

This is a suit under Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. §303(c). The plaintiffs allege that aspects of a proposed five-mile highway corridor in Minneapolis, Minnesota, known as the Hiawatha Avenue Corridor, violate this statute. The District Court¹ dismissed the suit, holding it barred by the six-year statute of limitations, 28 U.S.C. §2401(a). On appeal, the plaintiff, Park and River Alliance, Inc., alleges that an observation in the District Court's opinion is a "new circumstance" causing the limitations period to begin running anew. Having considered the briefs and heard oral argument, we are constrained to disagree. Of course the statement in the District Court's opinion is a new circumstance, in the sense that it did not exist before the opinion was filed, but it is not, in our view, a circumstance that has anything to do with the statute of limitations. The District Court simply observed that a draft environmental impact statement prepared in 1982 and 1983 "did not review the impact of the proposed reconstruction on Fort Snelling State Park or the Coldwater Springs Historic District." Park and River Alliance, Inc. v. Rodney Slater, No. 96-CIV-985, slip op. 3 (D. Minn., opinion filed May 19, 1998). The absence from the draft environmental impact statement of any discussion of the impact of the proposed highway on the Fort Snelling State Park or the Coldwater Springs Historic District is a fact that has been evident from the beginning, ever since the statement was prepared. It cannot have the effect of reviving a claim barred by limitations.

For this reason, and the others given in the opinion of the able district judge, the judgment is

Affirmed.

¹The Hon. Donald D. Alsop, United States District Judge for the District of Minnesota.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.