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Will Oklahoma Ever Settle Its Chickensh*t Lawsuit?: Allan Gates (Mitchell Williams) American College of Environmental Lawyers Post

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My Law Firm colleague, Allan Gates, posted an Article on the American College of Environmental Lawyers ("ACOEL") on August 20th titled:

*Will Oklahoma Ever Settle Its Chickensh*t Lawsuit?*

Allan is a former president of ACOEL.

The Article provides both the history and an update on the lawsuit filed by the State of Oklahoma 21 years ago against six of the major national poultry companies.

Allan notes:

... Oklahoma alleged that poultry litter generated and land applied by the companies' contract poultry growers in Arkansas and Oklahoma was polluting the Illinois River with elevated levels of phosphorus, causing algal blooms, decreased dissolved oxygen, loss of clarity, and degradation of aquatic life.

The Article addresses the many twists and turns in the litigation to date and provides insight into the various parties' concerns and/or interests in some type of settlement. In particular, the 10th Circuit Court of Appeals' recent response to a joint motion to vacate the United States District Court's remedy judgment assessed.

Finally, Allan's Article identifies what he characterizes as lessons from Oklahoma's lawsuit which include:

- Interstate agricultural pollution is a serious problem that begs for a national solution grounded in a rational allocation of burdens. Litigation is not a good vehicle for achieving such a solution.
- The Clean Water Act is basically impotent in addressing agricultural water pollution.
- The state law of downstream states is ill-suited for resolving water pollution coming from upstream states.
- States that retain private counsel on a contingent fee basis tend to get what they pay for.
- Things do not always go well for public officials who use environmental litigation as a path for political advancement, at least in Oklahoma.

A copy of the Article (which links the various litigation documents) can be found [here](#).