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	U· S· DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: INE-38 Transmittal Number: 650 Date: DEC 7 1990

Subject: Abandoned Sites

Approval: [signature] **Title:** Director

Notice of Rescission

As a result of a U.S. District Court decision in National Wildlife Federal v. Lujan, Civil Action Nos. 88-2416, 88-3345, 88-3586, 88-3635, 89-0039, 89-0136, and 89-0141, Mem. Op. (D.D.C. Aug. 30, 1990 (Flannery, J.)) (NWF III, Round III), Directive INE-38, "Abandoned Sites", dated January 17, 1989, Transmittal Number 507, is hereby rescinded.

The District Court ruled that the abandoned sites rule published June 30, 1988 (53 FR 24872), is inconsistent with section 517(c) of the Surface Mining Control and Reclamation Act which mandates a minimum of one partial inspection per month and one complete inspection per calendar quarter.

Due to this court ruling and the rescission of Directive INE-38, Field Offices that are implementing a Federal, Federal lands or Indian lands program must reclassify all previously classified "abandoned sites" as active sites under 30 CFR 842.11(c)(1).

In addition, should further enforcement actions become warranted on a minesite that had been classified as "abandoned" under the remanded rule, reclamation specialists may no longer continue the practice of refraining from issuing such actions as had been allowed by the remanded rule under 30 CFR 843.22.

CHANGE NOTICE