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New Suit Feared In Park Case

From The Commercial Appeal
Nashville, Tenn., Bureau

NASHVILLE, June 25.—State Transportation Commissioner Robert Smith said Monday he fears a fresh lawsuit if a decision is made to route Interstate 40 through Memphis' Overton Park in a cut-and-cover tunnel.

"I'm not anxious to see that," Smith said. "I'd look for another two years of litigation on that."

However, Smith said he doubts the U.S. Circuit Court of Appeals will hear an appeal by federal Transportation Secretary Claude Brinegar of U.S. Dist. Court Judge Bailey Brown's latest order in the park case.

After Brinegar's predecessor, John Volpe, turned down a partially depressed park route but offered no alternative, Brown sent the matter to Brinegar for an alternate proposal. It is that action which Brinegar is appealing.

Should the appeal fail and Brinegar have to make a recommendation, it appears likely the suggestion from him would be cut-and-cover.

But Smith said environmentalists, who have managed to hold up construction of the park link for nearly 20 years, would likely go back to court to halt that approach.

In addition, there would be other delays in that it would require at least three years to plan and construct such a tunnel.

Up to now the state Highway Department has concentrated on trying to win the

current lawsuit and thus be allowed to build the partially depressed roadway.

But lately there have been firm indications the federal transportation agency, with the advice and consent of Sen. Howard Baker and Rep. Dan Kuykendall, is leaning toward cut-and-cover and dropping hints that the state should explore that method more fully.

Smith pointed out that cut-

and-cover would entail the expenditure of an additional \$50 to \$60 million—more than Tennessee's entire annual federal allocation.

The new Mississippi River bridge is scheduled to open in August and there is no way to route the anticipated upsurge in through traffic but by the Southern circumferential expressway.

"It's going to be pathetic," Smith said of the potential traffic situation.

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