

INVIVO THERAPEUTICS HOLDINGS CORP.

Form 10-Q/A

June 30, 2011

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 10-Q/A

(Amendment No. 1)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2011.

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____.

Commission File Number: 000-52089

InVivo Therapeutics Holdings Corp.

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(Exact name of registrant as specified in its charter)

Nevada (State or other jurisdiction of incorporation or organization)	36-4528166 (I.R.S. Employer Identification Number)
One Broadway, 14th Floor, Cambridge MA (Address of principal executive offices)	02142 (Zip code)
(617)-475-1520 (Registrant's telephone number, including area code)	

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input checked="" type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of May 13, 2011, 51,674,712 shares of the registrant's Common Stock, \$0.00001 par value, were issued and outstanding.

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EXPLANATORY NOTE

This Amendment No. 1 (this Amendment) of InVivo Therapeutics Holdings Corp. (the Company) amends the Company's Quarterly Report on Form 10-Q for the period ended March 31, 2011, originally filed May 16, 2011 (the Form 10-Q). This Amendment is being filed in order to amend and restate the Company's consolidated financial statements and accompanying footnotes as of and for the period ended March 31, 2011 (the Q1 Financials) and other related information included in the Form 10-Q.

The Company is restating its Q1 Financials to reflect an error in the 2010 financial statements related to the accounting for derivative liabilities. The error related to the process of allocating the proceeds of a financing to two instruments when one of those instruments was a derivative liability. Originally, the Company allocated the proceeds using the relative fair value of the two instruments with the derivative liability being recorded at its fair value and any difference between the relative fair value and fair value being charged to a derivative gain or loss upon issuance. Although Generally Accepted Accounting Principles (GAAP) does not address this situation specifically and the Company believed its original accounting to be supported by GAAP, after discussions with the Securities and Exchange Commission (SEC) Staff the Company determined that its accounting was not consistent with common practice used by other registrants in similar circumstances.

For purposes of this Amendment, and in accordance with Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the Exchange Act), the following items in the Form 10-Q have been amended and restated in their entirety:

Part I, Item 1 Financial Statements; and

Part I, Item 2 Management's Discussion and Analysis of Financial Condition and Results of Operations.

Additionally, Part II, Item 6 has been amended to include the Company's currently dated certifications of the Company's principal executive officer and principal financial officer as required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002. Other than the items outlined above, there are no changes to the Form 10-Q. No attempt has been made in this Form 10-Q/A to modify or update the disclosures presented in the Form 10-Q, including the exhibits to the Form 10-Q, except as required to reflect the effects of the restatement of the Q1 Financials. Information not affected by the restatement is unchanged and reflects the disclosures made at the time of the original filing of the Form 10-Q on May 16, 2011. Except as otherwise specifically noted, all information contained herein is as of March 31, 2011 and does not reflect any events or changes that have occurred subsequent to that date. Accordingly, this Form 10-Q/A should be read in conjunction with our filings made with the SEC subsequent to the filing of the Form 10-Q, including any amendments to those filings, if any.

The Company is not required to and has not updated any forward-looking statements previously included in the Form 10-Q. The Company is also filing an amendment to its Annual Report on Form 10-K for the fiscal year ended December 31, 2010 to restate its consolidated financial statements and accompanying footnotes as of and for the year ended December 31, 2010. Our previously issued consolidated financial statements as of and for the period ended March 31, 2011, which were filed with the 10-Q, should no longer be relied upon.

As used herein, we, us, our or the Company means InVivo Therapeutics Holdings Corp., together with its consolidated subsidiaries where applicable.

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INVIVO THERAPEUTICS HOLDINGS CORP.

Quarterly report on Form 10-Q/A for the period ended March 31, 2011

(Amendment No. 1)

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Table of Contents**PART I FINANCIAL INFORMATION****Item 1. Financial Statements.****InVivo Therapeutics Holdings Corp.****(A Developmental Stage Company)****Consolidated Balance Sheets**

	March 31, 2011 Unaudited (Restated)	As of December 31, 2010
ASSETS:		
Current assets:		
Cash and cash equivalents	\$ 6,864,118	\$ 8,964,194
Restricted cash	105,000	
Prepaid expenses	461,989	81,166
Total current assets	7,431,107	9,045,360
Property and equipment, net	500,566	280,181
Other assets	52,389	53,639
Total assets	\$ 7,984,062	\$ 9,379,180
LIABILITIES AND STOCKHOLDERS DEFICIT:		
Current liabilities:		
Accounts payable	\$ 294,036	\$ 336,945
Capital lease payable-current portion	29,620	
Derivative warrant liability	10,525,843	10,647,190
Accrued expenses	97,025	247,547
Total current liabilities	10,946,524	11,231,682
Capital lease payable-less current portion	58,712	
Total liabilities	11,005,236	11,231,682
Commitments and contingencies		
Stockholders deficit:		
Common stock , \$0.00001 par value; authorized 100,000,000 shares, issued and outstanding 51,674,712 and 51,647,171 shares outstanding at March 31, 2011 and December 31, 2010, respectively	516	516
Additional paid-in capital	11,345,147	11,235,829
Deficit accumulated during the development stage	(14,366,837)	(13,088,847)
Total stockholders deficit	(3,021,174)	(1,852,502)

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Total liabilities and stockholders' deficit	\$ 7,984,062	\$ 9,379,180
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See notes to the consolidated financial statements.

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Table of Contents**InVivo Therapeutics Holdings Corp.****(A Developmental Stage Company)****Consolidated Statements of Operations****(Unaudited)**

	Three Months Ended March 31,		Period from November 28, 2005
	2011	2010	(inception) to March 31, 2011 (Restated)
Operating expenses:			
Research and development	\$ 636,323	\$ 157,384	\$ 5,793,093
General and administrative	764,319	224,670	4,084,201
Total operating expenses	1,400,642	382,054	9,877,294
Operating loss	(1,400,642)	(382,054)	(9,877,294)
Other income (expense):			
Other income			383,000
Interest income	2,818	87	14,108
Interest expense	(1,513)	(72,021)	(1,055,168)
Derivatives gain (loss)	121,347		(3,831,235)
Other income (expense), net	122,652	(71,934)	(4,489,295)
Net loss	\$ (1,277,990)	\$ (453,988)	\$ (14,366,589)
Net loss per share, basic and diluted	\$ (0.02)	\$ (0.02)	\$ (0.52)
Weighted average number of common shares outstanding, basic and diluted	51,660,942	26,259,515	27,737,458

See notes to the consolidated financial statements.

Table of Contents**InVivo Therapeutics Holdings Corp.****(A Developmental Stage Company)****Consolidated Statements of Cash Flows****(Unaudited)**

	Three Months Ended		Period from
	March 31,		November 28,
	2011	2010	2005
			(inception) to
			March 31,
			2011
			(Restated)
Cash flows from operating activities:			
Net loss	\$ (1,277,990)	\$ (453,988)	\$ (14,366,589)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization expense	27,979	11,488	120,944
Non-cash derivatives (gain) loss	(121,347)		3,831,235
Non-cash interest expense		33,620	962,835
Share-based compensation expense	107,319	109,126	986,158
Changes in operating assets and liabilities:			
Restricted cash	(105,000)		(105,000)
Prepaid expenses	(380,823)	8,089	(461,989)
Other assets			(75,000)
Accounts payable	(42,909)	(31,669)	294,037
Accrued interest payable		(29,100)	(15,256)
Accrued expenses	(150,522)	(79,494)	97,025
Net cash used in operating activities	(1,943,293)	(431,928)	(8,731,600)
Cash flows from investing activities:			
Purchases of property and equipment	(153,574)	(10,537)	(505,359)
Net cash used in investing activities	(153,574)	(10,537)	(505,359)
Cash flows from financing activities:			
Proceeds from issuance of convertible notes payable		200,000	4,181,000
Proceeds from convertible bridge notes			500,000
(Repayment of) proceeds from loans payable and capital lease		45,000	
Principal payments on capital lease obligation	(5,208)		(5,208)
Proceeds from issuance of common stock and warrants	1,999		11,425,285
Net cash provided (used in) by financing activities	(3,209)	245,000	16,101,077
Decrease (Increase) in cash and cash equivalents	(2,100,076)	(197,465)	6,864,118
Cash and cash equivalents at beginning of period	8,964,194	226,667	
Cash and cash equivalents at end of period	\$ 6,864,118	\$ 29,202	\$ 6,864,118

(continued)

See notes to the consolidated financial statements.

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InVivo Therapeutics Holdings Corp.

(A Developmental Stage Company)

Consolidated Statements of Cash Flows (Concluded)

(Unaudited)

	Three Months Ended		Period from
	March 31,		November 28,
	2011	2010	2005
			(inception) to
			March 31,
			2011
Supplemental disclosure of cash flow information and non-cash transactions:			
Cash paid for interest	\$ 416	\$	\$ 97,933
Conversion of convertible notes payable and accrued interest into common stock	\$	\$ 3,328,128	\$ 4,672,484
Conversion of convertible bridge note payable and accrued interest into common stock	\$ &#		