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Brinegar Resignation Could Snarl I-40 Case

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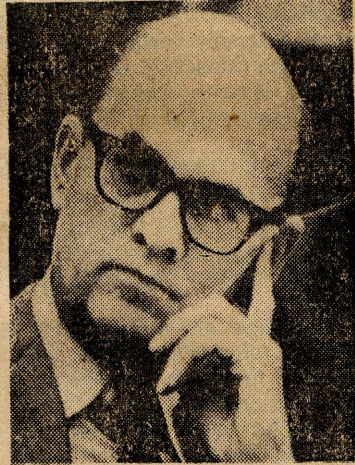
From The Commercial Appeal Washington Bureau

WASHINGTON, Dec. 17 — Sen. Howard Baker (R-Tenn.) said Tuesday he hopes Transportation Secretary Claude Brinegar will remain in office long enough to rule on Tennessee's latest proposal for an Interstate 40 route through Overton Park in Memphis.

Brinegar will submit his resignation this week, White House sources said, but probably will continue in office until his successor is nominated and confirmed by the Senate.

This could be a month or longer, since Congress is scheduled to adjourn Friday and the next session is not slated to begin until Jan. 14. Hearings and a Senate vote on confirmation of the new secretary probably would not come before the end of January at the earliest.

Transportation Department sources expect processing of Tennessee's new Overton Park proposal to be completed



Claude S. Brinegar

by early January and for it to be ready for the secretary's decision then.

Baker said he has not been advised officially that Brinegar is leaving. "But he is leaving," Baker said. "I certainly hope we can get a decision out of him before he departs. I hope we will not have to go through the process of familiarizing a new secretary with all of the intricacies of the Overton Park case."

Brinegar's impending departure suggested that at least one phase of the long history of the complicated Overton Park case may be repeating itself.

His predecessor, John A. Volpe, like Brinegar, resigned at a critical point in the case. In one of his last acts before leaving office Jan. 18, 1973, Volpe rejected Tennessee's earlier proposal for a partially depressed I-40 route through the park.

But the manner in which Volpe acted left the record so obscure that additional litigation and delays resulted.

The state's latest proposal, submitted to Brinegar by Gov. Winfield Dunn Oct. 3, again calls for a partially depressed I-40 through the park, at an estimated cost of \$17.6 million. But the state said a cut-and-cover tunnel, costing \$178.4 million, would be acceptable if approved by the secretary.

Under federal laws, which environmentalists have employed in fighting the park route, the transportation secretary must determine there is no prudent and feasible alternative to routing a federal-aid highway through

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a public park, and also that the design minimizes harm to the park.

In accepting the state's new 50-page application, Brinegar promised Dunn and Baker to expedite a decision.

Brinegar's resignation, which White House sources told The Commercial Appeal could come as early as Wednesday, is a part of a "house-cleaning" by President Ford aimed at removing major vestiges of the Nixon administration.

The Chicago Sun-Times reported Ford will pick John Robson, a Chicago attorney and former DOT general counsel, as Brinegar's successor.

But well-placed DOT and White House sources said no decision has been made and that John Shaffer, former Federal Aviation Administration head, and Norbert T. Tiemann, head of the Federal Highway Administration in DOT and a former Nebraska governor, also are being considered.

Robson, who served as DOT general counsel under former DOT secretary

Alan Boyd, has some familiarity with the Overton Park case, DOT sources said. He left DOT to become a Chicago lawyer in February 1969.

Tiemann is intimately familiar with the Memphis park case. He has visited Memphis and made an on-the-scene inspection. And it is his agency, FHA, that now is processing the state's new application.

Speculation about the DOT post came as President Ford accepted the resignation of Budget Director Roy Ash. Aides said Housing Secretary James Lynn would be named to succeed Ash in a continuing shakeup of White House advisers later this week.

Ford wrote that, with Ash's help, "I believe we have been able to shape effective, workable federal budgets."