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Mineral Rights - Effect of Conservation Unit Overlapping Previous Declared Unit

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MINERAL RIGHTS — EFFECT OF CONSERVATION UNIT OVERLAPPING PREVIOUS DECLARED UNIT

In eight separate mineral leases on contiguous tracts plaintiff, lessee, was given the power to pool the acreage covered thereby. Five leases contained general pooling clauses,[1] and three were amended to give the lessee the power to pool in order to create only the particular unit at issue.[2] Pursuant to this power, plaintiff, by filing a unit declaration,[3] formed a unit containing acreage from all eight leases. Some three years after the completion of a producing well on this unit, the Department of Conservation created a forced unit which defined the productive limits of the reservoir from which this well was producing. The conservation unit partially overlapped the previous unit, excluding some portions of it as unproductive and including other acreage which was not within the original unit.[4] The well drilled on the original unit was retained as the conservation unit well. In a proceeding under the Louisiana declaratory judgments act[5] to determine the correct manner of distributing royalties from the conservation unit attributable to the overlapped acreage, plaintiff contended that all tracts in the original unit should participate in such royalties according to the original unit formula,[6] thereby maintaining in force all leases on acreage

1. The general pooling clause before the court read as follows: "Lessee, at its option, is hereby given the right and power to pool or combine the acreage covered by this lease, or any portion thereof as to oil and gas, or either of them, with other land, lease, or leases in the immediate vicinity thereof to the extent hereinafter stipulated, when in Lessee's judgment it is necessary or advisable to do so in order properly to develop and operate said leased premises in compliance with the orders, rules and regulations of State and Federal Governmental authority, or when to do so would, in the judgment of Lessee, promote the conservation of oil and gas from said premises." Brief for Appellant, pp. 4-5, Humble Oil & Ref. Co. v. Jones, 157 So. 2d 110 (La. App. 3d Cir. 1963).

2. The pooling clause of the amended lease before the court read as follows: "Lessee, at its option, is hereby given the right and power to pool or combine the acreage covered by this lease with other lands, leases, or acreage, when in lessee's judgment it is necessary or advisable to do so, to promote the conservation of gas and/or condensate so as to create the following unit: [here follows a description of the unit to be created]." *Id.* at p. 3.

3. This was an ex parte declaration by the plaintiff; no action by the lessors was necessary in order to create the unit. The unit declaration merely recited the leases involved and described the area which, pursuant to the pooling power granted in these leases, was to be operated as a unit.

4. The original unit contained 160 acres; the conservation unit, 177.60 acres, overlapping the original unit by 101.13 acres.

5. LA. R.S. 13:4231-4246 (1950).

6. Defendant's tract was comprised of 46.73 acres of the overlapped acreage. Plaintiff's calculation of defendant's participation was as follows: defendant's participation in the original unit (46.73/160.00) times the amount of production from the conservation unit attributable to the overlapped acreage (101.13/177.60) times defendant's lease royalty (3/16) or 3.1183 percent of total conservation unit

within the previous unit.[7] Defendant, lessor of a tract lying wholly within the overlapped area, contended that the original unit was superseded by the conservation unit, and that royalties should be calculated on the basis of acreage contained in the conservation unit only.[8] The trial court upheld defendant's contention; on appeal, the Third Circuit Court of Appeal affirmed. *Held*, since the pooling clauses pursuant to which the original unit was formed did not indicate that the parties intended participations in the unit area to be frozen, the original unit was superseded by the conservation unit; tracts excluded from the conservation unit could not participate in royalties apportioned to the overlapped area. *Humble Oil & Ref. Co. v. Jones*, 157 So. 2d 110 (La. App. 3d Cir. 1963), *affirming original decision* in 125 So. 2d 640 (La. App. 3d Cir. 1960), *writs refused*, 159 So. 2d 284 (La. 1963).[9]

Customarily, pooling of oil and gas properties for the purposes of mineral development is accomplished by two basic methods — voluntary agreement of the parties, or forced pooling orders by the Department of Conservation.[10] Although there

production. Likewise, each tract within the original unit received its proportionate share of royalties attributable to the overlapped acreage according to its participation in the original unit.

7. Mineral leases generally provide that they will remain in force so long as production in paying quantities is being achieved on the lands covered by the lease or on acreage pooled therewith. Production was being achieved on the overlapped acreage by virtue of the conservation unit; thus if the original unit remained effective, the leases on acreage within that unit but outside the conservation unit were being maintained by production on "acreage pooled therewith." As a rule, leases contained either wholly or partially within the unit are maintained in their entirety by unit production. See LeBlanc v. Danciger Oil & Ref. Co., 218 La. 463, 49 So. 2d 855 (1950); Hunter Co. v. Shell Oil Co., 211 La. 893, 31 So. 2d 10 (1947).

8. Under defendant's method of calculation no consideration was given the original unit, but defendant would receive the amount of production allocated to his tract by the conservation unit (46.73/177.60) times his lease royalty (3/16) or 4.9335 percent of total conservation unit production. By this method, tracts within the original unit but excluded from the conservation unit would no longer participate in production which heretofore had been distributed according to the original unit formula.

9. The companion case of Humble Oil & Ref. Co. v. Edwards, 125 So. 2d 654 (La. App. 3d Cir. 1960), was consolidated with the instant case for purposes of trial and appeal. Only two of the eight lessors of acreage within the original unit were parties to the first suit. The Louisiana Supreme Court remanded the case to permit impleading of all lessors as indispensable parties. 241 La. 661, 130 So. 2d 408 (1961).

On appeal after the remand, the Third Circuit Court of Appeal affirmed their original decision without opinion since "no new issues [were] raised." 157 So. 2d at 112. In a memorandum decision denying writs of review after this decision, the Louisiana Supreme Court stated: "we find the result is correct." 159 So. 2d 284 (La. 1963).

10. See generally Hussey, *Pooling and Unitization — Government's Point of View*, SECOND ANNUAL INSTITUTE ON MINERAL LAW 28 (1954).

seems to be no universally accepted nomenclature differentiating between the various types of voluntary units,[11] for the purposes of this Note, "voluntary" units (as distinguished from forced conservation units) will be further classified as "contractual" or "declared." Contractual units are those formed by the execution of a unitization instrument signed by all parties whose interests are pooled; whereas, declared units are those formed by a declaration of unitization by mineral lessees pursuant to pooling power granted in the lease. Basically the same end result is achieved through either voluntary or forced pooling: production from any tract within the unit is considered as production from every tract, and is shared according to determined participations.[12]

Formation of a conservation unit which includes acreage previously within a voluntary unit raises a question as to the proper method of calculating participations in production from the conservation unit attributable to the overlapped area.[13] Although valid pooling orders of the Department of Conservation become part of all private contracts relating to mineral development,[14] private contracts are superseded only if they are in conflict with the conservation order.[15] The forced pooling order allocates to each tract within the unit its proportionate share of unit production;[16] but since the effect of the order is limited to purposes necessary for conservation,[17] it has no conclusive legal

11. See, *e.g.*, Humble Oil & Ref. Co. v. Jones, 157 So. 2d 110, 115 (1963) (dissenting opinion); Comment, *Mineral Lease — Voluntary Pooling Clause*, 10 LOYOLA L. REV. 224 (1960).

12. LA. R.S. 30:10 (1950). See Horton, *Effect of Conservation Laws and Regulations on Contracts and Mineral Leases*, 34 TUL. L. REV. 439 (1960). Although this effect may not be automatic in voluntary units, it is generally provided in the unitization instrument; to fail to achieve this result would defeat the purposes of unitization. See also Hussey, *Pooling and Unitization — Government's Point of View*, SECOND ANNUAL INSTITUTE ON MINERAL LAW 28 (1954).

13. See notes 6 and 8 *supra*.

14. See Childs v. Washington, 229 La. 869, 87 So. 2d 111 (1956); Alexander v. Holt, 116 So. 2d 532 (La. App. 2d Cir. 1959). The constitutionality of forced pooling has been upheld as a legitimate exercise of the police power of the state. See Ohio Oil Co. v. Indiana, 177 U.S. 190 (1900); Smith v. Holt, 223 La. 821, 67 So. 2d 93 (1953); Hunter Co. v. McHugh, 202 La. 97, 11 So. 2d 495 (1942).

15. "[I.]e., when the order is a conservation measure, pure and simple." Arkansas Louisiana Gas Co. v. Southwest Natural Prod. Co., 221 La. 608, 613, 60 So. 2d 9, 10 (1952). See also Delatte v. Woods, 232 La. 341, 94 So. 2d 281 (1957); Everett v. Phillips Petroleum Co., 218 La. 835, 51 So. 2d 87 (1951); Crichton v. Lee, 209 La. 561, 25 So. 2d 229 (1946); Hardy v. Union Prod. Co., 207 La. 137, 20 So. 2d 734 (1945); Hood v. Southern Prod. Co., 206 La. 642, 19 So. 2d 336 (1944).

16. LA. R.S. 30:10 (1950); Smith v. Holt, 223 La. 821, 67 So. 2d 93 (1953).

17. LA. CONST. art. VI, § 1(c); LA. R.S. 30:4 (1950); Texaco, Inc. v. Vermilion Parish School Bd., 145 So.2d 383, 391 (La. App. 3d Cir. 1962), *modified on other grounds*, 244 La. 408, 152 So. 2d 541 (1963); Arkansas Louisiana Gas

effect on the manner by which unit production once so allocated is to be shared.[18] Contractual unit agreements by which parties agree to share any production from a designated area according to determined participations do not conflict with the conservation unit, and, consequently, are not necessarily superseded thereby.[19] Obligations under a contractual unit are governed by general contract law and subsist as long as the agreement evidences that it was the intention of the parties that they remain in effect.[20] Normally, the unitization instrument expressly provides that the parties intend for the contractual unit to remain effective for as long as unit production is being achieved.[21] However, it has been suggested that this intent should be presumed or implied unless the parties expressly stipulate to the contrary.[22]

Similarly, there is no inherent conflict between a conservation unit and a declared unit, for a declared unit accomplishes basically the same results as a contractual unit. However, the lessee in creating a declared unit must exercise his pooling power strictly in the manner and for the purposes stated in the lease; action by the lessee exceeding the scope of this power will not be binding on the lessor.[23] Consequently, the validity and effects of the declared unit are governed by the pooling clauses

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Co. v. Southwest Natural Prod. Co., 221 La. 608, 60 So. 2d 9 (1952).

18. Arkansas Louisiana Gas Co. v. Southwest Natural Prod. Co., 221 La. 608, 60 So. 2d 9 (1952).

19. Monsanto Chem. Co. v. Southern Natural Gas Co., 234 La. 939, 102 So. 2d 223 (1958); Texaco, Inc. v. Vermilion Parish School Bd., 145 So. 2d 383 (La. App. 3d Cir. 1962), *modified on other grounds*, 244 La. 908, 152 So. 2d 541 (1962). *But see* Alston v. Southern Prod. Co., 207 La. 370, 21 So. 2d 383 (1945); Simmons v. Pure Oil Co., 124 So.2d 161 (La. App. 2d Cir. 1961).

20. See Monsanto Chem. Co. v. Southern Natural Gas Co., 234 La. 939, 102 So. 2d 223 (1958); LA. CIVIL CODE arts. 1901, 1945 (1870).

21. *E.g.*: This agreement shall remain in effect "so long as Lease Owners are producing gas and gas condensate or gas distillate from said Unitized Area." Record, p. 130, Crown Cent. Petroleum Corp. v. Barousse, 238 La. 1013, 117 So.2d 575 (1960). "This agreement shall remain in full force and effect as long as the mineral leases or contracts referred to herein shall remain in full force and effect." Record, p. 45, Elson v. Mathewes, 224 La. 417, 69 So. 2d 734 (1953).

22. "Voluntary units formed through a complete agreement signed by all lessors and lessees should not be subject to change by the Conservation Commissioner's order unless the parties have expressly stipulated for this change in the agreement. Here it is presumed that the parties intended to freeze their rights because all of the parties participated in the confection of the voluntary unit agreement, and where they agreed on certain fixed interests and did not contract to have them changed, their contract should be the law of the contract." Texaco, Inc. v. Vermilion Parish School Bd., 145 So. 383, 394 (La. App. 3d Cir. 1962) (concurring opinion), *modified on other grounds*, 244 La. 408, 152 So. 2d 541 (1962).

23. See Mallet v. Union Oil & Gas Corp. of La., 232 La. 157, 94 So. 2d 16 (1957); Wilcox v. Shell Oil Co., 226 La. 417, 76 So. 2d 416 (1954).

of the lease rather than by the provisions of the unit declaration which actually creates the unit.

In the instant case, the court, treating the unit as declared, found from an interpretation of the pooling clauses that the lessors did not intend that their royalty interests be frozen by a declared unit.[24] The finding of this intent seems to have been based on two principal factors. First, the court apparently gave some weight to the fact that the parties had not expressed an intent to freeze participations in any unit formed by exercise of the pooling power. Second, the lessee's power was in essence limited to purposes of conservation.[25] The court noted that the primary motivation of the lessor in granting his lessee the power to pool was "to obtain his just and equitable share of the oil and gas in the pool and to prevent drainage of his land."[26] In view of this latter consideration, the court held that the "parties should not be presumed to have agreed to share their interests on the old declared unit unless they show a specific and positive intention to freeze the old unit."[27] Since there was no such express intent, the court held that the declared unit was superseded by the conservation unit[28] and that royalties were to be calculated on the basis of acreage contained in the conservation unit only. Lessors of acreage within the declared unit but outside the conservation unit were excluded from participation in production from the horizon subject to the conservation unit.

In view of the fact that the three amended leases had given the lessee the power to create only the specific unit actually formed, a vigorous dissent found the unit to be contractual rather than declared and thus maintained that it should not be superseded by the conservation unit. Although the majority ap-

24. In the original decision the court considered only two of the eight leases involved; after all lessors within the original unit were impleaded as indispensable parties, the court stated that no new issues were presented. Therefore, it is to be assumed that the court found the same intent to be present in all leases on acreage within the original unit. See note 10 *supra*.

25. "[W]hen in Lessee's judgment it is necessary or advisable to do so *to promote the conservation of gas and/or condensate.*" (Emphasis added.); "[W]hen in Lessee's judgment it is necessary or advisable to do so in order properly to develop and operate said leased premises in compliance with the orders, rules and regulations of State and Federal governmental authority, or when to do so would, in the judgment of Lessee, *promote the conservation of oil and gas from said premises.*" (Emphasis added.)

26. 125 So. 2d at 647.

27. *Id.* at 646.

28. The conservation unit, being effective for only one sand, superseded the declared unit only as to that particular sand. Apparently the declared unit remained effective for other horizons. 157 So. 2d at 111-12.

parently regarded the unit as declared rather than contractual,[29] its decision does not rest on this classification alone. Rather the majority seemingly reasoned that it was the intention of the parties to the leases that the unit would be terminated[30] by the creation of the conservation unit.[31]

Certain language in the majority opinion suggests that the declared unit was superseded by the conservation unit because of an inherent conflict between the two.[32] It is submitted, however, that the objectives of the conservation unit would not have been defeated by the continued existence of the sharing arrangements under the declared unit. In this regard there was no conflict between the two units requiring the conservation unit to supersede the declared unit.[33]

Based on the intent of the parties as reflected by the lease, the decision appears sound.[34] Since the lessee's power was limited to purposes of conservation, any unit which at the time of

29. See *id.* at 114 (concurring opinion).

30. "Supersede" carries the connotation of annulling or replacing because of superiority; whereas, "terminate" carries a diffferent connotation of ending or limiting in time without necessarily being superior. "Terminate" seems to describe more correctly the effect of the conservation unit on the declared unit in the instant case.

31. From the fact that the parties did not intend the unit to be frozen, it must necessarily be implied that they intended it to be subject to termination at a later date. As the court saw it, this contemplated termination was wrought by the creation of the conservation unit. Judge Culpepper in a concurring opinion said: "[W]hen the lessors signed such a pooling authorization they contemplated that even though a unit might be declared it would be subject to change later by order of the Commissioner of Conservation for conservation purposes." 157 So. 2d at 114.

32. To allow the original unit to remain in effect "would be in conflict with [plaintiff's] prior agreement forming the voluntary unit and *with the conservation order which determined that the unit should contain 177.60 acres.*

"To adopt plaintiff's position would also allow landowners whose lands are not in an oil or gas reservoir to participate in royalties to which they are not entitled. *This would defeat the very purpose for which the Department of Conservation was formed.*" 125 So. 2d at 648. (Emphasis added.)

33. See notes 17-19 *supra*, and accompanying text.

34. An alternative interpretation of the instant case suggests that the court did not predicate its decision on the intent of the parties, but rather formulated a rule of law that in the absence of a positive expression in the lease of an intent that participations in any unit formed pursuant to the pooling power be frozen, the unit would be terminated by a subsequent conservation unit. This theory would dispense with the necessity of interpreting the pooling clause in an effort to ascertain the unexpressed intent of the parties, but would necessitate formulating a new rule to cover each and every event which one of the parties contended operated to terminate the unit.

It is believed that this approach would be improper since the lease contained sufficient language from which the intent of the parties could be implied. The issue resolves itself into the question whether the parties intended the unit to be an aleatory contract as a result of which their interests would be frozen, or intended the unit to be effective only as long as it served its expressed purposes. See LA. CIVIL CODE arts. 1775, 1776, 1896, 1899 (1870).

its formation did not accomplish these objectives would, in all probability, be invalid.[35] On the same basis, it seems that the parties did not intend that a unit, although valid at its inception, would remain effective when it no longer was necessary for conserving the mineral reserves under the lessor's tract. From this interpretation of the pooling clauses in question, it may be implied that the parties intended that any event which proved that the unit no longer served the purposes for which it was originally formed would terminate the unit.[36] Since the lessee's power was controlled by the pooling clause, he could not form a unit which was not subject to dissolution when it no longer served the purposes of conservation.[37]

Acceptance of this approach still leaves the question whether mere issuance of the conservation order should conclusively establish that the declared unit no longer serves the purposes of conservation.[38] An affirmative answer seems compelling, for otherwise conservation orders would be subject to prohibited collateral attack[39] which would burden the effective administration

35. *Cf.* MacDonald v. Grande Corp., 148 So. 2d 441, 444 (La. App. 3d Cir. 1962): "In exercising the broad powers granted to a mineral lessee by a lease, the mineral lessee is under a duty to exercise them in accordance with the fundamental purpose for which they were granted. . . . The mineral lessee must therefore act in connection with the voluntary pooling power with good faith intentions of serving the lessor-landowner's interest, or, at the very least, the mineral lessee must not act in connection with such pooling power to the detriment of the lessor-landowner's interest."

36. For other cases in the field of mineral rights based on the implied intent of the parties, see Elson v. Mathewes, 224 La. 417, 69 So. 2d 734 (1954); Achee v. Caillouet, 197 La. 313, 1 So. 2d 530 (1941); Mulhearne v. Hayne, 171 La. 1003, 132 So. 659 (1931).

37. The pooling clauses in the leases did not create the unit, but only empowered the lessee to do so. Since the lessee's power to pool is limited to the creation of units as authorized by the lessor, any unit created would necessarily be subject to the conditions intended by the parties to the lease. However, a problem would arise if a lessee stated in the unit declaration that the participations of the parties were to be frozen. Would the unit be void *ab initio* or would it merely be subject to the intended conditions regardless of the provision in the unit declaration? See, *e.g.*, the unitization agreement involved in Crown Cent. Petroleum Corp. v. Barousse, 238 La. 1013, 117 So. 2d 575 (1960).

38. Obviously disputes will arise as to whether a particular event has the effect of dissolving the sharing arrangements created by the declared unit. In the instant case, the conservation unit defined the productive limits of the reservoir. The same result may follow in the case of conservation units created for development purposes only, following convenient geographical boundaries and not purporting to define the reservoir limits. It appears that these units too may render the declared unit unnecessary for the purposes of conservation. Or, the drilling of a dry hole on the declared unit, proving portions of the acreage covered thereby to be unproductive, would be an event which proved that the unit no longer served the purposes of conservation, and may terminate the unit. See Struss v. Stoddard, 258 S.W.2d 413 (Tex. Civ. App. 1953); *cf.* MacDonald v. Grande Corp., 148 So. 2d 441 (La. App. 3d Cir. 1962).

39. LA. R.S. 30:11 (1950); Mayer v. Tidewater Oil Co., 218 F. Supp. 611 (E.D. La. 1963); Smith v. Carter Oil Co., 104 F. Supp. 463 (E.D. La. 1954).

of conservation laws.[40] Consequently, an order unitizing a sand overlain by the declared unit must operate as conclusive proof of the occurrence of the dissolving condition.[41]

As a final observation, it appears that a characterization of a unit as declared or contractual is not determinative of its survival after the establishment of a conservation unit.[42] Regardless of the manner in which the voluntary unit is formed, the parties to either type unit may expressly manifest their intent to freeze, or not freeze, their interests.[43] However, a significant

40. For example, from different interpretations of geological data, a convincing argument may be made for defining the limits of a particular reservoir differently from the Commissioner of Conservation. In a private suit such as the instant case, the court may find the evidence proves that the conservation unit incorrectly defined these limits, and therefore should not terminate the declared unit. In a later direct attack on the conservation order, the court would be unable to overturn the order unless it be found to have been issued without supporting evidence. See LA. R.S. 30:11 (1950); O'Meara v. Union Oil Co. of Calif., 212 La. 745, 753, 33 So. 2d 506, 509 (1947); Moses, *Louisiana Oil and Gas Conservation Law*, 24 TUL. L. REV. 311 (1950).

Perhaps this is what the court had in mind in its reference to the conflict with the conservation order in the instant case. See note 32 *supra*. To allow the lessee to assert that the declared unit was still accomplishing the purposes for which it was originally formed (*i.e.*, conservation) would be in conflict with the commissioner's order, which could be issued only for conservation purposes.

41. The obligations under the unit could be said to be subject to an implied resolutory condition and automatically terminated upon the happening of the condition. See LA. CIVIL CODE arts. 2021, 2026, 2047 (1870). The exact relationships and obligations of those interested in a declared unit has never been definitively decided. Certainly the lessor on whose land the well is drilled is obligated to share unit production with the other lessors of acreage within the unit. If the unit well be drilled on the land of another, the lessor has a right to demand his proportionate share also. The question unanswered is to whom is the obligation owed, and against whom can the right be asserted? It may be that the lessee having the power to pool his lessor's land is acting as the agent of the lessor, and upon the exercise of the power creates binding obligations between lessors even as if they had been parties to the instrument which created the unit. See MacDonald v. Grande Corp., 148 So. 2d 441 (La. App. 3d Cir. 1962); LA. CIVIL CODE arts. 2985, 2986, 2995, 3021 (1870).

42. *But see* Texaco, Inc. v. Vermilion Parish School Bd., 145 So. 2d 383, 394 (La. App. 3d Cir. 1962) (concurring opinion). Here Judge Savoy, perhaps intending to clarify the *Jones* decision, indicated that the court would presume that the parties to a declared unit intended the unit to be subject to change by a subsequent conservation unit, but would presume that the parties to a contractual unit intended to freeze their interests.

Creating a presumption as to what the parties intended is in effect holding that as a matter of law, certain legal consequences will flow unless the parties expressly stipulate to the contrary. Perhaps it is less difficult for the court to imply an intent to freeze participations in the contractual unit than in the declared unit because of the lessor's direct participation in the confection of the contractual unit. However, the manner in which the units are formed would not seem to have sufficient bearing on the determination of whether the parties intended to freeze their interests to give rise to such presumptions.

Consequently, it appears that the more desirable approach would be to employ no presumption, but to ascertain the express or implied intent of the parties from the language of the contract rather than predicate a result on presumptions based on a classification of the unit. See LA. CIVIL CODE arts. 2284, 2288 (1870).

43. In a contractual unit the intent of all parties whose interests are pooled

principle emerges from the instant case: if a lease contains a pooling clause permitting declarations of units for conservation purposes, an intent of the parties to freeze their interests will not be presumed or implied, but must be expressed. Thus, the draftsman of the lease must manifest such intent clearly and unambiguously.[44]

S. Patrick Phillips

SECURITY DEVICES — R.S. 9:4812 — REQUIREMENT OF SUIT WITHIN ONE YEAR ON MATERIALMAN'S LIEN

Plaintiff materialman furnished certain building materials to contractor who had entered into an unrecorded written agreement with landowner to construct a building. As provided by R.S. 9:4812,[1] plaintiff recorded his claim for the uncollected bal-

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would be evidenced by the one instrument creating the unit. However, a problem may arise when pooling clauses in leases on different tracts consolidated into a declared unit evidence an opposite intention on the question whether a conservation unit would terminate the declared unit. It would appear that the lessor who intended the termination would not be bound by the declared unit after the creation of the conservation unit. If the unit be terminated as to that lessor, it may be terminated as to all lessors within the unit. Viator v. Haynesville Mercantile Co., 230 La. 132, 88 So.2d 1 (1956); Union Oil Co. of California v. Touchet, 229 La. 306, 86 So. 2d 50 (1956) (unit invalid from its inception as to one lessor is invalid from its inception as to all lessors of acreage purported to be included within the unit).

44. See, *e.g.*, the following provision in a standard lease form: "Any unit created by Lessee hereunder shall also be revised so as to conform with an order of a Regulatory Body issued after said unit was originally established; such revision shall be effective as of the effective date of such order without further declaration by lessee." Bath-O-Gram, Form 42 CPM-New South Louisiana Revised Six (6)—Pooling.

1. LA. R.S. 9:4812 (1950): "When the owner, or his authorized agent, undertakes the work of construction, improvement, repair, erection, or reconstruction, for the account of the owner, for which no contract has been entered into, or when a contract has been entered into but has not been recorded, as and when required, then any person furnishing service of material or performing any labor on the said building or other work may record in the office of the clerk of court or recorder of mortgages in the parish in which the said work is being done or has been done, a copy of his estimate or an affidavit of his claim or any other writing evidencing same, which recordation, if done within sixty days after the date of the last delivery of all material upon the said property or the last performance of all services or labor upon the same, by the said furnisher of material or the said laborer, shall create a privilege upon the building or other structure and upon the land upon which it is situated, in favor of any such person who shall have performed service or labor or delivered material in connection with the said work or improvement, as his interest may appear. The said privilege, recorded as aforesaid, shall constitute a privilege against the property for a period of one year from the date of its filing, and may be enforced by a civil action in any court of competent jurisdiction in the parish in which the land is situated and such right of action shall prescribe within one year from the date of the