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DeSoto ponders EPA suit; County retains legal muscle for possible challenge to ruling

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Taking aim at the Environmental Protection Agency's decision to keep DeSoto County grouped with Memphis and Crittenden County, Ark., on ozone levels, DeSoto County supervisors are seeking legal options from the high-powered **Butler, Snow** legal firm.

"They have the air-quality and EPA expertise that's needed in looking into overturning the decision," Supervisor Mark Gardner said of **Butler, Snow**, O'Mara, Stevens & Cannada, which has offices across Mississippi, Memphis, Louisiana, Alabama and Pennsylvania.

Gardner said board attorney Tony Nowak "recommended this as the way to go."

DeSoto County officials fear the designation would hinder development by forcing industrial prospects to comply with more stringent requirements.

"He (Nowak) will be writing a letter to **Butler, Snow** asking them to do some further due diligence," County Administrator Michael Garriga said.

The supervisors note that **Butler, Snow's** team includes environmental and energy law specialist James I. Palmer Jr., executive director of the Mississippi Department of Environmental Quality from 1987 to 1999 and EPA Region 4 administrator from 2002 to 2009; and Gary C. Rikard, a former environmental engineer and senior attorney with MDEQ.

The board approved a retainer - up to \$3,000 - for the law firm to do some "exploratory" study of the county's case for reversal of the EPA decision.

"We haven't decided yet to pursue a lawsuit," Gardner said. "We'll also be meeting further with the Mississippi Department of Environmental Quality. There'll be a formal appeal through the governor's office."

A lawsuit may arise if the state process isn't successful, he said.

"We're going to fight this decision - in the most-effective way," Gardner said.

The board at its Monday meeting eyed avenues of action following the EPA's move May 1 to lump northern DeSoto with Memphis and Crittenden County in a zone not meeting air-quality standards for ozone. Despite DeSoto's listing in the "marginal nonattainment" category, the lowest level of severity among five categories with requirements for cleanup, county and state officials fear fiscal damage.

Ozone is a lung-damaging pollutant created when emissions from vehicles and industry react in sunlight.

DeSoto and state officials contend EPA made an unfair decision based on faulty science. Gardner and Garriga were part of a team with state air-quality officials that met in February with EPA "to make the county's case."

Gov. Phil Bryant has pledged to aid DeSoto's formal appeal. He terms the EPA's decision "irresponsible," one that "defies logic and makes it clear that EPA bureaucrats in Washington ignored our information based on the scientific data presented by DeSoto County and the state."

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