# STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

http://www.cdphe.state.co.us

Colorado Department
of Public Health
and Environment

January 31, 2012

Mr. Alexander Halpern, Vice President & Registered Agent
Shambhala International (Vajradhatu)
1426 Pearl Street, Ste. 420
Boulder, Colorado 80302

**RE: Service of Amendment One to Compliance Order on Consent Number: MC-100825-1**

Dear Mr. Halpern:

Enclosed for the Shambhala International (Vajradhatu)'s records you will find your copy of the recently executed Amendment Number One to Compliance Order on Consent, Number: MC-100825-1 ("the Order"). The Shambhala International (Vajradhatu) and the Water Quality Control Division ("the Division") of the Colorado Department of Public Health and Environment amend the Order that was finally executed between the Division and the Shambhala International (Vajradhatu) on August 25, 2010, upon mutual agreement.

Please note that all other requirements, conditions, and dates referenced in the Order remain unchanged and in effect.

Should you desire to discuss this matter with the Division or if you have any questions regarding the Order amendment(s), please don't hesitate to contact Joe Campbell of this office at (303) 692-2356 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,

Russell Zigler

Russell Zigler, Legal Assistant
Compliance Assurance Section
Enforcement Unit
WATER QUALITY CONTROL DIVISION

cc: Larimer County Health Department

ec: Dick Parachini, Watershed Program, CDPHE
Natasha Davis, EPA Region VIII

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**DIVISION OF ADMINISTRATION**

**WATER QUALITY CONTROL DIVISION**

RECEIVED
JAN 25 2012
CAME

**AMENDMENT NUMBER ONE**
**COMPLIANCE ORDER ON CONSENT** **NUMBER: MC-100825-1**

**IN THE MATTER OF:** **SHAMBHALA INTERNATIONAL (VAJRADHATU)**
**CDPS PERMIT NUMBER COX-630037**
**LARIMER COUNTY, COLORADO**

The Colorado Department of Public Health and Environment ("CDPHE"), through the Water Quality Control Division ("Division"), issues this Amendment Number One to the August 25, 2010, Compliance Order on Consent, Number: MC-100825-1, (*See attached copy marked as "Attachment A" for reference.)* which was executed between the Department and Shambala International (Vajradhatu) ("Shambhala"). This amendment is issued pursuant to the Division's authority under the Colorado Water Quality Control Act, sections 25-8-101 to 703, C.R.S. ("CWQCA"), and with the express consent of Shambhala. The Division and Shambhala may be referred to collectively as "the Parties."

## STATEMENT OF PURPOSE

The mutual objective of the Parties in amending Compliance Order on Consent Number: MC-100825-1 ("Compliance Order on Consent") is:

1. To extend the deadlines for completion of Shambhala's new wastewater collection and treatment system improvements required in paragraph 25 of the Compliance Order on Consent.

## GENERAL FINDINGS

2. On August 27, 2011, the Division received a request from Shambhala (*see attached copy marked as "Attachment B" for reference)* to modify paragraph 25 of the Compliance Order on Consent to extend the deadlines for completion of the wastewater collection and treatment improvements due to unforeseen economic conditions and Shambhala inability to meet the Compliance Order on Consent deadlines.

3. On October 3, 2011, Shambhala submitted modifications to the August 27, 2011 request to the Division. (*See attached copy marked as "Attachment C" for reference.)*

4. The Parties have determined that the following amendments to the Compliance Order on Consent are appropriate.

## AMENDMENT NUMBER ONE

5. In consideration of unforeseen economic conditions and Shambhala's inability to meet the deadlines in paragraph 25 of the Compliance Order on Consent, as recounted in the General Findings above, paragraph 25 is hereby superseded and replaced with the following new paragraph:

    25. Shambhala shall comply with the following schedule for resolving the site location and design violations cited herein by receiving the necessary approvals for and constructing a new, Division approved, wastewater collection and treatment system capable of complying with Shambhala's Colorado Discharge Permit System permit (COX--630037):

        a. By August 1, 2010, submit to the Division a complete site location approval application in accordance with "Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, Regulation #22 (5 CCR 1002-22)", **[Completed May 4, 2010]**;

        b. By September 1, 2010, submit to the Division a completed Process Design Report, **[Completed August 25, 2010]**;

        c. By December 1, 2010, submit to the Division complete plans and specifications for approval, **[Completed August 25, 2010]**;

        d. By April 30, 2011, submit evidence to the Division that a Notice to Proceed has been issued, **[Completed November 17, 2010]**;

        e. By no later than January 31, 2012, submit a copy of a Facility Emergency Response Plan that outlines emergency equipment and procedures to prevent or mitigate unexpected releases from the Facility's interim reconfigured collection system;

        f. By no later than May 1, 2012, reconfigure (interim design) collection system piping to direct the Facility's liquid wastewater flows from the revised phase I collection system to the new wastewater treatment plant and discontinue the Facility's liquid wastewater flows to the old lagoon and constructed wetlands;

        g. By no later than May 15, 2012, submit a written certification to the Division stating that the interim collection system piping has been reconfigured as outlined in the August 27, 2011 and the October 3, 2011 Shambhala proposals, that the Facility's liquid wastewater flows from the revised phase I collection system are being directed to the new wastewater treatment plant and the Facility's liquid wastewater flows to the old lagoon and constructed wetlands have been terminated;

        h. By no later than May 1, 2014, complete construction and achieve operational status of the Facility's, Division approved, reconfigured (final) wastewater collection system; and

i. By no later than May 15, 2014, submit documentation to the Division demonstrating that complete closure (dewatering, sludge removal/disposal, final grading, etc.) of the old lagoon and constructed wetlands was achieved.

## NOTICE OF EFFECTIVE DATE

6. This amendment shall be fully effective and enforceable upon the date signed by the last party.

## SCOPE AND EFFECT

7. The scope and effect of this amendment to Compliance Order on Consent, Number MC-100825-1 is expressly limited to the matters specifically identified herein. All other terms, conditions or requirements of Compliance Order on Consent, Number MC-100825-1 shall remain unchanged and in effect.

## AUTHORIZATION TO SIGN

8. The undersigned warrant that they are authorized to bind legally their respective principals to this amendment to Compliance Order on Consent, Number MC-100825-1. This amendment to Compliance Order on Consent, Number MC-100825-1 may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same amendment. In the event that a party does not sign this amendment to Compliance Order on Consent, Number MC-100825-1 within twenty (20) calendar days of the other party's signature, this amendment becomes null and void.

**FOR SHAMBHALA INTERNATIONAL (VAJRADHATU):**

_____ Date: Jan 20, 2012
Alexander Halpern, Vice President

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WATER QUALITY CONTROL DIVISION:**

_____ Date: 1/30/12
Lori M. Gerzina, Section Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

# STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

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Colorado Department
of Public Health
and Environment

August 26, 2010

Alexander Halpern, Vice President & Registered Agent
Shambhala International (Vajradhatu)
1426 Pearl Street, Suite 420
Boulder, Colorado 80302

**RE: Compliance Order on Consent, Number: MC-100825-1**

Dear Mr. Halpern:

Enclosed for Shambhala International (Vajradhatu)'s records you will find your copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period (paragraph 30). Upon initiation, if the Division receives any comments during this period we will contact your office to discuss. Also, please be advised that the first page of the Order was changed in order to place the assigned Order Number on the final document.

If you have any questions, please don't hesitate to contact Joe Campbell at (303) 692-3612 or by electronic mail at joseph.campbell@state.co.us.

Sincerely,

Russell Zigler

Russell Zigler, Legal Assistant
Compliance Assurance Section
Enforcement Unit
WATER QUALITY CONTROL DIVISION

*Enclosure(s)*

cc: Larimer County Health Department

ec: Aaron Urdiales, EPA Region VIII
David Kurz, Engineering Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Gary Beers, Permits Unit, CDPHE
Michael Beck, OPA
Joseph Campbell, Case Person, CDPHE

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**DIVISION OF ADMINISTRATION**

**WATER QUALITY CONTROL DIVISION**

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**COMPLIANCE ORDER ON CONSENT** **NUMBER: MC-100825-1**

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**IN THE MATTER OF:** **SHAMBHALA INTERNATIONAL (VAJRADHATU)**
**CDPS PERMIT NO. C0X-630037**
**LARIMER COUNTY, COLORADO**

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The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act ("the Act") §§ 25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Shambhala International (Vajradhatu) ("Shambhala"). The Division and Shambhala may be referred to collectively as "the Parties."

## STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are:

2. To establish compliance requirements and criteria for the continued operation of Shambhala's domestic wastewater treatment facility.

## DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

3. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Shambhala, the Facility and Shambhala's compliance with the Act and its implementing permit regulations and Shambhala's CDPS permit.

4. At all times relevant to the violations cited herein, Shambhala was a nonprofit corporation in good standing and registered to conduct business in the State of Colorado.

5. Shambhala is a "person" as defined by §25-8-103(13), C.R.S. and its implementing permit or control regulation, 5 CCR 1002-61, §61.2(73).

6. Shambhala owns and operates a "domestic wastewater treatment works" as defined by §25-8-103(5), C.R.S. The domestic wastewater treatment works is located in the Northwest ¼ of the Northeast ¼ of Section 23, Township 9 North, Range 73 West in the Red Feather Lakes Area in Larimer County Colorado (the "Facility").

7. The Facility consists of approximately 26 septic tanks followed by a two-cell constructed wetland system and a facultative polishing pond. No disinfection is provided. Effluent is discharged from the polishing pond to groundwater.

8. The Facility, previously known as Rocky Mountain Dharma Center is the subject of Colorado Discharge Permit System General Permit, Permit No. COX-630000 (the "Permit"). The application for the Permit listed the legal owner of the Facility as Vajradhatu, Inc.. The permittee has subsequently advised of a name change to Shambhala International (Vajradhatu). The Permit became effective on September 9, 2005 and is due to expire October 31, 2015. A discharge from the Facility was authorized under the Permit via Permit Certification No. COX-630037 which became effective November 1, 2005 (the "Certification"). The Certification will expire October 31, 2015.

9. The Certification specifies that Shambhala is authorized to discharge effluent wastewater from the Facility to groundwater. No other discharges are authorized by the Permit or Certification. The discharge is subject to the specific effluent limitations and other conditions of the Permit and Certification.

10. Groundwater is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (101).

11. Section 61.8, 5 CCR 1002-61, states in part that "A permittee must comply with all the terms and conditions of the permit."

**Construction Without Obtaining Site Location Approval and Design Approval**

12. Pursuant to §25-8-702(1) C.R.S., no person shall commence the construction of any domestic wastewater treatment works or the enlargement of the capacity of an existing domestic wastewater treatment works, unless the site location and the design for the construction or expansion have been approved by the Division.

13. On July 1, 1993 the Division issued a site location approval, No. 4097 (the "Site Approval") to Vajradhatu, Inc. The Site Approval approved a domestic wastewater treatment works with a process consisting of septic tanks, constructed wetlands and lined lagoon with a discharge via evaporation from a total containment lagoon and soil absorption from a leachfield of less than 2,000 gpd maximum day capacity. The Site Approval further established an average daily flow capacity of 7,785 gpd and an organic loading capacity of 20 lbs. $BOD_5$/day (total capacities).

14. The Site Approval specified that the design (construction plans and specifications) for the domestic wastewater treatment works must be approved by the Division prior to commencement of construction and all construction change orders initiating variances from the approved plans and specifications must be approved by the Division.

15. Information available to the Division indicates that the domestic wastewater treatment works constructed by Shambhala has a capacity of 18,000 gpd and 25 lbs. $BOD_5$/day.

16. Division records establish that Shambhala does not have site location or design approval for the construction of a domestic wastewater treatment works with the capacities stated in paragraph 15 above.

17. Shambhala's failure to obtain site application approval and design approval from the Division prior to commencing Facility expansion is a violation of Section 25-8-702(1), C.R.S., which states in part "No person shall commence the construction of any domestic wastewater treatment works or the enlargement of the capacity of an existing domestic wastewater treatment works, unless the site location and the design for the construction or expansion have been approved by the division."

**Failure to Install Flow Measuring Device**

18. Pursuant to the Permit, Part I.E.6, a flow metering device equipped with a local flow indication instrument and a flow indication-recording-totalization device shall be provided at the headworks of the Facility unless specifically waived in the Certification.

19. During an on-site compliance inspection conducted July 8, 2009, a representative of the Division observed that the Facility was not equipped with an influent flow indication instrument or flow indication-recording-totalization equipment capable of providing representative values of the throughput and treatment of the wastewater system.

20. The Certification does not waive the flow indication-recording totalization requirement of the Permit, Part I.E.6.

21. Failure to provide a flow metering device equipped with a local flow indication instrument and a flow indication-recording-totalization device is a violation of Part I.E.6 of the Permit which states in part "Flow metering at the headworks shall be provided to give representative values of throughput and treatment of the wastewater system. The metering device shall be equipped with a local flow indication instrument and a flow indication-recording-totalization device suitable for providing permanent flow records…"

**ORDER AND AGREEMENT**

22. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., the Division orders Shambhala to comply with all provisions of this Consent Order, including all requirements set forth below.

23. Shambhala agrees to the terms and conditions of this Consent Order. Shambhala agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Shambhala also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Shambhala against the Division:

a. The issuance of this Consent Order;
b. The factual and legal determinations made by the Division herein; and,
c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

24. Notwithstanding the above, Shambhala does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Shambhala pursuant to this Consent Order shall not constitute evidence of fault by Shambhala with respect to the conditions of the Facility.

## Compliance Requirements

25. Shambhala shall comply with the following schedule for resolving the site location and design violations cited herein by receiving the necessary approvals for and constructing a new, Division approved, wastewater treatment facility capable of complying with Division issued Preliminary Effluent Limits:

    a. By August 1, 2010, submit to the Division a complete site location approval application in accordance with "Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works, Regulation #22 (5 CCR 1002-22)";
    b. By September 1, 2010, submit to the Division a completed Process Design Report;
    c. By December 1, 2010, submit to the Division complete plans and specifications for approval;
    d. By April 30, 2011, submit evidence to the Division that a Notice to Proceed has been issued,
    e. By May 1, 2012,complete construction and achieve operational status; and,
    f. By June 1, 2012, submit written notification to the Division indicating the date construction was completed and operational status was achieved.
    g. By October 31, 2012, complete dewatering and sludge removal/disposal from the final cell of the Facility.

26. Shambhala shall operate and maintain the influent flow metering and recording device. The metering device shall be equipped with a local flow indication instrument and a flow indication-recording-totalization device suitable for providing permanent flow records and shall be capable of indicating values within ten (10) percent of the actual flow entering the Facility.

27. Shambhala shall perform the following monitoring requirements which shall supersede those outlined in the Permit. Analysis shall be conducted in accordance with Standard Methods for the Examination of Water and Wastewater or other appropriate method approved in Federal regulation, 40 CFR 136.

    a. Influent monitoring at a location ahead of the constructed wetland cells that is representative of all flow and loading received by the facility. Influent flow monitoring shall begin on June 1, 2010 or the day the influent flow metering and recording device is calibrated, whichever comes first, and shall continue until a new wastewater treatment facility is constructed and operational or until the Division issues written notification that monitoring is no longer required.

| PARAMETER | SAMPLE/MASUREMENT TYPE | SAMPLE/MEASUREMENT FREQUENCY |
|---|---|---|
| $BOD_5$ (mg/l) | Composite | Monthly |
| Alkalinity (mg/l) | Grab | Monthly |
| Ammonia (mg/l) | Composite | Monthly |
| Flow (MGD) | Continuous | Continuous |

Composite samples shall consist of a minimum of four (4) grab samples collected at equally spaced two (2) hour intervals and proportioned according to flow. Grab samples shall consist of a single "dip and take" sample collected so as to be representative of the parameter being sampled.

b. Groundwater monitoring from upgradient (above the domestic wastewater treatment works) and downgradient (below the polishing pond) groundwater monitoring wells capable of providing representative groundwater chemistry information. Monitoring shall begin no later than fifteen (15) calendar days following the date that Shambhala executes this Consent Order. Monitoring shall be conducted in accordance with the Division's guidance document titled "Suggested Sampling Protocol for Ground Water Monitoring Wells" located at www.cdphe.state.co.us/wq/PermitsUnit/PolicyandGuidance/GW_Well_Mon_Guide.pdf.

| PARAMETER | SAMPLE/MASUREMENT TYPE | SAMPLE/MEASUREMENT FREQUENCY |
|---|---|---|
| Total Inorganic Nitrogen ( mg/l) | Grab | Monthly |
| Total Coliform (#/100ml) | Grab | Monthly |
| Total Chloride (mg/l) | Grab | Monthly |
| Total Sulfate (in mg/l) | Grab | Monthly |
| Total Dissolved Solids (mg/l) | Grab | Monthly |

28. Shambhala shall submit the results of the monitoring conducted pursuant to paragraph 28 above by the fifteenth ($15^{th}$) day following the end of the calendar month during which the monitoring was performed. The results are to be submitted on the form attached hereto as Attachment A.

29. Beginning immediately, Shambhala shall record the daily population (staff and visitors) being served by the Facility. The information shall be submitted to the Division by the fifteenth ($15^{th}$) day following the end of the month for which population was recorded on the form attached hereto as Attachment B.

30. Until such time as Shambhala complies with all terms and conditions of this Consent Order, Shambhala shall not add any treatment units or perform any construction that would have the effect of increasing the hydraulic and/or organic capacities of the Facility as it exists as of the date of this Consent Order. Further, Shambhala shall not conduct any events, including but not necessarily limited to, retreats, classes, programs, group gatherings, conferences, training sessions, tours, etc., or increase its staff/visitors that would have the effect of increasing the

historic hydraulic and/or organic loading to the Facility as demonstrated by information previously presented by Shambhala for the years of 2007, 2008 and 2009. Shambhala shall retain, and provide to the Division upon request, a summary of events. The number of staff/ visitors shall be reported as required by paragraph 29 above.

31. All plans and specifications required to be submitted under this Consent Order shall be prepared by a professional engineer registered in the State of Colorado.

32. Shambhala shall submit quarterly progress reports to the Division outlining efforts taken to achieve compliance with this Consent Order. The first report shall be submitted to the Division on or before June 15, 2010. At a minimum, each report shall outline activities undertaken in the current reporting period and planned activities for the next quarter to remain in compliance with this Consent Order.

33. All documents submitted under this Consent Order shall use the same titles as stated in this Consent Order, and shall reference both the number of this Consent Order and the number of the paragraph pursuant to which the document is required. No plan submitted for Division approval under this Consent Order may be implemented unless and until written approval is received from the Division. Any approval by the Division of a plan submitted under this Consent Order is effective upon receipt by Shambhala. All approved plans, including all procedures and schedules contained in the plans, are hereby incorporated into this Consent Order, and shall constitute enforceable requirements under the Act.

## STIPULATED PENALTY

34. Shambhala agrees that if it fails to comply with any deadline and/or requirement contained in paragraphs 25.d, 25.e, 25.g, 26, or 30 of this Consent Order, it shall pay civil penalties as defined in the table below until the required action is completed or the requirement is satisfied. The Penalty Amount Per Day shall begin to accrue on the day after performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the required activity. (Example: A May 1 deadline not satisfied until June 17 would result in a penalty of $5,750 or thirty days at $50/day plus seventeen days at $250/day):

| PENALTY SCHEDULE | |
|---|---|
| **Days Beyond Deadline** | **PenaltyAmount Per Day** |
| 1-30 | $50 |
| 31-60 | $250 |
| 61-90 | $500 |
| 91-120 | $1,500 |
| 121-180 | $5,000 |
| 181-240 | $7,500 |
| >240 | $10,000 |

35. Shambhala further agrees to pay the penalty within thirty (30) calendar days of the Division's written demand for payment. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Health and Environment," and delivered to:

    Joe Campbell
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CADM-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

36. Penalties shall accrue regardless of whether the Division has notified Shambhala of a violation.

37. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of the applicable requirements of this Order.

38. The payment of penalties shall not alter in any way Shambhala's obligation to comply with the requirements of this Order or any applicable permit or regulation promulgated pursuant to the Act.

## SCOPE AND EFFECT OF CONSENT ORDER

39. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Shambhala each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

40. This Consent Order constitutes a final agency order or action upon execution by Shambhala and the Department. Any violation of the provisions of this Consent Order by Shambhala, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.

41. The Parties' obligations under this Consent Order are limited to the matters expressly stated herein or in approved submissions required hereunder. All submissions made pursuant to this Consent Order are incorporated into this Consent Order and become enforceable under the terms of this Consent Order as of the date of approval by the Division.

42. The Division's approval of any submission, standard, or action under this Consent Order shall not constitute a defense to, or an excuse for, any prior violation of the Act, or any subsequent violation of any requirement of this Consent Order or the Act.

43. Notwithstanding paragraph 24 above, the violations described in this Consent Order will constitute part of Shambhala's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Shambhala. Shambhala agrees not to challenge the use of the cited violations for any such purpose.

44. This Consent Order does not relieve Shambhala from complying with all applicable Federal, State, and/or local laws in fulfillment of its obligations hereunder and shall obtain all necessary approvals and/or permits to conduct the activities required by this Consent Order. The Division makes no representation with respect to approvals and/or permits required by Federal, State, or local laws other than those specifically referred to herein.

## LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

45. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to the specific instances of violations cited herein. The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.

46. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

47. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.

48. Upon the effective date of this Consent Order, Shambhala releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

49. Shambhala shall not seek to hold the State of Colorado or its employees, agents or representatives liable for any injuries or damages to persons or property resulting from acts or omissions of Shambhala, or those acting for or on behalf of Shambhala, including its officers, employees, agents, successors, representatives, contractors, consultants or attorneys in carrying out activities pursuant to this Consent Order. Shambhala shall not hold out the State of Colorado or its employees, agents or representatives as a party to any contract entered into by Shambhala in carrying out activities pursuant to this Consent Order. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

## SITE ACCESS AND SAMPLING

50. The Division shall be permitted to oversee any and all work being performed under this Consent Order. The Division shall be permitted access to the Facility property at any time work is being conducted pursuant to this Consent Order, and during reasonable business hours during any period work is not being conducted, for the purposes of determining Shambhala's compliance with the Act, the Regulations, and this Consent Order. The Division shall be permitted to inspect work sites, operating and field logs, contracts, purchasing/shipping records, and other relevant records and documents relating to this Consent Order or any requirement under this Consent Order and to interview Shambhala personnel and contractors performing work required by this Consent Order.

Nothing in this paragraph limits or impairs the Division's statutory authorities to enter and inspect the Facility.

51. The Division may conduct any tests necessary to ensure compliance with this Consent Order and to verify the data submitted by Shambhala.

52. Shambhala shall provide the Division any blue print, diagram, construction or other permits for any construction activity undertaken pursuant to this Consent Order upon request.

## FORCE MAJEURE

53. Shambhala shall perform the requirements of this Consent Order within the schedules and time limits set forth herein and in any approved plan unless the performance is prevented or delayed by events that constitute a force majeure. A force majeure is defined as any event arising from causes which are not reasonably foreseeable, which are beyond the control of Shambhala, and which cannot be overcome by due diligence.

54. Within seventy-two (72) hours of the time that Shambhala knows or has reason to know of the occurrence of any event which Shambhala has reason to believe may prevent Shambhala from timely compliance with any requirement under this Consent Order, Shambhala shall provide verbal notification to the Division. Within seven (7) calendar days of the time that Shambhala knows or has reason to know of the occurrence of such event, Shambhala shall submit to the Division a written description of the event causing the delay, the reasons for and the expected duration of the delay, and actions which will be taken to mitigate the duration of the delay.

55. The burden of proving that any delay was caused by a force majeure shall at all times rest with Shambhala. If the Division agrees that a force majeure has occurred, the Division will so notify Shambhala. The Division will also approve or disapprove of Shambhala's proposed actions for mitigating the delay. If the Division does not agree that a force majeure has occurred, or if the Division disapproves of Shambhala's proposed actions for mitigating the delay, it shall provide a written explanation of its determination to Shambhala. Pursuant to the Dispute Resolution section, within fifteen (15) calendar days of receipt of the explanation. Shambhala may file an objection.

56. Delay in the achievement of one requirement shall not necessarily justify or excuse delay in the achievement of subsequent requirements. In the event any performance under this Consent Order is found to have been delayed by a force majeure, Shambhala shall perform the requirements of this Consent Order that were delayed by the force majeure with all due diligence.

## DISPUTE RESOLUTION

57. If the Division determines that that a violation of this Consent Order has occurred, that a force majeure has not occurred; that the actions taken by Shambhala to mitigate the delay caused by a force majeure are inadequate; that Shambhala's Notice of Completion should be rejected pursuant to paragraph 64, the Division shall provide a written explanation of its determination to Shambhala. Within fifteen (15) calendar days of receipt of the Division's determination, Shambhala shall:

a. Submit a notice of acceptance of the determination; or,
b. Submit a notice of dispute of the determination.

58. If Shambhala fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

59. If the Division disapproves or approves with modifications any original or revised plan submitted by Shambhala pursuant to this Consent Order, the Division shall provide a written explanation of the disapproval or approval with modifications. Within fifteen (15) calendar days of receipt of the Division's approval with modifications or disapproval of the plan, Shambhala shall:

    a. In the case of an approval with modifications only, submit a notice of acceptance of the plan as modified and begin to implement the modified plan;
    b. In the case of a disapproval only, submit a revised plan for Division review and approval. Shambhala may not select this option if the Division has included in its disapproval an alternate plan that shall be implemented by Shambhala; or
    c. Submit a notice of dispute of the disapproval or approval with modifications.

    If Shambhala fails to do any of the above within the specified time, Shambhala shall be deemed to have failed to comply with the Consent Order, and the Division may bring an enforcement action, including an assessment of penalties.

60. If Shambhala submits a revised plan, the plan shall respond adequately to each of the issues raised in the Division's written explanation of the disapproval or approval with modifications. The Division may determine that failure to respond adequately to each of the issues raised in the Division's written explanation constitutes a violation of this Consent Order. The Division shall notify Shambhala in writing of its approval, approval with modifications, or disapproval of the revised plan. If the Division disapproves the revised plan, it may include in its disapproval a plan for implementation by Shambhala. Such disapproval and plan shall be deemed effective and subject to appeal in accordance with the Act and the Colorado State Administrative Procedures Act, §§ 24-4-101 through 108, C.R.S. (the "APA"), unless Shambhala submits a notice of dispute, pursuant to paragraph 57 above, of the Division's disapproval and plan for implementation. All requirements and schedules of the Division's plan shall not become effective pending resolution of the dispute.

## NOTICES

61. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Joe Campbell
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3612
E-mail: joseph.campbell@state.co.us

For Shambhala:

Alexander Halpern, Vice President
Shambhala International (Vajradhatu)
1426 Pearl Street, Suite 420
Boulder, CO 80302

## OBLIGATIONS UNAFFECTED BY BANKRUPTCY

62. The obligations set forth herein are based on the Division's police and regulatory authority. These obligations require specific performance by Shambhala of corrective actions carefully designed to prevent on-going or future harm to public health or the environment, or both. Enforcement of these obligations is not stayed by a petition in bankruptcy. Shambhala agrees that the penalties set forth in this Consent Order are not in compensation of actual pecuniary loss. Further, the obligations imposed by this Consent Order are necessary for Shambhala and the Facility to achieve and maintain compliance with State law.

## MODIFICATIONS

63. This Consent Order may be modified only upon mutual written agreement of the Parties.

## COMPLETION OF REQUIRED ACTIONS

64. Shambhala shall submit a Notice of Completion to the Division upon satisfactory completion of all requirements of this Consent Order. The Division shall either accept or reject Shambhala's Notice of Completion in writing within thirty (30) calendar days of receipt. If the Division rejects Shambhala's Notice of Completion, it shall include in its notice a statement identifying the requirements that the Division considers incomplete or not satisfactorily performed and a schedule for completion. Shambhala shall, within fifteen (15) calendar days of receipt of the Division's rejection, either:

a. Submit a notice of acceptance of the determination; or
b. Submit a notice of dispute.

If Shambhala fails to submit either of the above notices within the specified time, it will be deemed to have accepted the Division's determination.

## NOTICE OF EFFECTIVE DATE

65. This Consent Order shall be fully effective, enforceable and constitute a final agency action on the date signed by the authorized representative of the last party.

## BINDING EFFECT AND AUTHORIZATION TO SIGN

66. This Consent Order is binding upon Shambhala and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. Shambhala agrees to provide a copy of this Consent Order to any contractors and other agents performing work pursuant to this Consent Order and require such agents to comply with the requirements of this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

**FOR SHAMBHALA INTERNATIONAL (VAJRADHATU)**

Alexander Halpern, Vice President Date: August 5, 2010

**FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:**

Lori M. Gerzina, Manager Date: August 25, 2010
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION

**Attachment A (Page 1 of 2)**

## SHAMBHALA WASTEWATER FACILITY; CDPS PERMIT NO. COX-630037

| GROUNDWATER MONITORING | | | | | |
|---|---|---|---|---|---|
| Date of Sample | Total Inorganic Nitrogen (mg/l) | Total Coliform (mg/l) | Chloride (mg/l) | Sulfate (mg/l) | Total Dissolved Solids (mg/l) |
| Upgradient Monitoring Well | | | | | |
| | | | | | |
| Downgradient Monitoring Well | | | | | |
| | | | | | |

| INFLUENT MONITORING | | | | |
|---|---|---|---|---|
| Date of Sample/ Measurement | Total Daily Flow (MGD) | $BOD_5$ (mg/l) | Alkalinity(mg/l) | Ammonia (mg/l) |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
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| 24 | | | | |
| 25 | | | | |

## SHAMBHALA WASTEWATER FACILITY; CDPS PERMIT NO. COX-630037

| INFLUENT MONITORING (continued) | | | | |
|---|---|---|---|---|
| Date of Sample/ Measurement | Total Daily Flow (MGD) | $BOD_5$ (mg/l) | Alkalinity(mg/l) | Ammonia (mg/l) |
| 26 | | | | |
| 27 | | | | |
| 28 | | | | |
| 29 | | | | |
| 30 | | | | |
| 31 | | | | |

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine or imprisonment for knowing violation or false reporting.

_____ / _____ / _____

Authorized Agent Signature Date Telephone #

## SHAMBHALA WASTEWATER FACILITY; CDPS PERMIT NO. COX-630037

| POPULATION RECORD FOR : Month_____ Year_____ | |
|---|---|
| **Calendar Day** | **Population** |
| 1 | |
| 2 | |
| 3 | |
| 4 | |
| 5 | |
| 6 | |
| 7 | |
| 8 | |
| 9 | |
| 10 | |
| 11 | |
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| 31 | |

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine or imprisonment for knowing violation or false reporting.

_____ / _____ / _____

Authorized Agent Signature | Date | Telephone #

Shambhala Mountain Center

Joseph Campbell
Colorado Department of Health & Environment
Water Quality Control Division
Water Pollution Control Enforcement Unit
4300 Cherry Creek Drive South,
Denver, Colorado 80246

August 27, 2011

Dear Joseph,

Attached is the proposal from Shambhala Mountain Center requesting a change to certain items in the Consent Order from March 2010.

In addition to the request, we have presented an interim solution which we believe addresses environmental impact concerns including discontinuing the use of our existing system.

As I had mentioned to you when we met a few weeks ago, while our next required time-line from the Consent Order is not until May 2012, I wanted to alert you now of our inability to meet the time-table outlined in the Consent Order.

Without certainty of funding due to the current economic conditions we did not feel it prudent to go forward this fall with the construction of the first phase of the collection system. This is further complicated by the conditions we face being located in the mountains at almost 8,000 feet.

Our construction time in the fall is short. As it gets cold and the ground freezes, digging trenches up to fifteen feet in depth is not recommended once you hit late November/early December. To release a Request for Proposal without funding certainty within a short construction window did not feel appropriate. In addition, we could not do the construction in the spring and meet the May1, 2012 deadline as trenching during that time is very difficult as that is the time of our highest water table. Given the amount of rock and granite we have our soil it is not unusual for us to hit water within a foot of the surface.

Thank you for your assistance. If you have any questions please let me know.

Sincerely,

Jonathan Barbieri
Executive Director

www.shambhalamountain.org

4921 County Road 68 C | Red Feather Lakes, CO 80545 | 970-881-2184 | info@shambhalamountain.org

PURE LAND
PURE WATER
PURE HEART

# Shambhala Mountain Center Waste Water Treatment System

## Proposal to Colorado Department of Public Health and Environment Concerning Case#: MC- 100825-1

**August 26, 2011**

**Submitted by Shambhala Mountain Center**
**Jon Barbieri, Executive Director**
**jbarbieri@shambhalamountaincenter.org**
**970-881-2184 X211**

PURE LAND
PURE WATER
PURE HEART

**Waste Water Treatment Plant Extension**
**Request Proposal for Case MC-100825-1**
**In The Matter Of: SHAMBHAL INTERNATIONAL (VAJRADHATU)**
**CDPS PERMIT NO. COX-630037**
**LARIMER COUNTY, COLORADO**

## I. Summary

Shambhala Mountain Center (SMC) is requesting an extension on certain items cited in a Consent Order issued by the Water Quality Control Division of the Colorado Department of Public Health and Environment.

To date SMC has completed the construction of a new waste water treatment plant as approved in its site application spending over $1,250,000 and has begun the design of the collection system. Due to very difficult economic conditions which have substantially impacted SMC's ability to fund raise necessary funds, we are unable to complete the remaining work as originally conceived.

An Interim Solution is proposed which will meet the essence of having the plant operational by May 1, 2012 as required by the Consent Order and no longer use the existing treatment system.

---

## II. Summary of alleged violations of regulations, subsequent Consent Order issued by the Water Quality Control Division of the Colorado Department of Public Health and Environment, activity to date and status of Compliance Requirements with time-table as stated on pager four of the Consent Order.

In the late fall of 2009, the Colorado Department of Public Health and Environment (CDPHE) contacted Shambhala Mountain Center regarding violation of various permits and regulations concerning our wastewater treatment system design and operation as well as expressing concern about our timetable in submitting a Wastewater Utility Plan (WUP) to the North Front Range Water Quality Planning Association. During this same time frame Shambhala Mountain Center had entered negotiations with Wright Water Engineer's to prepare and submit an updated WUP.

Subsequently, Ginny Torrez, the then enforcement officer from CDPHE's Compliance Assurance and Data Management Section (CADM), sent us a draft consent order. In January 2010 members of the CADM and CDPHE met with staff of Shambhala Mountain Center along with our counsel Jerry Raish and Dave Foss of Wright Water Engineers who was developing our WUP. The discussions were thorough and provided helpful

idea's which were incorporated into the final version of the Consent Order which was sent on March 1, 2010.

For the purposes of this proposal the Consent Order has several key sections: Relevant violations, Compliance Requirements/Schedule and Stipulated Penalties for failing to meet the time-table. Shambhala Mountain Center signed the Order in good faith that it would address all issues in the outlined time frame. From the point of view of potential negative environment impact, the key issues were:

- That Shambhala Mountain Center was operating without an approved site application
- A system design which was operating at a higher capacity than approved
- That there was evidence of potential seepage from the lagoon, ponding below a berm which surrounds the lagoon, and that water running off from that ponding had the potential to enter streams

In April, 2010 Shambhala Mountain Center submitted a WUP and site application for a new wastewater treatment plant with a SBR design. These were approved by all participating agencies. A contract with Dan's Construction Inc., with Frachetti Engineering and Aqua Works was signed and design work began immediately.

<u>The first four compliance requirements listed in the Consent order were completed on time</u>:

- Site application and design application approved
- Progress Design report submitted
- Complete plans and specifications were submitted and approved
- A notice to proceed was issued
- In addition SMC installed a Flow Measuring Device as required by the Consent order and complied with all reporting and monitoring requirements.

To date, Shambhala Mountain Center has completed the building of the new Wastewater treatment Plant spending over $1,240,000. In the past eighteen months Shambhala Mountain Center has raised approximately $1,150,000 earmarked for the plant and design of the collection system. We have hired Wright Water Engineers to design Stage I and II of the Collection System. Approximately 75% of the design work for Stage I is complete. Remaining items in the Consent order include:

**COMPLIANCE REQUIREMENTS**
**¶ 25.**

- Item e, of the on page four of the Consent Order states By May 1, 2012, complete construction and achieve operational status;

- Item f, requires that by June 1, 2012, submit written notification to the Division indicating the date construction was completed and operational status was achieved.
- Item g. By October 31, 2012, complete dewatering and sludge removal/disposal from the final cell of the Facility.

**Progress to Date and Current Situation**

Shambhala Mountain Center has demonstrated its continual commitment to implementing the plan as outlined in the Consent Order over the past seventeen months. We have made every effort to comply with all time-lines and monitoring requirement and fulfilled them in a timely manner. The accumulative worsening economic conditions since 2008 coupled with the budget crisis at the end of July of this year have made fund raising levels in 2011 come in much less than anticipated and we find ourselves in the uncomfortable situation of not having certainty about having the necessary funds to continue the project on time in 2011.

---

## III. Contributing Economic Factors

Over the past few years, the U.S. economy has been in a state of economic recession and ongoing stagnation. According to the U.S. Department of Labor, the current national unemployment rate is 9.1%. This rate has changed very little since May 2009. No major developed economy has yet fully regained their financial position lost during the recession and global share prices remain almost a third lower than their peak prior to the crisis. Recent events, including stock market falls, the escalating debt crises, US credit rating downgrade and a near-stalling of economic growth in the world is leading increasing numbers of experts to wonder if the world is facing some fundamental changes. Contributing to this view, on Thursday, Aug. 18th, investment firm Morgan Stanley said that the US and Europe are "dangerously close" to another severe recession.

Here in the State of Colorado, unemployment rates have hovered around 8% for the past few years and Larimer County has mirrored this general trend of economic stagnation with rates averaging 7.2%. State employees are now entering their third year of pay freezes. Providing no relief, the proposed 2012 state budget decreases payroll funding for state departments by 2 percent, likely meaning some open positions will go unfilled. Following the state's lead, the mayor of Colorado Springs ordered a hiring and salary freeze for city employees on July 1, 2011.

Here in Larimer County, after years of salary freezes and pay cuts, county employees are expected to receive a modest 1 percent pay raise in 2012. However, this news is tempered by the likelihood that pay raises will be partially achieved through simultaneous staff reductions and was issued prior to the recent economic upheaval and stock market volatility. All of these factors indicate that tough financial times are still

upon us and forecasts no longer speak of emerging from the current economic conditions but indicate that recovery is far off in the future.

**Impact on Shambhala Mountain Center**

According to Giving USA's Annual Report on Philanthropy for the Year 2010, from 2008 to 2010, charitable giving declined an estimated -4.2 percent. Despite this, Shambhala Mountain Center has met every project deadline for the Wastewater Treatment Plant project and has made significant progress towards its completion.

We currently have raised $1.15 million of the $2 million needed to fully fund this important project. However, the recession and impact of recent economic events has definitely taken its toll and has resulted in a negative impact on our ongoing fundraising efforts. As our major donors take stock of the current economic realities and consider their own personal financial security, many of them are reducing their levels of planned giving or simply saying they cannot make commitments at this time.

Consequently, although we were able to fully fund and complete the Wastewater Treatment Plant, the fund raising to complete Stage I of the collection system in the same year (2011) is too much under these conditions.

Therefore, we are respectfully requesting leniency on the final operational status of the Wastewater Treatment Plant, and instead propose an interim solution which allows an operational Wastewater Treatment Plant and provides for environmental protection compliant with the Consent Order.

---

## IV. Proposed Action Plan: Extended time-line and Implement Interim solution which will meet the essence of the Consent Order and insure no negative environmental impact.

Shambhala Mountain Center requests an extension on completing a "fully" operational plant with projected stages of collection system construction. This will in affect create time-lines exactly one year from what is current stated in the compliance requirements and to implement an Interim Solution which will meet the essence of the existing requirements.

**Interim Solution**

The proposed interim solution takes advantage of our existing collection system to the old wastewater treatment wetlands and lagoon. This will leave our existing septic tanks in place which will continue to collect solid wastes. All liquid wastes in the Stage I Collection system design will be sent to the new wastewater treatment facility for proper treatment that meets all effluent limitations in our discharge permit and will discharge into the approved dispersal field which is part of the overall system design submitted, approved, and constructed.

What is required:
All existing sewer lines in the current Collection System enter a manhole (Manhole 1) approximately 325 feet from the new plant. A trench and new pipeline will be constructed to bring the effluent from the manhole directly to the new plant, bypassing the existing wetland and will instead be treated at the new plant. This means that no further effluent will be sent to the existing wetland wastewater facility, or to the Lagoon.

Environmental Impact:
There is no further negative environmental impact. The solids will continue to be removed on a periodic basis from the septic tanks which will remain in place on this interim basis and the liquid will be treated in the new plant and discharged into the dispersal field. This means that all effluent is being removed/treated by an approved and safe method compliant with the discharge permit. This solution also removes any discharges into the lagoon thereby eliminating any further ponding and potential risk of surface water discharge.

Meeting the Essence of the Consent Order
The wetlands and lagoon are removed entirely from the process eliminating the continuation of an unapproved system. The plant is up and operational in the described time line in the Consent Order albeit in a form using a modified collection system.

Operator: The certified operator in charge will be Wayne Ramey of Ramey Environmental Compliance.

We have spoken with Larimer County and North Front Range Water Quality Planning Association. Neither have objections to our plan for the interim solution.

---

## V. Proposed Timeline for Interim and Collection System Operations.

**Interim Solution**
The hook up from the manhole to the plant carrying all liquid effluent will be completed by December 31, 2011. **Note**: Making this date could be impacted by the actual date which the state approves our interim solution.

**Compliance Requirements**
Item e. - under the Compliance requirements on page four be changed to May 1, 2013
Item f. - under the Compliance requirements on page four be changed to June 1, 2013
Item g. - under the Compliance requirements on page four be changed to October 31, 2013

**Collection System Stage I & II**
The plan for Stage I of the Collection System was for it to completed and operational no later than May 1, 2012. This is to be changed to May 1, 2013.

The plan for Stage II of the Collection System was for it to be completed and operational by December 31, 2012. This will be changed to December 31, 2013.

If there are any questions or objections to proceeding in this manner please let us know.

## VI. Penalties

Shambhala Mountain Center requests that under these circumstances which are genuinely beyond its control, no penalties be imposed concerning the extended tine-lines being proposed.

CC. Alexander Halpern, Vice President
Shambhala International (Vajradhatu)
1426 Pearl Street, Suite 420
Boulder, CO 80302

Exhibit B

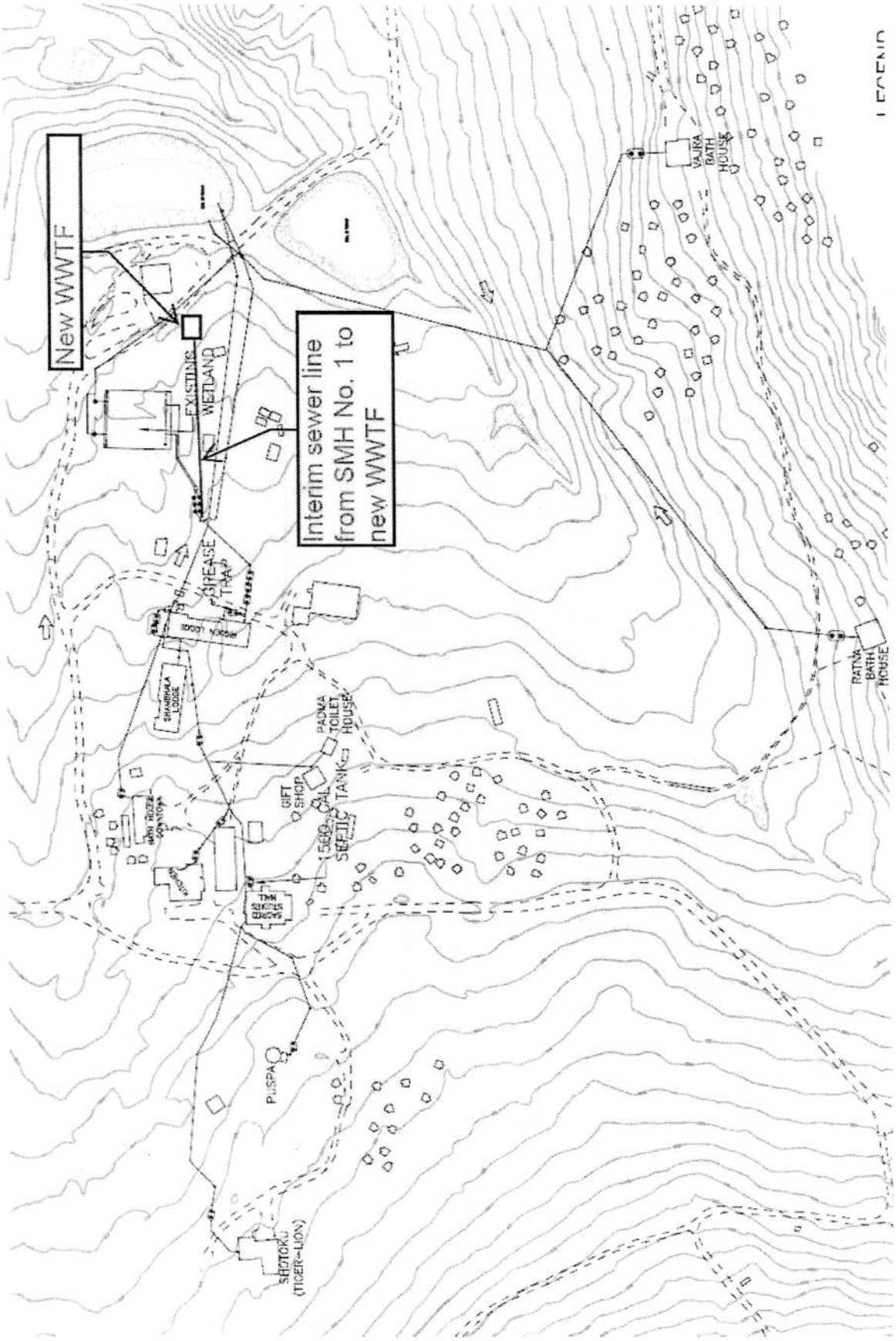
New WWTF
EXISTING WETLAND
Interim sewer line from SMH No. 1 to new WWTF
GREASE TRAP
SHAMBHALA LODGE
PADMA TOILET HOUSE
GIFT SHOP
1,500 GAL SEPTIC TANK
PUSPA
SHOTOKU (TIGER-LION)
VAJRA BATH HOUSE
RATNA BATH HOUSE

Exhibit B

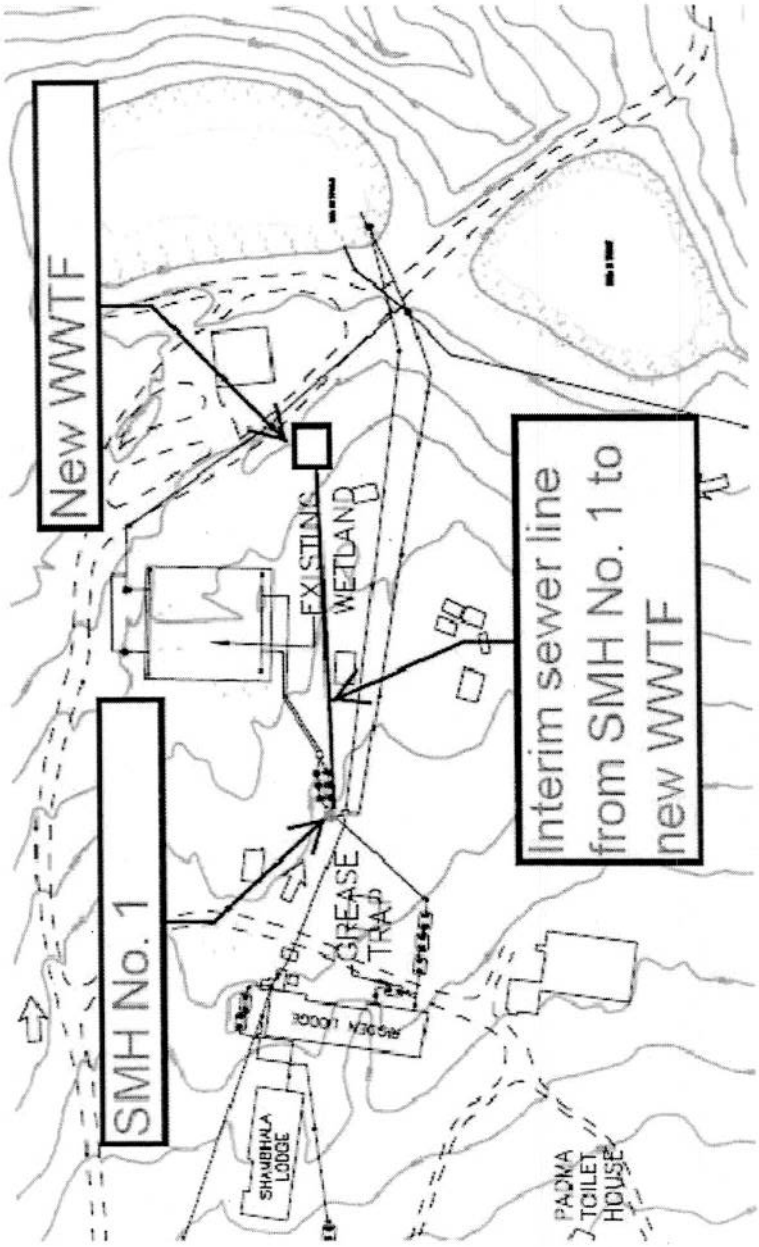
New WWTF
SMH No. 1
EXISTING
WETLAND
GREASE
TRAP
SHAMBHALA
LODGE
Interim sewer line
from SMH No. 1 to
new WWTF
PADMA
TOILET
HOUSE

Exhibit C

Joseph Campbell
Colorado Department of Health & Environment
Water Quality Control Division
Water Pollution Control Enforcement Unit
4300 Cherry Creek Drive South,
Denver, Colorado 80246

October 3, 2011

Re: Waste Water Treatment Plant Extension Plan
Request Proposal for Case MC-100825-1
In The Matter Of: Shambhala International (VAJRADHATU)
CDPS Permit No. COX-630037
Larimer County, Colorado

Dear Mr. Joseph,

For the past 6 weeks we have been working on the collection system design and two associated issues:

1. **Gravity feed for Phase III.**
   We discovered as we began the collection system design that the entry to the plant from the lift station immediately outside the plant was three feet too high to accommodate the proposed gravity-fed design for routing waste from the Stupa and adjacent areas in Phase III. We have put considerable effort into evaluating alternative solutions. A principle concern was evaluating whether we could best address this issue now, and whether the design would impact what we did in Phase I and Phase II of the collection system.

   We worked in depth with the engineers and the contractor who built the plant, and finally we determined that because we are not certain of final development plans for that area, it would be difficult to address this issue at this time. The optimum solutions that the team proposed could best be accomplished as part of the plan for Phase III, when development plans for the area are better understood.

2. **Interim Solution**
   We also had extensive discussions and analysis regarding how the gravity feed issue would affect the implementation of Phase I in the fall of 2012, as well has how an interim solution could impact Stage II. In essence, our conclusion is to keep it simple. This is outlined below.

Interim goals:

1. To deliver wastewater effluent from the Phase I collection system buildings to the new WWT plant though the use of existing septic tanks associated with the buildings for primary treatment and solids reduction.

2. To meet quality criteria at the plant.

3. To abandon use of the existing system of the wetlands and containment lagoon no later than May 1, 2012.

4. To achieve a cost-effective interim solution that will not financially undermine our efforts to meet the full Stage I requirements next year.

The following is a detailed description of our design plans for the proposed interim solution which includes one modification for Phase I of the collection system.

This plan is presented in two parts, Part A and Part B, to help clarify the two main components of the interim solution sewer lines being addressed at this time.

**Interim Solution:**

**Part A: Downtown Area**

The interim solution part "A" would tie in the Rigden Lodge sewer line (6-inch) and the main downtown influent sewer line (4-inch), into a currently unused but existing 4-inch line that runs near manhole #1. This takes advantage of this existing line already in the ground. This existing line will carry influent flows via gravity to the new WWT influent pump station. We would then connect this line to the new WWT pump station. This would complete interim solution part A.

The resulting flows from Part A would bring effluent, less the settled solids in the septic tanks, from the downtown area that includes the Downtown Kitchen, Rigden and Shambhala Lodges, Sacred Studies Hall, the "Karma" bathhouse, the Children's Center (Shotoku) and Pushpa. (Both Shotoku and Pushpa have limited year round use.)

This interim solution addresses all the main "downtown" campus buildings by leaving their septic tanks in place until the fall of 2012 while bringing all liquid effluent to the plant.

See attached Diagram

Cost for interim solution part A is relatively inexpensive.

**Part B: Summer Bathhouses**

**Rationale:**
The area covered in Stage III of the collection system presents important challenges to design at this stage of our development: because we do not have a clear idea of what will happen in these areas. Designing the optimum wastewater collection solution is analogous to designing the structure of the first floor of a house without knowing if you were going to have one or two floors above.

Because it is premature to do a site development plan that addresses the summer bathhouses, Stupa area and other future development in the areas north of the pipeline serving the bathhouses, our proposed solution modifies the original design for the Collection System Stage I.

We believe that this approach is rational and at the same time continues to meet the intention and requirements of the compliance order, including meeting standards outlined in it.

**The Part B plan is as follows:**
Instead of constructing a 8" line per Phase I collection system proposal that was approved in the WUP, we propose to continue to use the existing 4" lines which conduct flows to the existing lift station. This lift station utilizes a 2-inch force main. We propose to link the 2-inch force main from the summer bathhouse lift station to the new WWTF influent pump station discussed above. This existing lift stations is in close proximity to the new WWT plant.

We propose to utilize this summer bathhouse sewer line configuration (part "B") for summer of 2012, and beyond 2012 until such time as we construct the South leg of Phase III collection system that will connect the Stupa Support Building and MPE Kitchen lines.

This Part B proposal will require the approval of the CDPHE and Larimer County, as it is a modification to the original plan for Phase I collection system as approved in the WUP.

**Timing of construction for the interim solution:**

Construction of interim solution could be done this fall or in March of 2012. Part "B" (addressing the summer bath houses) would not be used until the summer of 2012 when the two bath houses are opened. The part "A" downtown line would not have to be activated and feeding the plant before the May 1 COC deadline to have the plant completed and operational. Postponement of flows to the new WWTF may allow as much as 4-5 months of operational savings for the WWT,

and avoid start-up during our low-flow season, when we typically see flows as low as 1,000GPD. Under this proposed scenario we would continue to run the "downtown" flows through the constructed wetlands and discharge to the lagoon until April of 2012.

Phase I of the new collection system construction would begin in the fall of 2012. In Phase I, the new downtown sewer lines will provide gravity flow to the new WWTF pump station. The existing as-built elevation of 7727.5 for the influent invert will allow gravity flow for Phase I downtown and Phase II sewer lines.

The summer bath houses (named "Vajra" and "Ratna") would be included in the Phase III lines that will also link the Stupa support building the and MPE Kitchen, either when we have a more defined site development plan or if OWS failure occurs. This proposal means that we would be operating the summer bathhouses each summer with the summer-line lift station until Phase III construction was completed, and not as part of Phase I construction slated under this proposal for the fall of 2012. Because the summer bath houses are used for a little over three months a year we feel this is a prudent and reasonable approach.

Regarding the proposed continued use of summer-only lift station for the "Vajra" and "Ratna" bathhouses:

The existing summer lift station was constructed in 1997 to provide for a 2-inch force main that would convey effluent from the "Vajra" and "Ratna" summer bath houses to sewer manhole number one (1), from which flows could enter the constructed wetlands for treatment. At the time of the lift station construction, an emergency overflow-pipe flow discharged into the Lagoon. This overflow pipe configuration still is in place.

After May 1st of 2012, per COC, the Lagoon will not be considered a viable alternative to receive untreated wastewater flows—thus SMC will discontinue use of the Lagoon as a suitable containment for an emergency overflow for the summer lift station and the current existing overflow pipe configuration no longer is routed to the decommissioned lagoon.

Therefore, SMC would have to address, for continued operation of the summer lift station past May 1, 2012, a satisfactory and acceptable emergency overflow contingency in the event of a summer lift station catastrophic failure. E.g. power outage, simultaneous pump failure, etc.

SMC proposes an Emergency Response Plan (ERP) as a viable and cost-effective alternative to constructing a new emergency overflow containment basin. The ERP would allow time for repairs to be made and corrective action taken, in the event of a catastrophic failure. In addition to the existing high water alarms, the ERP would include a portable back-up generator on site (at the lift

station), a standby portable pump and piping to pump direct to the new WWTF plant, and a backup replacement effluent pump as replacement for effluent pumps that are in use. Also, the plan would include pumping the septic tanks at the bath houses pumped to allow for 1,500 gallons of back-up capacity at each bathhouse and a emergency plan for water restrictions at the two bath houses to put in place well as portable toilets to be made available as part of the ERP.

Thank you for your consideration of these proposals. We believe they will allow SMC to fully meet its commitments.

Sincerely,

Jon Barbieri
Executive Director