

**Executive Summary – Enforcement Matter – Case No. 65128**

**360 Comal Storage, LLC**

**RN111774238**

**Docket No. 2023-1744-EAQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

EAQ

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

360 Comal Commercial, 276 Purgatory Road, New Braunfels, Comal County

**Type of Operation:**

Construction site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 21, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,000

**Amount Deferred for Expedited Settlement:** \$5,400

**Total Paid to General Revenue:** \$10,800

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$10,800

Name of SEP: The Guadalupe-Blanco River Trust (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 1, 2023

**Date(s) of NOE(s):** December 1, 2023

**Executive Summary – Enforcement Matter – Case No. 65128**  
**360 Comal Storage, LLC**  
**RN111774238**  
**Docket No. 2023-1744-EAQ-E**

***Violation Information***

Failed to obtain approval of an Edwards Aquifer Protection Plan prior to conducting regulated activities over the Edwards Aquifer Recharge Zone. Specifically, 24.0 acres of soil disturbing activities had commenced and a total of 1.75 acres of impervious cover was constructed prior to approval of a Water Pollution Abatement Plan [30 TEX. ADMIN. CODE § 213.4(a)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By December 22, 2023, the Respondent submitted and obtained approval for a Water Pollution Abatement Plan under Edwards Aquifer Protection Plan ID No. 13001831.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Megan Crinklaw, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1129; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**SEP Third-Party Administrator:** The Guadalupe-Blanco River Trust, 933 East Court Street, Seguin, Texas 78155

**Respondent:** Neil Francois, Manager, 360 Comal Storage, LLC, 12600 Hill Country Boulevard, Suite R-275, Bee Cave, Texas 78738

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	4-Dec-2023	<b>Screening</b>	12-Dec-2023	<b>EPA Due</b>	
	<b>PCW</b>	21-Dec-2023				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	360 Comal Storage, LLC
<b>Reg. Ent. Ref. No.</b>	RN111774238
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	65128	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-1744-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Megan Crinklaw
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$30,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustments for Compliance History.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$3,000
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$63  
Estimated Cost of Compliance: \$9,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$27,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$27,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$27,000
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<b>DEFERRAL</b>	20.0%	<b>Reduction</b>	<b>Adjustment</b>	-\$5,400
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$21,600
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<b>Screening Date</b>	12-Dec-2023	<b>Docket No.</b>	2023-1744-EAQ-E	<b>PCW</b>
<b>Respondent</b>	360 Comal Storage, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	65128			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN111774238			
<b>Media</b>	Edwards Aquifer			
<b>Enf. Coordinator</b>	Megan Crinklaw			

## Compliance History Worksheet

### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

### >> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

### >> Compliance History Summary

**Compliance History Notes**

No adjustments for Compliance History.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

<b>Screening Date</b>	12-Dec-2023		<b>Docket No.</b>	2023-1744-EAQ-E		<b>PCW</b>	
<b>Respondent</b>	360 Comal Storage, LLC					<i>Policy Revision 5 (January 28, 2021)</i>	
<b>Case ID No.</b>	65128					<i>PCW Revision February 11, 2021</i>	
<b>Reg. Ent. Reference No.</b>	RN111774238						
<b>Media</b>	Edwards Aquifer						
<b>Enf. Coordinator</b>	Megan Crinklaw						
<b>Violation Number</b>	<input type="text" value="1"/>						
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 213.4(a)(1)"/>						
<b>Violation Description</b>	<input ("wpap")."="" 1.75="" 24.0="" a="" abatement="" acres="" activities="" and="" approval="" aquifer="" commenced="" conducting="" constructed="" cover="" disturbing="" eapp")="" edwards="" had="" impervious="" of="" over="" plan="" pollution="" prior="" recharge="" regulated="" soil="" specifically,="" the="" to="" total="" type="text" value="Failure to obtain approval of an Edwards Aquifer Protection Plan (" was="" water="" zone.=""/>						
						<b>Base Penalty</b>	<input type="text" value="\$25,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>							
<b>OR</b>			<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor			
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>			
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="0.0%"/>	
<b>&gt;&gt;Programmatic Matrix</b>							
	Falsification	Major	Moderate	Minor			
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b>	<input type="text" value="20.0%"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirements were not met."/>						
					<b>Adjustment</b>	<input type="text" value="\$20,000"/>	
					<input type="text" value="\$5,000"/>		
<b>Violation Events</b>							
Number of Violation Events		<input type="text" value="6"/>		<input type="text" value="41"/>		Number of violation days	
	daily	<input type="text"/>					
	weekly	<input type="text" value="x"/>					
	monthly	<input type="text"/>					
	quarterly	<input type="text"/>					
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input type="text"/>					
					<b>Violation Base Penalty</b>	<input type="text" value="\$30,000"/>	
<input type="text" value="Six weekly events are recommended from the November 1, 2023 investigation date to the December 12, 2023 screening date."/>							
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/>		Reduction		<input type="text" value="\$3,000"/>	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer				
	Extraordinary	<input type="text"/>	<input type="text"/>				
	Ordinary	<input type="text"/>	<input type="text" value="x"/>				
	N/A	<input type="text"/>	<input type="text"/>				
	Notes	<input type="text" value="The Respondent achieved compliance by December 22, 2023."/>					
					<b>Violation Subtotal</b>	<input type="text" value="\$27,000"/>	
<b>Economic Benefit (EB) for this violation</b>				<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$63"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$27,000"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$27,000"/>		

# Economic Benefit Worksheet

**Respondent** 360 Comal Storage, LLC  
**Case ID No.** 65128  
**Reg. Ent. Reference No.** RN111774238  
**Media** Edwards Aquifer  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$9,000	1-Nov-2023	22-Dec-2023	0.14	\$63	n/a	\$63
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated Permit Costs to prepare and submit an Edwards Aquifer WPAP application and obtain approval. The Date Required is the date of the investigation and the Final Date is the date of compliance.						

## Avoided Costs

### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$9,000

**TOTAL** \$63



# Compliance History Report

Compliance History Report for CN606161586, RN111774238, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN606161586, 360 Comal Storage, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN111774238, 360 COMAL COMMERCIAL **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 276 Purgatory Road, New Braunfels, Comal County, Texas

**TCEQ Region:** REGION 13 - SAN ANTONIO

**ID Number(s):**  
**EDWARDS AQUIFER PERMIT** 13001831 **PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0460293

**Compliance History Period:** September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** April 09, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 09, 2019 to April 09, 2024

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Megan Crinklaw **Phone:** (512) 239-1129

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**  
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.  
N/A

**F. Environmental audits:**  
N/A

**G. Type of environmental management systems (EMSs):**  
N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
360 COMAL STORAGE, LLC  
RN111774238

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-1744-EAQ-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding 360 Comal Storage, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a construction site located at 276 Purgatory Road in New Braunfels, Comal County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$27,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,800 of the penalty and \$5,400 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$10,800 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by December 22, 2023, the Respondent submitted and obtained approval for a Water Pollution Abatement Plan ("WPAP") under Edwards Aquifer Protection Plan ("EAPP") ID No. 13001831.

## **II. ALLEGATIONS**

During an investigation at the Site conducted on November 1, 2023, an investigator documented that the Respondent failed to obtain approval of an EAPP prior to conducting regulated activities over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1). Specifically, 24.0 acres of soil disturbing activities had commenced and a total of 1.75 acres of impervious cover was constructed prior to approval of a WPAP.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: 360 Comal Storage, LLC, Docket No. 2023-1744-EAQ-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$10,800 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date

6/24/2024

-----  
For the Executive Director

-----  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

-----  
Signature

-----  
Date

NEIL FRANCOIS

5.10.2024  
MANAGER

-----  
Name (Printed or typed)  
Authorized Representative of  
360 Comal Storage, LLC

-----  
Title

☐ If mailing address has changed, please check this box and provide the new address below:

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

**Attachment A**  
**Docket Number: 2023-1744-EAQ-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>360 Comal Storage, LLC</b>
<b>Payable Penalty Amount:</b>	<b>\$21,600</b>
<b>SEP Offset Amount:</b>	<b>\$10,800</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>The Guadalupe-Blanco River Trust</b>
<b>Project Name:</b>	<b><i>Shorebird and Waterfowl Habitat Conservation and Restoration Project</i></b>
<b><u>Location of SEP:</u> Aransas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Caldwell, Calhoun, Comal, DeWitt, Fayette, Gillespie, Goliad, Gonzales, Guadalupe, Hays, Jackson, Karnes, Kendall, Kerr, Lavaca, Live Oak, Medina, Nueces, Real, Refugio, San Patricio, Travis, Victoria, and Wilson Counties</b>	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **The Guadalupe-Blanco River Trust** for the *Shorebird and Waterfowl Habitat Conservation and Restoration Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to conduct due diligence, purchase conservation easements from private landowners, conduct restoration activities, and provide property stewardship.

After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner information, metes and bounds, purchase price, amount of SEP Offset Amount to be used for due diligence and purchase, deed encumbrance language, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement. The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. After a conservation easement is acquired, the Third-Party Administrator shall use the SEP Offset Amount for property stewardship to ensure that the terms of the easement are followed. Property stewardship activities include monitoring the property, compliance enforcement, and

providing continual resources to the property owner. The SEP Offset Amount shall not be used for any legal fees associated with property stewardship. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be part of a mitigation project.

The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native species, removal of invasive species, and grading. Restoration activities will be conducted by a contractor and will take place on public land managed by entities such as the Texas Parks and Wildlife Department and U.S. Fish and Wildlife Services or private property protected by a conservation easement. Restoration activities will take place on former wetlands with effectively drained hydric soil map units, filled areas with no development, impounded areas, excavated areas, or farmed wetlands as well as degraded wetlands that are partially drained, impounded, excavated, farmed, or contain tidal restrictions. Prior to starting restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit from this SEP.

b. Environmental Benefit

This Project is needed because important wildlife habitats for wetland-dependent and other species are under threat from an expanding human footprint into previously undeveloped areas. Conserving properties through conservation easements will ensure that those lands are permanently protected from environmentally harmful activities and use. Restoring habitats through native plantings, removal of invasive species, and grading will protect water quality and provide habitat for native birds and other aquatic and coastal species, such as the whooping crane, piping plover, reddish egret, sooty tern, white-faced ibis, white-tailed hawk, black-spotted newt, sheet frog, and northern Aplomado falcon. Potential property acquisition areas have been identified and prioritized as the highest quality habitat based on data derived from the U.S. Fish and Wildlife Service with input from Texas Parks and Wildlife Department, Ducks Unlimited, Gulf Coast Bird Observatory, and the International Crane Foundation. Protection of these strategic sites will also protect and improve both water quality and quantity through increased filtration into groundwater sources and increased filtration of pollutants. Potential restoration activity areas have been identified and prioritized based on maps of historic wetlands from the National Wetland Inventory and local wetland maps that have been detailed by U.S. Fish and Wildlife Services through the Coastal Prairie Conservation Initiative.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **The Guadalupe-Blanco River Trust SEP** and shall mail the contribution with a copy of the Agreed Order to:

The Guadalupe-Blanco River Trust SEP  
Attention: Executive Director  
933 East Court Street  
Seguin, Texas 78155

## **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

360 Comal Storage, LLC  
Docket No. 2023-1744-EAQ-E  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.