

§ 2812.1-3

the portions of such road system which the applicant directly controls within the meaning of § 2812.0-5(i), the portions thereof which the applicant indirectly controls within the meaning of § 2812.0-5(j), and the portions thereof as to which the applicant has no control within the meaning of such sections. As to the portions over which the applicant has no control, he must furnish a statement showing for the two years preceding the date of the filing of the application, all periods of time that he had direct or indirect control thereof, and the date and nature of any changes in such control. The diagram shall also contain the name of the person whom the applicant believes directly controls any portion of such road system which the applicant does not directly control. Where a right-of-way for a railroad is involved, the applicant must indicate which portions of the right-of-way will be available for use as truck roads upon the removal of the rails and ties and the probable date of such removal. Blank diagram forms, suitable for most cases, may be obtained from the appropriate district forester.

§ 2812.1-3 Unauthorized use, occupancy, or development.

Any use, occupancy, or development of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O & C) lands (as is defined in 43 CFR 2812.0-5(e)), for tramroads without an authorization pursuant to this subpart, or which is beyond the scope and specific limitations of such an authorization, or that cause unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in § 2800.0-5. Anyone determined by the authorized officer to be in violation of this section shall be notified of such trespass in writing and shall be liable to the United States for all costs and payments determined in the same manner as set forth at § 2801.3, part 2800 of this title.

[54 FR 25855, June 20, 1989]

§ 2812.2 Nature of permit.

§ 2812.2-1 Nonexclusive license.

Permits for rights-of-way for tramroads, do not constitute ease-

43 CFR Ch. II (10-1-04 Edition)

ments, and do not confer any rights on the permittee to any material for construction or other purposes except, in accordance with the provisions of §§ 2812.6-2 and 2812.8-3, such materials as may have been placed on such lands by a permittee. The permits are merely nonexclusive licenses to transport forest products owned by the permittee. Such permits may be canceled pursuant to § 2812.8.

§ 2812.2-2 Right of permittee to authorize use by third parties.

A permittee may not authorize other persons to use the right-of-way for the transportation of forest products which are not owned by the permittee. Any person, other than the permittee or a licensee of the United States who desires to use the right-of-way for such purposes, is required to make application therefor and to comply with all the provisions of these regulations relating to applications and applicants: *Provided, however,* That upon the request of a permittee the authorized officer may, with respect to an independent contractor who desires to use such right-of-way for the transportation of forest products owned by such independent contractor and derived from timber or logs acquired by him from such permittee, waive the requirements of this sentence. Where the right-of-way involved has been substantially improved by the holder of an outstanding permit, any subsequent permit issued for the same right-of-way will be conditioned upon the subsequent permittee's agreement while the prior permit is outstanding, to be bound by the road rules of and to pay fair compensation to, the prior permittee, such rules and compensation to be agreed upon by the prior and subsequent permittee in accordance with the procedures and standards established by the regulations in §§ 2812.4-1, 2812.4-3, and 2812.4-4 of this subpart.

§ 2812.2-3 Construction in advance of permit.

The authorized officer may grant an applicant authority to construct improvements on a proposed right-of-way prior to a determination whether the permit should issue. Such advance authority shall not be construed as any