

Ecology Appeal In Park Defense Is Sidetracked

Plaintiffs in the Overton Park expressway case must await a final ruling on the entire case, before appealing the issue of whether the National Environmental Policy Act is applicable to the dispute, it was ruled yesterday.

United States Dist. Judge Bailey Brown said in an order filed yesterday that the ecological act should not apply since it took effect after the park suit was filed.

Judge Brown ruled on June 24 that the act could not apply to the case, denying the plaintiffs' motion that they be allowed to amend their original complaint by charging violation of the act.

Mrs. Sunshine K. Snyder, one of the original plaintiffs, then asked Judge Brown to issue a certification of final judgment, which would allow her to appeal his June 24 ruling to the United States Sixth Circuit Court of Appeals in Cincinnati.

As an alternative, Mrs. Snyder had sought that Judge Brown rule the issue of the NEPA is a vital issue in the case, which would allow her attorneys to sever the ecological issue and appeal.

His order denied both requests, however. "All the court has done in denying the application to amend to rely on NEPA is to rule that plaintiffs cannot rely on this particular ground in support of their single claim."

He has set a full hearing in the case for Sept. 27.

O.A.

Aug 24 1971