



complied with paragraphs 32 and 33, but needs to complete the required action items set forth therein prior to settlement. All of the remaining paragraphs and requirements have been addressed.

3. With regard to paragraph 32 of the Administrative Order, the Respondent committed to providing the Complainant with invoices, photographs or other information or, alternatively, an affidavit from the maintenance director, verifying that the repairs to permanently address the violations have been successfully completed. This information has not yet been submitted.

4. With regard to paragraph 33 of the Administrative Order, Complainant offered to provide comments on the Respondent's draft Capacity, Management, Operation and Maintenance plan and subsequently schedule a conference call with the maintenance director and Brosz Engineering representative. A revised plan will be submitted to the EPA for review and approval. These action items have not occurred. Natasha Davis of the EPA Region 8 Water Technical Enforcement Program is committed to providing written comments on or about October 17<sup>th</sup>, and scheduling the call for the following week. Once the plan is approved by the EPA and finalized by the Respondent's engineer, this requirement of the Administrative Order will be satisfied.

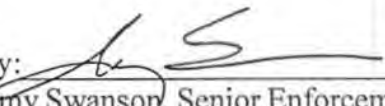
5. Concurrently, Complainant will schedule settlement negotiations with the Respondent with the objective of reaching a settlement-in-principal by the end of October. In the event that the parties settle this matter, they will endeavor to file a fully-executed Consent Agreement with the presiding officer no later than the end of November 2012.

6. If the parties fail to file a Consent Agreement by the end of November 2012, Complainant requests that the presiding officer, subject to her discretion, issue a fourth prehearing order or schedule a prehearing conference call to ensure timely resolution of this matter. Alternatively, Complainant would be pleased to provide a second status update at that time.

Respectfully submitted,

**UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8**

Date: 10/1/2012

By:   
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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 1, 2012 (first business day following September 30, 2012 due date) the original and one true copy of the COMPLAINANT'S STATUS UPDATE was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent as follows:

Via hand-delivery to:

The Honorable Elyana R. Sutin  
Regional Judicial Officer  
U.S. EPA Region 8 (SRC)  
1595 Wynkoop Street  
Denver, CO 80202-1129

and via electronic and first class U.S. mail to:

Eric H. Bogue, Attorney  
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Dupree, SD 57623-0404  
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Date: 10/1/2012

By: Judith M. McTernan