



Preparing for the next offshore oil spill:

National Contingency Plan Litigation

Media coverage (pre-filing)

March 2019

Chemical that EPA allows to help clean up oil spills sickens people and fish, lawsuit claims

People exposed to the chemical suffer coughing, wheezing and rashes, lawsuit says.

By [Darryl Fears](#)

March 26

Kindra Arnesen's fishing boats are still parked near Venice, La., but she left years ago. Her family was driven out by the toxic odor from a chemical dispersant sprayed in the Gulf of Mexico to break up oil from the massive 2010 BP Deepwater Horizon spill.

Before they fled, her husband experienced respiratory problems. Her daughter broke out in rashes. Arnesen, 41, had headaches and other skin problems. "We live in the middle of an oil field," she said, referring to the thousands of oil platforms in the gulf. Oil [continues to seep](#) a few miles off Venice from a Taylor Energy operation destroyed during a hurricane nearly 15 years ago. "People don't realize how many spills we have here."

Fearing the next spill, Arnesen joined a lawsuit against the Environmental Protection Agency, claiming that the agency has allowed 25 years to go by without updating the National Contingency Plan to respond to oil spills. On Monday, the University of California at Berkeley Environmental Law Center issued the agency a 60-day [intent to sue](#) notice on behalf of several groups and individuals "for failure to perform a non-discretionary duty" under the Clean Water Act.

In the absence of an update, the EPA has continued to allow emergency responders to use a chemical mixture called [Corexit](#) to disperse oil into droplets that allow microbes to further break it down, the groups say.

About 20 percent of nearly 5,000 Coast Guard personnel who responded to the BP spill and were exposed to the toxin reported persistent coughing. Others experienced wheezing and trouble breathing, according to a 2018 study commissioned by the National Institutes of Health.

"The combination of both oil and oil dispersants presented associations that were much greater in magnitude than oil alone for coughing, shortness of breath and wheezing," the report said.

A Louisiana State University study two years prior reported a similar finding: that symptoms from

exposure resulted in “burning in nose, throat or lungs, sore throat, dizziness and wheezing.”

That was evident during the Deepwater Horizon cleanup efforts, when “dispersants and oil combined to form droplets of chemical enhanced oil that is more deadly than oil alone to people,” said Riki Ott, the marine toxicology director for Alert, a project of Earth Island Institute, one of five plaintiffs in the suit.

The other plaintiffs come from Alaska, where the Trump administration is pushing to open up the Arctic National Wildlife Refuge to oil leasing for the first time. They include an activist inletkeeper, a community group and an Inuit woman.

As the Trump administration pushes an unprecedented proposal to offer oil and gas industry leases on 90 percent of the U.S. outer continental shelf, the plaintiffs say the EPA’s guidance using new science related to dispersants is crucial.

Under the proposal, leases also would be offered off the Atlantic seaboard for the first time in decades. A [bipartisan coalition](#) of Atlantic coast governors who oppose the plan say it stands to destroy beach communities and a rich tourism industry that supports hundreds of thousands of jobs from Massachusetts to Florida.

“This leasing program, combined with the [administration’s] planned dismantling of federal drilling safety standards, puts coastal communities at serious risk of disastrous oil spills,” the law center said in a statement. “Given the history of offshore oil drilling, it is simply a matter of when — not if — a devastating oil spill will occur.”

EPA spokesman John Konkus said, “We are reviewing the NOI letter,” with no further comment.

Some scientists say the use of Corexit should be eliminated and replaced with a system that uses microbes to break down and naturally consume large volumes of oil.

Rosemary Ahtuanguaruk of Nuiqsut, Alaska, “is deeply concerned that ... dispersants will exacerbate the harms to the wildlife and arctic ecosystem central to her community,” which is enclosed by oil infrastructure, such as rigs and pipelines, the letter said.

Researchers for a study in 2013 found that “when Corexit and oil are mixed, toxicity increases 52-fold” for a microscopic zooplankton at the bottom of the marine food web, a major source of nutrition for ocean animals.

A 2018 study of U.S. Coast Guard respondents to the Deepwater Horizon disaster showed a strong correlation between their exposure to dispersant and higher rates of coughing and gastrointestinal problems, Ott said.

Arnesen said her family moved about 15 miles north from Venice to Buras on a spit of Louisiana land that extends into the Gulf of Mexico.


She said her husband, George, was on one of eight shrimping boats that sped out into the ocean to collect shrimp before the oil reached a productive fishing area. When six of the boats turned around because their crews could not endure the odor, her husband's captain stayed.

"Men started to feel nauseous and dizzy," she said. Eventually, the odor reached land. "It just depended on which way the wind was blowing. For me it was severe skin problems, upper respiratory problems and severe headaches, the worst I've experienced in my life."

Arnesen said that she tried to take her boat out about a year after the spill, but there were so few shrimp "it wasn't worth it," and the fish were skinny.

"I want people to understand this isn't just about what happened to us," she said. It is also about what happened to the fishery. "It seems like we're not going to get anything done until we go to court."

Darryl Fears

Darryl Fears is a reporter on the national staff who covers the Interior Department, issues affecting wildlife and the Chesapeake Bay watershed. Follow 



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ANCHORAGE DAILY NEWS

Energy

EPA has dragged heels on oil spill dispersant rules, say environmentalists threatening lawsuit

✎ Author: Janet McConnaughey, Associated Press ⌚ Updated: March 25 📅 Published March 25



Oil spills from the crippled tanker Exxon Valdez the morning of March 24, 1989, after the vessel ran aground on Bligh Reef in Prince William Sound. (Erik Hill / ADN)

NEW ORLEANS — Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its heels on issuing rules for oil spill dispersants, and they're ready to sue to demand them.

They say dispersants such as Corexit, used during the Exxon Valdez and BP oil spills, were more toxic to people and the environment than oil alone but, nearly four years after taking public comments about such rules, the agency hasn't acted.

"We depend on feeding our families from the ocean. We need the ocean to be a clean environment for our animals," Rosemary Ahtuanguaruak, a plaintiff from Alaska, said in a telephone interview. With the Trump administration considering an oil and gas lease sale in Alaska's Beaufort Sea, she said, people fear both spills and dispersants.

The EPA said it is reviewing a letter sent Monday to Administrator Andrew Wheeler, saying the people and groups will sue unless the agency acts within 60 days.

The letter is a legally required step before filing suit under the Clean Water Act. This lawsuit would be filed in Washington, said Jack Siddoway, a third-year law student in the University of California-Berkeley Environmental Law Clinic.

The clinic is representing Ahtuanguaruak, who lives in the Inupiat village of Nuiqsut; Kindra Arnesen of Buras, Louisiana; Alaska Community Action on Toxics; Cook Inletkeeper, also from Alaska; and Earth Island Institute's ALERT project, which is based in Berkeley.

Arnesen said the 2010 BP Deepwater Horizon spill off Louisiana severely damaged her family's commercial fishing business. Before the spill, she said, at times there were "acres and acres" of baitfish and rafts of larger fish. "After the spill those disappeared. It was like going through a water desert," she said.

She also blames it for her family's migraines, respiratory problems and rashes so deep they caused open wounds and left scars. She said their son seems to have recovered completely, but her husband still has major problems and she and her daughter are still living with lower levels of illness.

She said dispersants break up oil so it's not easily seen. "To my mind, it's used to create a situation where it's out of sight, out of mind, but not out of the way," she said.

The EPA's oil spill response guidelines haven't been updated since 1994 to reflect research on dispersant effects after the Exxon Valdez broke open on rocks in Prince William Sound in 1989 and BP's Gulf of Mexico spill, according to the notice of intent to sue.

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The public comment period on dispersants ended April 22, 2015, Siddoway said in a telephone interview.

He said he had made a freedom of information request about what EPA has done since April 2015 to further the rulemaking.

"That has been delayed due to the government shutdown, and we're still waiting for a response," he said.

He said revision of oil spill guidelines is listed as a long-term action on "the unified agenda, a semi-yearly kind of laundry list that EPA's working on." But that's nothing new, he said: "It's been there in various forms since 2001, even before the rulemaking was put into play."

The current EPA rules let companies "essentially do whatever they want when it comes to dispersant," Siddoway said.

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Associated Press reporter Dan Joling contributed from Anchorage.

About this Author

Associated Press

Comments

Groups: EPA has dragged heels on oil dispersant rules

By By JANET McCONNAUGHEY Associated Press

Mar 25, 2019, 5:30 PM ET



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Associated Press reporter Dan Joling contributed from Anchorage, Alaska.

Environmental Advocates Announce Lawsuit Over EPA's Dangerously Outdated Response Plan for Oil Spills

Emily Whitfield | University of California-Berkeley Environmental Law Clinic Mar 25, 2019.

*Warning of "Next Big One" Under Trump Administration's Expanded Drilling Plans,
Advocates Seek Urgent EPA Action on the Toxic Dispersant Corexit*

San Francisco, CA-March 25—The University of California-Berkeley Environmental Law Clinic today announced a lawsuit to compel the Environmental Protection Agency (EPA) to issue rules on the use of chemical agents such as Corexit (NASDAQ: ECL) to clean up oil spills. Instead of mitigating environmental harm, Corexit dispersants have proven to be more toxic to humans and the environment than the oil alone.

In the first procedural step for such a lawsuit, the groups today filed a "**Notice of Intent to Sue**" on behalf of environmental justice and conservation groups and individuals who personally experienced the toxic effects of Corexit in the *Exxon Valdez* or BP Deepwater Horizon oil spills or who have actively worked to ban these products in their waters.

"The EPA's failure to update its oil spill response plan since 1994 is inexcusable, unlawful and very dangerous," said Purba Mukerjee, a supervising attorney at the UC-Berkeley Environmental Law Clinic, whose students are part of the legal team in today's action.

"The next major oil spill is a matter of when, not if," said marine toxicologist Dr. Riki Ott, director of the Earth Island Institute's A.L.E.R.T. project and a plaintiff in the lawsuit. "When it comes to Corexit, the EPA has had the benefit of more than 25 years of scientific knowledge, advice from its own Inspector General, and extensive public input. Given the Trump administration's plan to open

up 90 percent of our U.S. coastal areas to oil and gas drilling, the need for action is critical.”

In addition to Dr. Ott, individual and organizational plaintiffs in the case are:

- **The Earth Island Institute**, a non-profit environmental advocacy organization headquartered in Berkeley and acting as fiscal sponsor of A.L.E.R.T.
- **Kindra Arnesen**, member of a commercial fishing family in Plaquemines Parish, Louisiana, who were sickened by BP’s oil and EPA’s authorized use of Corexit dispersants during the 2010 BP Deepwater Horizon disaster.
- **Rosemary Ahtuanguaruak**, an Iñupiat living in the now oil-industrialized zone of the North Slope in Alaska who has worked with Tribal Councils to pass resolutions banning dispersant use in Arctic waters where Alaskan Natives hunt and fish.
- **Alaska’s Cook Inletkeeper**, which responded to the *Exxon Valdez* spill and spent two decades serving on a citizen oversight council created under the Oil Pollution Act.
- **Alaska Community Action on Toxics**, whose founder and executive director Pam Miller found long-term health harm among *Exxon Valdez* spill response workers.

“The Beaufort Sea is wide-open for oil and gas lease sales this year. That’s our grocery store—that’s where we hunt and fish,” said plaintiff Rosemary Ahtuanguaruak, who successfully advocated for over a dozen tribal resolutions opposing the use of dispersants in the spill response plans for the Arctic.

“My community lives in fear of an oil spill —and dumping of toxic dispersants in Arctic waters. The Iñupiat people depend on the animals of the land and the sea to live and thrive. The EPA’s failure to act is putting our lives, our land and our future at risk.”

Plaintiff Kindra Arnesen, a commercial fisherwoman in Louisiana, saw her life turned upside-down in the wake of the 2010 BP Deepwater Horizon disaster. Along with countless members of her community, she, her husband David and their two children were sickened with migraines, lesions, rashes, and respiratory problems that persist to this day. The damage to the Gulf waters also decimated their once-thriving family fishing business. “One reason the oil companies like Corexit is because it causes the oil to sink and makes the water look clear, when in fact it’s actually increasing the toxicity,” said Arnesen, who has become a leading community activist. “We need an oil response plan that’s a clean-up, not a cover-up.”

As explained in today’s filing, the use of dispersants like Corexit is an oil spill response method outlined in a set of federal regulations called the National Contingency Plan, which governs our nation’s oil and chemical pollution emergency responses. The Clean Water Act directs EPA to periodically review the Plan and update it to account for new information and new technology. But the EPA has not updated the plan since 1994, and that update did not even incorporate lessons learned from the long-term ecosystem studies following the *Exxon Valdez* disaster that occurred 30 years ago on March 24, 1989 — much less the 2010 BP Deepwater Horizon disaster.

In response to public pressure from Dr. Ott and other plaintiffs involved in today’s filing, the EPA finally initiated a rulemaking proceeding and invited public comment on the use of Corexit in oil spill response actions. By the time the rulemaking comment period closed in April 2015, the agency had received over 81,000 responses, the majority of which called for reducing use of oil-based chemical dispersants while decreasing their toxicity and increasing their efficacy. Since that time, the EPA has been silent on the issue.

The EPA’s failure to conclude the process to issue updated regulations, the groups say in today’s filing, not only violates the agency’s administrative obligations under the law, but also puts at risk the

133 million or so Americans who live near the coasts, making up 39 percent of the U.S. population, and the millions more who live near lakes, rivers, or along oil pipeline corridors and who are in harm's way of the next 'big one'.

As Claudia Polsky, Director of the Environmental Law Clinic, explains: "Use of toxic dispersants poses tragic, unnecessary, and too-often-invisible harms on top of the obvious harms caused by upscaling oil production on a warming planet."

The Notice names Andrew Wheeler, Administrator of the EPA, as well as Attorney General William P. Barr. The EPA has 60 days from the date of today's Notice to update its oil spill response plans and address the problems with the use of dispersants. If it fails to do so, the groups will file a lawsuit in federal court.



Groups say they will sue unless EPA renews effort to restrict oil spill dispersants

By **Elizabeth Harball, Alaska's Energy Desk - Anchorage** - March 25, 2019

Slick on the water following the Exxon Valdez oil spill on March 24, 1989. (Public domain photo courtesy Alaska Resources Library & Information Services)

A coalition of environmental and public health advocates say they will sue the federal government unless it takes action to restrict the use of dispersants for oil spill cleanup.

The plaintiffs say the federal Environmental Protection Agency is shirking its duty to update its rules so that they reflect the latest science on how dispersants affect the environment. They argue the update is especially urgent now that the Trump administration is moving to expand offshore oil leasing, **including in Arctic waters**.

The news comes a day after the 30th anniversary of the Exxon Valdez oil spill in Prince William Sound, when thousands of gallons of dispersant were used.

EPA did **propose** stricter standards for dispersants in 2015. But the agency has not moved to finalize those standards since then. The plaintiffs say they will file suit in 60 days unless the agency renews its work on the issue.

"We're very concerned about the lack of oversight and regulation that takes into consideration this newer science, and EPA is definitely long overdue in fulfilling their responsibility to regulate these chemicals," said Pam Miller, executive director of the Alaska Community Action on Toxics.

Alaska Community Action on Toxics is one of the plaintiffs in the case, along with the Homer-based advocacy group Cook Inletkeeper, Nuiqsut resident Rosemary Ahtuanguaruk, La. resident Kindra Arnesen and Calif.-based environmental advocacy group the Earth Island Institute.

In a statement, EPA said the agency is reviewing the notice of intent to sue, but declined to comment further.

Dispersants don't get rid of oil. They're used to help oil dissolve in the water column so it doesn't stay on the water's surface or wash on shore.

The American Petroleum Institute, a national oil industry trade group, supports their use. API criticized EPA's 2015 proposal, saying in **a comment letter** to the agency that it was "substantially problematic for all stakeholders, including the response community, which is required to carry out an effective spill response."

Miller has the opposite view.

"I think it could have been much stronger," Miller said.

Dispersants are highly controversial. Research following their use during the 2010 Deepwater Horizon disaster has deepened concerns about how they affect **species** and **workers**.

The Prince William Sound Regional Citizens Advisory Council, a watchdog group, **opposes the use of dispersants in Alaska** until there is enough evidence to prove they are safe and effective.

Oil spill response teams in Alaska are allowed to use dispersants, but there are standards restricting where and when they can be used. **Those standards were updated in 2016**, with input from EPA.

Elizabeth Harball, Alaska's Energy Desk - Anchorage

Elizabeth Harball is a reporter with **Alaska's Energy Desk**, covering Alaska's oil and gas industry and environmental policy. She is a contributor to the Energy Desk's Midnight Oil podcast series. Before moving to Alaska in 2016, Harball worked at E&E News in Washington, D.C., where she covered federal and state climate change policy. Originally from Kalispell, Montana, Harball is a graduate of Columbia University Graduate School of Journalism.

OIL

Groups say EPA has dragged heels on dispersant rules

Published: Tuesday, March 26, 2019

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He said revision of oil spill guidelines is listed as a long-term action on "the unified agenda, a semi-yearly kind of laundry list that EPA's working on." But that's nothing new, he said: "It's been there in various forms since 2001, even before the rulemaking was put into play." — *Janet McConnaughey, Associated Press*

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Groups: EPA has dragged heels on oil dispersant rules

By JANET McCONNAUGHEY March 25, 2019

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By JANET McCONNAUGHEY, Associated Press

March 25, 2019 | Updated: March 25, 2019 4:36 p.m.

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Enviros To Sue EPA For Not Updating Oil Cleanup Methods

By **Michael Phillis**

Law360 (March 25, 2019, 6:36 PM EDT) -- Environmental advocacy groups said they plan to sue the U.S. Environmental Protection Agency for failing to update old protocols governing oil spill response methods, arguing that information about the harm posed by oil dispersants should have forced the agency to reexamine its guidelines.

The Cook Inletkeeper, Alaska Community Action on Toxics and other organizations and individuals filed a notice of intent to sue Friday, saying that while the EPA in 2015 had drafted an update to its national contingency plan for reducing the harm from oil spills, it had not moved further, leaving stale 1994 methods in place. Those guidelines allegedly do not contain the latest understanding of the damage that can be caused by dispersants, which are chemicals used to break up spilled oil into smaller droplets to help the oil degrade.

The notice of intent to sue, which was prepared by the University of California, Berkeley Environmental Law Clinic, said the EPA had a nondiscretionary duty to update its rules under the Clean Water Act. And the 2010 Deepwater Horizon disaster, where more than 2 million gallons of dispersant was used to combat the spill, demonstrated the problem with keeping the old methods in place.

"Scientific investigations and analysis of dispersant use after the BP Deepwater Horizon disaster revealed that this chemical response method was not effective and, in fact, exacerbated the harms from the spill," the letter said. "Several studies revealed, for example, that the dispersants used actually impeded oil biodegradation in the Gulf, instead of enhancing this process."

In January 2015, the EPA proposed amending requirements under the National Oil and Hazardous Substances Pollution Contingency Plan aimed at improving oil spill responses. When the proposed changes were announced, the EPA said it was planning to tighten and update standards for chemical dispersants used to reflect the "best available science."

The notice of intent to sue says these changes were proposed but nothing was ever finalized. It says that a suit will be filed unless the 2015 proposals are put into effect. It added that the Trump administration's efforts to increase offshore drilling demonstrate the importance of having the right policies in place now when the chance of a spill occurring may increase.

Instead of helping the response, the BP oil spill showed that dispersants can sink the oil and harm the ocean floor, the letter said. And, dispersants can harm human health, as shown when responders to the disaster suffered higher rates of coughing and pulmonary problems, according to the groups. Plus, the chemicals were shown to negatively impact marine life, the letter said.

"EPA has failed to update the [national contingency plan] in response to significant advances in understanding of the risks and effectiveness of chemical dispersants," the letter said. "For nearly two decades, EPA has been aware that it needs to amend the dispersant provisions of the NCP."

The need for updated regulations is supported not only by outside studies, but by the EPA's own work on the issue, according to the groups.

Claudia Polsky, an attorney for the environmental groups and with University of California, Berkeley Environmental Law Clinic, said the EPA cannot simply abandon efforts by past administrations. The EPA has a responsibility to reply to the thousands of comments sent in on the proposed rule, she said.

"We are sending this letter now because having a health- and environmentally protective NCP has assumed new urgency in light of the scale of offshore drilling made possible by Trump's action to reopen 90 percent of the coasts for this purpose," Polsky told Law360 in an email.

The environmental advocates are represented by Claudia Polsky, Purba Mukerjee, Camila Gonzalez and Jack Siddoway of the Environmental Law Clinic, University of California, Berkeley School of Law.

An EPA spokesperson said, "We are reviewing the NOI letter."

--Editing by Orlando Lorenzo.

NATIONAL

Groups: EPA has dragged heels on oil dispersant rules

By JANET McCONNAUGHEY Associated Press | MARCH 25, 2019 — 4:35PM

NEW ORLEANS — Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its heels on issuing rules for oil spill dispersants, and they're ready to sue to demand them.

They say dispersants such as Corexit, used during the Exxon Valdez and BP oil spills, were more toxic to people and the environment than oil alone but, nearly four years after taking public comments about such rules, the agency hasn't acted.

"We depend on feeding our families from the ocean. We need the ocean to be a clean environment for our animals," Rosemary Ahtuanguaruak, a plaintiff from Alaska, said in a telephone interview. With the Trump administration considering an oil and gas lease sale in Alaska's Beaufort Sea, she said, people fear both spills and dispersants.

The EPA said it is reviewing a letter sent Monday to Administrator Andrew Wheeler, saying the people and groups will sue unless the agency acts within 60 days.

The letter is a legally required step before filing suit under the Clean Water Act. This lawsuit would be filed in Washington, said Jack Siddoway, a third-year law student in the University of California-Berkeley Environmental Law Clinic.

The clinic is representing Ahtuanguaruak (ah-TOON-gah-rook), who lives in the Inupiat village of Nuiqsut (noo-IK-sut); Kindra Arnesen of Buras (BYOO-ruhs), Louisiana; Alaska Community Action on Toxics; Cook Inletkeeper, also from Alaska; and Earth Island

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Arnesen said the 2010 BP Deepwater Horizon spill off Louisiana severely damaged her family's commercial fishing business. Before the spill, she said, at times there were "acres and acres" of baitfish and rafts of larger fish. "After the spill those disappeared. It was like going through a water desert," she said.

She also blames it for her family's migraines, respiratory problems and rashes so deep they caused open wounds and left scars. She said their son seems to have recovered completely, but her husband still has major problems and she and her daughter are still living with lower levels of illness.

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The EPA's oil spill response guidelines haven't been updated since 1994 to reflect research on dispersant effects after the Exxon Valdez broke open on rocks in Prince William Sound in 1989 and BP's Gulf of Mexico spill, according to the notice of intent to sue.

"Given the history of offshore oil drilling, it is simply a matter of when — not if — a devastating oil spill will occur," the letter states.

The public comment period on dispersants ended April 22, 2015, Siddoway said in a telephone interview.

He said he had made a freedom of information request about what EPA has done since April 2015 to further the rulemaking.

"That has been delayed due to the government shutdown, and we're still waiting for a response," he said.

He said revision of oil spill guidelines is listed as a long-term action on "the unified agenda, a semi-yearly kind of laundry list that EPA's working on." But that's nothing new, he said: "It's been there in various forms since 2001, even before the rulemaking was put into play."

The current EPA rules let companies "essentially do whatever they want when it comes to dispersant," Siddoway said.

If the agency sets rules continuing that policy, he said, the rules themselves can be challenged.

"Right now we can't make a challenge to substance ... because the rule is still pending," he said.

ENVIRONMENT

Chemical dispersants remain effective tool for cleaning up oil spills, study says

Updated Apr 6, 2019;

Posted Apr 5, 2019



U.S. Coast Guard

A plane sprays dispersant over oil released during the 2010 Deepwater Horizon disaster.

By [Tristan Baurick, NOLA.com | The Times-Picayune](#)

A new wide-ranging scientific report has concluded that the chemicals used to cleanup the massive 2010 [Deepwater Horizon oil spill](#) remain an effective response option for large spills -- a conclusion that runs counter to other studies that found dispersants to be [ineffective](#) and dangerous for the environment and human health.

In the new report, released Friday (April 5), the [National Academies of Sciences](#) stressed that dispersants can reduce spill responders' exposure to harmful compounds in oil and also minimize the spread of oil on the water's surface and along shorelines.

"The big takeaway is that dispersants are a tool that should remain in the toolbox," said [David Valentine](#), a University of California-Santa Barbara biologist and a member of the committee that produced the report.

The NAS is a nonprofit institution that advises the government on science and technology issues.

The new report was sponsored by oil industry trade groups, the U.S. Environmental Protection Agency and other federal regulators. It was produced by a 17-member committee, including several university, government and oil industry scientists. The report acknowledged that one committee member, an ExxonMobil scientist, may have a "conflict of interest" and "financial interests (that) could be affected by the outcome of the study." Valentine said some oil industry scientists have expertise in dispersants that can't be found anywhere else.

While dispersants have not been widely deployed since the Deepwater Horizon spill, their use could be revived as the Trump Administration works to [open nearly all of the country's coastal waters to offshore drilling](#), increasing the risk of spills and the need for a potent means of cleaning them up.

Dispersants are chemicals designed to break up oil into droplets, allowing spills to dissolve or degrade more quickly.

To combat the Deepwater Horizon spill, BP used two types of dispersant, Corexit 9500 and Corexit 9527, both manufactured by Nalco Environmental Solutions. Nearly 1 million gallons were dropped by air, and another 770,000 gallons were injected into the damaged wellhead about a mile under the water's surface. It was the first time dispersants had been used on a large scale and in proximity to large numbers of people.

Cleanup workers and coastal residents reported a range of symptoms, including memory loss, lung and skin irritation, heart problems and liver damage, after exposure to dispersants, according to research conducted by activist groups and the [National Institutes of Health](#).

Last year, [a federal study](#) revealed that nearly 2,000 Coast Guard members who reported dispersant exposure suffered a range of illnesses -- respiratory problems, nausea, vomiting and diarrhea -- at higher rates than members who were not exposed to the chemicals or were exposed to oil alone.

The new NAS report questioned the value of this research, noting delays in collecting data and reliance on self-reporting, making it difficult to accurately assess exposure levels and whether other factors may have contributed to symptoms. Dispersant, the new report said, may actually minimize a spill's health impacts by shortening the cleanup period and the lengths of time workers are exposed to oil.

The report also took aim at studies that have indicated dispersant harms a range of marine life, including fish and crab. One study found that deep-sea coral in the Gulf of Mexico [suffered more from a dispersant-oil mix than oil alone.](#)

The new report said results of these other studies "are unclear," partly because many were conducted in laboratories rather than in the field, and suffered from "a lack of consistency¹ in methodologies."

Valentine was critical of studies "done in a bottle" that may not factor in natural processes.

"In the real world, there's dilution and mixing (with sea water) and other factors," he said.

He disputed the findings of University of Georgia marine scientist Samantha Joye and other researchers who found that dispersants can [kill or inhibit the growth of oil-eating bacteria](#). Valentine said there are several other studies that indicate dispersant may do the opposite, and actually stimulate naturally-occurring bacteria that can help clean spills.

Joye defended her work.

"The the fact remains that the conditions we used matched those in the environment better than anyone else's," she said in an email. "I stand fully behind our paper and it's conclusions. Nothing I have read or seen presented at conferences has caused me to second guess or doubt what we did."

Critics of the new NAS report said the entity aims to polish up a tarnished method.

"A lot of alarm bells have been raised about dispersants," said Purba Mukerjee, an attorney with the University of California-Berkeley Environmental Law Clinic. "This (report) seems to try to bury that. By focusing on the limitations of some of the research, it distracts from the critical aspect -- that dispersant is pretty toxic."

Mukerjee is representing environmental groups that are [suing the EPA for failing to establish rules limiting dispersant use](#). Plaintiffs include a Plaquemines Parish commercial fisher and groups from Alaska, where dispersant was deployed on a limited basis during the 1989 Exxon Valdez oil spill.

Valentine said the NAS report may help guide more limited use of dispersants. He said the chemicals shouldn't be used after every spill.

"For instance, here in California, the oil is too waxy," he said. A recent spill in Australia was "too viscous" for dispersant.

In some cases, the new report acknowledged, dispersants can boost overall oil toxicity. If oil concentrations are below 100 milligrams per liter of water, the toxicity of dispersed oil is about the same as untreated oil.

"There's no single answer for responding to a spill," Valentine said. "It depends on the spill scenario – the type of oil, water depth, weather conditions. There should be a decision process (on whether to use dispersant) every time."

The report recommended less reliance on lab testing and more study of dispersants in the field and during future spills.

Oil companies and other response managers should also use an expanded and refined series of analysis tools to weigh the trade offs of dispersants against other cleanup options, according to the report. This analysis, the report suggests, should be shared with the public and local governments to build support whenever dispersant is used.

"These tools should be used to gain stakeholder input ... expand awareness, and gain trust in the decision-making process," the report says.

[Tristan Baurick](#) covers Louisiana's coastal environment for [NOLA.com | The Times-Picayune](#). Email: tbaurick@nola.com • Twitter: [@tristanbaurick](#) • Facebook: [Tristan Baurick](#) and [Louisiana Coastal Watch](#).

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ENVIRONMENT

Environmental groups sue EPA over lax rules on oil dispersants

Updated Mar 26, 2019;

Posted Mar 25, 2019



U.S. Coast Guard

Dispersant is pumped into a plane by workers at a hanger in Houma during the 2010 Deepwater Horizon oil disaster.

By [Tristan Baurick, NOLA.com | The Times-Picayune](#)

Environmental groups are suing federal regulators for failing to establish rules limiting the use of chemical dispersants during oil spills, the latest move in an ongoing debate over controversial chemicals that were heavily used during the 2010 Deepwater Horizon oil disaster in the Gulf of Mexico.

The [University of California-Berkeley Environmental Law Clinic](#) announced Monday (Mar. 25) that it had filed a notice of intent to sue the [U.S. Environmental Protection Agency](#) on behalf of several groups and individuals who say people and the environment in Alaska and Louisiana were harmed by dispersants during the Exxon Valdez and [Deepwater Horizon](#) disasters.

Plaintiffs include Plaquemines Parish commercial fisher Kindra Arnesen, the Earth Island Institute, the Alaska Community Action on Toxics and Alaska's Cook Inletkeeper.

Rather than clean up oil, a dispersant breaks it into droplets that more easily mix with water. Dispersants have been used during 27 spills in the U.S. over the past 40 years, and most of those were in the Gulf, according to the National Oceanic and Atmospheric Administration (NOAA).

Dispersants were sprayed from helicopters during the Exxon Valdez disaster, which blanketed parts of the Alaska coast with 11 million gallons of oil in 1989.

BP made heavy use of the dispersants Corexit 9500 and Corexit 9527 during the 2010 Gulf disaster. Nearly 1 million gallons of dispersants were dropped by air, and another 770,000

gallons were injected into the damaged wellhead at the bottom of the Gulf of Mexico. The well released about 134 million gallons of oil over 87 days.

Dispersants haven't been used on spills in U.S. waters since the Deepwater Horizon disaster, according to NOAA.

Recent studies have indicated dispersants caused lung irritation, rashes, nausea and other [illness in humans](#), as well as a host of problems for [fish](#), [deep-sea coral](#) and other marine life. Dispersants can kill or [inhibit the growth of oil-eating microbes](#), weakening nature's ability to cleanup spills. New research also indicates that dispersants can have the unintended effect of [transforming oil into a toxic mist](#) able to travel for miles and penetrate deep into human lungs.

Arnesen, whose family business fishes for Gulf shrimp, crab and reef fish, said she continues to suffer from respiratory problems and headaches eight years after exposure to dispersants. She was aboard a vessel sprayed with dispersant while in Barataria Bay, an area hard-hit by the spill.

"Dispersant is nasty stuff to deal with," she said Monday. "You learn to live sick."

The EPA said it is reviewing the Berkeley law clinic's filing but declined to comment further

BP has defended its dispersant use, stressing that the chemicals were approved by federal environmental agencies and the Coast Guard.

Paul Nony, a toxicologist with the [Center for Toxicology and Environmental Health](#), the contractor hired by BP to monitor people cleaning up the spill, said many of Corexit's ingredients are shared by common health and beauty products. He echoed BP's contention that there's no evidence that people were sprayed with Corexit.

"It's unlikely that any vessel or shoreline worker could have been exposed," Nony said during the [Gulf of Mexico Oil Spill and Ecosystem Conference](#) in New Orleans last month.

The Berkeley law clinic's filing says the EPA has not updated a national plan that governs oil and chemical spill responses since 1994. According to the filing, the last update – now 25 years old – failed to incorporate lessons learned from the Exxon Valdez disaster, which happened five years before the update. No new information was added to the plan after the BP spill, despite concerns expressed by scientists and spill responders, the filing says.

In 2015, the EPA invited public comment on the use of Corexit dispersants in oil spill responses. More than 80,000 comments were received, but the agency has taken no significant action on dispersant use, according to the filing.

The Trump administration's plan to expand drilling in coastal areas underlines the need for clear guidelines on how and when to use dispersants, said Riki Ott, a marine toxicologist with the [Earth Island Institute](#).

"The next oil spill is a matter of when, not if," Ott said in a statement. "Given the Trump administration's plan to open up 90 percent of our U.S. coastal areas to oil and gas drilling, the need for action is critical."

If dispersants are used again, Arnesen wants strict safeguards to ensure people are not exposed.

"There's no reason to leave people in an area during a mass spraying," she said. "They should evacuate people at least, and keep them away from this toxic chemical."

[Tristan Baurick](#) covers Louisiana's coastal environment for NOLA.com | The Times-Picayune. Email: tbaurick@nola.com • Twitter: [@tristanbaurick](#) • Facebook: [Tristan Baurick](#) and [Louisiana Coastal Watch](#).

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Groups: EPA has dragged heels on oil dispersant rules

By **JANET McCONNAUGHEY**, Associated Press

March 25, 2019 | Updated: March 25, 2019 2:36 p.m.

NEW ORLEANS (AP) — Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its heels on issuing rules for oil spill dispersants, and they're ready to sue to demand them.

They say dispersants such as Corexit, used during the Exxon Valdez and BP oil spills, were more toxic to people and the environment than oil alone but, nearly four years after taking public comments about such rules, the agency hasn't acted.

"We depend on feeding our families from the ocean. We need the ocean to be a clean environment for our animals," Rosemary Ahtuanguaruak, a plaintiff from Alaska, said in a telephone interview. With the Trump administration considering an oil and gas lease sale in Alaska's Beaufort Sea, she said, people fear both spills and dispersants.

The EPA said it is reviewing a letter sent Monday to Administrator Andrew Wheeler, saying the people and groups will sue unless the agency acts within 60 days.

The letter is a legally required step before filing suit under the Clean Water Act. This lawsuit would be filed in Washington, said Jack Siddoway, a third-year law student in the University of California-Berkeley Environmental Law Clinic.

The clinic is representing Ahtuanguaruak (ah-TOON-gah-rook), who lives in the Inupiat village of Nuiqsut (noo-IK-sut); Kindra Arnesen of Buras (BYOO-ruhs), Louisiana; Alaska Community Action on Toxics; Cook Inletkeeper, also from Alaska; and Earth Island Institute's ALERT project, which is based in Berkeley.

Arnesen said the 2010 BP Deepwater Horizon spill off Louisiana severely damaged her family's commercial fishing business. Before the spill, she said, at times there were "acres and acres" of baitfish and rafts of larger fish. "After the spill those disappeared. It was like going through a water desert," she said.

She also blames it for her family's migraines, respiratory problems and rashes so deep they caused open wounds and left scars. She said their son seems to have recovered completely, but her husband still has major problems and she and her daughter are still living with lower levels of illness.

She said dispersants break up oil so it's not easily seen. "To my mind, it's used to create a situation where it's out of sight, out of mind, but not out of the way," she said.

The EPA's oil spill response guidelines haven't been updated since 1994 to reflect research on dispersant effects after the Exxon Valdez broke open on rocks in Prince William Sound in 1989 and BP's Gulf of Mexico spill, according to the notice of intent to sue.

"Given the history of offshore oil drilling, it is simply a matter of when — not if — a devastating oil spill will occur," the letter states.

The public comment period on dispersants ended April 22, 2015, Siddoway said in a telephone interview.

He said he had made a freedom of information request about what EPA has done since April 2015 to further the rulemaking.

"That has been delayed due to the government shutdown, and we're still waiting for a response," he said.

He said revision of oil spill guidelines is listed as a long-term action on "the unified agenda, a semi-yearly kind of laundry list that EPA's working on." But that's nothing new, he said: "It's been there in various forms since 2001, even before the rulemaking was put into play."

The current EPA rules let companies "essentially do whatever they want when it comes to dispersant," Siddoway said.

If the agency sets rules continuing that policy, he said, the rules themselves can be challenged.

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Associated Press reporter Dan Joling contributed from Anchorage, Alaska.

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Janet Mcconnaughey, Associated Press Updated 2:36 pm PDT, Monday, March 25, 2019

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RECOMMENDED VIDEO



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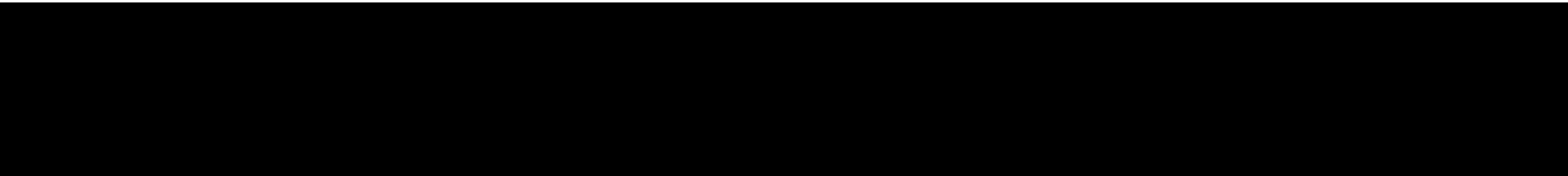
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March 25, 2019 at 12:00 pm | Updated March 25, 2019 at 2:31 pm



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JANET McCONNAUGHEY

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Associated Press reporter Dan Joling contributed from Anchorage, Alaska.

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H E A R S T

Groups: EPA has dragged heels on oil dispersant rules

Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its feet on issuing rules for oil spill dispersants, and they're ready to sue to demand them

Published March 25

NEW ORLEANS (AP) — Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its heels on issuing rules for oil spill dispersants, and they're ready to sue to demand them.

They say dispersants such as Corexit, used during the Exxon Valdez and BP oil spills, were more toxic to people and the environment than oil alone but, nearly four years after taking public comments about such rules, the agency hasn't acted.

"We depend on feeding our families from the ocean. We need the ocean to be a clean environment for our animals," Rosemary Ahtuanguaruak, a plaintiff from Alaska, said in a telephone interview. With the Trump administration considering an oil and gas lease sale in Alaska's Beaufort Sea, she said, people fear both spills and dispersants.

The EPA did not immediately respond to a request for comment on a letter sent Monday to Administrator Andrew Wheeler that says they'll sue unless the agency acts within 60 days.

The letter is a legally required step before filing suit under the Clean Water Act. This lawsuit would be filed in Washington, said Jack Siddoway, a third-year law student in the University of California-Berkeley Environmental Law Clinic.

The clinic is representing Ahtuanguaruak (ah-TOON-gah-rook), who lives in the Inupiat village of Nuiqsut (noo-IK-sut); Kindra Arnesen of Buras (BYOO-ruhs), Louisiana; Alaska Community Action on Toxics; Cook Inletkeeper, also from Alaska; and Earth Island Institute's ALERT project, which is based in Berkeley.

Arnesen said the 2010 BP Deepwater Horizon spill off Louisiana severely damaged her family's commercial fishing business. Before the spill, she said, at times there were "acres and acres" of baitfish and rafts of larger fish. "After the spill those disappeared. It was like going through a water desert," she said.

She also blames it for her family's migraines, respiratory problems and rashes so deep they caused open wounds and left scars. She said their son seems to have recovered completely, but her husband still has major problems and she and her daughter are still living with lower levels of illness.

She said dispersants break up oil so it's not easily seen. "To my mind, it's used to create a situation where it's out of sight, out of mind, but not out of the way," she said.

The EPA's oil spill response guidelines haven't been updated since 1994 to reflect research on dispersant effects after the Exxon Valdez broke open on rocks in Prince William Sound in 1989 and BP's Gulf of Mexico spill, according to the notice of intent to sue.

"Given the history of offshore oil drilling, it is simply a matter of when — not if — a devastating oil spill will occur," the letter states.

The public comment period on dispersants ended April 22, 2015, Siddoway said in a telephone interview.

He said he had made a freedom of information request about what EPA has done since April 2015 to further the rulemaking.

"That has been delayed due to the government shutdown, and we're still waiting for a response," he said.

He said revision of oil spill guidelines is listed as a long-term action on "the unified agenda, a semi-yearly kind of laundry list that EPA's working on." But that's nothing new, he said: "It's been there in various forms since 2001, even before the rulemaking was put into play."

The current EPA rules let companies "essentially do whatever they want when it comes to dispersant," Siddoway said.

If the agency sets rules continuing that policy, he said, the rules themselves can be challenged.

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Op Ed by
student clinician Jack Siddoway
&
client Dr. Riki Ott, ALERT Project

Thirty years after Exxon Valdez, the response to oil spills is still all wrong

Chemicals used to clean up spills have harmed marine wildlife, response workers and coastal residents. The EPA must act

Riki Ott and Jack Siddoway

Tue 26 Mar 2019 06.00 EDT



Thirty years ago, on 24 March 1989, communities in Prince William Sound, Alaska, awoke to horrific news: the Exxon Valdez, an oil tanker, had run aground and leaked 11m gallons of oil into the sound. Chaos ensued. Fishermen desperately began collecting oil in five-gallon buckets. Exxon, meanwhile, responded by burning floating oil and dumping toxic oil-based chemicals called “dispersants”. Dispersants break oil apart into smaller droplets, and this was assumed to enhance natural dispersion and degradation of oil, thereby “cleaning up” a spill. Instead, the dispersants formed chemically enhanced oil particles that proved to be more toxic to humans and the environment than the

oil alone.

Twenty-one years later, on 20 April 2010, the BP Deepwater Horizon drilling rig exploded off the Louisiana coast, releasing 210m gallons of oil into the Gulf of Mexico. The subsequent response was all too familiar - burning oil and dumping dispersants once again. Two million gallons of dispersants were applied to “clean up” the spill. Instead, these chemicals led to unprecedented oil deposition on the ocean floor, resulting in severe impacts to marine wildlife from the sea floor to the upper ocean - including large dolphin die-offs, fish kills, and deformities - and devastating pulmonary, cardiac and central nervous system illnesses for response workers and coastal residents.

This is why our coalition of environmental justice organizations, conservation groups and individuals from Alaska to Louisiana directly affected by dispersants gave the Environmental Protection Agency (EPA) notice this week of our plan to sue the agency to compel it to update its rules regulating the use of chemical agents known to be harmful to the environment and everything in it. We are concerned that the EPA is putting at risk the 133 million or so Americans who live near the coasts, making up 39% of the US population, and the millions more who live near lakes, rivers, or along oil pipeline corridors and who are in harm’s way of the next “big one”.

The use of these dispersants is a response method outlined in a set of federal regulations called the National Contingency Plan, which governs our nation’s oil and chemical pollution emergency responses. The Clean Water Act directs the EPA to periodically review the plan and update it to account for new information and new technology. By requiring periodic updates of the plan, Congress sought to ensure it would reflect current understanding of response methods and facilitate actions that minimize damage from oil spills.

The EPA last updated the National Contingency Plan in 1994. That it does not reflect the advances in understanding of dispersant toxicity that came after the BP Deepwater Horizon disaster is, at best, a gross understatement. In fact, the 1994 update did not even incorporate lessons learned from the long-term ecosystem studies following the 1989 Exxon Valdez disaster. In 2011, EPA’s Office of the Inspector General concluded that the plan urgently needed revision.

It took a public petition filed by Dr Ott and members of the grassroots organization now known as Alert (A Locally Empowered Response Team) to prompt the EPA to modernize the plan; in 2013 the EPA finally initiated a rulemaking proceeding. In 2015, the agency invited and received over 81,000 public comments, a majority of which called for reducing use of oil-based chemical dispersants and better efficacy and toxicity standards.

But since the comment period closed in April 2015, the EPA has been silent on the issue. Meanwhile, the Trump administration, under the new National Outer Continental Shelf Oil and Gas leasing program, plans to open 90% of US coastal areas to oil and gas drilling, putting communities back in harm’s way. Given the history of offshore oil drilling, it is simply a matter of when - not if - another devastating spill will occur. Delaying updates to the National Contingency Plan is a dangerous dereliction of EPA’s duties under the Clean Water Act.

We can no longer stand on the sidelines and hope the agency will act. On behalf of those who have already lost their homes, their livelihoods, their health - and even their lives - we are going to court to demand action.

At this critical time...

... we can't turn away from climate change. For The Guardian, reporting on the environment is a priority. We give climate, nature and pollution stories the prominence they deserve, stories which often go unreported by others in the mainstream media. At this critical time for our species and our planet, we are determined to inform readers about threats, consequences and solutions based on scientific facts, not political prejudice or business interests. But we need your support to grow our coverage, to travel to the remote frontlines of change and to cover vital conferences that affect us all.

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The Guardian is editorially independent, meaning we set our own agenda. Our journalism is free from commercial bias and not influenced by billionaire owners, politicians or shareholders. No one edits our editor. No one steers our opinion. This is important as it enables us to give a voice to those less heard, challenge the powerful and hold them to account. It's what makes us different to so many others in the media, at a time when factual, honest reporting is critical.

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Groups: EPA has dragged heels on oil dispersant rules

THE ASSOCIATED PRESS Updated: March 25, 2019

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The letter is a legally required step before filing suit under the Clean Water Act. This lawsuit would be filed in Washington, said Jack Siddoway, a third-year law student in the University of California-Berkeley Environmental Law Clinic.



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Arnesen said the 2010 BP Deepwater Horizon spill off Louisiana severely damaged her family's commercial fishing business. Before the spill, she said, at times there were "acres and acres" of baitfish and rafts of larger fish. "After the spill those disappeared. It was like going through a water desert," she said.

She also blames it for her family's migraines, respiratory problems and rashes so deep they caused open wounds and left scars. She said their son seems to have recovered completely, but her husband still has major problems and she and her daughter are still living with lower levels of illness.

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March 25, 2019

BY JANET MCCONNAUGHEY, Associated Press

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They say dispersants used after the Exxon Valdez and BP oil spills were worse than oil alone. But they say that, nearly four years after taking public comment about dispersants, the agency hasn't acted.

A letter sent Monday to EPA Administrator Andrew Wheeler says they'll sue unless the EPA acts within 60 days. The letter is a legally required step before suing under the Clean Water Act.

The University of [California](#)-Berkeley Environmental Law Clinic represents Kindra Arnesen of Buras (BYOO-ruhs), Louisiana; Rosemary Ahtuanguaruak (ah-TOON-gah-rook) of Nuiqsut (noo-IK-sut), Alaska, and the environmental groups.

The EPA did not immediately respond to a request for comment.

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By JANET MCCONNAUGHEY - Associated Press - Monday, March 25, 2019

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