

ATTORNEY GENERAL JAN 11 '22 AM 10:45 RCVD 107 sam
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

January 11, 2022

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

REQUESTED ACTION

That approval be and hereby is given to the Attorney General to appoint Mark L. Lucas to Position #9U503 (Appropriation #02-20-20-200510-26130000-013-500132) as an Attorney at a salary level of \$92,000, effective upon Governor and Executive Council approval or January 28, 2022, whichever is later.

EXPLANATION

Mr. Lucas, a Freedom resident, is admitted to practice law in New Hampshire, New York, and Montana. He received a Bachelor of Arts in English, *magna cum laude*, from the University of Massachusetts in 1993. He earned his Juris Doctor and Master's Degree in Environmental Law, *cum laude*, from Vermont Law School in 2000. Mr. Lucas was associated with several Syracuse, New York, law firms between 2000 and 2005, at which time he joined the Vermont Department of Environmental Conservation as a Staff Attorney in the Water Quality Division. He left that position in 2007 to serve as the Associate General Counsel of the Vermont Natural Resources Board until 2011. From 2011 to 2016, Mr. Lucas was Senior Counsel at Riverkeeper, Inc., in Albany, New York, where he led teams of attorneys, interns, and experts involved in Clean Water Act, Clean Air Act, Endangered Species Act, National Environmental Policy Act, and State Environmental Quality Review Act litigation. During the same period he was a Guest Lecturer at the Pace University Law School Environmental Litigation Clinic. After a brief period of counsel with Breton and Simon, PLLC, in Stowe, Vermont, he took a position in 2017 as Staff Attorney with the Montana Department of Environmental Quality where he was senior counsel to the Air, Energy, Coal and Opencut Mining Programs. He left that position in 2021 to move to New Hampshire. In light of Mr. Lucas' experience, I am requesting he be appointed as an Attorney at a salary of \$92,000. He will be assigned to the Environmental Protection Bureau. A copy of his resume is attached.

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RSA 94:1-a(1)(c)(3) provides that designation of positions, salary levels, and salary increases for attorneys at the Department of Justice shall be determined by the Attorney General, subject to approval of the Governor and Council, within appropriations made to the Department of Justice.

I am very pleased to offer Mr. Lucas' appointment as an Attorney at the above-referenced salary for your approval and respectfully urge your favorable consideration. Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. M. Formella". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John M. Formella
Attorney General

#3418021

Mark L. Lucas, Esq.

Education: J.D./M.S., cum laude Vermont Law School (2000); Rank: 7/132; Law Review
B.A., magna cum laude University of Massachusetts; English (1993)

Admitted: New York (2001), Vermont (2006) (inactive), Montana (2017)
U.S. District Court of Montana (2017) New Hampshire (Pending 2021)

Legal Experience

September 20, 2021 to Present: Paralegal (Pending Admission on November 17, 2021)

The Law Offices of Thomas E. Dewhurst III, PLLC, Conway, New Hampshire

- Real estate, wills, trusts, estates and probate.

April 2017 to November 1, 2021: Staff Attorney

Montana Department of Environmental Quality, Helena, Montana

- As senior counsel to Air, Energy and Coal and Opencut (gravel and aggregate) Mining Programs, led trial and/or project teams of attorneys, experts, enforcement specialists, paralegals and administrative staff and provided counsel on permitting, regulation, litigation, enforcement, procurement, Native American Law and legislative matters.
- Prepared Environmental Impact Statements for Montana Environmental Policy Act (MEPA) and joint state/federal National Environmental Policy Act (NEPA) actions and defended state court MEPA appeals.
- Mentored junior counsel leading up to and through contested cases to District Court appeals. First Chair on appeals to the Montana Board of Environmental Review and Montana District Courts.

January 2017 through April of 2017: Of Counsel

Breton & Simon, PLLC, Stowe, Vermont

- Interim of-counsel position to explore partnership offer with general practice firm.

May 2011 to August 2016: Senior Counsel

Riverkeeper, Inc., Albany, New York

- Led teams of attorneys, law student interns and experts in Clean Water Act, Clean Air Act, Endangered Species Act, NEPA and State Environmental Quality Review Act (SEQRA) civil and administrative appeals, including a fifty-eight (58) day administrative technical hearing which resulted in a settlement securing negotiated closure of the Indian Point Power Plant.
- Mentored junior counsel and law student interns in all aspects of environmental law.
- Co-drafted and negotiated 2013 sewage discharge notification act (ECL § 17-0826-a).
- Guest Lecturer, Pace University Law School Environmental Litigation Clinic.

June 2007 to May 2011: Associate General Counsel

Vermont Natural Resources Board, Montpelier, Vermont

- Counsel to State Land Use Board and Water Resources Board and District Land Use Permitting Commissions and agency liaison to Governor's staff on water quality issues.
- Drafted agency findings of fact and conclusions of law and jurisdictional opinions.
 - First chair counsel for land use and water quality matters in Environmental Court, while coordinating with Office of the Vermont Attorney General on civil court appeals.
 - Led stakeholder groups in negotiated revisions to state water quality standards.
 - Drafted and revised legislation and testified on water quality matters before state House and Senate Energy, Environmental, Agriculture and Fish & Wildlife Committees.

September 2005 to June 2007: Water Quality Division Staff Attorney

Vermont Department of Environmental Conservation, Waterbury, Vermont

- Negotiated and drafted amendments to state wetland statute (10 V.S.A. §§ 913-917) with industry, municipalities, farmers and environmental groups.
- Negotiated rulemaking with farmers and environmental groups for small and medium farm operation regulations and permit program to obviate need for dairy farms to obtain a Clean Water Act "CAFO" discharge permit. Drafted and negotiated memorandum of agreement between state environmental and agricultural agencies regarding respective roles of each agency.
- Prepared and issued multi-sector stormwater general permit with program staff with input from stakeholders and negotiated permit terms with Environmental Protection Agency.
- Negotiated and drafted Clean Water Act Section 401 water quality certification for U.S. Army Corps of Engineers General Permit for the District of Vermont.
- Drafted and revised legislation and testified before state House and Senate Energy, Environmental, Agriculture and Fish & Wildlife Committees.

May 2004 to August 2005: Associate Attorney

Taddeo & Shahan, LLP, Syracuse, New York

- Represented nonprofit volunteer fire and ambulance companies and municipal fire districts on governance, labor and employment, EMS regulation and insurance defense litigation.
- Commercial and construction litigation in federal and state court.

December 2002 to April 2004: Associate Attorney

Menter, Rudin & Trivelpiece, P.C., Syracuse, New York

- Construction, labor and employment and environmental litigation in federal and state court.

August 2000 to September 2002: Associate Attorney

Devorsetz Stinziano Gilberti Heintz and Smith, P.C., Syracuse, New York

- Represented private sector and municipal clients with respect to land use, municipal, environmental regulatory, litigation and enforcement matters before local boards and federal and state courts.