

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

BPI ENERGY, INC., *et al.*,

Plaintiffs,

v.

IEC (Montgomery), LLC, *et al.*,

Defendants.

Case No. 07-cv-186-DRH

ORDER OF DISMISSAL

HERNDON, Chief Judge:

Pursuant to the Parties' Agreed Stipulation and [Proposed] Final Order of Dismissal (Doc. 279) (hereinafter, the "Stipulation"), the Court hereby acknowledges the agreement for settlement of this matter as reflected by the stipulation and as such, **ORDERS** the following:

1. The IEC (Montgomery), LLC – BPI Energy, Inc., Coal Seam Gas Lease Agreement and the Christian Coal Holdings, LLC – BPI Energy, Inc., Coal Seam Gas Lease Agreement (collectively referred to as the "Leases) are deemed terminated as of the date of the issuance of this Order.
2. Within thirty (30) business days from the issuance of this Order, BPI Energy, Inc., shall execute and transmit to Defendants a release of



the Leases in the form of the release that is attached to the Stipulation as Exhibit 1 (*see* Doc. 279, Ex. 1).

3. Within thirty (30) business days from the issuance of this Order, BPI Energy, Inc., shall execute and transmit to Defendants a release of any and all lis pendens related to the Leases in the form that is attached to the Stipulation as Exhibit 2 (*see* Doc. 279, Ex. 2).

In addition, Defendants move to withdraw their pending Motion for Entry of Default Judgment (Doc. 270) as moot, and Plaintiffs move to withdraw their pending Motion to Reconsider Magistrate's Order Denying Plaintiffs Leave to File Answer to Counterclaim (Doc. 273) as moot. The Court **GRANTS** the Parties' requests regarding the withdrawal of their respective pending motions, and the docket shall be amended accordingly. The Court states that any and all further relief not expressly granted herein is denied. Accordingly, pursuant to the Stipulation (Doc. 279), the Court acknowledges that this case is hereby **DISMISSED WITH PREJUDICE**, each Party to bear its own costs and fees (unless otherwise agreed to by the Parties).

IT IS SO ORDERED.

Signed this 16th day of November, 2010.

 David R. Herndon
2010.11.16 11:08:54
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Chief Judge
United States District Court