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I-40 Bid To Be Resubmitted

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Tennessee highway officials plan to resubmit to Transportation Secretary Claude S. Brinegar the state's request that he designate Overton Park as the only "feasible and prudent" routing of Interstate 40, offering an administrative alternative to a "chicken-or-the-egg" legal dispute that otherwise is likely to end nowhere short of the U.S. Supreme Court.

The resubmission, which would carry with it any new information the state feels might end squabbling between the two governmental levels, was the only positive result of a Wednesday night Washington meeting called by Rep. Dan Kuykendall (R-Memphis).

Lee Smith, counsel to Gov. Winfield Dunn, said yesterday the resubmission would be made in an effort to convince the secretary of transportation to reconsider the federal ban on a transpark route from an administrative standpoint.

"We're going to give him (Brinegar) the opportunity to do it (route designation) voluntarily."

Otherwise, he said, the state will continue to push in appellate courts U.S. Dist. Judge Bailey Brown's order directing Brinegar to say there is no 'feasible and prudent alternative' to

the park route or—if he feels there is such an alternative—to say where it lies.

A knowledgeable U.S. Transportation Department source, meanwhile, said that department would continue to pursue its appeal of Judge Brown's order with the contention that a route determination rests solely with the state, with Brinegar's participation limited to either approval or rejection of any state suggestion.

Lee Smith, state Transportation Commissioner Robert Smith, and Alan Hanover, a Memphis attorney representing the state, conferred Wednesday night in Washington with Kuykendall.

The state officials convinced Kuykendall that efforts to find a shortcut solution to the complicated, state-federal impasse have little chance of success.

After the meeting, Kuykendall announced he was dropping his efforts to arrange a high-level meeting between state and federal officials with the hope

of moving toward an informal agreement on a 'cut-and-cover tunnel' to carry I-40 under the park.

Commissioner Smith confirmed the state and federal governments could make no agreements in respect to either the route or design of the 3.7-mile segment.

Informal negotiations had been underway for some time whereby the state would submit to an expensive 'cut and cover' design for an underground route through the park. The federal government would then accept the design and designate the transpark routing as the only 'feasible alternative.'

And the federal government would pay the more than \$50 million dollars in extra costs such a design would require, thereby ending state objections to that plan.

State officials, however, were fearful such an arrangement would not be in strict keeping with highway laws, contending a legal designation of routing was necessary prior to any agreement on design.