

at Cincinnati: Six Circuit Court Appeals

Park Route OK'd; Foes Ponder Action

By JAMES CHISUM

The Sixth Circuit Court of Appeals yesterday gave the "go" sign to construction of Interstate 40 through Overton Park.

The Tennessee Highway Department immediately drove through by opening bids for the work, hoping the 15-year-old controversy over the route is ended.

Opponents of the park route were undecided on whether to make the remaining possible move toward blocking the construction—a appeal to the United States Supreme Court.

"We have nothing to say yet. We're not through," said Dr. Arlo I. Smith, a Southwestern professor and chairman of Citizens to Preserve Overton Park, Inc.

Dr. Smith said no decision on whether to appeal had been made. A meeting of the conservationist group will probably be held next week, he said.

The Sixth Circuit turned down requests for a rehearing by the entire 12-member court and for an order to stop construction while the hearing was pending.

The Tennessee Highway Department received a low bid of \$5,399,350 from Michael Construction Co. of Chattanooga. The estimated cost of the nearly 2.3-mile segment had been \$5,148,000.

Highway Commissioner Charles W. Speight said the department could take 30 days to look over the bids, but would probably reach a decision in about 10 days.

Other bids were submitted by Boyer, Johnson & Kimer of Jackson, Tenn., \$5,521,878, and S&W Construction Co. of Memphis, \$5,554,023.

Mr. Speight said he was aware conservationists could appeal to the Supreme Court. But, he said, "I think we're going to whip them."

He said bids must be opened for one remaining segment of about a mile of Interstate 40 in Memphis. This will probably be done in December, he said.

The commissioner would not speculate on the time required to complete the Overton Park segment. He said completion of the expressway through the city would take "closer to two years than one."

The department yesterday also opened bids for 18 spans

of steel and concrete bridge-work on the new Mississippi River bridge, with Bethlehem Steel of Bethlehem, Pa., the apparent low bidder at \$7,923,212. In addition, Michael Construction Co. was the apparently low bidder on 0.3 mile of Interstate 40 near the new bridge, with an offer of \$5,298,990. The segment will include four bridges.

The normal procedure for continuing the fight against the highway construction would include a request to Justice Potter Stewart for an order to hold up work until a Supreme Court ruling could be made. Justice Stewart is justice of the Sixth Judicial Circuit.

However, one source said the conservation groups might try to take their request for a delay to a justice they could expect to be more sympathetic with their cause — Justice William O. Douglas, for example.

The three-judge panel which considered both the original appeal and the petition for a rehearing included Judges John W. Peck, Paul C. Weick and Anthony Celebrezze.

Judges Peck and Weick upheld the lower court decision in both cases, and Judge Celebrezze dissented in both.

Opponents of the route through the park have argued that only engineering and costs were considered in choosing the path. Proponents have insisted that the park route was the only feasible one.

However, the question for the federal courts was whether requirements of the Federal Aid Highway Act were met in making the decision. The construction would be financed with 90 per cent federal funds and 10 per cent state funds.

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But because the dissent is not printed in Memphis, JCG

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