

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-184675

DATE: April 9, 1976

MATTER OF: Native American Rights Fund

**DIGEST:**

Where protester raised essentially same issues in suit in U. S. District Court in protest, protest will not be considered, since court has expressed no interest in GAO becoming involved in matter, despite protester bringing possibility to court's attention.

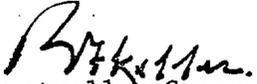
By letter dated August 5, 1975, the Native American Rights Fund protested on behalf of Floyd Wopsock and other members of the Ute Indian Tribe (Wopsock) against the award by the Bureau of Reclamation, Department of the Interior, of a contract for the construction of the VAT Tunnel in the Bonneville Unit of the Central Utah Project. Wopsock protested that (1) the construction of the VAT Tunnel will irreparably impair the Ute Indian Tribe's water rights; (2) the Bonneville Unit is no longer feasible as planned; and (3) the United States will breach its fiduciary duty to the Ute Indian Tribe by constructing the VAT Tunnel.

On August 9, 1975, Wopsock filed suit in the United States District Court for the District of Utah for a preliminary injunction enjoining the award of the contract for the construction of the VAT Tunnel. The preliminary injunction was denied and the contract was awarded.

Under section 20.10 of the Bid Protest Procedures, 40 Fed. Reg. 17980 (1975), we "may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction," except "where the court requests, expects, or otherwise expresses interest" in our decision.

B-184675

The issues raised and relief sought by Wopsock in the court action are essentially the same as those in the protest. Wopsock has continued to pursue a final adjudication by the court on the merits. Moreover, in the more than 7 months following the filing of the suit, the court has expressed no interest in our Office becoming involved in the matter, despite Wopsock bringing the possibility to the court's attention. Therefore, we decline to consider the protest. See Nartron Corp., 53 Comp. Gen. 730 (1974), 74-1 CPD 154; Allenberg Cotton Company, B-180929, April 24, 1974, 74-1 CPD 212; Rueben Turunen, B-182265, January 13, 1975, 75-1 CPD 15; Lincoln Services, Ltd., B-182775, May 6, 1975, 75-1 CPD 277; Computer Machining Technology Corporation, B-181440, B-182152, B-184335, February 9, 1976, 76-1 CPD 80, affirmed March 15, 1976.

  
Acting Comptroller General  
of the United States