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Because I see that the objectionable language regarding drones has not been removed from the most recent draft of the proposed Forest Plan, I am re-submitting and expanding upon my pre-scoping comments.

As a drone and remote control aircraft enthusiast who frequently visits the Moab region and enjoys flying drones there, I strongly oppose the inclusion of unnecessary restrictions on flying drones/unmanned aircraft in the draft Forest Plan beyond existing prohibitions on flying in designated wilderness areas and near active firefighting operations.

I specifically oppose standards MA-RECWILD-ST-02 and GA-ELK-ST-14. MA-RECWILD-ST-02 prohibits launching and landing unmanned aircraft in Recommended Wilderness areas, while GA-ELK-ST-14 prohibits launching and landing unmanned aircraft in the Elk Ridge Geographic Area.

These restrictions are unnecessary, confusing to the public, and will likely be impossible to enforce. I ask that these two standards be removed from future drafts of the proposed Manti-La Sal Forest Plan. Meanwhile I support standard FW-FIRE-ST-02, as that standard simply formalizes existing prohibitions on flying drones near wildfires.

I. Background

I am a non-practicing attorney (currently working as a software developer) from Highlands Ranch, Colorado. I am a Jeeper and typically visit the Moab region once or twice a year, primarily for offroading, but also for hiking and drone flying. I am also the Vice President of Colorado Offroad Trail Defenders, a non-profit organization that advocates for keeping four-wheel-drive trails open on public lands.

I have been flying drones and RC aircraft as a hobby for 10 years. I enjoy flying a variety of both fixed-wing RC airplanes and quadcopter drones, flown using first-person-view (FPV) video piloting systems. It is a thrilling activity that gives me the ability to experience virtual flight as if I was a bird while staying on the ground. It also allows me to take spectacular aerial photographs and videos that would not be possible with a manned aircraft, which I like to use to make scenic music videos that I post on YouTube.

As a former attorney, I have always closely followed the legal atmosphere surrounding the hobbies I participate in. During the time I have been involved in RC flying, I have seen what was formerly considered a harmless hobby become increasingly vilified in the eyes of both the general public and government officials. RC flying has increasingly become subject to a dizzying array of restrictions and regulations from every level of American government.

The actual operation and flight of unmanned aircraft is now subject to strict regulation by the Federal Aviation Administration (FAA), while it has become fashionable among many public land managers ranging from the National Park Services to municipal parks departments to ban drones from being flown in parks with no real justification. As a result, drone enthusiasts like myself have been left with an ever shrinking number of legal places to fly. Drones are now subject to such a confusing patchwork quilt of Federal, state, and local government regulation that one practically has to be an attorney to understand where and how they can legally fly a simple RC plane or consumer quadcopter drone.

II. Current Forest Service Drone Policy

With drone flying increasingly banned in state and local parks, one of the last remaining places where drone enthusiasts can fly relatively unhindered is on Federal public lands. Drones have been banned in National Parks and other land units under the jurisdiction of the National Park Service since 2012. However, drones have long been allowed on most other Federal lands outside of designated Wilderness Areas. This has provided drone enthusiasts with a much needed clear cut rule that is easy to understand and abide by. They can assume that in general, if they are on Forest Service or BLM land that is not in a National Park or Wilderness Area, they are free to fly.

This indeed matches the current guidance from the Forest Service for recreational drone flying, published online at https://www.fs.usda.gov/visit/know-before-you-go/recreational-drone-tips. That website tells the public that as long as they don[rsquo]t fly in Wilderness Areas or near forest fires and avoid harassing wildlife, they are generally free to fly drones and unmanned aircraft on Forest Service lands.

This rule is easy for the drone flying public to understand and obey, as Wilderness Areas are clearly marked on most maps, and forest fires typically have temporary flight restrictions imposed by the FAA that are shown on mapping apps commonly used by drone operators to determine legal airspace like AirMap or B4UFLY.

In my own experience, there are a few other exceptions to this rule, but generally it holds true. The main exceptions I have encountered are a handful of special management areas such as Maroon Bells or Hanging Lake in Colorado, where public access is already tightly controlled through quotas and shuttle bus systems, and the public can easily be made aware of restrictions on drone flying through signage. These are both also small areas that are heavily patrolled by rangers who can easily enforce the rules and ticket violations.

III. Imposing drone restrictions through the Forest Plan will be ineffective and unenforceable

To my knowledge, imposing restrictions on drone flying through a Forest Plan in wide-ranging areas that are not Wilderness Areas, Wilderness Study Areas, or some kind of clearly defined special management area is completely unprecedented. Such restrictions are inconsistent with existing Forest Service guidance regarding drone flying, and will be difficult or impossible for the general public to either know about or follow.

The average person recreating on National Forest land who may wish to fly a drone will never have even heard of the Forest Plan, let alone read it. Forest management units such as recommended wilderness areas or geographic areas like Elk Ridge are concepts that exist solely within obscure bureaucratic documents and are typically something that only land managers or dedicated special interest groups are concerned with. They are not marked on maps that any member of the recreating public is likely to use, nor are they typically signed on the ground or displayed on kiosk maps along roads or hiking trails.

Unless the Manti-La Sal National Forest devotes significant resources to putting up signage or manages to have these management areas included in maps and mapping apps that the recreating public commonly uses (Google Maps, Gaia GPS, National Geographic topo maps, etc.), the average member of the public will have no idea if they are in a recommended wilderness area or the Elk Ridge Geographic Area, and will have no effective notice that they are not supposed to fly drones there. This will be true even if these restrictions are implemented by Forest Order, as most people are not aware of Forest Orders nor have they looked them up on the Forest[rsquo]s website. Once people are actually in the Forest, they would likely not have sufficient cell service to access them.

The areas where the proposed restrictions on drone flying would apply are not small, but encompass vast areas of land where it will be difficult or impossible to give notice of or enforce restrictions on drone operation. It is conceivable that for recommended wilderness areas (which would typically not have open roads), the public

could at least be given notice through signs at hiking trailheads, where people will be more likely to read them. Though even there, enforcement will be difficult without regular ranger patrols along hiking trails.

In contrast, the Elk Ridge Geographic Area has numerous access points along Forest Service roads, and people driving into the area will be much less likely to stop and read a sign in sufficient detail to understand where drones are and are not allowed. That area also contains numerous roads and dispersed campsites spread across a large region with widely varied terrain, which would make it extremely difficult to patrol or enforce restrictions on drone flying. Without either effective notice or enforcement, the proposed drone restrictions will be a dead letter from the beginning, and would be unlikely to produce any real benefits.

IV. The proposed drone restrictions are arbitrary, irrational, and lacking justification

The draft Forest Plan does not appear to give any actual rationale for why drones should be singled out for special prohibitions in these specific areas. Such restrictions are not only unwarranted, but are utterly nonsensical when one considers other more impactful activities that would continue to be allowed under the proposed Forest Plan.

A. Recommended Wilderness Areas

I suppose a case could at least be made for excluding drones from recommended wilderness areas because the Forest Service wishes to manage those areas to preserve their wilderness character. That argument is weak when applied to drones however, as drone flights are inherently ephemeral and do not have any lasting impact on the underlying land.

Brief drone flights do not cause any permanent impairment to the wilderness character of the underlying lands, and pose no obstacle to future Wilderness designation. At most they are a temporary annoyance to people seeking quiet and solitude while recreating on those lands. It is unreasonable to apply the same level of protections to mere recommended wilderness as to actual designated Wilderness, or for people to expect the same quality of experience while recreating in both.

If a recommended wilderness area was officially designated as Wilderness by Congress, drone operation would automatically be prohibited then. There is no reason to do it now, when there is no indication that any of these areas are being actively considered for formal Wilderness designation. That decision should be left to Congress, rather than the Forest Service managing these areas as de facto Wilderness and imposing the same restrictions now as if they were already designated Wilderness. For these reasons, I oppose prohibiting drones in recommended wilderness areas, even though I can understand the reasons why the Forest Service may wish to do so.

B. Elk Ridge Geographic Area

As weak as the justification for banning drones in recommended wilderness areas is, however, that justification is completely non-existent when it comes to the Elk Ridge Geographic Area. That area is not recommended wilderness, and even though it contains an existing designated Wilderness Area, the broader geographic area is currently and will continue to be managed for multiple use recreation, including motorized activities. While recommended wilderness areas will typically not have any open roads or motorized trails in them, the Elk Ridge Geographic Area contains numerous roads, motorized trails, and motorized dispersed campsites.

It is utterly nonsensical to prohibit drones and unmanned aircraft in an area that allows other forms of motorized recreation. A good shorthand for understanding the current rules for flying drones on Forest Service land is that if you can drive a vehicle there, you can fly a drone there. This makes inherent sense because drones are a kind of motorized device. That is indeed the very reason why they are prohibited in designated Wilderness Areas in the

first place!

The Forest Service[rsquo]s current approach sets the expectation that motorized devices are regulated consistently, at least in broad terms. Where motorized vehicles are prohibited, drones are prohibited; and where motorized vehicles are allowed, drones are allowed. Because they are aircraft, drones are not subject to the Travel Management Rule governing ground vehicles, but in all other respects they are managed similarly.

The proposed rule prohibiting launching and landing drones in the Elk Ridge Geographic Area breaks that existing paradigm and sets up the absurd scenario where the public may drive Jeeps, side-by-sides, and other OHVs on roads and motorized trails within that area but may not fly a drone from those same roads. While I am a Jeeper and fully support preserving opportunities for all forms of motorized recreation on public lands, there is no conceivable way that operating a drone from these roads would have greater impacts on wildlife or other recreationists than operating an off-highway vehicle on them does.

It is utterly irrational, as well as arbitrary and capricious, to tell an OHV driver he may drive a vehicle on a road but not fly a drone from that same road to film his vehicle. This is not a theoretical issue. The crossover between OHV enthusiasts and drone owners is actually quite high. With the advent of newer drones that can automatically follow a vehicle while avoiding obstacles in their path, it has become a popular activity for offroaders to film themselves driving off-road trails with a drone following their vehicle.

It is extremely likely that visitors to the Elk Ridge Geographic Area may wish to do this, as well as to fly drones from campsites and scenic overlooks to capture the beauty of this area from the air. Such visitors will not see any reason why they should not be allowed to fly a drone in the same area they can drive a motor vehicle, and will be unlikely to abide by any restrictions on drone flying in the Elk Ridge area assuming they are even aware of them. People tend to obey rules that make sense and are consistently applied, while they tend to ignore rules that seem arbitrary and irrational. This rule is a prime example of the latter.

I find it extremely disturbing that the Manti-La Sal National Forest is proposing to take a rule which has heretofore only applied in designated Wilderness Areas and apply it broadly across an area that is managed for multiple use recreation, including motorized use. It is as if the Forest is trying to create a new management category that is a sort of [ldquo]wilderness lite,[rdquo] where all activities that are normally allowed on general National Forest land continue to be allowed, EXCEPT for flying drones. This sets the precedent that flying drones is an illegitimate activity on public lands and that the default management approach should be to ban it.

In reality, flying drones is a perfectly legitimate activity to do on public lands. As long as all existing Forest Service and FAA regulations are followed (including not harassing wildlife and not flying directly over people), drones have minimal impact on either wildlife or other public lands users. While the chief concern regarding them is typically noise, drones are getting smaller and quieter all the time, and even the loudest drone is still far quieter than the average ATV, dirt bike, or side-by-side. Most consumer quadcopters are largely inaudible once they are a couple hundred feet up and a few hundred feet away laterally. ATVs and dirt bikes, in contrast, can often be heard for miles.

To continue to allow various forms of noisy OHVs in the Elk Ridge area while banning drones because of noise concerns is the height of inconsistency, as it arbitrarily singles out one kind of motorized device for unequal prohibition--and the least noisy one at that. Because drones are typically used for aerial photography, this unequal treatment raises First Amendment concerns as well, as the Forest would be prohibiting a specific form of photography with no rational basis.

To date, the Forest has provided no clear rationale in any of the Draft Forest Plan documents for why it wishes to ban drones in the Elk Ridge Area. The closest it has come to providing an explanation is this statement in the Assessment Report: [ldquo]We also expect that, as new recreational opportunities and technologies arise, the

threat to isolated cultural sites may become even greater. An example of this is the advent of drones, which can fly over severely restricted terrain to uncover untouched cultural resource and tribal use sites. Once such information is broadcasted on social media, it is likely these sites will be heavily trafficked.[rdquo]1

A vague fear that Forest visitors might use drones to photograph cultural sites and then exercise their First Amendment rights to post these images on social media is not a legitimate basis to prohibit drones from being flown in a massive area of National Forest. If this is indeed the basis for these restrictions, it would render them clearly unconstitutional, as the feared harm would be from First Amendment expression rather than any environmental impact of drone flights themselves. Given that the Forest is not attempting to ban photography in the Elk Ridge Area generally and that it cannot prevent aerial photography from manned aircraft, it has no justification for singling out drone photography alone to be banned.

V. Conclusion

For the forgoing reasons, I oppose standards MA-RECWILD-ST-02 and GA-ELK-ST-14, and ask that they be removed from future drafts of the Manti-La Sal Forest Plan.

While MA-RECWILD-ST-02 is at least somewhat supported in that it proposes to manage recommended wilderness areas the same as officially designated Wilderness Areas, I still oppose it as unnecessary to preserve wilderness character and because it will be difficult to enforce or to give the public proper notice.

GA-ELK-ST-14 is completely unjustified and unprecedented. It is inconsistent with both current Forest Service guidance on drone flying and the management of other motorized activities in the same area, arbitrarily singling out drones and unmanned aircraft for a prohibition that does not apply to other far noisier and more impactful motorized uses, or other forms of photography.

If there are specific sites within the Elk Ridge Geographic Area where the Forest Service believes drone use is causing a problem or is otherwise inappropriate, those concerns would be best addressed by creating localized restrictions for those specific areas through program level decisions. Imposing a broad ban on drone flying in the Forest Plan that applies throughout this entire management unit is not an effective or appropriate way to address these issues. The Forest Service also should defer to the Federal Aviation Administration (FAA) in regulating this new and rapidly evolving activity.

I therefore urge the Forest to remove both of these proposed standards from the final Forest Plan. Meanwhile I support standard FW-FIRE-ST-02, as that standard simply formalizes existing prohibitions on flying drones near wildfires, and I support including that standard in the final Forest Plan. Thank you for your consideration.

1 Assessment Report, p. 175.