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"Text of the Letter From Sec. Volpe"

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Text of the Letter From Sec. Volpe

Following is a text of the cover letter signed by Transportation Secretary John Volpe in the Overton Park decision:

"In November, 1969, I approved the designated route of Interstate 40 through Overton Park in Memphis, Tenn. The U.S. Supreme Court in March, 1971, ruled that a lower court decision finding my approval in compliance with Section 4-F of the Department of Transportation Act of 1966 was not substantiated by the record before the lower court.

"In January, 1972, the lower court directed that the Department of Transportation make a new determination on this proposal, based on the light of the Supreme Court decision.

"This project has now been resubmitted by the State of Tennessee and comes before me a second time for my approval. During the interim since my original actions, the National Environmental Policy Act has been passed and signed into law. Thereafter, the 1970 Federal Aid Highway Act added new requirements for consideration for environmental effects of highway projects. In response to that requirement, Federal Highway Administration has set standards for the level of noise around federal aid highways. In addition, the Supreme Court, in its decision on this project, held that 'protection of parklands was to be given paramount importance' and that 'public parks were not to be lost unless there were truly unusual factors present' or 'the cost of community disruption resulting from alternate routes reached extraordinary magnitudes.'

"Each of these new developments has weighed in my deliberations on the basis of the record before me, and in light of guidance provided by the Supreme Court, I find that an interstate highway as proposed by the state through Overton Park can-

not be approved. On that record, I cannot find as the statute requires, and as interpreted by the court, that there are no prudent or feasible alternative to the use of parklands, nor that the broader protection objectives of NEPA and Federal Aid Highway Act have been met, nor that the existing proposal would comply with the FHWA.

"Among the possible alternatives, which the State of Tennessee may wish to consider, are the use of I-240 circumferential combined with improvements to arterial streets, alternative routes such as the Louisville & Nashville railroad corridor, a broadened use of public transportation and services, or combinations of the above to meet the transportation needs in and around Memphis.

"Apart from alternative locations, I am also convinced that a tunnel design would be less harmful to the park than the present design.

"Listing these possible alternatives should not, of course, be construed either as an endorsement of any of them or as an exclusion of any other alternatives. Likewise, it should not be construed as a finding that no build alternative has been rejected."

(Signed)

John A. Volpe,

Secretary of Transportation

Jan. 19, 1973

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P.S.