



IN REPLY REFER TO:

United States Department of the Interior

National Capital Parks-East
NATIONAL PARK SERVICE
Interior Region 1- National Capital Area
1900 Anacostia Drive, S.E.
Washington, D.C. 20020

Record of Determination for a temporary closure of areas within Lincoln Park to protect park statuary and resources

Pursuant to 36 C.F.R. § 1.5 (a), the National Park Service is temporarily closing areas within Lincoln Park for protection of park resources from vandalism. Specifically, the Emancipation Monument and Mary McLeod Bethune Memorial will be enclosed with 8-foot-high, anti-scale fencing to allow the statues to be protected. Most recently on June 23, 2020 a demonstration occurred at the Emancipation Monument and news reports indicate individuals intend to return on Thursday, June 25, 2020 to tear down the statue. Additionally, the National Park Service intends to protect the Mary McLeod Bethune Memorial from intended or consequential damage. Consequently, this Record of Determination may be extended if necessary, to complete necessary assessment, repair and conservation of the resources in Lincoln Park.

The park closures will begin at approximately, 1:00 p.m. on June 25, 2020 and continue through approximately 5:00 p.m. on Friday, July 31, 2020. This date may be modified depending on the progress of the restoration work and/or the National Park Service's assessment of the likelihood of continued significant potential for further vandalism of the resources in this park. The closure of Lincoln Park will be identified by fencing and signage. Violation of this closure is prohibited.

This temporary closure is necessary for the protection of cultural resources in Lincoln Park. Less restrictive measures will not suffice because such measures employed heretofore have proven inadequate to curtail recent vandalism of these resources on several different occasions over the last few weeks. Moreover, the closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because of the expected short duration of the closure period. Additionally, the remainder of Lincoln Park will remain open to the public.

The closure will not adversely affect the park's natural, aesthetic or cultural values; nor require significant modification to the resource management objections; nor is it of a highly controversial nature. Accordingly, the National Park Service determines publication as rulemaking in the Federal Register is unwarranted under 36 C.F.R. § 1.5(c). This is consistent with hundreds of earlier partial and temporary park closures or public use limitations, the legal opinion of the Office of the Solicitor, and judicial adjudications. Mahoney v. Norton, No. 02-1715 (D.D.C. August 29, 2002), plaintiff's emergency motion for injunction pending appeal denied Mahoney v. Norton, No. 02-5275 (D.C. Cir. September 9, 2002) (per curiam); Picciotto v.

United States, No. 99-2113 (D.D.C. August 6, 1999); Picciotto v. United States, No. 94-1935 (D.D.C. September 9, 1994); Picciotto v. Lujan, No. 90-1261 (D.D.C. May 30, 1990); Picciotto v. Hodel, No. 87-3290 (D.D.C. January 26, 1988); Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C. 1994), aff'd in part w/o op. 56 F.3d 1531 (D.C. Cir. 1995), reported in full, 1995 US App. Lexis 15200 (D.C. Cir. May 31, 1995).

Pursuant to 36 C.F.R. § 1.7, notice of this temporary and partial closure will be made through media advisories, maps, and by posting at conspicuous locations in the affected park areas. Finally, pursuant to 36 C.F.R. § 1.5(c), this determination is available to the public upon request.



Tara, D. Morrison, Superintendent

6/25/2020

Date