

Before The
Federal Communications Commission
Washington, D.C. 20554

In re Application of)	
)	
CALL COMMUNICATIONS GROUP, INC.)	FCC File No. 0000186693
)	
For a Construction Permit)	Facility ID No. 61088
For a Minor Modification of)	
WMFL, Palmetto Bay, FL)	

To: Chief, Audio Division, Media Bureau

Reply to Opposition to Informal Objection

Bascomb Memorial Broadcasting Foundation (“Bascomb”), licensee of noncommercial educational station WDNA, Miami, Florida, Facility ID 4030, by its attorney and pursuant to Section 73.3587 of the Commission’s Rules, hereby respectfully replies to the “Opposition to Informal Objection” of Call Communications Group, Inc. (“Call Comm” or “WMFL”), filed June 8, 2022, and opposes its amended modification application.

Although Call Comm resolved some of the technical issues WDNA exposed in its Informal Objection, the amended WMFL’s proposal continues to include a request for waiver of FCC Rule 73.509 for prohibited overlap with WDNA. It seeks a Raleigh waiver¹ to allow it to *cause* interference to WDNA. Its amended application failed to make a showing sufficient to justify the waiver.

As stated in the Informal Objection, Rule 73.509 provides that an application to modify an NCE-FM station will not be accepted if the proposal would involve overlap of the 100 dBu and 60 dBu contour of a second- or third-adjacent channel with the 60 dBu or 100 dBu contour

¹ *Educational Information Corporation (WCPE)*, 6 FCC Rcd 2207 (1991) (“EIC,” also known as a *Raleigh* waiver).

of another NCE-FM station. WDNA operates on a second-adjacent channel to WMFL. The 100 dBu contour of WMFL's amended application impermissibly overlaps the 60 dBu contour of WDNA in an area with 12,373 residents and a busy highway in the middle of the area of overlap. See Exhibit 1 containing the Engineering Statement of Carl Gluck,

In its Opposition and waiver request, Call Comm claims it is allowed to cause interference to WDNA because of a condition on WDNA's license that further modification of WMFL "will not be construed as a per se modification of WDNA's license." See BMLED-20130605AAC, Condition 2.² WMFL takes that as complete carte blanche to make any change it wants no matter how extreme. The standard for granting a Raleigh waiver, however, still requires that the waiver serve the public interest.

This waiver request is not WMFL's first Raleigh Waiver request either. WMFL already obtained a waiver to move closer to Miami, Florida, in FCC File No. BPED-20030813AEY. Attached as Exhibit 2 is a copy of that earlier request for waiver of Rule 73.509. WMFL cited the public interest benefit in that 2003 request the reduction in the area of overlap with WDNA to one that had *zero* population. In the instant amended application, however, WMFL's interfering contour overlap to WDNA will cover a population of 12,373. Going from zero population to 12,373 does not serve the public interest.

Raleigh waivers are allowed when the proponent agrees to accept received overlap, not cause greater overlap to populated areas. This is not an application in which WMFL is moving and proposes to *receive* greater overlap. Instead, it is *causing* overlap to WDNA. The arguments and cases cited in Bascomb's Informal Objection still pertain to WMFL's amended application: "While the Commission has and will, when sufficient justification is proposed, allow an existing NCE station to receive prohibited overlap when improving the station's facilities, [the applicant]

² The condition was first imposed on WDNA in BPED-19960614MA.

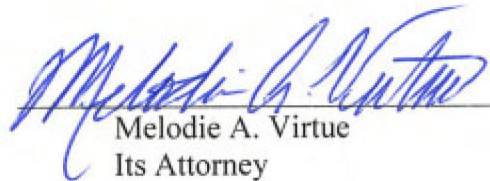
has provided no precedent in which the staff has permitted such stations to cause prohibited overlap, and we are aware of none, particularly in circumstances in which an applicant has failed to show that rule-compliant operations are not feasible.”³

Conclusion

Owing to the noncompliance of WMFL’s application with the Commission’s rules and an insufficient showing to support a waiver, Bascomb asks that the Commission dismiss or deny WMFL’s modification proposal.

Respectfully submitted,

BASCOMB MEMORIAL BROADCASTING FOUNDATION



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³ *Spirit Radio of North Florida, Inc.*, 24 FCC Rcd. 2958, 2961 (F.C.C. 2009) (emphasis in original).

EXHIBIT 1



**Engineering Statement of Carl Gluck in support
of a Reply to Opposition regarding
the Application of WMFL 203(C3) Florida City, FL
FCC Facility ID 61088**

I am employed as a senior engineer in the firm of Carl T Jones Corp located in Springfield, VA. Bascomb Memorial Broadcasting Foundation, licensee of radio station WDNA(FM) 205(C2) Miami, FL, has authorized this firm to prepare this statement to support a Reply to Opposition regarding the amended application (BLANK-0000186693) of Call Communications Group, Inc., licensee of radio station WMFL(FM) 203(C3) Florida City, FL.

Call Communications has submitted an amendment to the application for Construction Permit proposing to change the City of License to Palmetto Bay, FL, change the transmitter site, and the effective radiated power. The facility proposed in the amended application will create an area of new, prohibited, interfering contour overlap with WDNA(FM) in violation of 47 C.F.R. 73.509. The amended application contains an exhibit entitled "Request for 73.509 Waiver Regarding WDNA". It appears the applicant is seeking what is commonly referred to as a "Raleigh Waiver". It is noteworthy that WMFL has already executed one Raleigh Waiver since WDNA was last licensed (FCC File No. BPED-20030813AEY). This latest application is a repeat attempt to again use a Raleigh Waiver to hop closer toward Miami. This time, however, the applicant fails to satisfy the Raleigh Waiver requirements. Namely, a Raleigh Waiver

may allow an NCE station to receive, not cause, overlap from second or third adjacent channel stations. The amended application proposes to create a new area of interference within the WDNA 60 dBu coverage area. Exhibit 1 shows the proposed area of NEW interference to WDNA. Exhibit 2 is a Close-Up of the NEW interference area on a USGS Quad Map that shows a busy highway runs through the area. There are 12,373 residents located in this area. This proposal would cause irreparable harm to WDNA without any compelling benefit to the public.

This statement and attached exhibits was prepared by me, or under my direct supervision, and is believed to be true and correct. So stated under penalty of perjury.

Carl E. Gluck, CPBE

June 22, 2022

Exhibit 1 - New Area of Interference to WDNA in Violation of 47 C.F.R. 73.509

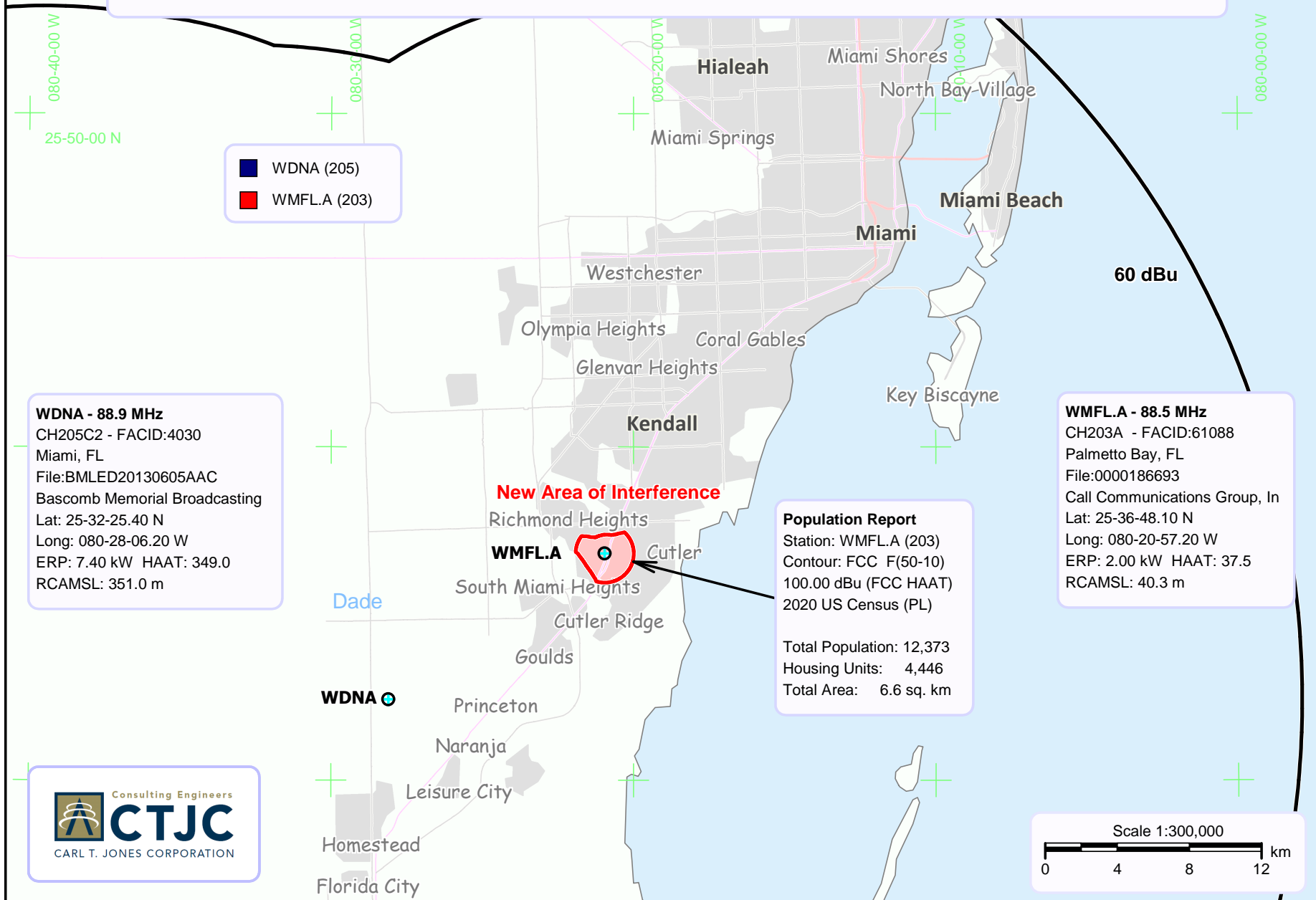


Exhibit 2 - Close-Up of New Interference Area in Violation of 47 C.F.R. 73.509

- WDNA (205)
- WMFL.A (203)

WMFL.A - 88.5 MHz
CH203A - FACID:61088
Palmetto Bay, FL
File:0000186693
Call Communications Group, In
Lat: 25-36-48.10 N
Long: 080-20-57.20 W
ERP: 2.00 kW HAAT: 37.5
RCAMSL: 40.3 m

Population Report
Station: WMFL.A (203)
Contour: FCC F(50-10)
100.00 dBu (FCC HAAT)
2020 US Census (PL)

Total Population: 12,373
Housing Units: 4,446
Total Area: 6.6 sq. km

100 dBu

WMFL.A

East
Perrine

WEST
PERRINE

Perrine

Peters



Scale 1:24,000

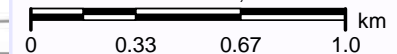


EXHIBIT 2

Relationship of WMFL to WDNA (CP)

The 60 dBu protected contour of WDNA (CP) receives interference from WMFL's licensed 100 dBu interference contour. This situation arose when WDNA filed a major change application to modify its licensed facility to relocate and increase its power (application BPED-19960614MA).

WDNA's application was returned on September 24, 1996 as it specified overlap of its 60 dBu with WMFL's 80 dBu. WDNA filed a petition for reconsideration on October 24, 1996 which included a request for waiver of Section 73.509 for received interference from WMFL's 80 dBu contour. In this request, WDNA stated that the overlap area between WDNA's 60 dBu contour and WMFL's CP 80 dBu contour consisted of 45 sq. km, of which 36 sq. km was over water or uninhabitable areas, resulting in 9 sq. km of habitable area of overlap or .16% of WDNA's proposed 60 dBu contour, affecting 9,069 persons or .58% of WDNA's proposed 60 dBu contour population. Also, WDNA would receive overlap from WMFL's modified facility (now licensed) of 62.9 sq. km, with approximately 90% or 55.5 sq. km being over water, and that the overlap over habitable land was approximately 6.5 sq. km or .01% of WDNA's proposed 60 dBu contour, affecting a population of approximately 5,500 people or .35% of WDNA's proposed 60 dBu contour population.

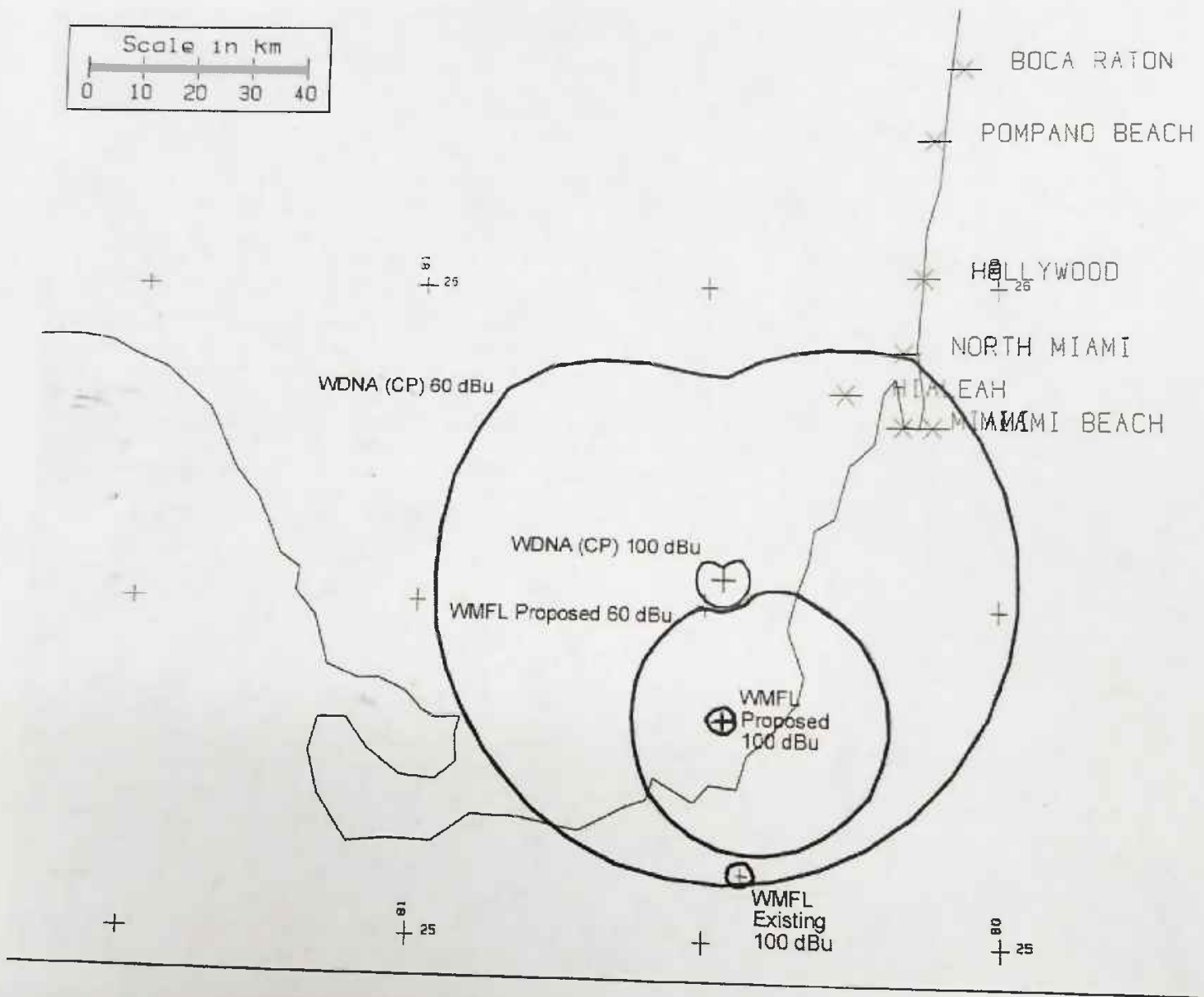
WDNA's petition for reconsideration was accepted per the FCC's letter dated March 25, 1997. This letter stated the FCC's policy for considering second and third adjacent waivers in its reference to a similar request submitted by WCPE(FM), Raleigh, NC in the *Educational Information Corporation* case which stated "The Commission has long recognized the unique characteristics of the noncommercial service and the need for flexibility to respond to the growing demand for such service. We are also more sensitive today to the increasing limitations within the reserved band which reflect the increased demand for service over the last 30 years. For these reasons, we are now inclined to grant waivers of second or third adjacent channel overlap in circumstances such as WCPE's, where the benefit of increased noncommercial educational service so heavily outweighs the potential for interference in very small areas. However, because of the concern for the ability of the stations causing interference to make any future changes in their own facilities, as discussed below, we believe that the waiver of interference received must be granted with the acknowledgement that future modifications proposed by the affected licensees will not be construed as a *per se* modification of the waiver recipient's license." WDNA's application was reinstated, its request for waiver was granted, and WDNA later received a construction permit for its requested facility.

This minor modification of WMFL will reduce the interference caused to WDNA (CP). At the time of WDNA's waiver request, the interference contour for a second adjacent channel was the 80 dBu contour. The second adjacent channel interference contour is now the 100 dBu contour. WMFL's 100 dBu contour contains 3,070 persons and has an area of 12.57 sq. km. This is .18% of WDNA's (CP) 1 mV/m contour area of 6,850 sq km, and .20% of WDNA's (CP) 1 mV/m contour population of 1,551,340. The 100 dBu contour from WMFL's proposed location will contain zero population, and have a slight increase in area to 16.38 sq. km, which is .24% of WDNA's (CP) 1 mV/m contour area and 0% of WDNA's (CP) 1 mV/m contour population. Even though the area affected will increase by .06%, the affected population will be a 100% reduction, thus potential interference to WDNA (CP) will essentially be eliminated. Furthermore, WDNA (CP) has a 60 – 61 dBu signal strength at WMFL's licensed location (49.15 km). WDNA (CP) has a 73 – 74 dBu signal strength at WMFL's proposed location (25.47 km). This will also reduce the potential for interference to WDNA (CP). Another added benefit of WMFL's relocation is a reduction of interference to WTVJ Channel 6 TV in that the population within the FM predicted interference area will be reduced from 2,954 to 17 persons.

Based on the above, the applicant requests a waiver of Section 73.509 in order to be allowed to move WMFL's licensed facility to the proposed location specified in this minor modification. The applicant believes that this waiver is warranted and supported by the FCC's statement in its March 25, 1997 letter to WDNA that "Further modification to construction permit BPED-940531MB, Florida City, FL, will not be construed as a *per se* modification of WDNA's license (See *Educational Information Corporation*, 6 FCC Rcd. 2207 (1991))."

Relationship of WMFL to WDNA (CP)

Map of WMFL & WDNA (CP) Protected / Interference contours



Certificate of Service

I, Cindy Lloyd, an employee with Foster Garvey PC, hereby certifies that a copy of the foregoing “Reply to Opposition to Informal Objection” was served this date by via email to the following:

Albert Shuldiner, Chief
Audio Division, Media Bureau
Albert.Shuldiner@FCC.gov

James Bradshaw, Senior Deputy Chief
Audio Division, Media Bureau
James.Bradshaw@FCC.gov

Robert Robbins
President and General Manager to Call Communications Group, Inc.
radiodataservices@radiodataservices.com
rob@callfm.com

A handwritten signature in dark ink, reading "Cindy Lloyd", is written over a horizontal line.

June 22, 2022