

Park Route Foes Get Wide Guides

By WILLIAM CRYER

United States Dist. Judge Bailey Brown yesterday ruled that attorneys trying to block construction of Interstate 40 through Overton Park may offer into evidence expert proof to support their contention that the highway should have been routed elsewhere.

Judge Brown's order came after a three-hour pre-trial hearing yesterday in his courtroom. A full Overton Park hearing is scheduled to begin Sept. 27.

The judge's ruling allows the plaintiffs wide latitude in what evidence they may present in the case, but places on them the burden of proving that the 8,000-page "administrative record" was insufficient to support the decision to route the highway through the park.

In the hearing yesterday attorneys for federal and state governments argued that the plaintiffs should be restricted to proving the administrative record deficient rather than presenting expert testimony.

The administrative record is the accumulated records, correspondence and memoranda used by government officials in making their decision on the route of the highway.

Judge Brown said yesterday he wants the plaintiffs to have "broad" latitude in presenting evidence.

In his order, Judge Brown said the issues of the case are "whether or not the corridor and design determinations of the secretary (of Transportation) were within his authority and were not arbitrary, capricious or an abuse of discretion . . ."

He held that the Supreme Court had disallowed evidence as to the possible cost of changing the route at this time, and ordered the defendants not to offer such evidence in the case.

Plaintiffs in the suit are Citizens to Preserve Overton Park, Inc., William W. Deupree Sr., Mrs. Sunshine K. Snyder, the Sierra Club and the National Audubon Society, Inc.

Defendants are John A. Volpe, secretary of the Department of Transportation and Robert F. Smith, commissioner of the Tennessee Department of Highways.

The United States Supreme Court sent the case back to Judge Brown March 2, ruling that he must hold a full investigative hearing before reaching a final decision.

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