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State Cleared On Park Route

By WILLIAM GREEN

Federal Judge Bailey Brown yesterday said the state is free to proceed with construction of Interstate 40 through Overton Park despite an appeal of his decision approving the project.

Although the judge said he could not enjoin the state from using the land for the federal-aid highway, he took under advisement a motion for a temporary injunction that would delay release of federal funds for the project.

The state, officials have pointed out, could complete the highway without federal funds if necessary.

In rejecting the conservationists' motion against the state, the judge stressed that the state had bought the land from the city for more than two million dollars and could do with it what it wanted.

"The state could go in there with bulldozers tomorrow if they wanted to, whether they get 90 per cent (of the cost) from the federal government or not," he said.

The ruling came on a suit by the Citizens to Preserve Overton Park, Inc., which sought to prevent construction of the highway through the park until an appeal of Judge Brown's Feb. 26 approval of the project is decided in the Sixth Circuit Court of Appeals in Cincinnati, Ohio.

The conservationists were defeated last month in their federal court attempt to reroute the project or build it underground to avoid use of woods and other sections of the park.

"It's not going to take long to have this case decided on appeal," argued John W. Vardaman Jr. of Washington, attorney for the conservationists. "If this injunction (against the state) is not granted and we should prevail on appeal it would be a tragic, tragic mistake . . . There would be no way to repair the damage done."

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J. Alan Hanover, an attorney representing the state, said that because of state law regarding highway contract procedures the conservationists "would have ample time before anything is done to let their position be known in Cincinnati."

He said it will be "sometime in April" before bids for the contract are received.

United States Atty. Thomas F. Turley, who represents Transportation Secretary John A. Volpe, charged that opponents of the project had "wrapped themselves in the cloak of righteousness and the defendants in the garments of the devil" during the long, off-and-on battle that began in the 1950s.

Attorney Walter P. Armstrong Jr. yesterday sought to intervene in the lawsuit in behalf of the Memphis Chamber of Commerce and Future Memphis, Inc. In a suit filed earlier, he sought intervention on the side of the defendants, but yesterday he said he wanted to come into the case as "a friend of the court."

Mr. Turley opposed the motion, saying the "interest of the defendants are adequately represented."

The judge said he would rule on the motion later, but said the issue could become moot if the conservationists' appeal is rejected.

He said he would rule on the motion to delay federal funds in a day or two. He added that if he ruled in favor of the conservationists he then would have to decide the amount of bond they would have to post to pay for possible damages caused by a delay in the project.

Attorneys:
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