

# EMPOWER OVERSIGHT

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## Whistleblowers & Research



January 5, 2022

### VIA ELECTRONIC TRANSMISSION

Eric Schmitt  
Missouri Attorney General's Office  
Supreme Court Building  
207 W. High St.  
P.O. Box 899  
Jefferson City, MO 65102

**RE:    *The State of Missouri v. The People's Republic of China, et al.***

Dear Attorney General Schmitt:

After two decades of experience conducting oversight and investigations in both the House and the Senate, I recently launched Empower Oversight Whistleblowers & Research ("Empower Oversight") a nonprofit, nonpartisan educational organization that works to enhance independent oversight of government and corporate wrongdoing. One of Empower Oversight's first projects focuses on the federal response to the COVID-19 pandemic, which has taken the lives of more than 828,000 Americans.<sup>1</sup>

Too many questions about the beginning of this pandemic remain unanswered. While the economic costs are still too soon to calculate, McKinsey & Company estimated the pandemic will cost the world between \$16 trillion and \$35 trillion by 2025.<sup>2</sup> The Congressional Research Service (CRS) has found that the economic impacts were beyond anything experienced in nearly a century and estimates that the pandemic pushed 95 million people into extreme poverty.<sup>3</sup>

Since Empower Oversight launched this past summer, we have sent more than a dozen Freedom of Information Act requests to various federal agencies to understand their response to the COVID-19 pandemic outbreak; sent a briefing document to Congressional leadership, members, and staff to explain the existing oversight mechanisms created by Congress to

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<sup>1</sup> Johns Hopkins Univ. of Medicine, Coronavirus Resource Center.  
<https://coronavirus.jhu.edu>

<sup>2</sup> McKinsey & Company, "COVID-19: Implications for business," (Dec 15, 2021).  
<https://www.mckinsey.com/business-functions/risk/our-insights/covid-19-implications-for-business>

<sup>3</sup> Cong. Research Service, "Global Economic Effects of COVID-19," (Nov 10, 2021).  
<https://fas.org/sgp/crs/row/R46270.pdf>

investigate the origins of this pandemic;<sup>4</sup> and published a crowdsourced timeline of the pandemic's beginning to guide journalists, researchers, and policy makers.<sup>5</sup>

We appreciate your continued leadership in seeking to hold the Chinese Communist government accountable for its mishandling of the COVID-19 pandemic.<sup>6</sup> We understand that, in ongoing civil litigation, your office has recently sought court authorization to conduct discovery against defaulting defendants Communist Party of China, the Chinese Academy of Sciences, and the Wuhan Institute of Virology. Given that your office may soon be in a position to shed additional light on critical matters, I wanted to share with you information that we have gathered regarding sources in the United States that may provide insight into the pandemic's outbreak in Wuhan, China, and research at the Wuhan Institute of Virology.

For almost 15 years, Peter Daszak of the nonprofit EcoHealth Alliance has collaborated with Chinese researcher Shi Zhengli of the Wuhan Institute of Virology.<sup>7</sup> EcoHealth Alliance is a nonprofit registered in the United States. Shortly after the pandemic started, Daszak sought to silence debate over the possibility of a lab leak with a February 2020 statement in the *Lancet*. That statement read, "We stand together to strongly condemn conspiracy theories suggesting that covid-19 does not have a natural origin."<sup>8</sup> Emails were later made public demonstrating that Daszak had orchestrated the letter behind the scenes and failed to disclose his ties to the Wuhan Institute of Virology to *The Lancet*.<sup>9</sup>

China has refused to cooperate with the World Health Organization on an independent examination of its labs. Here in the United States, Empower Oversight has sued the National Institutes of Health (NIH) to compel the agency to provide documents under the Freedom of Information Act related to the deletion of genetic data related to COVID-19 at the request of Chinese researchers.<sup>10</sup>

Several congressional leaders have also sent letters to the NIH seeking documents about its funding for gain of function research and funds provided to the EcoHealth Alliance.<sup>11</sup> Yet, the NIH refuses to respond in full, despite a second letter from Congress demanding to see

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<sup>4</sup> Empower Oversight, "Congressional Oversight of COVID-19's Origins," (Aug 2021).  
<https://empowr.us/wp-content/uploads/2021/08/COVID-Origins-and-Congress-FINAL.pdf>

<sup>5</sup> Empower Oversight, "COVID 19 Origins timeline."  
<https://empowr.us/covid-19-origins-timeline/>

<sup>6</sup> Justin Harper, "Coronavirus: Missouri sues Chinese government over virus handling," *BBC* (Apr 22, 2020).  
<https://www.bbc.com/news/business-52364797>

<sup>7</sup> Zeynep Tufekci, "Where Did the Coronavirus Come From?" *The New York Times* (Jun 25, 2021).  
<https://www.nytimes.com/2021/06/25/opinion/coronavirus-lab.html>

<sup>8</sup> Charles Calisher, Dennis Carroll, Rita Colwell, Ronald B Corley, Peter Daszak, Christian Drosten, et al., "Statement in support of the scientists, public health professionals, and medical professionals of China combatting COVID-19," *The Lancet* (Feb 19, 2020).  
[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30418-9/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30418-9/fulltext)

<sup>9</sup> Paul D. Thacker, "The covid-19 lab leak hypothesis: did the media fall victim to a misinformation campaign?" *The BMJ* (Jul 12, 2021).  
<https://www.bmj.com/content/374/bmj.n1656>

<sup>10</sup> Empower Oversight, "Empower Oversight Sues NIH for Documents on its Deletion of Genetic Data Related to COVID-19," (Nov 18, 2021).  
<https://empowr.us/empower-oversight-sues-nih-for-documents-on-its-deletion-of-genetic-data-related-to-covid-19/>

<sup>11</sup> USASpending, Project Grant (FAIN R01AI110964); Rowan Jacobsen, "Inside the risky bat-virus engineering that links America to Wuhan," *MIT Technology Review* (Jun 29, 2021).  
[https://www.usaspending.gov/award/ASST\\_NON\\_R01AI110964\\_7529](https://www.usaspending.gov/award/ASST_NON_R01AI110964_7529)  
<https://www.technologyreview.com/2021/06/29/1027290/gain-of-function-risky-bat-virus-engineering-links-america-to-wuhan/>

documents about its grants.<sup>12</sup> Daszak has also refused to respond to congressional demands about his work with the Wuhan Institute of Virology.<sup>13</sup>

In June 2020, Jeffrey Sachs, economics professor at Columbia University in New York, wrote an essay that called for an independent investigation of the pandemic's origin. Sachs is chair of *The Lancet* task force investigating the origins of the pandemic.<sup>14</sup> In his June essay, Sachs wrote that both China and the NIH should be transparent about virus research, including "gain-of-function" studies. Sachs wrote, "It is clear that the NIH co-funded research at the [Wuhan Institute of Virology] that deserves scrutiny under the hypothesis of a laboratory-related release of the virus."<sup>15</sup>

In September, *The Intercept* reported on internal documents at the NIH that further illustrate how NIH grants to the EcoHealth Alliance funded gain-of-function studies at the Wuhan Institute of Virology.<sup>16</sup> Later that month, Sachs told the *Wall Street Journal* that he had shut down *The Lancet* task force because of concerns about conflicts of interest with the taskforce's ties to the EcoHealth Alliance, which is linked to the Wuhan Institute of Virology.<sup>17</sup>

In October, the *Washington Post* editorial board called for Peter Daszak to answer questions before Congress about studies he has funded at the Wuhan Institute of Virology and what he knows about the research they have conducted there. "Mr. Daszak must answer these questions before Congress," the editorial board for the *Post* wrote. "His grants were federal funds, and it is entirely appropriate for Congress to insist on accountability and transparency. He might also help the world understand what really happened in Wuhan."<sup>18</sup>

For almost a decade, Peter Daszak has funded research at the Wuhan Institute of Virology. Since the pandemic's beginning, he has sought to distract the public from questioning whether COVID-19 started from a lab accident in Wuhan. Congress has sought answers, but Daszak has ignored its requests for documents.<sup>19</sup>

Daszak and the EcoHealth Alliance appear to have unique insight into the origin of this globally-harmful pandemic. Yet, thus far, no authorities have compelled them to provide

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<sup>12</sup> "E&C Republican Leaders Again Ask NIH for Grant Documents Related to Humanized Mice Experiments and Wuhan Lab," (Jul 22, 2021). <https://republicans-energycommerce.house.gov/news/ec-republican-leaders-again-ask-nih-for-grant-documents-related-to-humanized-mice-experiments-and-wuhan-lab/>

<sup>13</sup> Letter from The Honorable Reps. Cathy McMorris Rodgers, Brett Guthrie, and H. Morgan Griffith, to Peter Daszak, President, EcoHealth Alliance (Apr 16, 2021). <https://republicans-energycommerce.house.gov/wp-content/uploads/2021/04/EcoHealth-Alliance-Letter.pdf>

<sup>14</sup> "Task Forces," The Lancet COVID-19 Commission. <https://covid19commission.org/task-forces>

<sup>15</sup> Jeffrey D. Sachs, "Finding the Origins of COVID-19 and Preventing Future Pandemics," (Jun 22, 2021). <https://www.jeffsachs.org/newspaper-articles/cp24mtcpswgyty5st4pm29mwh6dt2d>

<sup>16</sup> Sharon Lerner, Mara Hvistendahl, and Maia Hibbett, "NIH Documents Provide New Evidence U.S. Funded Gain-of-Function Research in Wuhan," *The Intercept* (Sep 9, 2021). <https://theintercept.com/2021/09/09/covid-origins-gain-of-function-research/>

<sup>17</sup> Betsy McKay, "Covid-19 Panel of Scientists Investigating Origins of Virus Is Disbanded," *The Wall Street Journal* (Sep 25, 2021). <https://www.wsj.com/articles/covid-19-panel-of-scientists-investigating-origins-of-virus-is-disbanded-11632571202>

<sup>18</sup> "One person who might know what really happened in Wuhan," *The Washington Post* (Oct 25, 2021). <https://www.washingtonpost.com/opinions/2021/10/25/one-person-who-might-know-what-really-happened-wuhan/>

<sup>19</sup> Bruce Golding, "Nonprofit chief ignored House Republican questions about Wuhan lab report," *New York Post* (Jun 4, 2021). <https://nypost.com/2021/06/04/nonprofit-chief-ignored-questions-from-house-republicans-about-wuhan-lab/>

documents and testimony. If the court authorizes your office to conduct discovery, you will have the opportunity to take this critical step where others have failed.

Thank you for your time. Please feel free to have your staff contact me for further information.

Cordially,

/Jason Foster/

Jason Foster  
Founder & President

Attachments



Dr. Michael Lauer  
Deputy Director for Extramural Research,  
NIH, Bethesda, MD.

**Re: R01AI110964 and 2R01AI110964**  
**"Understanding the Risk of Bat Coronavirus Emergence"**

April 23rd 2021

Dear Dr. Lauer,

I am responding your letter of 4/13/21 regarding our response to conditions placed on the suspended NIH grant 2R01AI110964 "*Understanding the Risk of Bat Coronavirus Emergence*". In particular, this letter addresses your request for documentation on our assessment of WIV's compliance with terms of our subcontracts from the initial (now expired) 5-year award:

*"...copies of all EcoHealth Alliance – WIV subrecipient agreements as well as any and all other documents and information describing how EcoHealth Alliance monitored WIV's compliance with the terms and conditions of award .... NIH must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts" (45 C.F.R. § 75.364); and must have "timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents" (id.). These requirements flow down to subawards to subrecipients. 45 C.F.R. § 75.101. "Non-Federal entities must comply with requirements in [45 C.F.R. Part 75] regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award." 45 C.F.R. 75.101. As the grantee, EcoHealth was required to have in place, "A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part." 45 C.F.R. § 75.352(a)(5)..."*

As requested, we have supplied all EcoHealth Alliance-WIV subrecipient agreements, as well as documents pertaining to EHA's monitoring of WIV's compliance with the terms and conditions of award. The attached documents demonstrate that we have fulfilled all requirements in the CFR codes listed in your letter excerpted above. These documents include:

1. EcoHealth Alliance 2016-2019 Subrecipient Monitoring Forms for WIV. EcoHealth Alliance began this formal subrecipient monitoring policy in 2016 as per OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) ("Uniform Guidance"), specifically §200.331.
2. 2006-2018 WIV Annual Reports. In addition, NIH has full reports on the programmatic results that we filed annually.
3. Wuhan Institute of Virology contracts and invoices for all 5 Years of Grant R01AI110964: 2014-2019
4. Federal Funding Accountability & Transparency Act Reports for WIV. From 2015 – 2019
5. Annual Independent Audit Reports from 2014-2019
6. Inter-Institutional Agreements from DHHS for WIV 2014 & 2019



We hope these documents satisfy your request by demonstrating that EcoHealth Alliance maintained detailed records of our appropriate monitoring of WIV's performance against the conditions of our initial (now expired) R01 grant and our contracts with them.

We also would like draw your attention to our letter dated 4.11.2021 regarding plans for biosafety monitoring for the renewal R01, under which we had not yet set up a subcontract with WIV, specifically:

**"8. Provide copies of all EcoHealth Alliance – WIV subrecipient agreements as well as any other documents and information describing how EcoHealth Alliance monitored WIV's compliance with the terms and conditions of award, including with respect to biosafety.**

As we related in response to your letter of 4/19/2020 that asked us to suspend work with WIV, we had not yet set up a subcontract with WIV for the period of this award, therefore no such subrecipient agreements exist. Our plan was to monitor WIV's compliance as we had in the 5 years prior, by means of semi-annual meetings with the lead investigator and assessments of compliance against all conditions of the award. Additionally, following the NIH's termination, then reinstatement and suspension of our funding, we have contracted with a leading lab biosafety contractor based in Southeast Asia (b) (4), (b) (6) (b) (4), (b) (6) who has extensive experience commissioning, accrediting and auditing BSL-2, -3, and -4 labs, and has worked for over a decade at the BSL-4 (b) (4). We will be using their services where appropriate for foreign lab subcontractees to assess lab biosafety procedures and conduct audits, including following the full reinstatement of 2R01AI110964. Finally, we have appointed a Senior Field Veterinarian who will oversee all EcoHealth Alliance fieldwork in the region and ensure continued compliance with biosafety when conducting animal capture, sampling and sample handling. We have done this at EcoHealth Alliance's own expense, despite our unblemished record on biosafety, to pre-empt calls for further sanctions against our work given the continued attacks against EcoHealth Alliance in the press after the termination of our NIH grant."

We believe the attached documents lay out details of how we had previously monitored compliance according to the federal codes you cite, and the above response lays out an appropriate plan for biosafety monitoring. Together, we believe they appropriately and fully addresses your condition #8 for full reinstatement with access to funding for the renewal phase of the R01.

Yours sincerely,



Dr. Peter Daszak, President

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National Institutes of Health  
National Institute of Allergy  
and Infectious Diseases  
Bethesda, Maryland 20892

23 July 2021

Drs. Aleksei Chmura and Peter Daszak  
EcoHealth Alliance, Inc.  
460 W 34<sup>th</sup> St  
Suite 1701  
New York, NY 10001

Re: R01AI110964, U01AI151797, U01AI153420

Dear Drs. Chmura and Daszak:

Thank you for your correspondence of April 11, 2021 and April 23, 2021 regarding R01AI110964. We are in the process of conducting detailed analyses of your answers to our questions and well as of the documents you sent, and we have the following additional requests:

1. Records

For us to continue our analyses, we will need to receive and review WIV's records validating expenditures specific to R01AI110964 as well as any and all monitoring, safety, and financial reports specific to R01AI110964 that WIV submitted to you. As a reminder, subawardees are required to have a financial management system that includes records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation. 45 C.F.R. §§ 75.101 and 75.302.

As a term and condition of award, NIH "must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts" (45 C.F.R. 75.364). This right of access applies not only to awardee records, but also to subawardee records. Awardees indicate their acceptance of an NIH award and its associated terms and conditions as they draw down the NIH grant funds to support the scientific project (see NIHGPS [Section 5](#)).





We will also need to see subaward agreements, subawardee audit reports, subawardee safety monitoring documents, subawardee progress reports submitted to you, and subawardee financial and accounting records for two other NIH EcoHealth Alliance grants. Specifically, please send us all responsive documents for:

- U01AI151797 (Daszak): subawardees Chulalongkorn Hospital, Chulalongkorn University, Duke-National Singapore University, and University of North Carolina at Chapel Hill
- U01AI153420 (Epstein): subawardees International Center for Diarrhoeal Disease Research of Bangladesh, Institute of Epidemiology Disease Control and Research of Bangladesh.

We remind you that the Notice of Award for U01AI151797 already contains the following specific award conditions that must still be satisfied by 30 days from establishment.

Subaward Agreement Requirements: The ECOHEALTH ALLIANCE, INC. must provide NIAID with copies of all (existing and newly established) subaward agreements established under this award, including descriptions of the biosafety monitoring plans, within 30 days of establishment.

Federal Funding Accountability and Transparency Subaward Reporting System (FSRS) Requirements: This award is subject to the Transparency Act subaward reporting requirement of 2 CFR Part 170, which must be reported through the Federal Funding Accountability and Transparency Subaward Reporting System (FSRS). The ECOHEALTH ALLIANCE, INC. must provide NIAID with proof of documentation of timely entries of subaward information into the FSRS within 30 days of submitting to FSRS.

## 2. Reports

We are also writing to notify you that a review of our records for R01AI110964 indicates that EcoHealth Alliance, Inc. is out of compliance with requirements to submit the following reports that are outlined in the NIHGPS: the Federal Financial Report (FFR, see [8.4.1.2.3](#) Modified Financial Reporting Requirements) and the Interim Research Performance Progress Report (I-RPPR, see NIHGPS [8.4.1.4](#) Final Research Performance Progress Report).

R01AI110964 was issued under the Streamlined Noncompeting Award Process (SNAP). For awards under SNAP, an FFR must be submitted within 120 days after the end of the competitive segment and must report on the cumulative support awarded for the entire segment.

Additionally, NIH requires that organizations submit an Interim-RPPR while their Type 2 application is under consideration. In the event that the Type 2 is funded, NIH treats the Interim-RPPR as the annual performance report for the final year of the previous competitive segment.



The FFR and I-RPPR for R01AI110964 were due within 120 days after the end of the project period. In this case, the competitive segment ended on May 31, 2019, and reports were due September 30, 2019. To date, NIH has still not received these reports. Compliance with [Section 8, Administrative Requirements](#) within the NIH Grants Policy Statement (NIHGPS) is a standard term and condition of award that applies to all NIH recipients.

A recipient's failure to comply with the terms and conditions of award, may cause NIH to take one or more actions on the award, depending on the severity and duration of the non-compliance. Additionally, a history of non-compliance related to R01AI110964, including reporting non-compliance, may impact other projects where EcoHealth serves as the primary grant recipient. When a recipient has a history of failure to comply with the general or specific terms and conditions of a previous Federal award, NIH may impose specific award conditions on other awards of the recipient, including withholding authority to proceed to the next phase of a project until receipt of evidence of acceptable performance (see NIHGPS [Section 8.5](#), Remedies for Noncompliance or Enforcement Actions: Suspension, Termination, and Withholding of Support).

In closing, please be advised that EcoHealth Alliance, Inc. must satisfy the existing specific award condition for U01AI151797 by 30 days from establishment and must provide the remaining documents and reports requested herein for all three grants (R01AI110964, U01AI151797, U01AI153420) no later than August 27, 2021.

Please let me know if you have any questions concerning the information in this letter.

Sincerely,

Lauer, Michael (NIH/  
OD) [E]

Digitally signed by Lauer,  
Michael (NIH/OD) [E]  
Date: 2021.07.23 17:24:01 -04'00'

Michael S Lauer, MD  
NIH Deputy Director for Extramural Research

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cc: Ms. Emily Linde  
Dr. Erik Stemmy