to determine an unincorporated community boundary than using a CCD.

### **Case Studies of Unincorporated Communities Case Study No. One – San Joaquin Valley California**

*Unincorporated: Mapping Disadvantaged Communities in the San Joaquin Valley*<sup>3</sup> is a 2013 report prepared by Policy Link and the Community Equity Initiative. The purpose of the report was to make visible the hundreds of communities that have gone neglected and ignored and are suffering critical challenges of livability as a result. The initiative sought to provide local and state officials, policymakers, advocates, and community organizations with a better sense of where underserved, unincorporated communities are located, and seeks to bring the problems they face into the public view. In *Unincorporated: Mapping Disadvantaged Communities in the San Joaquin Valley* a distinction was made between unincorporated rural communities and

<sup>3</sup> PolicyLink: C. Flegal, S. Rice, J. Mann, J. Tran California Unincorporated: Mapping Disadvantaged Communities in the San Joaquin Valley Policylink, Oakland, California, United States (2013)

unincorporated areas. The report used the same parcel density as the Census Bureau uses to determine Census Designated Places.

Parcel Density: The project focused on identifying places that are closely settled with a large number of homes, rather than very spread out rural communities. From publicly available sources, the outlines of parcels (land that is subdivided into lots) were gathered. The areas with a density of at least 250 parcels per square mile were identified. This benchmark was chosen because it is comparable to the density of Census Designated Places (unincorporated communities tracked by the Census Bureau).

The report identified 525 distinct, low-income, densely settled, unincorporated areas that emerged and are home to over 300,000 people in the San Joaquin Valley. This research identified many communities that are smaller than Census Designated Places. One hundred forty-nine of these disadvantaged unincorporated communities were located within existing Census Designated Places. The report is relevant here because it demonstrates that there are other entities seeking to define the boundaries of unincorporated communities. The Community Equity Initiative determined the best method to establish unincorporated community boundaries in their study was to apply the same criteria as the Census Bureau uses to determine Census Designated Places (CDPs).

### **Case Studies of Unincorporated Communities** **Case Study No. Two – Odell, Oregon**

The Oregon Land and Conservation Department requires every county in Oregon to provide maps showing the boundaries of all unincorporated communities. It requires counties to

establish boundaries of unincorporated communities in order to distinguish lands within the community from exception areas, resource lands and other rural lands. The unincorporated community of Odell, Oregon, like hundreds of other Oregon communities, underwent a detailed study to define the boundaries of its community<sup>5</sup>. The initial study identified three potential geographic definitions for Odell. The report admitted that their proposed Maximum Discussion Option clearly appeared to violate the state's requirements by identifying too large of an area and was unlikely to be accepted. The exhibit titled *Case Studies of Unincorporated Communities Exhibits* includes a map of the Moderate Discussion Option ("MDO") area. The MDO was stated as likely being too large but might be accepted by the state. Odell is also a Census Designated Place (CDP) and maps which show both the Moderate Discussion Option and the CDP are compared with the Odell CCD. Both areas appear to encompass the core area and population of the small community. The Odell CDP is larger than the Moderate Discussion Option.

Three other maps are included with this exhibit. Map One shows the entire Odell CCD along with the Odell CDP and the proposed Odell MDO boundary. Map Two is a close-up map of the Odell CDP shaded in green with the Odell MDO boundary outlined in blue. Map Three is a close-up of the Odell MDO shaded in blue with the Odell CDP outlined in green. Also included from the report are the MDO map and a page called the MDO discussion explaining the rationale for the chosen boundaries. The Odell Moderate District area represents 2.0 percent of the Odell CCD area while the Odell CDP area represents 2.7 percent of the Odell CCD area. These percentages are quite similar to the 2.37 percent ratio of the 12 Alabama places which share both

<sup>5</sup> Thrive Hood River Hood River Rural Communities; Odell Unincorporated Community Boundary Initial Discussion Options (2014)

a CDP to CCD with the same exact name. The total area of both the Odell CDP, 2.02 sq. mi., and Moderate Discussion Option, 1.54 sq. mi., are also similar to the 2.71 sq. mi. average size of the 130 CDPs in the state of Alabama. This data is included in the RTN comments concerning Census Designated Places. This example illustrates that when an unincorporated community seeks to define its boundaries it must comply with state guidelines which limits the maximum area possible.

### **Census Bureau Definition of Urban vs. Rural Areas**

The Census Bureau defines Urban and Rural areas on the basis of population density. Urban areas are of two types—urbanized areas and urban clusters—identical in the criteria used to delineate them but different in size. The Census Bureau defines an urbanized area wherever it finds an urban nucleus of 50,000 or more people. They may or may not contain any individual cities of 50,000 or more. In general, they must have a core with a population density of 1,000 persons per square mile and may contain adjoining territory with at least 500 persons per square mile. The same computerized procedures and population density criteria are used to identify urban clusters of at least 2,500 but less than 50,000 persons. This delineation of built-up territory around small towns and cities was first introduced in 2000. According to this system, rural areas consist of open countryside with population densities less than 500 people per square mile and places with fewer than 2,500 people.

Approximately 52 percent of the population of the Hope Hull CCD is inside the city of Montgomery. That area is only 11.5 percent of CCD area. The remaining area contains 3,625 persons with a population density of 27.8 persons per square mile. The population density of the



city of Montgomery is 1,212.8 persons per square mile. It seems unlikely that any government entity would define an area this sparsely populated as having community boundaries that extended for miles. An exhibit titled *Census Bureau Definition of Urban vs. Rural Areas Exhibit* is a population density map that shows the Hull Hope CCD has a very small and scattered population density. The population cells are small and widely scattered. This low population density is not indicative of a “community”, whether incorporated or unincorporated.

### **KHRM(FM) Round Mountain, Nevada & KPUY Garwood, Texas**

RTN presents further evidence that use of a CCD as a community boundary is untenable. Two full power FM stations were identified that demonstrate that had the Commission required the CCD boundary to be the community boundary, both stations applications would have been dismissed. These two examples have the exact same circumstances as WPHH. Both stations are licensed to unincorporated communities that are located in a CCD with the exact same name. In one case, Radio Goldfield Broadcasting, Inc. (“Goldfield”), was granted a construction permit for KHRM, Channel 212A, Round Mountain, NV. The construction permit would not have been granted based using the Commission’s suggested CCD policy. In fact, only 13.2 percent of the Round Mountain CCD is reached with the KHRM FCC F(50,50) 60 dBu contour. A minimum of 50 percent coverage of the community of licensed is required. The second example is KPUY, Channel 247A, Garwood, Texas. Here the KPUY FCC F(50,50) 60 dBu contour reaches 85.7 percent of the Garwood, Texas CCD. FCC policy requires that the community boundary must be 100 percent contained inside the FCC F(50,50) 60 dBu contour. This applies to applications utilizing alternative propagation methodologies such as Longley-Rice. There are likely other examples of currently permitted or licensed full power radio stations that would not meet the

excessive standard of the CCD boundary. Maps for both stations show their respective city grade contours do not meet the minimum FCC standard for city grade coverage of the CCD. RTN does not believe these stations should be required to meet the CCD coverage standard. Rather, the Commission should give pause to suggesting a CCD as a possible community boundary because it is impractical and ill-conceived. The *KHRM(FM) and KPUY Exhibit* includes city grade coverage maps showing their respective CCDs and the estimated community boundaries from both station's FCC application. Copies of the engineering technical exhibits for both stations are also included.

### **Hope Hull, Other Unincorporated Communities & Zip Codes in the Hope Hull CCD**

The Commission's letter also references four locations that are part of the Hope Hull CCD but not inside RTN's WPHH application community boundary area. The common characteristic of all four locations is they all are located in the Hope Hull zip code and have a Hope Hull mailing address. RTN asserts that this is the primary and possibly only reason these locations have been identified as being "in" Hope Hull. The Commission letter states that zip codes have not been generally relied upon to establish community of license boundaries. The Hope Hull zip code contains mostly rural areas. A Hope Hull address does not mean the address is located in the community proper. As RTN has previously shown, zip code areas are typically much larger than the community they are associated with and often contain large sparsely populated rural areas. This is the case with the Hope Hull zip code. There are five other zip codes in the Hope Hull CCD. They are 36046, Lapine, AL, 36047, Letohatchee, AL, 36069, Ramer, AL, 36105 and 36108, Montgomery, AL. No locations in any of these zip codes were mentioned in the Commission letter as being in Hope Hull. A large portion of the area depicted in the Hope Hull CCD is also sparsely populated rural areas. The inclusion of the name Hope Hull in a business

does not inherently mean that business is located in Hope Hull. There are many businesses that use a community in their name but they are located outside the city limits of that community.

The argument that the unincorporated community of Hope Hull boundaries should be the CCD is further weakened by the presence of other unincorporated communities inside the CCD. While it is equally difficult to define the exact boundaries of these communities, there is ample evidence that they are real communities, separate and distinct from Hope Hull. Recognition of these other unincorporated communities demonstrates that the entire CCD is not a realistic community boundary for Hope Hull. Also, because these communities are south of Hope Hull it means that parts of the Hope Hull community would be either discontinuous or the other unincorporated communities are enclaves inside of the unincorporated community of Hope Hull. Two other unincorporated communities are discussed here. They are Pintlala and Snowdown. Snowdown is inside the Hope Hull CCD but is located in a Montgomery zip code.

### **Pintlala**

Pintlala is located inside both the Hope Hull CCD and the Hope Hull zip code. Pintlala Elementary School is one of the four locations identified by the Commission as being located in Hope Hull. RTN challenges this assumption. Pintlala is a small rural community with significant indicia as being a community. It's located on U.S Highway 31 (The Federal Highway) at the intersection of Old Haynesville Road, about 12 miles south of downtown Montgomery. The community's origins date back to the early 1800s. The Pintlala Elementary School, which opened in 1923, is located in the core area of the small community. The Pintlala Branch Library, part of the Montgomery City-County Public Library system is located there. There is a community park, Pintlala Park, which is part of the Montgomery County Parks and

Recreation. The Pintlala Water System serves the surrounding area. The Pintlala Volunteer Fire Department has two stations. Station One is located in Pintlala across the street from the Pintlala Elementary School. Station two is located about 6.5 miles south of Pintlala in a rural area. At least two churches, Pintlala Methodist Church and Pintlala Baptist Church are located there. Mosley's Store is a general store, auto and small engine repair and gas station. Three properties in Pintlala, Bethel Cemetery, Pintlala School, and Tabernacle Methodist Church, are listed on the Alabama Register of Landmarks and Heritage. There is an on-line newspaper, The Pintlala Ledger which serves the community. The Pintlala Historical Association was established in 1987 and serves the community with quarterly meetings, newsletters and on-site visits. Articles and photographs documenting the presence of the Pintlala community are also included as exhibits. Volume 2 Issue No. 3 of the Pintlala Ledger is attached and includes an article about the Tankersley – Rosenwald School Historic Preservation Project. It appears the publisher believes the school is part of the Pintlala Community. There is also a story from WFSB, Channel 12 in Montgomery about a gas leak in Pintlala. The reference to the gas leak location is Pintlala and not Hope Hull. Clearly, the residents of Montgomery County understand the difference between the Hope Hull and Pintlala communities. The central Pintlala community area is located about five miles south of the southern most part of the Hope Hull boundary shown in the February 23, 2022 WPHH application. The Tankersley Rosenwald School is located approximately 2.5 miles south of the center of Pintlala or 7.5 miles south of the southern most boundary of Hope Hull as identified in the WPHH application. This is a substantial distance for a small community boundary and the Pintlala community is located directly between the two locations.

## **Snowdown**

Snowdown is located on U.S Highway 31 approximately 9.5 miles south of downtown Montgomery. A post office operated under the name Snowdown from 1859 to 1957. Snowdown Volunteer Fire Department and Snowden Water System are also located in Snowdown. Snowdown Park is part of the Montgomery County Parks and Recreation. Snowdown Church and Snowdown Baptist Church are located in Snowdown. EZ Mart convenience store, Snowdown Veterinary Hospital, Altheia Food and Nutrition, Seacoast Disposal, Pirtle Fishing Lake and Rancho El Paraiso, an event venue are among the businesses located in Snowdown. Included in the exhibits included about Snowdown is an article from the Montgomery Advertiser about the Snowdown Latino Festival, held at Racho El Paraiso. An article by WFSA Channel 12 in Montgomery is about the high number of accidents in Snowdown on Highway 331. There is clear evidence that Snowdown is a community, separate and distinct from Hope Hull or any other community.

## **Hope Hull**

Donald Lynch, technical consultant for RTN visited the Hope Hull – Montgomery County area for two days in October, 2022 to gather research for this statement. Lynch was only able to locate one community sign for Hope Hull. It is located on Wasden Road just east of the Hope Hull post office. The Montgomery County Highway Department was unable to date the placement of the sign. A spokesperson for the department said the sign was placed there before any of the current employees began working there. Therefore, they were unable to provide a date. They did say it would have been located at what was considered the community limits at the time it was placed there. A map showing the Hope Hull post office and community sign is included with this exhibit. Lynch was unable to locate a town center or core community for Hope Hull. Large portions of what is considered to be Hope Hull have been annexed by the City

of Montgomery and have been developed as industrial areas. There are also a number of hotels and fast food restaurants near the I-65 and US 31 intersection. The area looks very suburban and relatively new. Very little remains of the original Hope Hull community and much of the original community has been replaced with newer non-residential construction. This differs greatly from Pintlala and Snowdown. Those communities have an older, identifiable community center where most of the non-residential buildings are located close together.

### **Local Perceptions**

Lynch, while visiting the Hope Hull – Montgomery County area, spoke with many people who either worked or lived in the area south of Montgomery that includes Hope Hull. Many people were either unwilling to comment or were unsure about the location of the Hope Hull community. When asked if they live in the Hope Hull community, a frequent comment was “I have a Hope Hull address. Does that count?” However, local residents who lived in other unincorporated communities were more forthcoming. Almost all the people interviewed who lived in the Pintlala community stated they did not live inside Hope Hull, even though they had a Hope Hull address. One person commented on the fact that Pintlala had a Post Office in the past. Another explained that the local residents had attempted to incorporate Pintlala a few years ago but were unsuccessful. Residents of Snowdown were just as confident that Snowdown was a separate community regardless of their Montgomery mailing address. When asked to identify the boundaries of their community, residents of Pintlala, Snowdown and Hope Hull all described a large community area that covered several square miles each. For example, some residents of Pintlala described an area that extended all the way to the Lowndes County line. The described boundaries for the three communities as perceived by local residents overlap each other considerably. Therefore the perceived area appears to be larger than the actual area if one

assumes that any one unincorporated location can only be located in one community. With the exception of densely populated urban areas most small incorporated communities do not share boundaries with other unincorporated communities. Virtually all rural areas in the United States have far more unincorporated area than incorporated. Outside of urban areas, there are usually large unincorporated areas between towns. Even when two incorporated towns are connected, there are still large areas of unincorporated area surrounding the communities. The assumption that the boundaries for Hope Hull, Pintlala and Snowdoun are connected and that there is no area between that is not a part of one of the three communities is not logical. This concept is discussed in more detail in the Census Designated Places section of this statement.

Two residents signed letters stating their belief that Pintlala was a separate and independent community from Hope Hull. Those letters are included with this exhibit. This is important since the FCC letter mentions the Pintlala Elementary School as being in Hope Hull.

Lynch was able to contact two professionals who both had grown up in and around Hope Hull. Michael Atkins is a local realtor and Steven Kohn is an engineer. Both wrote letters and provided maps identifying where they believed the Hope Hull boundaries should be located. While not exactly the same, they identify very similar areas. The two maps share a high percentage of the same area. Atkin's map extends further west to the Pintala Creek and also further south coming closer to Pintlala. Both areas are substantially larger than the polygon used in the WPHH application, but much smaller than the Hope Hull CCD. Both maps show the Beulah Missionary Baptist Church of Hope Hull as being inside the Hope Hull community. Neither map show the Pintlala Elementary School or Tankersley-Rosenwald Schools as being in Hope Hull. In the email from Kohn, which is also included, he states strongly his belief that

neither Pintala Elementary nor Tankersley Rosenwald School are in Hope Hull. Kohn's map has the Animal Safari Park located in Hope Hull. Both letters support RTN's belief that the area of Hope Hull is restricted to the east by Snowdown and to the south by Pintlala. While very helpful, it appears that like other local residents, both Kohn and Atkins have overstated the actual Hope Hull boundaries as both appear to show Hope Hull is connected to Snowdown and Pintalala. Local community member perceptions are helpful but are not the best method to determine the boundary of an unincorporated community.

### **Hope Hull, Alabama Population Growth**

One possible rationale for increasing the boundaries of Hope Hull is population growth in the area. An increase in population could justify an expansion of the perceived boundaries. RTN analyzed five different actual and estimated boundaries to determine the growth rate. The population change from the 2010 to 2020 US Census was calculated for all of Montgomery County, the Hope Hull CCD, the Hope Hull Zip Code area, the Hope Hull community boundaries used in the February 2022 WPHH application and Hope Hull boundaries derived from applying the Alabama laws of incorporation. In all five cases there has been a decrease in population. The population decrease for Montgomery County was very small, practically unchanged from 2010 to 2020. The rate of population decrease is greatest in the two Hope Hull community boundaries where both decreased by over 25 percent in just ten years! This is due in part to the commercial and industrial development in the Interstate Industrial Park. This large industrial park covers most of the area of Hope Hull and is zoned heavy industrial. The city of Montgomery has annexed most of the area in and around the tiny Hope Hull community. Hotels and restaurants are located next to Interstate 65 and the industrial area is adjacent. Much of the land that once was the community of Hope Hull is now industrial and part of Montgomery. The



population of the Montgomery area is rapidly shifting towards the east, especially in the Pike Road area. Pike Road, a suburb southeast of Montgomery, is one of the fastest growing towns in Alabama. RTN concludes that Hope Hull, however it is defined, is not growing but is losing population rapidly. There is no basis to expanding the boundaries of Hope Hull based on population increases. A chart of the growth pattern of the five areas is shown on the exhibit titled *Hope Hull, Alabama Population Growth*.

### **Hope Hull CCD Area Compared to other Cities in the United States**

The Hope Hull CCD has a total area of 153.2 sq. mi. If it were a city it would be the 36<sup>th</sup> largest city in area in the United States ranking between Denver, CO (152.29 sq. mi.) with a population 738,594 and Bakersfield, CA (149.76 sq. km.) with a population of 414,649. The population density is also revealing. Denver has a population of 4,818.3 persons per sq. mi. and Bakersfield is 2,768.7 persons per sq. mi. The Hope Hull CCD has a population density of 49.1 persons per sq. mi. Other major US cities with a total area smaller than the Hope Hull CCD include Philadelphia, PA (134.28 sq. mi.), Detroit, MI (138.72 sq. mi.), Atlanta, GA (135.74 sq. mi.), Portland, OR (133.42 sq. mi.), and Seattle, WA (83.86 sq. mi.) These comparisons clearly indicate that the unincorporated community of Hope Hull total area should much smaller and with a much higher population density than the Hope Hull CCD.

### **Local Media Reports, Alabama Safari Park and Tankersley Rosenwald School**

The exhibit titled *Local Media Exhibits* includes an article from the Montgomery Advertiser titled *Rural living at Hope Hull* dated December 8, 2018. The article is attributed to Paul Sullivan, an employee of Workforce Development, State of Alabama. In the article Paul describes the community of Hope Hull as “stretching from Highway 80 (Selma Highway) south

and east toward the Hyundai plant and Interstate 65 south”. This describes a fairly small area, mostly inside the Montgomery city limits. This location is further supported later in the article when Sullivan describes the Hyundai plant as being within five minutes of a Hope Hull address and both the Montgomery airport and the Coca-Cola bottling plant as being within five minutes from Hope Hull. Further evidence is provided in the form of reports from WSFA TV 12 accident reports which contain information provided by the Alabama State Police concerning accidents on I-65 in Montgomery County. Those reports indicate the Alabama State Police references the I-65 exit 164 as being the location of Hope Hull. Also included are highway signs on I-65 indicating the exit for Hope Hull is 164. The exit 158 sign makes no reference to Hope Hull but does list Pintlala and Tyson on the sign. Also, near I-65 mile marker 159 is a sign indicating the distance to Hope Hull is 5 miles. Many businesses outside the community of Hope Hull have a Hope Hull zip code. Those businesses often list their address as Hope Hull or in Hope Hull. RTN believes the use of Hope Hull in a business name does not necessarily mean the business owner believes his business is located “in” the Hope Hull community. One of the four locations identified in the Commission’s letter as being in Hope Hull is Alabama Safari Park. Their mailing address is 1664 Venable Road, Hope Hull, AL 36043. However, the signs on company vehicles and business cards say Alabama Safari Park Montgomery (See *Local Media Exhibits - Alabama Safari Park*). Efforts were made to contact Eric Mogensen, the park’s owner but were unsuccessful. Cathy Schuford, Guest Service Manager also declined to comment on the park’s location. Schuford stated that all employees have been instructed not to discuss potentially controversial matters with anyone. RTN consultant Donald Lynch contacted Judd Davis, an anchor at WSFA, Channel 12 in Montgomery, AL, and author of the 2018 article referenced in the FCC’s 30 day letter footnotes as *WSFA12 News, Alabama Safari Park Opens for Business*. Davis stated that he had looked on the park’s web site to obtain the

address. This was the sole reason he identified Hope Hull in the article. A copy of the email Davis sent Lynch is included with this application (See *Local Media Exhibits - Alabama Safari Park*). Another of the four locations is the Tankersley Rosenwald School. The school has been closed for many years and there is no one to contact at the school. The school has received national attention because it is one of over 5,000 Rosenwald Schools built between 1917 and 1932 to serve black children. The schools were a partnership between educator Booker T. Washington and Sears Roebuck and Co. executive Julius Rosenwald. There is an ongoing fund raising effort to renovate this historic building. Media references to the Tankersley Rosenwald School often originate from national news outlets with no knowledge of the geography of the area. RTN believes the use of Hope Hull as the location of the school in media reports is based almost entirely on its the postal address, 198 School Spur Road, Hope Hull, AL 36043. The exhibit titled *Local Media Exhibits* includes a section called *Tankersley Rosenwald School Exhibit* which includes an article in the March 1, 2021 Pintlala Ledger about Lassiter's Hardware. The article references Lassiter's Hardware as being on the southern fringe of the Pintlala community. Also included is a map that shows Hope Hull, Snowdown, Pintlala, Lassiter's Hardware and the Tankersley Rosenwald School. Lassiter's Hardware is 1.5 miles south of Pintlala and the school is over a mile southeast of Lassiter's Hardware and almost nine miles south of Hope Hull. Local references to this area being Pintlala should be considered more accurate than articles from national news sources which are based on the school's mailing address of Hope Hull. It is RTN's belief that the Tankersley Rosenwald School is far removed from the community of Hope Hull and is either in the Pintlala community or located in rural southern Montgomery County and not in any community.

## **Conclusions**

This comprehensive study provides a great deal of information which provides proof that the Hope Hull community boundaries are in reality quite small. RTN in its amended application proposes operating from a different tower seven miles further south than the current application. This site will provide a city grade signal over a much greater area of the Hope Hull CCD than the previous application. RTN has provided additional larger boundaries based on local perceptions which should satisfy the Commission that, even using the broadest interpretation of the boundaries of the unincorporated area of Hope Hull, the WPHH city grade signal will cover all of the Hope Hull community. Highway maps and other road signs are included in this statement that span over 100 years all place Hope Hull in the same exact place, which is adjacent to the current southern boundary of the city of Montgomery near the I-65 and US Highway 31 interchange. Road signs provide evidence of the location of Hope Hull based on the exit signs and the mileage distance signs on Interstate 65. Other road signs show the recognition of other small unincorporated communities within the Hope Hull CCD. Geographic features show a large floodplain area south of Hope Hull that separates development and communities from north to the south. The thriving community of Pintlala is south of the floodplain and is considered its own separate community. There are large areas without any settlement south of Hope Hull due largely in part to the floodplain areas and a lack of roads and bridges across this area. The Alabama laws of incorporation provide perhaps the best evidence of the real boundaries. It shows that if the community of Hope Hull attempted to incorporate it would be defined with a very small area and a population too small to qualify for incorporation. The detailed study of Census County Districts (CCDs) and Census Tracts show that they were never intended to be used to define community boundaries. A chart demonstrates that the area of the Hope Hull CCD, if incorporated or considered to represent a single unincorporated area would be the third largest

city in Alabama by area and that the population density is far too small to be considered a city or a community. The Census Bureau has stated that Census Designated Places (CDPs) are the equivalent of community boundaries for unincorporated communities. RTN compared the Hope Hull CCD to other CCDs in Alabama which contained Census Designated Places (CDPs) with the exact same name. It found the average area for the CDP was just 2.37 percent of the same named CCD. A chart ranking all of the 130 CDPs in Alabama by area is included. It shows that the Hope Hull CCD is 4.5 larger than the largest CDP in the state. Two case studies are provided where previous methods of determining the boundaries of unincorporated communities are discussed. The first case showed that a government backed study in California used the same criteria as the Census Bureau uses for CDPs. The second case is in Oregon, where all unincorporated communities are required to provide community boundaries that comply with Oregon state laws. Odell, OR is an unincorporated community and CDP located in the Odell, Oregon CCD. The largest area the Odell community felt could comply with Oregon state law was just 2.0 percent the area of the Odell CCD. The Odell CDP is just 2.7 percent the size of the Odell CCD. The Census Bureau definition of Urban and Rural is reviewed. A majority of the population of the Hope Hull CCD is located inside the city of Montgomery. The population density of the remainder of the CCD is just 27.8 persons per square mile. The Census Bureau defines rural as less than 500 persons per square mile!

The Hope Hull CCD is a very large area (397.1 sq. km.) and is 21 percent larger than the Hope Hull Zip Code (326.9 sq. km). The CCD includes parts of six different zip codes and numerous other unincorporated communities. Two case studies of existing radio stations were provided. Both stations were licensed to unincorporated communities located in a CCD with the same name. In both instances the FCC could not have granted a construction permit because neither

would have met the FCC minimum standard for city grade coverage of the entire CCD. One station only reaches only 13.2 percent of the area of the CCD. This clearly demonstrates that the use of a CCD for a community boundary has not been applied in previous cases and is not practical. RTN shows that two communities inside the Hope Hull CCD are separate and independent unincorporated communities. Both Pintlala and Snowdoun are legitimate unincorporated communities, likely more so than Hope Hull. This is important since one of the locations cited by the Commission as being in Hope Hull is the Pintlala Elementary School, which is located in the center of Pintlala. The Pintlala Elementary School web site shows the school's address as Montgomery, AL. Following a visit to Montgomery County, Hope Hull, Pintlala, Snowdoun and Montgomery, RTN technical consultant Donald Lynch obtained information about the local perceptions of the community boundaries of Hope Hull, Snowdoun and Pintlala. The maps and letters clearly show the perception that these three communities are independent and separate from each other. These local perceptions are helpful but are not the best method to determine the boundaries of an unincorporated community. Several examples of local media reports show the perceived location of Hope Hull while others clearly recognize Snowduon and Pintlala as independent communities.

RTN believes this statement provides overwhelming evidence that the amended WPHH application covers the entirety of the community of Hope Hull with a city grade signal. The strongest evidence provided is the method of applying the Alabama state laws for incorporation. The Census Bureau uses a similar method to define the unincorporated community boundaries of CDPs. The evidence shows that if Hope Hull were a CDP, its boundaries would be very small. The geographic feature of a floodplain and large unsettled areas clearly separate the Hope Hull CCD into at least two areas. Finally, the use of local perceptions is helpful even though most

residents seem to overestimate the boundaries of their community and assume that it extends to border with other communities. RTN proposes that if Hope Hull is as large as is being considered by the Commission, it would already be incorporated or a CDP would have been created by the Census Bureau. RTN also hopes the Commission will refrain from suggesting the use of a CCD as a potential community boundary. This ill-conceived policy would create an unreasonable and often impossible standard for licensing stations in rural areas. It appears to fly in the face of the intent behind the Commission's Second Report and Order in *Rural Radio*<sup>6</sup> released on March 3, 2011 and CC 12-127 and Second Order on Reconsideration in *Rural Radio*<sup>7</sup> released on October 12, 2012, which sought to promote the retention and creation of radio services in rural areas.

<sup>6</sup> *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Second Report and Order, First Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 26 FCC Rcd 2556 (2011) ("Second R&O").

<sup>7</sup> *Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures*, Second Order on Reconsideration, FCC 12-127 (rel. Oct 12, 2012) ("Second Order").