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Construction Site At San Antonio Expressway

Texans Push Route Through Park

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WASHINGTON — While Tennesseans continue a 20-year argument over completing Interstate 40 through Overton Park in Memphis, Texans are putting the finishing touches on an expressway in San Antonio that once similarly was blocked by environmental considerations.

Texans found a usable path around the morass of federal environmental laws that was preventing construction of the San Antonio North expressway — the same laws that continue to block construction of the 3.7-mile Overton Park expressway.

The Texans simply decided, OK, we'll build it ourselves. With that they persuaded Congress to remove the disputed 9.6-mile segment from the federal aid highway system, won the court battles that followed, and started construction. The project is now nearing completion.

Environmentalists objected, but lost in Congress, and lost again in the courts.

The provision removing the San Antonio project from the federal highway system was inserted in the 1972 Federal Aid Highway Act at the insistence of Sens. John Tower (R-Texas) and Lloyd Bentsen (D-Texas).

Sen. Howard Baker (R-Tenn.), a member of the Senate Public Works Committee that drafted the big bill, opposed the provision and declined to offer a similar one applying to the Overton Park expressway.

However, Baker since has changed his mind and now has joined with Sen. Jim Sasser (D-Tenn.) and others who say they will support a legislative solution to the Overton Park impasse.

The 1972 bill failed to get through Congress because of Senate-House disagreements over other sections of the voluminous, 80-page measure.

But the following year the two houses went back to work on the measure, resolved their differences, and on Aug. 31, 1973, enacted it into law. It is called the Federal Aid Highway Act of 1973.

Section 154, the provision inserted by Tower and Bentsen, states:

"Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the federal and state governments shall be ended with respect to all portions of the San Antonio North expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a federal aid project."

The provision went on to state that all federal funds previously advanced for the project would be returned to the Federal Aid Highway Trust Fund, the source of federal money for interstate projects.

Enactment of the provision denied the project the 90 per cent federal financing that is available for interstate projects, and left it to state and local financing.

But more important from the point of view of supporters of the project, enactment of the provision, coupled with later court decisions upholding it, effectively freed the San Antonio project from the requirements of federal environmental laws.

Those laws, the same ones that apply to the Overton Park expressway, provide that a federal aid highway may not encroach upon a public park unless there is "no feasible and prudent alternative" and the design "includes all possible planning to minimize harm" to the park.

The San Antonio expressway ran afoul of those environmental requirements because it infringed upon Brackenridge Park, a large recreational complex that contains the San Antonio Zoo, San Jacinto Park, Olmos Basin picnic area, two golf courses, an open air theater, sunken gardens, Franklin Fields, the Alamo Stadium, hiking trails and undeveloped lands.

The expressway will serve a north-south traffic corridor between downtown San Antonio and the San Antonio International Airport by connecting I-35, U.S. 281, and I-410.

The expressway first was proposed in the mid-1950s by the San Antonio City Council. This was about the time the Overton Park expressway dispute arose.

In 1961, a city bond issue was passed to provide funds to acquire rights-of-way. In 1963, the Texas Highway Department settled on the park route.

The first federal environmental law was passed in 1966. In 1967 the San Antonio Conservation Society requested a different route. When its request was denied, the society filed a lawsuit in December, 1967.

From 1967 until the final decision approving the 1973 provision, the dispute bounced back and forth between the U.S. Secretary of Transportation, the Texas Highway Department, and the courts — much like the Overton Park case.

In a 1971 ruling, U.S. Appellate Judge Homer Thornberry, himself a Texan, wrote:

"The Brackenridge-Olmos Basin Parklands are unique park and recreation areas situated at the headwaters of the San Antonio River and surrounded by a densely populated urban area

in San Antonio, Texas. The Parklands contain Sunken Gardens, an open air theater, two golf courses, the San Antonio Zoo, picnic areas, nature trails, and many acres of green, open space.

"While there is a factual dispute concerning the exact number of acres threatened by this proposed expressway, it appears that the expressway will require the use of between 116 and 250 acres of parkland."

Thornberry's definition of "parkland" included areas in Olmos Basin, which the expressway was to penetrate, that others contended were not a part of Brackenridge Park and could not be described as parkland. But there is no dispute over the fact the expressway was to, and did, go through Brackenridge Park. A golf course in the park had to be redesigned and three holes relocated.

The congressional action excluding the expressway from the federal highway system was approved by the U.S. Fifth Circuit Court of Appeals, and the U.S. Supreme Court has refused to review the appellate court decision.

Two segments of the expressway are now in use, and the entire project is scheduled to be completed in October. The final cost, estimated at \$17 million in 1961, is now estimated at \$49 million. The state is paying all construction costs. The city supplied rights-of-way.

The expressway is eight lanes, four lanes in each direction. It approaches the park area at ground level, passes over a cross street, then dips down well below ground level within the park, passes under another street, and then rises up and becomes elevated as it passes over a part of a dam on the San Antonio River.

Tennessee Transportation Commissioner Eddie Shaw said last week his agency presently is trying to set up an appointment with U.S. Transportation Secretary Brock Adams to discuss the long-stalled Overton Park expressway project.

Shaw, who said he would anticipate Memphis Mayor Wyeth Chandler and Shelby County Mayor Roy Nixon would be present at the session, wants to brief Adams on the project, which has been held up by conservationists for 20 years.

The state has proposed a plaza-type design for the Overton Park route that would cost about \$33 million.

The plaza design calls for a fully depressed roadway covered at intervals with grass and shrub-covered plazas or decks.

If the Carter administration does not approve the plaza design, Shaw said, "I don't think we have any alternative" but to turn to Congress, too, to gain approval of the routing despite environmental protection laws.

"We want to get the highway open," Shaw said.

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