Air Pollution Control
40 CFR Part 49 Tribal Minor New Source Review Permit to Construct
Technical Support Document
Proposed Permit #SMNSR-UO-000818-2016.001

Anadarko Uintah Midstream, LLC
Bitter Creek Compressor Station
Uintah and Ouray Indian Reservation
Uintah County, Utah

In accordance with the requirements of the Tribal Minor New Source Review (MNSR) Permit Program at 40 CFR part 49, this federal permit to construct is being issued under authority of the Clean Air Act (CAA). The EPA has prepared this technical support document describing the conditions of this permit and presents information that is germane to this permit action.

Table of Contents

I. Introduction 3
II. Facility Description and History 3
III. Proposed Synthetic Minor Permit Action 5
IV. Air Quality Review 9
V. Tribal Consultations and Communications 9
VI. Environmental Justice 10
VII. Authority 11
VIII. Public Notice and Comment, Hearing and Appeals 12

I. Introduction

On November 8, 2016, the EPA received an application from Anadarko Uintah Midstream, LLC (Anadarko), requesting a synthetic minor permit for the Bitter Creek Compressor Station (Bitter Creek) in accordance with the requirements of the MNSR Permit Program.

This permit action will apply to an existing facility operating on the Uintah and Ouray Indian Reservation in Utah. The physical location is Latitude 39.934358N, Longitude -109.48531W, in Uintah County, Utah.

This permit does not authorize the construction of any new emission sources, or emission increases from existing units, nor does it otherwise authorize any other physical modifications to the facility or its operations. This permit is only intended to incorporate required and requested enforceable emission limits and operational restrictions from a March 27, 2008, federal Consent Decree (CD) between the United States of America (Plaintiff), and the State of Colorado, the Rocky Mountain Clean Air Action and the Natural Resources Defense Council (Plaintiff-Intervenors), and Kerr-McGee Corporation (Civil Action No. 07-CV-01034-EWN-KMT), and the November 8, 2016 synthetic MNSR application.

Anadarko has requested legally and practically enforceable requirements for the installation and operation of two (2) low-emission tri-ethylene glycol (TEG) dehydration systems for dehydrating gas compressed into a high-pressure pipeline, consistent with the CD. Anadarko also requested enforceable requirements for installation and operation of a catalytic control system and air-to-fuel ratio (AFR) controls on two (2) field gas-fired 4-stroke lean-burn (4SLB) reciprocating internal combustion engines (RICE) (used for field gas compression at the facility), including associated carbon monoxide (CO) control efficiency requirements, consistent with the CD. Lastly, Anadarko requested an enforceable requirement to install and operate only low- or no-bleed or instrument air-driven pneumatic controllers, consistent with the CD.

Upon compliance with the permit, the legally and practically enforceable reductions in emissions can be used when determining the applicability of other CAA requirements, such as the Prevention of Significant Deterioration (PSD) Permit Program at 40 CFR part 52 and the Title V Operating Permit Program at 40 CFR part 71 (Part 71).

II. Facility Description and History

Bitter Creek collects field gas from the surrounding field via the low pressure gas collection system and compresses the gas into an intermediate pressure pipeline. The field gas enters the compressor station through the inlet slug catcher where liquids are gravitationally separated from the stream. Condensate recovered is sent to the atmospheric storage tanks onsite or the blowcase system and put back into the discharge line leaving the compressor station. Produced water is stored in the atmospheric storage tanks onsite until loaded into trucks and transported offsite. The field gas goes through two stages of compression before dehydration. Prior to dehydration, the gas passes through six (6) hydrogen sulfide (H_2S) gas to liquid scrubbers to remove H_2S from the gas stream. The field gas is dehydrated using low-emission dehydrators before being discharged from the facility.

The emission units identified in Table 1 are currently installed and/or operating at the facility. The information provided in this table is for informational purposes only and is not intended to be viewed as enforceable restrictions or open for public comment. The units and control requirements identified here either existed prior to any pre-construction permitting requirements or were approved/required through

the alternative methods as identified below. Table 2, Facility-wide Emissions, provides an accounting of enforceable controlled emissions in tons per year (tpy).

Table 1. Existing Emission Units

Unit Description	Controls	Original Preconstruction Approval Date &/or Emission Control Requirement Details
Two (2) 4SLB, field gas-fired RICE for gas compression, each with a maximum site rating of 1,340 hp*. [Unit IDs BTC 1 and BTC 2]	Oxidation Catalyst	No pre-construction approval required for the installation of the engines. Installed prior to the promulgation of the MNSR Permit Program. Control requirements established for all engines in the March 27, 2008 Consent Decree Civil Action No. 07-CV-01034-EWN-KMT. Area source operation and maintenance required for both engines per applicability to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines at 40 CFR part 63, subpart ZZZZ (NESHAP ZZZZ).
Two (2) 70 MMscfd* tri-ethylene glycol (TEG) low-emission dehydration units.	Low-Emission Dehydrator Technology	No pre-construction approval required for the installation of the TEG dehydration units. Installed prior to the promulgation of the MNSR Permit Program. Control requirements established in the March 27, 2008 Consent Decree Civil Action No. 07-CV-01034-EWN-KMT.
Pneumatic controllers (low-bleed, no-bleed or instrument air-driven).	None	No pre-construction approval required for the installation of the controllers. Installed and converted to instrument air prior to the promulgation of the MNSR Permit Program. Low- or no-bleed and instrument air conversion requirements established in the March 27, 2008 Consent Decree Civil Action No. 07-CV-01034-EWN-KMT.
Two (2) 0.01 MMBtu/hr* reboilers.	None	No pre-construction approval required for the installation of the burners. Installed prior to the promulgation of the MNSR Permit Program.
One (1) 0.5 MMBtu/hr heater.	None	No pre-construction approval required for the installation of the heater. Installed prior to the promulgation of the MNSR Permit Program.
Three (3) 400 bbl* each atmospheric produced water storage tanks.	None	No pre-construction approval required for the installation of the tanks. Installed prior to the promulgation of the MNSR Permit Program.
Tank Truck Loading.	None	No pre-construction approval required for the construction of the facility. Commenced prior to the promulgation of the MNSR Permit Program.
Facility Fugitives.	None	No pre-construction approval required for the construction of the facility. Commenced prior to the promulgation of the MNSR Permit Program.

* hp = horsepower; bbl = barrel; MMBtu/hr = million British thermal units per hour; MMscfd = million standard cubic feet per day.

Table 2. Facility-wide Emissions

Pollutant	Controlled Potential Emissions (tpy)
PM	0.0
PM_{10}	0.0
$PM_{2.5}$	NA
SO_2	NA
NO_X	39.1
CO	15.6
VOC	23.5
Greenhouse Gases	
CO_2e (Total)	**12,044.8**
Hazardous Air Pollutants (HAP)	
Acetaldehyde	0.7
Acrolein	0.4
Benzene	0.3
Ethyl-Benzene	NA
Toluene	0.2
n-Hexane	1.8
Xylene	NA
Formaldehyde	1.8
2,2,4-Trimethylpentane	NA
Cyclohexane	NA
Total HAP**	**5.2**

PM – Particulate Matter
PM_{10} – Particulate Matter less than 10 microns in size
$PM_{2.5}$ – Particulate Matter less than 2.5 microns in size
SO_2 – Sulfur Dioxide
NO_X – Nitrogen Oxides
CO – Carbon Monoxide
VOC – Volatile Organic Compounds
CO_2 – Carbon dioxide
CH_4 – Methane
N_2O – Nitrous oxide
HFCs – Hydrofluorocarbons
PFCs – Perfluorocarbons
SF_6 – Sulfur hexafluoride
CO_2e – Equivalent CO_2. A measure used to compare the emissions from various greenhouse gases based upon their global warming potential (GWP)

HFCs, PFCs, and SF_6 emissions are not created during oil and natural gas production operations.

NA – Not Available

*BTEX = benzene, toluene, ethylbenzene and xylenes.

**Total HAP is inclusive of but not limited to the individual HAP listed above.

III. Proposed Synthetic Minor Permit Action

A. Low-Emission Dehydration System

Field gas often contains water vapor at the production site which must be removed to avoid pipeline corrosion and solid hydrate formation. The natural gas industry commonly uses the glycol absorption process to remove naturally occurring water from raw field gas. Most commonly, the glycol absorbent used is TEG. The TEG dehydration process produces VOC and HAP emissions from pressure reduction of rich glycol (immediately post absorption and prior to stripping and regeneration) and from the stripping of the rich glycol to regenerate lean glycol to be reused in the process. The HAP emissions consist primarily of benzene, toluene, ethylbenzene and n-hexane.

A flash tank is typically utilized to separate these vapors at a pressure where they can be utilized for fuel. Distillation removes the absorbed water along with any remaining hydrocarbon, including VOC and HAP, from the glycol to the still column vent as overhead vapor. The typical form of emission control for conventional dehydrator still vents that emit the non-condensable portion of this overhead vapor is to route the vapors to a combustion device, such as a thermal oxidizer or reboiler burner to destroy the hydrocarbon content of the vapors. However, Anadarko

has installed and operates two (2) low-emission TEG dehydrators at Bitter Creek. These units capture the non-condensable portion of the still vent and the flash tank vapors and recompress the vapor with a reciprocating or scroll compressor that routes the vapor to the station inlet as natural gas product or to the station fuel system. The units also employ an electric glycol circulation pump and, except for the recompression of non-condensable vapors, resemble conventional glycol dehydrators in their configuration.

To ensure that the non-condensable vapor compression systems are fully integrated into dehydrator operation such that the units cannot be disabled so as to operate while venting to the atmosphere, the units: 1) incorporate an integral vapor recovery function that prevents the dehydrator from operating independently of the vapor recovery function; 2) either return the captured vapors to the inlet of the facility where the glycol dehydrators are located or route the captured vapors to that facility's fuel gas supply header; and 3) thereby, emit no more than 1.0 ton per year of VOC each.

The low-emission glycol dehydrators have at least three (3) levels of protection to prevent emissions from occurring:

(a) Physical electrical hard-wiring between the vapor recovery unit (VRU) compressor and the glycol circulation pumps ensures that if the VRU compressor goes down, the glycol pump also shuts down thereby halting the circulation of glycol through the wet gas as well as the emissions associated with the regeneration of glycol;

(b) A second level of protection redundancy has been incorporated by using the station Programmable Logic Controller (PLC) to shut down the dehydration system in the event the VRU compressor goes down; and

(c) A third level of protection is the routing of non-condensables directly to combustion devices in the stations that utilize micro-turbine electrical generators or central heat medium systems.

The units were certified through a third-party independent engineering evaluation to have zero (0) emissions of VOC from the routing of regenerator and flash tank overheads to an integrated VRU, and that safeguards exist to ensure that the dehydrators shut down if the VRU is shut down for any reason. The independent engineering evaluation is available in the administrative docket for this permit.

Based on our review of Anadarko’s permit application, we are proposing the emission, operational, monitoring, recordkeeping and reporting requirements in Table 3 for the Low-Emission Dehydrators, which are consistent with the requirements in the CD. The proposed requirements are based, in part, on the unit specifications and independent engineering evaluation provided by Anadarko in the permit application and ensure that the requested emission limits are legally and practically enforceable.

Table 3. Proposed Low-Emission Dehydrators Construction, Operational, Monitoring, Recordkeeping and Reporting Requirements

Type	**Proposed Requirement**
Construction and Operation	Install, operate and maintain no more than two (2) Low-Emission Dehydrators that each meet specifications set forth in an Appendix to the permit, which is reproduced from the CD and that means a dehydration unit that: • Incorporates an integral vapor recovery function such that the dehydrator cannot operate independent of the vapor recovery function; • Either returns the captured vapors to the inlet of the facility where the dehydrator is located or routes the captured vapors to the facility's fuel gas supply header; and • Is designed and operated to emit less than 1.0 ton of VOC in any consecutive 12-month period, inclusive of VOC emissions from the reboiler burner.
Recordkeeping	Keep records of all manufacturer specifications and all required inspections and repairs.
Reporting	Submit a summary of all inspections and repairs conducted in each annual report to the EPA.

The proposed emission restrictions will result in a total of 1.0 tpy of VOC from each of the two (2) Low-Emission Dehydrators. These controlled emissions are based on the dehydrators operating a maximum of 8,760 hours in a year, at a maximum capacity of 140 MMscfd, and as certified "Low-Emission Dehydrators."

B. 4SLB Field Gas-Fired Compressor Engines and Controls

Bitter Creek operates two (2) field gas-fired 4SLB RICE and the primary form of emission control for field gas-fired lean-burn RICE is catalytic control systems, most commonly systems that use oxidation catalysts. Oxidation catalyst control systems are effective for control of CO, VOC and formaldehyde. These catalysts do not typically control NOx emissions. However, lean-burn engines are designed to operate with more dilute field gas streams (a higher air-to-fuel ratio) than rich-burn engines. Because they operate on more dilute field gas streams, lean-burn engines also operate at lower combustion temperatures producing less NO_X emissions than rich-burn engines.

The CD contains requirements to control these two (2) engines using oxidation catalyst control systems capable of 93% CO control efficiency when operating at 90% load or higher. In addition

to the conditions proposed in this MNSR permit, the two (2) engines are subject to operation and maintenance requirements for area sources under NESHAP ZZZZ. Anadarko is requesting to incorporate the engine requirements from the CD into this MNSR permit to provide legal and practical enforceability after the CD is terminated.

Based on our review of Anadarko's permit application, we are proposing the construction, operation, control, testing, recordkeeping and reporting requirements in Table 4 for the two (2) engines, that are consistent with the requirements in the CD.

Table 4. Proposed Engine Construction, Operation, Emissions, Testing, Monitoring, Recordkeeping and Reporting Requirements

Type	**Proposed Requirement**
Construction, Control and Operation	Install, continuously operate and maintain a catalytic control system on each engine capable of reducing emissions of CO by at least 93.0% when the engine is operating at 90% load or higher. Follow engine and control manufacturer recommended maintenance schedules and procedures or equivalent procedures developed by the vendor or Permittee, to ensure optimum engine and control performance such that each engine meets the CO control efficiency requirement.
Performance Testing	Initial performance testing for compliance with the CO control efficiency within 60 days after achieving the maximum production rate at which the facility will be operated, but no later than 180 days after initial startup, including initial startup for engines that are rebuilt or replaced. Semiannual subsequent performance testing. Testing may be reduced to an annual basis after two consecutive passing tests. Performance tests shall be conducted using a portable analyzer to measure oxygen (O_2) and CO according to Carbon Monoxide Control Efficiency Portable Analyzer Monitoring Protocol (included as an appendix to the proposed MNSR permit, copied from Appendix F of the CD).
Recordkeeping	Keep records of: all manufacturer and/or vendor specifications for each engine, catalytic control system and portable analyzer; all calibration and maintenance conducted for each engine, catalytic control

	system and portable analyzer; all required performance tests; all engine rebuilds and replacements; and all deviations of permit conditions (including corrective actions and timeframe for return to compliance).
Reporting	Submit all initial performance test reports to the EPA within 60 days of completing the test. Include a summary of all maintenance conducted, corrective actions, subsequent semi-annual testing and all deviations from permit conditions (including corrective actions and timeframe for return to compliance) in each required annual report to the EPA.

These proposed CO control efficiency and operational requirements will result in a facility-wide PTE of 15.6 tpy for CO emissions. The potential controlled emissions are based on the engines operating a maximum of 8,760 hours in a year and at the specified maximum horsepower ratings and accounting for catalytic control system manufacturer guaranteed CO control efficiencies of 93%.

C. Pneumatic Controllers

The CD contains a requirement that all pneumatic controllers be operated using instrument air or low-bleed controllers. Therefore, we are proposing such a condition in the permit.

IV. Air Quality Review

The MNSR regulations at 40 CFR 49.154(d) require that an Air Quality Impact Assessment (AQIA) modeling analysis be performed if there is reason to be concerned that new construction would cause or contribute to a National Ambient Air Quality Standard (NAAQS) or PSD increment violation. If an AQIA reveals that the proposed construction could cause or contribute to a NAAQS or PSD increment violation, such impacts must be addressed before a pre-construction permit can be issued.

The emissions at this existing facility will not be increasing due to this permit action and the emissions will continue to be well controlled at all times. In addition, this permit action does not authorize the construction of any new emission sources, or emission increases from existing units, nor does it otherwise authorize any other physical modifications to the facility or its operations and the substantive requirements of the CD (emission controls and reductions) have already been fulfilled at this facility. In short, this action will have no adverse air quality impacts; therefore, we have determined that an AQIA modeling analysis is not required for this action.

V. Tribal Consultations and Communications

We offer tribal government leaders an opportunity to consult on all major and certain synthetic MNSR permit actions. This synthetic MNSR permit action incorporates existing requirements from the

March 27, 2008 Consent Decree Civil Action No. 07-CV-01034-EWN-KMT and does not authorize any increase in emissions or new construction. Therefore, we did not offer the Ute Indian Tribe the opportunity to consult on this action. However, the Ute Tribe may request consultation at any time. To date the Ute Indian Tribe has not requested consultation on this permit action.

All minor source applications (synthetic minor, minor modification to an existing facility, new true minor and general permit) are submitted to both the tribe and the EPA per the application instructions (see https://www.epa.gov/caa-permitting/tribal-nsr-permits-region-8). The tribe has 10 business days from the receipt of the application to communicate to the EPA any preliminary questions and comments on the application. In the event an AQIA is triggered, we email a copy of that document to the tribe within 5 business days from the date that we receive it.

Additionally, we notify the tribe of the public comment period for the proposed permit and provide copies of the notice of public comment opportunity to post in various locations of their choosing on the Reservation. We also notify the tribe of the issuance of the final permit.

VI. Environmental Justice

On February 11, 1994, the President issued Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The Executive Order calls on each federal agency to make environmental justice a part of its mission by "identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies and activities on minority populations and low-income populations."

The EPA defines "Environmental Justice" to include meaningful involvement of all people regardless of race, color, national origin or income with respect to the development, implementation and enforcement of environmental laws, regulations and polices. The EPA's goal is to address the needs of overburdened populations or communities to participate in the permitting process. *Overburdened* is used to describe the minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards.

This discussion describes our assessment of the potential environmental impacts to potentially overburdened communities in connection with issuing this permit in Uintah County, Utah, within the exterior boundaries of the Uintah and Ouray Indian Reservation, and describes our efforts at meaningful public involvement in the permit issuance process.

A. Environmental Impacts to Potentially Overburdened Communities

This permit action would not authorize the construction of any new air emission sources, or air emission increases from existing units, nor would it otherwise authorize any other physical modifications to the associated facility or its operations. The air emissions at the existing facility will not increase due to the associated action and the emissions will continue to be well controlled at all times. This action will have no adverse air quality impacts.

Furthermore, the permit would contain a provision stating, "*The permitted source shall not cause or contribute to a National Ambient Air Quality Standard violation or a PSD increment violation.*" Noncompliance with this permit provision is a violation of the permit and is grounds for enforcement action and for permit termination or revocation. As a result, we conclude that

issuance of the aforementioned permit will not have disproportionately high or adverse human health effects on any communities in the vicinity of the Uintah and Ouray Indian Reservation.

B. Enhanced Public Participation

Given the presence of potentially overburdened communities in the vicinity of the facility, we are providing an enhanced public participation process for this permit.

1. Interested parties can subscribe to the EPA email list that notifies them of public comment opportunities on the Uintah and Ouray Indian Reservation for proposed air pollution control permits via email at https://www.epa.gov/caa-permitting/caa-permit-public-comment-opportunities-region-8.

2. All minor source applications (synthetic minor, modification to an existing facility, new true minor or general permit) are submitted to both the tribe and the EPA per the application instructions (see https://www.epa.gov/caa-permitting/tribal-nsr-permits-region-8).

3. We ask that the tribe communicate to the EPA any preliminary questions and comments on the application within 10 business days of receiving it.

4. In the event an AQIA is triggered, we email a copy of that document to the tribe within 5 business days from the date we receive it.

5. We notify the tribe of the public comment period for the proposed permit and provide copies of the notice of public comment opportunity to post in various locations of their choosing on the Reservation. We also notify the tribe of the issuance of the final permit.

6. We offer tribal government leaders an opportunity to consult on all major and certain synthetic MNSR permit actions. This synthetic MNSR permit action incorporates existing requirements from the March 27, 2008 Consent Decree Civil Action No. 07-CV-01034-EWN-KMT and does not authorize any increase in emissions or new construction. Therefore, we did not offer the Ute Tribe the opportunity to consult on this action. However, the Ute Indian Tribe may request consultation at any time.

VII. Authority

Requirements under 40 CFR part 49 to obtain a permit apply to new and modified minor stationary sources, and minor modifications at existing major stationary sources ("major" as defined in 40 CFR 52.21). In addition, the MNSR Permit Program provides a mechanism for an otherwise major stationary source to voluntarily accept restrictions on its potential to emit to become a synthetic minor source. We are charged with direct implementation of these provisions where there is no approved Tribal implementation plan for implementation of the MNSR regulations. Pursuant to section 301(d)(4) of the CAA (42 U.S.C. Section 7601(d)), we are authorized to implement the MNSR regulations at 40 CFR part 49 in Indian country. The Bitter Creek Compressor Station is located on Indian country lands within the exterior boundaries of the Uintah and Ouray Indian Reservation in Utah. The exact location is Latitude 39.934358N, Longitude -109.48531W, in Uintah County, Utah.

VIII. Public Notice and Comment, Hearing and Appeals

A. Public Comment Period

In accordance with 40 CFR 49.157, we must provide public notice and a 30-day public comment period to ensure that the affected community and the general public have reasonable access to the application and proposed permit information. The application, the proposed permit, this technical support document and all supporting materials for the proposed permit are available at:

Ute Indian Tribe
Energy and Minerals Department
P.O. Box 70
988 South 7500 East, Annex Building
Fort Duchesne, Utah 84026
Contact: Minnie Grant, Air Coordinator, 435-725-4900 or minnieg@utetribe.com

and

U.S. EPA
Region 8 Air Program Office
1595 Wynkoop Street (8P-AR)
Denver, Colorado 80202-1129
Contact: Eric Wortman, Environmental Scientist, 617-918-1624 or wortman.eric@epa.gov

All documents are available for review at our office Monday through Friday from 8:00 a.m. to 4:00 p.m. (excluding federal holidays). Additionally, the proposed permit and technical support document can be reviewed on our website at: https://www.epa.gov/caa-permitting/caa-permit-public-comment-opportunities-region-8.

Any person may submit written comments on the proposed permit and may request a public hearing during the public comment period. These comments must raise any reasonably ascertainable issues with supporting arguments by the close of the public comment period (including any public hearing). Comments may be sent to the EPA address above, or sent via an email to r8airpermitting@epa.gov, with the topic "Comments on SMNSR Permit for the Bitter Creek Compressor Station."

B. Public Hearing

A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing. We will hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a proposed permit. We may also hold a public hearing at our discretion whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

C. Final Permit Action

In accordance with 40 CFR 49.159, a final permit becomes effective 30 days after permit issuance, unless: (1) a later effective date is specified in the permit; (2) appeal of the final permit is made as detailed in the next section; or (3) we may make the permit effective immediately

upon issuance if no comments resulted in a change or denial of the proposed permit. We will send notice of the final permit action to any individual who commented on the proposed permit during the public comment period. In addition, the source will be added to a list of final permit actions which is posted on our website at: https://www.epa.gov/caa-permitting/caa-permits-issued-epa-region-8. Anyone may request a copy of the final permit at any time by contacting the Tribal Air Permit Program at (800) 227–8917 or sending an email to r8airpermitting@epa.gov.

D. Appeals to the Environmental Appeals Board

In accordance with 40 CFR 49.159, within 30 days after a final permit decision has been issued, any person who filed comments on the proposed permit or participated in the public hearing may petition the Environmental Appeals Board (EAB) to review any condition of the permit decision. The 30-day period within which a person may request review under this section begins when we have fulfilled the notice requirements for the final permit decision. Motions to reconsider a final order by the EAB must be filed within 10 days after service of the final order. A petition to the EAB is under section 307(b) of the CAA, a prerequisite to seeking judicial review of the final agency action. For purposes of judicial review, final agency action occurs when we issue or deny a final permit and agency review procedures are exhausted.