

The Colorado River Commission of Nevada (Commission) meeting was held at 1:30 p.m. on Tuesday, June 9, 2020 via video conference, pursuant to Emergency Directive 006, section 1.

### **COMMISSIONERS IN ATTENDANCE**

Chairwoman  
Vice Chairwoman  
Commissioner  
Commissioner  
Commissioner  
Commissioner

Puoy K. Premsrirut  
Kara J. Kelley  
Dan H. Stewart  
Cody T. Winterton  
James B. Gibson  
Allen J. Puliz

### **COMMISSIONERS NOT IN ATTENDANCE**

Commissioner

Marilyn Kirkpatrick

### **DEPUTY ATTORNEY GENERAL**

Special Counsel, Attorney General

Christine Guerci

### **COMMISSION STAFF IN ATTENDANCE**

Executive Director  
Senior Assistant Director  
Chief of Finance and Administration  
Assistant Director, Hydropower  
Assistant Director, Engineering and Operations  
Assistant Director, Energy Information Systems  
Manager, Natural Resources Program  
Senior Energy Accountant  
Natural Resource Analyst  
Natural Resource Analyst  
Senior Energy Accountant  
Senior Energy Accountant  
System Coordinator  
Office Manager  
Administrative Assistant IV  
Administrative Assistant IV  
Administrative Assistant II

Eric Witkoski  
Sara Price  
Douglas N. Beatty  
Gail Bates  
Robert Reese  
Kaleb Hall  
Angela Slaughter  
Gail L. Benton  
Warren Turkett, Ph.D.  
Peggy Roefer  
Stefani Salleroli  
Richard Sanders  
Chris Smith  
Gina L. Goodman  
Kathryn Aguilar  
Kira Bakke  
Tamisha Randolph

### **OTHERS PRESENT; REPRESENTING**

NV Energy  
Southern Nevada Water Authority  
Southern Nevada Water Authority  
Overton Power District  
Titanium Metals Corporation  
Olin Clor Alkali  
University of Nevada, Las Vegas

Michael Hulin  
Scott Krantz  
Jordan Bunker  
Mendis Cooper  
Jeff Searles  
Gil Doucet  
Matthew Whinery

**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF JUNE 9, 2020**

**INDEX**

<b><u>Agenda Item</u></b>	<b><u>Subject</u></b>	<b><u>Page No.</u></b>
A.	Conformance to Open Meeting Law .....	1
B.	Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken) .....	1
C.	<i>For Possible Action:</i> Approval of minutes of the April 14, 2020 meeting.....	1
D.	<i>For Possible Action:</i> Consideration of and possible action to approve beginning the process to repeal NAC 538.060 Office of Commission.....	1
E.	<i>For Possible Action:</i> Consideration of and possible action to approve Right of Access Agreements between the Colorado River Commission of Nevada and each of the following corporations: 1) Pioneer Americas LLC d.b.a Olin Chlor Alkalai Products, 2) Lhoist North America of Arizona, Inc., and 3) Titanium Metals Corporation. ....	4
F.	<i>For Information Only:</i> Introduction of the Commission’s Fiscal Year 2022 and 2023 budget recommendation.....	6
G.	<i>For Information Only:</i> Update on pending legal matters, including Federal Energy Regulatory Commission or Public Utilities Commission of Nevada filings.....	7
H.	<i>For Information Only:</i> Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada’s consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River .....	8
I.	Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.) .....	8

**COLORADO RIVER COMMISSION  
OF NEVADA  
MEETING OF JUNE 9, 2020**

**INDEX (Continued)**

<b><u>Agenda Item</u></b>	<b><u>Subject</u></b>	<b><u>Page No.</u></b>
J.	Comments and questions from the Commission members .....	8
K.	Selection of the next possible meeting date .....	9
L.	Adjournment .....	9

The Colorado River Commission of Nevada (Commission) meeting was called to order by Chairwoman Premsrirut at 1:32 pm.

**A. Conformance to Open Meeting Law.**

Executive Director Eric Witkoski confirmed that the meeting was posted in compliance with the Open Meeting Law.

**B. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)**

Chairwoman Premsrirut asked if there were any comments from the public.

There were none.

**C. For Possible Action: Approval of minutes of the April 14, 2020 meeting.**

**Commissioner Gibson moved for approval of the minutes. The motion was seconded by Vice Chairwoman Kelley and approved by a unanimous vote.**

**D. For Possible Action: Consideration of and possible action to approve beginning the process to repeal NAC 538.060 Office of Commission.**

Mr. Witkoski introduced the item and related that due to the outdated schedule requirement and the need for flexibility in location of the Commission office, Staff is recommending that the Commission start the process to repeal NAC 538.060.

Special Counsel Christine Guerci explained that NAC 538.060 Office of Commission was added to the regulatory framework in 1985, approximately thirty-five years ago. It reads:

NAC 538.060 Office of Commission. The principal office of the Commission is located at 555 East Washington Avenue, Suite 3100, Las Vegas, Nevada. The office of the Commission will be open from 8 a.m. to 5 p.m. each day except on a Saturday, Sunday or legal holiday.

Due to ongoing issues surrounding the Grant Sawyer building, the state may seek to move the Commission out of the building, or the Commission may desire to secure a new location for its office. NRS 538.121 gives the Executive Director the statutory authority to determine the precise location of the Commission's office, provided it is located in Clark County.

The hours requirement is a carryover of the old NRS 281.110 which used to require state office hours of 8 am - 5 pm Monday to Friday. This statute was amended in 2011 to remove that requirement and allow for variable schedules with the

requirement that office hours be posted near the agency's entrance and on the agency's website.

Ms. Guerci explained that this vote by the Commission was not to repeal the regulation itself, but to move forward with the process of repealing the regulation. If approved by the Commission, Staff will hold a public workshop and report the language of the proposed repeal to the Legislative Counsel Bureau (LCB) who will review the repeal and return it to Staff, who will again present the repeal to the Commission for a final vote.

**Vice Chairwoman Kelley commended Staff for their foresight on this matter and moved for approval to begin the process to repeal NAC 538.060 Office of Commission. The motion was seconded by Commissioner Puliz and approved by unanimous vote.**

**E. *For Possible Action:* Consideration of and possible action to approve Right of Access Agreements Between the Colorado River Commission of Nevada and each of the following corporations: 1) Pioneer Americas LLC d.b.a. Olin Chlor Alkalai Products, 2) Lhoist North America of Arizona, Inc., and 3) Titanium Metals Corporation.**

Executive Director Eric Witkoski introduced the item, explaining that NAC 538.570 states that "On or before September 30, 2017, each contractor, or an agent of a contractor, that obtains all of its electric power from the Commission, must provide the Commission with the ability to physically disconnect the contractor's power for failure to pay a power invoice from the Commission in a timely manner, without adversely impacting the delivery of power to other contractors." This regulation is applicable to the Commission's contractors at the Black Mountain Industrial (BMI) Complex and staff has been working with these contractors to ensure their compliance.

The Commission, as part of its approval process for the Tronox/EMD sale required an execution of a Right of Access Agreement (ROA). The EMD ROA was executed in the Fall of 2018.

Staff has explored various options with the other BMI contractors including the installation of electrical equipment which would allow the physical cut off of power to the contractor's facilities should they fail to pay a Commission invoice. However, this option is very costly. The attached Right of Access Agreements, modeled after the EMD ROA, provide a contractual mechanism for the Commission to protect its financial interests.

Under the ROA, if a Contractor fails to pay its bill, and has been served with the appropriate notices for suspension of electric service, Commission staff may enter the premises of the contractor with the contractor, witness the contractor electrically isolating its own equipment, and install a CRCNV lock on the contractors' electrical facilities. The ROA also provides for the entry by Commission staff, alone, if the Contractor refuses to accompany staff.

These ROAs, in conjunction with the collateral posted by these contractors, will adequately protect the Commission from financial liability in the event of their failure to pay a Commission invoice and bring the contractors into compliance with NAC 538.570.

Assistant Director, Hydropower, Gail Bates further explained that Staff brought an item before the Commission in December of 2019 to approve the amount of collateral for the Commission's customers at the BMI Complex. During that meeting, the need to complete the Right of Access Agreements was discussed. Ms. Bates also thanked the Commission and the contractors for helping to complete the agreements.

Staff recommended approval of the Right of Access Agreements Between the Colorado River Commission of Nevada and each of the following corporations: 1) Pioneer Americas LLC d.b.a. Olin Chlor Alkalai Products, 2) Lhoist North America of Arizona, Inc., and 3) Titanium Metals Corporation.

Chairwoman Premsrirut thanked Staff and Ms. Bates for their work on this matter and clarified that the briefing material for this item included contracts signed by the pertinent entities, allowing the assumption that the customers' consent to the terms of the contracts has been obtained.

The Chairwoman then asked if the Commission's approval of this item bestowed the ability to execute these contracts and their consequences on the Executive Director of the CRCNV.

Mr. Witkoski affirmed that this was correct.

**Commissioner Winterton moved for approval of the Right of Access Agreements Between the Colorado River Commission of Nevada and each of the following corporations: 1) Pioneer Americas LLC d.b.a. Olin Chlor Alkalai Products, 2) Lhoist North America of Arizona, Inc., and 3) Titanium Metals Corporation. The motion was seconded by Commissioner Stewart and approved by unanimous vote.**

<p><b>F. <i>For Information Only:</i></b> Introduction of the Commission's fiscal year 2022 and 2023 budget recommendation.</p>
---

Chief of Finance and Administration, Douglas Beatty, presented the CRCNV budget recommendation for fiscal year 2022 and 2023.

Mr. Beatty stated that Staff met with the CRCNV's power customers on May 26, 2020 and separately with Southern Nevada Water Authority (SNWA) to discuss the preliminary budget recommendation, and there have thus far been no objections.

The budget will be presented at the August Commission meeting for adoption with any further changes resulting from additional customer and Commission review.

Chairwoman Premsrirut commended Mr. Beatty and Staff for their hard work on the budget recommendation and presentation of a summary for the Commission.

Chairwoman Premsrirut then asked for clarification on the opinion of the CRCNV's customer base of outsourcing certain functions typically executed by the agency.

Mr. Beatty explained that there had been no formal discussion with the customers regarding outsourcing, but that the overall opinion was a preference to maintain agency control of such functions.

Chairwoman Premsrirut commented that the four categories of deviation requested by the CRCNV's customers detailed in the report seemed reasonable.

**G. For Information Only: Update on pending legal matters, including Federal Energy Regulatory Commission (FERC) or Public Utilities Commission of Nevada (PUCN) filings.**

Special Counsel Christine Guerri presented an update on pending legal matters involving the Commission.

In *Navajo Nation v. Department of the Interior*, currently before the 9<sup>th</sup> Circuit court, the interveners, including the CRCNV, filed a joint answering brief on April 27, 2020 arguing that the Supreme Court, in *Arizona v. California*, has retained exclusive jurisdiction over the water allocation issues raised by the Navajo and that the breach of trust claim asserted by the Navajo against the Federal government was correctly decided by the lower court. The interveners are asking that the appeal be dismissed. The Navajo's Reply Brief is due on June 17, 2020.

In May, the Ninth Circuit has ordered that this case be heard before the same panel that heard the previous appeal in this matter. It is a three-judge panel – there will be one new Judge - Kenneth Lee, appointed in June 2019.

In *Save the Colorado v. Dept of the Interior*, currently before the District Court of Arizona, the court granted the States Joint Motion to Intervene on April 23, 2020. Nevada has joined with the other Basin States (with the exception of New Mexico) in participating in this matter. SNWA was also recently permitted to intervene in this case, they are participating with the other water purveyors. Colorado River Energy Distributors Association (CREDA) has already intervened as well as the Irrigation & Electrical Districts' Association of Arizona (IED).

In addition to intervening, IED asserted a counterclaim seeking an order requiring the Federal defendants to prepare a "supplemental Environmental Impact Statement (EIS) focusing on additional downstream mitigation measures that

would restore the operational flexibility of Glen Canyon Dam's power plant.” On June 2, 2020, the Federal defendants filed an answer denying the claims of IED.

On May 29, 2020, the Court issued on its own initiative an Order discouraging the use of uncommon acronyms in motions and briefs. And further ordering that all motions and briefs containing abbreviations, including acronyms, must include a glossary defining each abbreviation.

For the interventions filed with the Federal Energy Regulatory Commission (FERC) for the Little Colorado River; on May 21, 2020, FERC released its Orders for both projects which issued preliminary permits and granted priority to file license application. Any such application must be filed within 36 months of the preliminary permit being issued.

The Orders discussed the many interventions that had been filed, including the CRCNV, and the concerns raised about the effects of project construction and operation, on:

- water resources,
- public lands,
- tribal lands,
- fish and wildlife,
- historic and cultural resources,
- recreation,
- scenery,
- safety,
- the Salt River Reclamation Project,
- Bureau of Reclamation’s Glen Canyon Dam, and
- Grand Canyon National Park

FERC found the concerns raised were premature because permits do not authorize construction and operation of a project and the development of a license application is not guaranteed. Further, the issuance of a preliminary permit is issued only to allow the permit holder to investigate the feasibility of a project while the permittee conducts investigations and secures necessary data to determine the feasibility of the proposed project and to prepare a license application. It does not authorize a permittee to undertake any ground disturbance or to enter onto any lands.

Chairwoman Premsrirut asked if there were any further questions or comments from the Commission.

There were none.



**H. For Information Only: Status update from Staff on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, the drought contingency plan, impacts on hydropower generation, electrical construction activities and other developments on the Colorado River.**

Dr. Warren Turkett, Natural Resource Analyst, gave a status update on the hydrological conditions, drought, and climate of the Colorado River Basin, Nevada's consumptive use of Colorado River water, and other developments on the Colorado River.

- Summary of Lake Powell, Lake Mead, and Nevada Water Supply
- Precipitation and Temperature
- Upper Basin Snowpack Accumulation
- Water Use in Southern Nevada
- Unregulated Inflow, Current and Projected Reservoir Status

A copy of the report is attached and made a part of the minutes. (See Attachment A.)

**I. Comments from the public. (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken.)**

Chairwoman Premsrirut asked if there were any other comments or questions from the from the public.

There were none.

**J. Comments and questions from the Commission members.**

Chairwoman Premsrirut asked if there were any other comments or questions from the commission members.

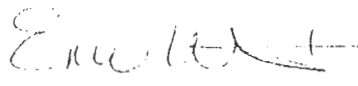
There were none.

**K. Selection of the next possible meeting date.**

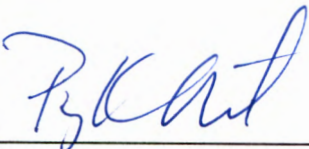
The next meeting is tentatively scheduled for 1:30 p.m. on Tuesday, July 14, 2020, at the Clark County Government Center, Commission Chambers, 500 South Grand Central Parkway, Las Vegas, Nevada.


L. **Adjournment.**

The meeting was adjourned at 2:49 pm.

  
Eric Witkoski, Executive Director

APPROVED:

  
Puoy K. Premsrirut, Chairwoman




# Colorado River Commission of Nevada

## Hydrology and Water Use Update

Warren Turkett

June 9, 2020



1

## Summary

### Lake Powell

- Upper Basin snowpack reached the seasonal average in April.
- Dry conditions in April and May have reduced the unregulated inflow forecasts.
- Water Year 2020 unregulated inflow is forecasted at 62% of average.

### Lake Mead

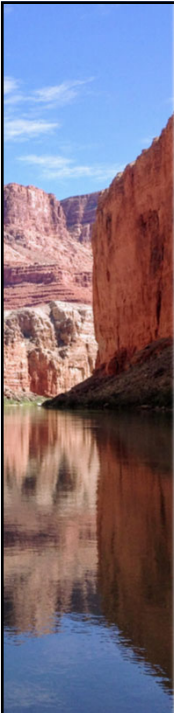
- Based on Reclamations April 24 Month Study Lake Powell will not have a balancing release for the remainder of Water Year 2020.
- Reclamation has essential staff continuing to operate the reservoirs water releases and hydropower generation.

### Nevada Water Supply

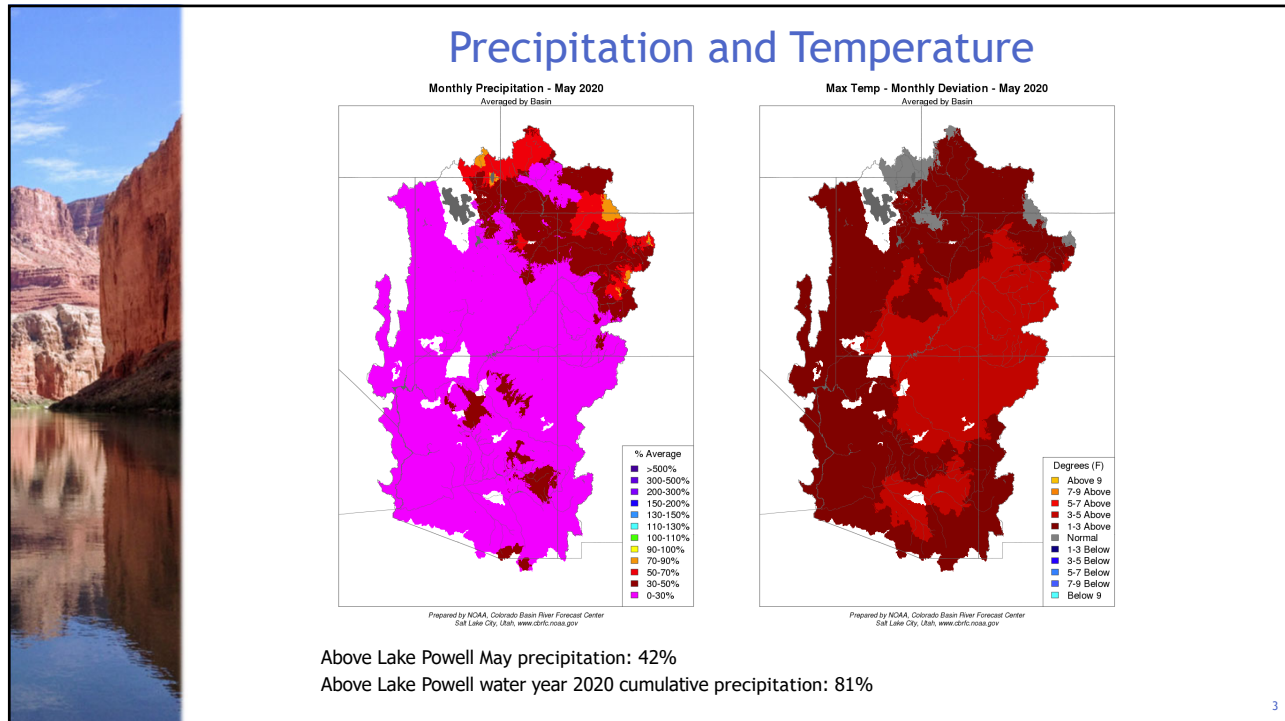
- Southern Nevada has 9 years of water supply banked. <sup>1</sup>
- **In 2019, Southern Nevada used 22% less than its annual allocation.**

Storage	Elevation (f)	% Capacity	Change since last year
Lake Mead	1,090.6	42%	4.5 ft
Lake Powell	3,606.5	50%	19.1 ft

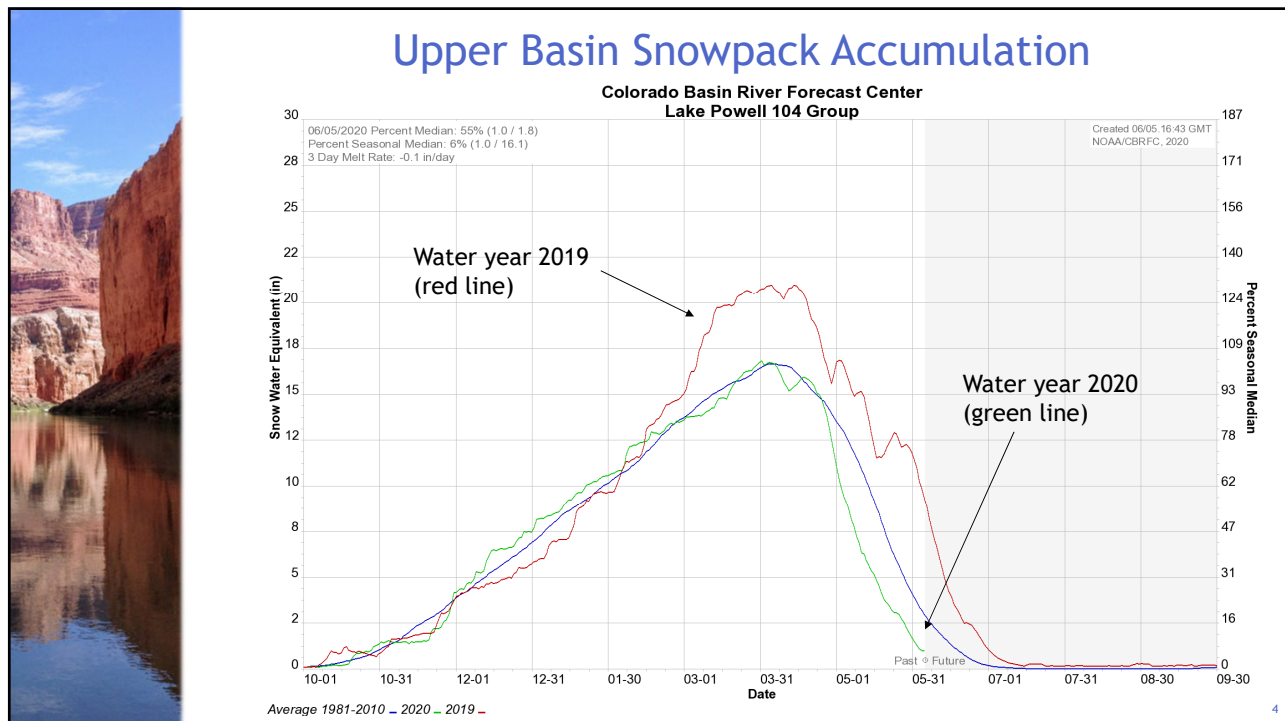
Data retrieved June 5, 2020  
<sup>1</sup> Based on historical Southern Nevada water use.



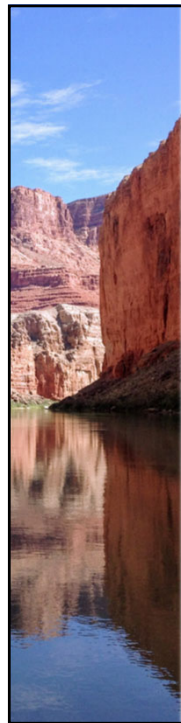
2



3



4



## Unregulated Inflow, Current and Projected Reservoir Status

Projected unregulated inflow to Lake Powell	Acre-Feet	% Average
Water Year 2020	6,762,000	62%*
April thru July 2020	4,100,000	57%*

\* 2020 forecast reduced due to below average precipitation and dry soil conditions.

Reservoir	Current Elevation	Current Storage Acre-Feet	Current % Capacity	Projected Elevation on 1/1/2021 <sup>1</sup>
Lake Mead	1,090.6	10,912,000	42%	1,086.4
Lake Powell	3,606.5	12,377,000	50%	3,600.7

Data retrieved June 4, 2020

<sup>1</sup> Based on Reclamation's May 2020 24 Month Study Most Probable Inflow.

5

5



## Water Use In Southern Nevada

Southern Nevada Water Use	2019 Actual Use in Acre-Feet
Nevada Annual Allocation	300,000
Diversion	472,314
Return Flows	238,318
Consumptive Use	233,996
Unused Allocation Available for Banking	66,004, (22%)

Southern Nevada Water Use	Diversions	Return Flows	Consumptive Use
January-April 2020	126,029	77,430	48,599

Banked Water (through end of 2019)	Acre-Feet
Ground Water Recharge in So. Nevada	358,315
Banked in Lake Mead	785,913
Banked in California and Arizona	944,071
Total	2,088,299

6

6