

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Civil Action No. _____
	)	
and	)	
	)	
ALABAMA DEPARTMENT OF	)	
ENVIRONMENTAL MANAGEMENT	)	
	)	
Plaintiffs,	)	
v.	)	
	)	
KRONOSPAN, LLC,	)	
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiffs, the United States of America, by the authority of the Attorney General of the United States, and through the undersigned attorneys, acting at the request of the United States Environmental Protection Agency (“EPA”), and the Alabama Department of Environmental Management (“ADEM”), file this complaint and allege as follows:

**NATURE OF THE CASE**

1. This is a civil action by the United States and the Alabama Department of Environmental Management against Kronospan, LLC

(“Kronospan”) (also referred to as “Defendant”), for injunctive relief and civil penalties arising from the “discharge” of pollutants from the facility located at 1 Kronospan Way, Eastaboga, Calhoun County, Alabama (“Facility”), to the Oxford Water Works and Sewer Board’s (“OWSB”) publicly owned treatment works (“POTW”) in violation of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., as amended (“Clean Water Act” or “CWA”), and the Alabama Water Pollution Control Act, Ala. Code § 22-22-1 et seq. (“AWPCA”).

2. The complaint is filed pursuant to Sections 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), for injunctive relief and the assessment of civil penalties against Defendant for violations of the CWA and its implementing regulations.

### **JURISDICTION, VENUE, AUTHORITY AND NOTICE**

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 (Federal question), 1345 (United States as plaintiff), 1355 (Fine, penalty or forfeiture), and 1367(a); Sections 309(b) and (d) of the CWA, 33 U.S.C. § 1319(b) and (d), (Civil actions and Civil penalties, respectively); and Sections § 22-22A-5(12) and (18) of the AWPCA.

4. Venue is proper in the Northern District of Alabama pursuant to 28 U.S.C. §§ 1391(b) (Venue generally) and 1395(a) (Fine, penalty or forfeiture), and

pursuant to the CWA, 33 U.S.C. § 1319(b) (Civil actions), because it is the judicial district where the Defendant is located, where a substantial part of the events or omissions giving rise to the claims occurred, and where the alleged violations occurred.

5. The United States has the authority to bring this action on behalf of the Administrator of the EPA (“Administrator”) under Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

6. Pursuant to 33 U.S.C. § 1342(b), the State of Alabama has been delegated authority to administer its NPDES program since October 19, 1979, and ADEM is therefore authorized to bring this action on behalf of the State of Alabama.

7. The United States has provided notice of the commencement of this action to the State of Alabama pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and ADEM has joined as a co-Plaintiff.

**PLAINTIFFS**

8. Plaintiff the United States of America is acting at the request and on behalf of the Administrator of the EPA.

9. Plaintiff the ADEM is acting on behalf of the State of Alabama.

**DEFENDANT**

10. Defendant Kronospan is a limited liability company duly organized under the laws of the State of Delaware.

11. Defendant's principal place of business in the United States is Eastaboga, Calhoun County, Alabama.

12. At times relevant herein and through the date of this Complaint, Defendant owns and operates the Facility, which manufactures reconstituted wood products, and is an integrated pulp and fiberboard mill.

13. At all times relevant herein, Defendant is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. At all times relevant herein, the Facility is an "industrial user," as defined in 40 C.F.R. § 403.3(j) and Ala. Admin. Code r. 335-6-5-.02(v).

15. At all times relevant herein, the Facility is a "significant industrial user," as defined in 40 C.F.R. § 403.3(v)(1) and Ala. Admin. Code r. 335-6-5-.02(oo).

16. At all times relevant herein, the Facility is a “new source,” as defined in 40 C.F.R. § 403.3(m)(1) and Ala. Admin. Code r. 335-6-5-.02(bb).

**STATUTORY AND REGULATORY FRAMEWORK**

17. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into waters of the United States except as in compliance, *inter alia*, with Section 307 of the CWA, 33 U.S.C. § 1317.

18. Pursuant to Section 307 of the CWA, 33 U.S.C. § 1317, the EPA has established standards that govern discharges into POTWs that discharge to navigable waters.

19. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits the operation of any source in violation of any effluent standard, prohibition, or pretreatment standard promulgated under Section 307 of the CWA, 33 U.S.C. § 1317.

20. The General Pretreatment Regulations, found at 40 C.F.R. Part 403, are designed to ensure that each POTW can comply with its NPDES permit. These Regulations are intended to prevent discharges to a POTW from non-domestic users that can either interfere with its operations or lead to the discharge of untreated or inadequately treated wastewater into waters of the United States.

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