

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
 CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
 ATTORNEY GENERAL



JAMES T. BOFFETTI
 DEPUTY ATTORNEY GENERAL

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December 21, 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, Position #9U503 (Appropriation #02-20-20-200510-26130000-013-500132) as an Assistant Attorney General at a salary level of \$95,000, effective upon Governor and Executive Council approval or January 27, 2023, whichever is later, for a term ending September 20, 2025.

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. Mr. Lucas joined the Department in 2022 and was assigned to the Environmental Protection Bureau. His salary will increase by \$1,932.80, from \$93,067.20 to \$95,000. I plan to continue his current assignment. A copy of his resume is attached.

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RSA 21-M:3 and RSA 94:1-a(I)(c)(3) provide 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 Assistant Attorney General at the above-referenced salary for your approval and respectfully urge your favorable consideration. Thank you.

Respectfully submitted,



John M. Formella
Attorney General

#3822337

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 (2021)

Legal Experience

January 28, 2022 to Present: Attorney
***New Hampshire Department of Justice Office of the New Hampshire Attorney General
Environmental Protection Bureau***
Concord, New Hampshire

- Litigation before administrative agencies, trial courts and New Hampshire Supreme Court representing state agencies including Department of Environmental Services, Fish and Game Department, Human Rights Commission and Division of Children, Youth and Families.
- Monitors, reports and provides input on legislation to Commissioner's Legislative Group.
- Counsels Department of Environmental Services and Fish and Game Department on day-to-day matters including Right-to-Know Law, Open Meetings Law, compliance assistance, enforcement, permitting and contract matters.

September 20, 2021 to January 26, 2022: Paralegal Pending Admission, Admitted 11/17/21
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.
- Mentored junior counsel leading up to and through contested cases to District Court appeals.

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.
- 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.
- 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.
- 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.