

Oral Testimony of James R. Furnish
Deputy Chief, USDA Forest Service (Ret.)
Legislative Hearing on H.R. 3881

My name is Jim Furnish, and I am a consulting forester residing in Rockville, MD. I retired in 2002 from my position as Deputy Chief for National Forest Systems, USDA.

I appear today to offer my views on H.R. 3881, which intends to rescind statutory provisions of P.L. 102-468 (Oct. 24, 1992) that require companies proposing drilling operations on Allegheny National Forest to give 60-day advance notice to the Forest Service, including such information as the specific location and dimensions of their proposed activity.

There is irony in the title of HR 3881 -- “Cooperative Management of Mineral Rights” -- when *cooperate* is defined as “*to work or act together*”; which is precisely what the energy industry and Forest Service have been doing for decades. The past cooperation – resulting from litigation and enacted statute to provide 60 days notice – has served the public interest well by allowing industry access to their private estate energy resources laying beneath public lands, while providing the Forest Service a brief but reasonable amount of time to discharge its stewardship responsibilities for public resources.

I firmly believe the 60-day notice requirement should remain in place. I am aware that a few years ago the FS placed a hold on processing drilling proposals in the belief that NEPA necessitated review and analysis. Courts found otherwise. It was also extremely difficult to process timely the hundreds of proposals during the energy activity boom a few years ago. But NEPA was found not to apply to these industrial actions, and the pace of development has once again slowed. It’s necessary to work through occasional obstacles where important values and interests are at stake on both sides.

The FS is now actively cooperating within the 60 days provided to issue Notices to Proceed. Industry is exercising their right to drill in a cooperative relationship with the land owner.

I pose this question to you legislators: if drilling activities like cutting trees, building access roads and drill pads were occurring on private lands with no notice to the owners, do you think these private citizens might be upset? Might they come to you for help? In your role as elected official, would you demand that industry had no responsibility to provide notice, had no responsibility to minimize drilling consequences, and had no responsibility to address landowner concerns as to disposing of trees or road locations?

Public land, though managed by the FS, is really no different -- because it belongs to private citizens, including you, who have every reason to demand that the FS do its best to care for the land. You now have in place a law that fosters effective cooperation so that industry and private citizens alike get a fair shake. For the life of me, I cannot understand why you wish to rescind that law and shortchange the interests of your citizen constituents.