

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,
SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: MICHAEL LAUER

Thursday, November 2, 2023

Washington, D.C.

The interview in the above matter was held in Room 3400, O'Neill House Office
Building, commencing at 10:03 a.m.

1 Appearances:

2

3

4 For the SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC:

5

6 MITCHELL BENZINE, STAFF DIRECTOR

7 JOSEPH CIPOLLONE, PROFESSIONAL STAFF MEMBER

8 JACK EMMER, COUNSEL

9 ERIC OSTERHUES, CHIEF COUNSEL

10 [REDACTED], MINORITY CHIEF COUNSEL

11 [REDACTED], MINORITY COUNSEL

12 [REDACTED], MINORITY SENIOR COUNSEL

13

14

15 For the COMMITTEE ON ENERGY AND COMMERCE:

16

17 ALAN SLOBODIN, SENIOR INVESTIGATIVE COUNSEL,

18 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

19 JOHN STROM, COUNSEL, SUBCOMMITTEE ON OVERSIGHT

20 AND INVESTIGATIONS

21 [REDACTED], MINORITY CHIEF COUNSEL,

22 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

23 [REDACTED], MINORITY OVERSIGHT COUNSEL,

24 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

1 For the U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES:

2

3 MARTA COOK, SENIOR ADVISOR FOR OVERSIGHT,

4 NATIONAL INSTITUTES OF HEALTH

5 PERRIN COOKE, SENIOR OVERSIGHT COUNSEL

6 PETER RECHTER, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Mr. Benzine. We can go on the record.

2 This is a transcribed interview of Dr. Michael Lauer, conducted by the House Select
3 Subcommittee on the Coronavirus Pandemic, the Committee on Oversight and
4 Accountability, and the Committee on Energy and Commerce under the authority granted
5 to them by House Resolution 5, House rule X, and the rules of the committees.

6 This interview was requested by Chairman Brad Wenstrup, Chairman James
7 Comer, Chair Cathy McMorris Rodgers, Chairman Morgan Griffith, and Chairman Brett
8 Guthrie as part of the committee's oversight of the Federal Government's response to the
9 coronavirus pandemic.

10 Pursuant to House Resolution 5, the select subcommittee has wide-ranging
11 jurisdiction, but specifically to investigate the origins of the coronavirus pandemic,
12 including but not limited to the Federal Government's funding of gain-of-function
13 research.

14 Pursuant to House rule X, the Committee on Oversight and Accountability has
15 jurisdiction to investigate any matter at any time.

16 And pursuant to House rule X and XI, the Committee on Energy and Commerce
17 has jurisdiction for public health service agencies, including the National Institutes of
18 Health and the entities it funds, as well as Federal biomedical research and development.

19 Can the witness please state his name and spell his last name for the record?

20 Dr. Lauer. Michael Lauer, L-a-u-e-r.

21 Mr. Benzine. Thank you, Dr. Lauer.

22 My name is Mitch Benzine. I am the staff director for the majority staff of the
23 select subcommittee, and I want to thank you for coming in today for this interview. We
24 recognize that you're here voluntarily, and we appreciate that.

25 Under the committee's rules, you are allowed to have an attorney present to

1 advise you during this interview. Do you have an attorney representing you in a personal
2 capacity with you today?

3 Dr. Lauer. No.

4 Mr. Benzine. Is there an attorney representing the Department with you today?

5 Dr. Lauer. Yes.

6 Mr. Benzine. Will counsel identify themselves?

7 Mr. Cooke. Perrin Cooke, senior counsel at HHS.

8 Mr. Benzine. For the record, starting with the remainder of the majority
9 staff -- and we'll just go around the table -- can the additional staff members please
10 introduce themselves with their name, title, and affiliation?

11 Mr. Osterhues. Eric Osterhues, chief counsel, majority, select subcommittee.

12 Mr. Emmer. Jack Emmer, counsel, majority, select subcommittee.

13 Mr. Cipollone. Joseph Cipollone, staff, majority, select subcommittee.

14 Mr. Slobodin. Alan Slobodin, House Energy and Commerce Committee, majority
15 staff.

16 [REDACTED], oversight counsel, Energy and Commerce,
17 Democrats.

18 [REDACTED], Energy and Commerce Committee, Oversight and
19 Investigations, minority staff.

20 [REDACTED], select subcommittee, Democratic counsel.

21 [REDACTED], chief counsel, minority, select subcommittee.

22 [REDACTED] senior counsel for the select subcommittee, Democratic
23 staff.

24 Mr. Cook. Marta Cook, senior advisor for oversight at NIH.

25 Mr. Rechter. And Peter Rechter, Deputy Assistant Secretary, HHS.

1 Mr. Benzine. All right. Thank you all. I think this might be a record for number of
2 people in the room.

3 Dr. Lauer, before we begin, I would like to go over the ground rules for this
4 interview.

5 The way the interview will proceed is as follows: The majority and minority staff
6 will alternate asking you questions, 1 hour per side, per round, until each side is finished
7 with their questioning. The majority staff will begin and proceed for an hour, and the
8 minority staff will have an hour to ask questions. We will alternate back and forth in this
9 manner until both sides have no more questions.

10 If either side is in the middle of a specific line of questions, they may choose to
11 end a few minutes past an hour to ensure completion of that specific line of questioning,
12 including any pertinent followups.

13 In this interview, while one member of the staff for each side may lead the
14 questioning, additional staff may ask questions.

15 There is a court reporter taking down everything I say and everything you say to
16 make a written record of the interview. For the record to be clear, please wait until the
17 staffer questioning you finishes each question before you begin your answer, and the
18 staffer will wait until you finish your response before proceeding to the next question.

19 Further, to ensure the court reporter can properly record the interview, please
20 speak clearly, concisely, and slowly. Also, the court reporter cannot record nonverbal
21 answers, such as nodding or shaking your head, so it is important that you answer each
22 question with an audible, verbal answer.

23 Exhibits may be entered into the record. Majority exhibits will be identified
24 numerically. Minority exhibits will be identified alphabetically.

25 Do you understand?

1 Dr. Lauer. Yes.

2 Mr. Benzine. We want you to answer our questions in the most complete and
3 truthful manner possible, so we will take our time. If you have any questions or do not
4 fully understand the question, please let us know. We will attempt to clarify, add context
5 to, or rephrase our questions.

6 Do you understand?

7 Dr. Lauer. Yes.

8 Mr. Benzine. If we ask about specific conversations or events in the past and you
9 are unable to recall the exact words or details, you should testify to the substance of
10 those conversations or events to the best of your recollection. If you recall only a part of
11 a conversation or event, you should give us your best recollection of those events or parts
12 of conversations that you do recall.

13 Do you understand?

14 Dr. Lauer. Yes.

15 Mr. Benzine. Although you are here voluntarily and we will not swear you in, you
16 are required, pursuant to Title 18 of Section 1001 of the United States Code, to answer
17 questions from Congress truthfully. This also applies to questions posed by congressional
18 staff in this interview.

19 Do you understand?

20 Dr. Lauer. Yes.

21 Mr. Benzine. If at any time you knowingly make false statements, you could be
22 subject to criminal prosecution.

23 Do you understand?

24 Dr. Lauer. Yes.

25 Mr. Benzine. Is there any reason you are unable to provide truthful testimony in

1 today's interview?

2 Dr. Lauer. No.

3 Mr. Benzine. The select subcommittee follows the rules of the Committee on
4 Oversight and Accountability. Please note that if you wish to assert privilege over any
5 statement today, that assertion must comply with the rules of the Committee on
6 Oversight and Accountability.

7 Pursuant to that, committee rule 16(c)(1) states: For the chair to consider
8 assertions of privilege over testimony or statements, witnesses or entities must clearly
9 state the specific privilege being asserted and the reason for the assertion on or before
10 the scheduled date of testimony or appearance.

11 Do you understand?

12 Dr. Lauer. Yes.

13 Mr. Benzine. Ordinarily, we take a 5-minute break at the end of each hour of
14 questioning, but if you need a longer break or a break before that, please let us know,
15 and we will be happy to accommodate. However, to the extent that there is a pending
16 question, we would ask that you finish answering the question before we take the break.

17 Do you understand?

18 Dr. Lauer. Yes.

19 Mr. Benzine. Do you have any other questions before we begin?

20 Dr. Lauer. No.

21 Mr. Benzine. All right.

22 EXAMINATION

23 BY MR. BENZINE:

24 Q I'm going to start out asking questions about your education and your
25 experience up until this point.

1 Where did you go to undergraduate school?

2 A Rensselaer Polytechnic Institute, also known as RPI.

3 Q And what degree did you graduate with?

4 A A bachelor's.

5 Q Where did you get your doctorate?

6 A Albany Medical College, Albany, New York.

7 Q And is it an M.D.?

8 A It's a medical school, M.D.

9 Q Who is your current employer?

10 A The National Institutes of Health.

11 Q And your current job title?

12 A I am the NIH Deputy Director for Extramural Research.

13 Q Can you describe your, kind of, general duties and responsibilities?

14 A Yes. I oversee the Office of Extramural Research in the Office of the
15 Director. We are responsible for the general corporate framework of NIH extramural
16 research. That includes IT, outreach, communication, compliance, integrity, and policy,
17 grants policy.

18 Q Can you briefly run through your career up until your current role?

19 A Sure.

20 I did my residency training at Massachusetts General Hospital in Boston. I did my
21 cardiology training at Boston Beth Israel Hospital. I was also a graduate student at the
22 Harvard School of Public Health. I did research training at the Framingham Heart Study.

23 I was in clinical practice at the Lahey Clinic for 2 years. Then I spent 14 years at
24 the Cleveland Clinic, where I was a staff cardiologist. And I also was a professor of
25 epidemiology, statistics, and medicine at Case Western Reserve University.

1 I came to NIH in 2007. I served as a director of a cardiovascular division in the
2 National Heart, Lung, and Blood Institute. And I came into my current position in October
3 of 2015.

4 Q Thank you.

5 And as the Deputy Director, who is your direct report?

6 A My direct report?

7 Q Yeah. Do you report to the Director at the NIH --

8 A Oh.

9 Q -- or is there someone --

10 A Yes. I report to the -- I report to currently the Acting Director of the NIH.

11 Q Who is?

12 A Larry Tabak.

13 Q Did your day-to-day at NIH change at all during the COVID pandemic?

14 A Yes.

15 Q How so?

16 A Well, we became a lot busier. We had to deal with a number of issues that
17 were affecting extramural grants, because many institutions around the country were
18 experiencing lockdowns or shutdowns or closures.

19 Q What did that look like? How did you --

20 A So the Office of Management and Budget issued a series of rules about
21 flexibilities, new flexibilities that could be implemented regarding extramural grants. So
22 we went about going ahead to implement those flexibilities.

23 We also had to deal with a myriad of questions and concerns from extramural
24 scientists and grants administrators about how the pandemic was affecting them.

25 Q Were you typically involved in decisions of whether or not specific programs

1 or projects would be eligible for grants, or just the oversight of the grants?

2 A No. We do not make decisions about which programs get funded.

3 Q All right.

4 I'm going to run through a long list of names and just ask if you, between
5 December 1, 2019 -- spoke with or otherwise communicated with these folks regarding
6 the Wuhan Institute or EcoHealth. Is that all right?

7 A Yes. Between December 2019 and?

8 Q And now.

9 A Okay.

10 Q Dr. Francis Collins?

11 A Yes.

12 Q Dr. Anthony Fauci?

13 A Yes.

14 Q Dr. Lawrence Tabak?

15 A Yes.

16 Q Dr. Hugh Auchincloss?

17 A Yes.

18 Q Dr. Cliff Lane?

19 A No.

20 Q Dr. David Morens?

21 A No.

22 Q Dr. Ping Chen?

23 A No.

24 Q Dr. Ian Watson?

25 A No.

- 1 Q Dr. Andrew Pope?
- 2 A No.
- 3 Q Dr. Victor Zhao?
- 4 A No.
- 5 Q Dr. Robert Redfield?
- 6 A No.
- 7 Q Dr. David Christian Hassell?
- 8 A No.
- 9 Q Dr. Erik Stemmy?
- 10 A Yes.
- 11 Q Dr. Emily Erbeling?
- 12 A Yes.
- 13 Q Dr. Jeremy Farrar?
- 14 A No.
- 15 Q Dr. Kristian Andersen?
- 16 A No.
- 17 Q Dr. Michael Farzan?
- 18 A No.
- 19 Q Dr. Eddie Holmes?
- 20 A No.
- 21 Q Dr. Ian Lipkin?
- 22 A No.
- 23 Q Dr. Andrew Rambaut?
- 24 A No.
- 25 Q Dr. Christian Drosten?

- 1 A No.
- 2 Q Dr. Ron Fouchier?
- 3 A No.
- 4 Q Dr. Marion Koopmans?
- 5 A No.
- 6 Q Dr. Michael Worobey?
- 7 A No.
- 8 Q Dr. Jonathan Pekar?
- 9 A No.
- 10 Q Dr. Florence Debarre?
- 11 A No.
- 12 Q Dr. James LeDuc?
- 13 A No.
- 14 Mr. Rechter. Mitch, while you're turning the page here, just to -- this is to the best
- 15 of your recollection, of course, Dr. Lauer?
- 16 Dr. Lauer. Yes.
- 17 Mr. Rechter. Yes. Okay. Just to make that clear.
- 18 BY MR. BENZINE:
- 19 Q Dr. Shi Zhengli?
- 20 A No.
- 21 Q Dr. George Gao?
- 22 A No.
- 23 Q Dr. Ralph Baric?
- 24 A No.
- 25 Q Dr. Peter Daszak?

1 A Electronically.

2 Q Dr. Aleksei Chmura?

3 A Electronically.

4 Q Dr. Kevin Olival?

5 A Electronically --

6 Q I want to go --

7 A -- I think so.

8 Q Okay.

9 A On that last one, I --

10 Q We'll put a question mark.

11 A Okay.

12 Q I want to go back and talk about a couple of these.

13 What was the nature of the conversation with Dr. Auchincloss?

14 Mr. Cooke. Let me just jump in here.

15 So, you know, obviously, if we're getting into the details of these conversations,
16 you know, to the extent that you're asking about internal deliberative communications,
17 the Department has an interest in protecting the confidentiality of those. So, you know,
18 we are going to need to be careful about what we can say in this setting.

19 Mr. Benzine. Okay. I don't even know if -- like, what the conversations are yet.

20 Mr. Cooke. I appreciate that, but --

21 Mr. Benzine. It could be about the weather. Like --

22 Mr. Cooke. I appreciate that. I'm --

23 Mr. Benzine. All right.

24 Mr. Cooke. -- just, you know, stating for the record, you know, we are going to be
25 constrained in what we can say in this setting.

1 Mr. Benzine. Okay.

2 BY MR. BENZINE:

3 Q Can you explain the nature of the conversations regarding WIV or EcoHealth
4 with Dr. Auchincloss?

5 A So none of those conversations were -- as I recall, none of them were just
6 the two of us, but they were within the context of meetings that involved a number of
7 individuals where we were talking about issues surrounding this grant.

8 Q The oversight of the grant or the compliance of the grantee?

9 A Yes.

10 Q Do you recall the, like, timeframe of those meetings?

11 A No.

12 Q What about Dr. Tabak? What's the context surrounding that conversation?

13 A I meet with Dr. Tabak at least once a week. He is my supervisor. And then,
14 of course, I also meet with him in the context of multiple meetings. And, often, there's
15 more than one of those per week. So there are a large number of settings where such
16 conversations happened.

17 Q When did you first -- to the best of your recollection, when did you first tell
18 Dr. Tabak about EcoHealth's noncompliance?

19 Mr. Cooke. So, again, I just want to be sure we're understanding each other. You
20 know, to the extent that you're asking about details of internal communications, we're
21 not going to be able to get into that in this setting.

22 Mr. Benzine. That is not the -- what I just asked is not deliberative.

23 Mr. Cooke. So you can answer that question, but I just, again, want to note, we're
24 going to be -- you know, we're going to be paying close attention to what we're able to
25 discuss here.

1 BY MR. BENZINE:

2 Q When did you first tell Dr. Tabak about EcoHealth's noncompliance?

3 A So, actually, it wasn't that I first told Dr. Tabak. It was that Dr. Tabak first
4 told me.

5 Q Okay. When did that occur?

6 A April 19, 2020.

7 Q What about Dr. Fauci? What were the nature of those conversations?

8 A I never had any conversations with Dr. Fauci alone about this matter. This
9 would be similar as with Dr. Auchincloss. It was within the setting of meetings in which
10 many people were present.

11 Q What were the meetings regarding?

12 A The meetings were regarding issues surrounding the management and
13 oversight of this particular grant.

14 Q Do you remember a timeframe for some of those meetings?

15 A I don't remember.

16 Q Okay.

17 What about Dr. Collins? What were the nature of those conversations?

18 A I never had a conversation alone with Dr. Collins about this particular grant.
19 The majority of them -- well, yeah. They were within the setting of meetings in which
20 other people were present.

21 Q Did you ever notify Dr. Collins that EcoHealth was out of compliance?

22 A I never discussed this matter with Dr. Collins except within the context of
23 these meetings.

24 Q Okay.

25 A Yeah.

1 Q Within the meetings, did you discuss EcoHealth's compliance with the
2 grants?

3 A We did discuss issues that were coming up with regard to that grant.

4 Q Understanding you don't have exact recollection of when the meetings
5 occurred, were meetings occurring regarding noncompliance prior to July 2021?

6 A Yes.

7 Q With Dr. Collins?

8 A Yes.

9 Q Okay. Thank you.

10 And then I'll ask -- but I'm assuming it's just more -- the conversations with
11 Dr. Stemmy were regarding -- since he was the program manager of the grant, were
12 regarding the compliance on EcoHealth?

13 A Yes.

14 Q And Dr. Erbelding, being Dr. Stemmy's supervisor, similar conversations?

15 A Yes.

16 Q Okay.

17 Same question, but this time with entities, so any direct communication with any
18 of these entities?

19 The Wuhan Institute of Virology?

20 A No.

21 Q The Wuhan Centers for Disease Control and Prevention?

22 A No.

23 Q The Chinese Centers for Disease Control and Prevention?

24 A No.

25 Q Wuhan University?

1 A No.

2 Q The Chinese Academy of Sciences?

3 A No.

4 Q The Academy of Military Medical Sciences?

5 A No.

6 Q The Fifth Institute of the National Defense Ministry of China?

7 A No.

8 Q All right.

9 Mr. Rechter. And just for the record, again, Dr. Lauer, this is all to the best of your
10 recollection, correct?

11 Dr. Lauer. Yes.

12 Mr. Rechter. Okay.

13 BY MR. BENZINE:

14 Q Some general questions about the COVID-19 pandemic and investigating,
15 just if you know or wish to answer.

16 Is investigating the origins of COVID-19 important?

17 A Yes.

18 Q Is discovering the origins of COVID-19 important?

19 A Yes.

20 Q Why?

21 A And, here, I'm speaking outside of my role as the Director --

22 Q Uh-huh.

23 A -- of the Office of Extramural Research. Because this may entail important
24 lessons so that we can prevent or mitigate -- either prevent or mitigate the affects of
25 future pandemics.

1 Q Is the origin of COVID-19 settled?

2 A Not to my knowledge.

3 Q Do you believe the intelligence community plays an important role in
4 investigating the origins of COVID-19?

5 A Again, not in my role as the Director of the Office of Extramural Research --

6 Q Uh-huh.

7 A -- but: Yes.

8 Q I'm asking you to speculate, and you absolutely don't have to. What do you
9 believe the origin is?

10 A I will definitely not speculate.

11 Q Okay. Fair enough. Had to ask the question.

12 A That's fair enough too.

13 Q Uh-huh.

14 I want to talk generally about the Wuhan Institute of Virology and the various
15 biosafety regulations that govern our work both here and abroad.

16 Can you explain briefly the various biosafety levels?

17 A This is outside of my realm, and we do not oversee biosafety in the Office of
18 Extramural Research. But my general understanding is that 4 is the highest level; and 3
19 would be a lower level with some degree -- you know, a higher degree of precautions
20 than normal; and 2 might be the equivalent of a dentist's office.

21 Q Generally, why is following the biosafety levels important?

22 A Again, I'm saying this outside of my role as the Director of OER, but: When
23 we're dealing with agents that could be potentially dangerous to laboratory staff or to
24 people who live in the area or further away, you want to prevent any inadvertent
25 infections or dangerous effects.

1 Q We'll get into this in a little bit more detail. But, just generally, prior to
2 the -- yeah, we'll do prior to April 19, 2020, did you have access to records from the
3 Wuhan Institute of Virology?

4 A No.

5 Q All right. I'm going to skip along.

6 I want to introduce majority exhibit 1.

7 [Lauer Majority Exhibit No. 1
8 Was marked for identification.]

9 BY MR. BENZINE:

10 Q While it's being passed along, this is an unclassified cable from the U.S.
11 Department of State from January 19, 2018, and entitled "China Opens First Bio Safety
12 Level 4 Laboratory."

13 Were you aware of this cable prior to just now?

14 A Prior to just now?

15 Q Yeah.

16 A Yes.

17 Q How were you made aware of this cable?

18 A I read the -- there was a column in The Washington Post.

19 Q So, at the end of the "Summary and Comment," the first paragraph, it says
20 that the "productivity is limited by a shortage of the highly trained technicians and
21 investigators required to safely operate a BSL-4 laboratory and a lack of clarity in related
22 Chinese government policies and guidelines."

23 What does that statement mean to you?

24 A So, again, this is outside of my --

25 Q Yeah.

1 A -- expertise and role as the Director of the Office of Extramural Research.

2 But I think what it means is the simple version of the text, that they felt that they
3 didn't have enough highly trained technicians and investigators ready yet and that the
4 policies needed to be clarified.

5 Q At that point, January 19, 2018, was the United States Government funding
6 the Wuhan Institute of Virology?

7 A Yes.

8 Q Was a lack of highly trained technicians disclosed in any grant applications?

9 A I don't know.

10 Q Okay.

11 I'm going to shift over a little bit more.

12 Can you explain, to the best of your knowledge and expertise, what kind of
13 research would qualify as gain-of-function?

14 A That is definitely not my realm of expertise, and so I really can't go there.

15 Q All right. Thank you. I'll skip all those then.

16 A Okay.

17 Q We can just move right along here.

18 On October 17, 2014, the White House announced that it was halting funding for
19 some types of gain-of-function research due to safety concerns. Do you recall this policy?

20 A I don't recall October 2014.

21 Q Do you recall the gain-of-function pause, it's colloquially known as?

22 A I only learned about it much later.

23 Q Okay. So you weren't involved in the drafting of that policy?

24 A No.

25 Q All right.

1 In January of 2017, HHS released the "Framework for Guiding Funding Decisions
2 About Proposed Research Involving Enhanced Potential Pandemic Pathogens."

3 Are you familiar with that policy?

4 A Yes.

5 Q Were you involved in developing that policy?

6 A No.

7 Q All right.

8 Some general questions about EcoHealth and Dr. Daszak.

9 When were you first aware of EcoHealth Alliance?

10 A April 19, 2020.

11 Q How did you become aware of EcoHealth Alliance?

12 A Dr. Tabak sent me an email.

13 Q What were the contents of the email?

14 Mr. Cooke. So, again, I'm going to instruct the witness not to answer. That goes
15 to deliberative internal communications.

16 Mr. Benzine. Can you explain? What were the contents of the email that are
17 deliberative?

18 Mr. Cooke. You asked for the contents of the email. I assume you're asking him
19 to speak to the internal communications that we have an interest in protecting.

20 Mr. Benzine. The contents of the email aren't inherently deliberative. You have
21 to explain why they're deliberative.

22 Mr. Cooke. They're deliberative in that they go to the internal discussions
23 regarding the, you know, decision made to suspend the grant.

24 Mr. Benzine. Okay.

25 As we have discussed previously, the committee, the House, does not recognize

1 deliberative process. Are you instructing the witness not to answer the question?

2 Mr. Cooke. I think if you're asking about the general contents, which, you know,
3 we've already discussed, I think he can speak to that. But if you're asking for, you know,
4 specific communications from Dr. Tabak, that's where we would draw the line and I
5 would instruct him not to respond.

6 BY MR. BENZINE:

7 Q What were the general contents of the email from Dr. Tabak to you on
8 April 19, 2020?

9 A He said -- the email contained an attachment, and he said, we've been asked
10 to deal with this, and could you please deal with it.

11 Q What was the attachment?

12 A The attachment was a draft letter which would be sent to EcoHealth Alliance
13 that would instruct them to stop all funding involving a sub-award to the Wuhan Institute
14 of Virology.

15 Q To your knowledge, where did the instruction to Dr. Tabak come from?

16 Mr. Cooke. Again, we're going to -- I'd instruct the witness not to answer.

17 Mr. Benzine. Okay.

18 BY MR. BENZINE:

19 Q Do you know EcoHealth president Dr. Daszak?

20 A I know who he is.

21 Q Have you ever met Dr. Daszak?

22 A No.

23 Q I want to get into the timeline of the oversight of the EcoHealth and Wuhan
24 Institute grant and introduce majority exhibit 2.

25 [Lauer Majority Exhibit No. 2

1 Was marked for identification.]

2 BY MR. BENZINE:

3 Q This is the May 27, 2014, notice of award to Dr. Daszak and EcoHealth for
4 the grant titled "Understanding the Risk of Bat Coronavirus Emergence."

5 Are you aware of this document?

6 A Yes.

7 Q When did you become aware of this document?

8 A I don't remember, but it was after April 19, 2020.

9 Q All right.

10 I want to go to -- it's, like, the second paragraph, but it's really only one sentence,
11 on the first page: "Acceptance of this award including the 'Terms and Conditions' is
12 acknowledged by the grantee when funds are drawn down or otherwise obtained from
13 the grant payment system."

14 What are some of the standard terms and conditions that would apply to this kind
15 of grant?

16 A So we have a document called the "NIH Grants Policy Statement," so all
17 relevant items that would be in the grants policy statement would apply to all NIH grants.
18 And then other terms and conditions that might be specific for this grant are then laid out
19 in the notice of award.

20 Q In the grant policies, is submitting timely progress reports part of the terms
21 and conditions?

22 A Yes.

23 Q Is disclosing sub-grantees part of the terms and conditions?

24 A Yes.

25 Q Is monitoring and overseeing the sub-grantees part of the terms and

1 conditions?

2 A Yes.

3 Q All right. Thank you.

4 I want to introduce majority exhibit 3.

5 [Lauer Majority Exhibit No. 3

6 Was marked for identification.]

7 BY MR. BENZINE:

8 Q This is a letter from Dr. Jenny Greer and Dr. Erik Stemmy to Mr.

9 Aleksei Chmura and EcoHealth Alliance dated May 28, 2016.

10 Were you previously aware of this letter?

11 A Yes.

12 Q When did you become aware of it?

13 A I don't know.

14 Q Prior to sending this letter, did Dr. Greer or Dr. Stemmy discuss it with you?

15 A No, not that I remember.

16 Q I want to ask about a line at the end of the first page, right before the bolded
17 bullet. It says, "NIAID requests that you provide the following information within 15 days
18 of the date of this letter," and then says, "Determination as to whether the above
19 research does or does not include gain-of-function work subject to the funding pause."

20 Is it common for NIAID or NIH to ask the grantee to make determinations on
21 behalf of NIH?

22 A I don't know. I wasn't directly involved with this.

23 Q Okay.

24 I want to go to majority exhibit 4.

25 [Lauer Majority Exhibit No. 4

1 Was marked for identification.]

2 BY MR. BENZINE:

3 Q This is a letter from Dr. Daszak and EcoHealth Alliance replying to Drs. Greer
4 and Stemmy and dated June 8, 2016. It responds to majority exhibit 3, that letter,
5 request for information regarding specific MERS and SARS experiments.

6 Are you aware of this letter?

7 A I'm not sure I've seen this before. I'm not sure.

8 Q Okay. I want to go through some of these responses and give you some time
9 to read it.

10 The big block of text in the middle, kind of tabbed-in, is EcoHealth's response to
11 NIAID asking for descriptions of chimeric viruses, detailed descriptions of the
12 experiments, and if these chimeras were reasonably anticipated to exhibit enhanced
13 pathogenicity.

14 Is this something NIAID or NIH would normally do with grants, ask for specific
15 details on experiments?

16 A As it -- on a high level, yes, there are times that the awarding institute might
17 be asking details about experiments.

18 Q I want to -- if you wouldn't -- I don't want to read it all into the record. If you
19 wouldn't mind taking a minute and reading those two paragraphs, and then I'll ask some
20 more questions.

21 A Okay.

22 Q Is the level of detail provided by EcoHealth satisfactory?

23 A I don't know.

24 Q All right.

25 I'm going to ask a few more questions, and if you don't know, just say you don't

1 know.

2 The last line of the first tabbed-in paragraph is, "Phylogenetically, these bat
3 viruses are not very close to MERS-CoV (only 63-66% homology in the S-protein)."

4 Is that how you would normally calculate homology, just in the S-protein? Or
5 would you do the full genome of the virus?

6 A I don't know. This is way out of my --

7 Q Okay.

8 A -- area of expertise.

9 Q Perfectly fine.

10 We'll skip along to the grant conditions.

11 At the end of the paragraph on the first page, the end of the second tabbed-in
12 paragraph on the first page, EcoHealth writes, "Finally, should any of these recombinants
13 show evidence of enhanced virus growth >1 log in cells expressing the human, bat, mouse
14 or other DPP4 receptor over wildtype parental backbone MERS-CoV strain or grow more
15 efficiently in human airway epithelial cells, we will immediately: i) stop all experiments
16 with the mutant, ii) inform our NIAID Program Officer and the University of North
17 Carolina IBC of these results, and iii) participate in decision making trees to decide
18 appropriate paths forward."

19 Is it standard, in your experience, to have grantees suggesting specific special
20 award conditions?

21 A I'm not sure that this is a specific award condition, but it's not at all unusual
22 that when grantees and NIH staff discuss the various elements of the scientific program
23 that they'll have a conversation with one another, that there will be a dialogue.

24 Q Okay.

25 We'll skip over some other gain-of-function questions just to avoid -- I want to go

1 now to majority exhibit 5.

2 [Lauer Majority Exhibit No. 5

3 Was marked for identification.]

4 BY MR. BENZINE:

5 Q This is a letter from Drs. Greer and Stemmy again to Mr. Chmura of
6 EcoHealth on July 7, 2016.

7 And in this letter, NIAID accepts EcoHealth's proposed special award condition of
8 stopping and immediately notifying NIAID of an experiment on MERS or SARS-related
9 coronaviruses that result in a greater-than-1 log growth.

10 You just said it's kind of normal to have that dialogue. Is it normal that the
11 conditions proposed by the grantee are accepted by NIH?

12 A That sometimes happens.

13 Q Is the 1 log growth a common special award condition?

14 A Again, this is out of my area of expertise, but not that I'm personally aware
15 of.

16 Q In your experience as Deputy Director of this office, have you seen the
17 1-log-growth award condition outside of this grant?

18 A Yes.

19 Q In what other kinds of grants?

20 A I believe that there were other grants funded by NIAID at the time that also
21 had a similar type of provision.

22 Q So it kind of answers my next question. Is this award condition used across
23 NIH or, to your knowledge, just within NIAID?

24 A I'm only aware of it being used within NIAID.

25 Q And if you can answer, what's the scientific basis for 1 log growth?

1 A That's out of my area of expertise.

2 Q All right. Is this award condition described in any NIH grant policies or
3 procedures?

4 A You mean these specific words?

5 Q Yeah.

6 A No.

7 Q No? Is it common to have award conditions imposed that aren't in any
8 written policies or procedures?

9 A If it's related to some specific scientific aspect of the work, that can certainly
10 happen.

11 Q Okay. In your experience, is this condition -- was it easy to interpret? Was it
12 clear?

13 A Again, this is out of my area of expertise.

14 Q Have you or NIH ever had to enforce this special award condition prior to
15 EcoHealth?

16 A Not that I recall.

17 Q The year-four notice of award does not include the special award condition.
18 Do you know why?

19 A I don't remember.

20 Q The year-five includes it again. Do you know why it was taken out in year
21 four and put back in in year five?

22 A No.

23 Q Did that hamper any of your oversight efforts?

24 A No.

25 Q Before we get into starting in -- we'll just stop here. We'll take a break and

1 go off the record.

2 A Okay.

3 [Recess.]

4 [REDACTED] We'll go back on the record.

5 Good morning, Dr. Lauer.

6 EXAMINATION

7 [REDACTED]

8 Q I'm going to take you back to April of 2020. As you've already said, that was
9 when you first learned about the EcoHealth Alliance grant, correct?

10 A Yes.

11 Q And that was also when you first began to have communication with
12 EcoHealth Alliance?

13 A Yes.

14 Q And you had not been a part of any of their grant reviews prior to
15 April 2020?

16 A Yes.

17 Q And since that first communication in April of 2020, you had engaged in
18 several other electronic communications with EcoHealth Alliance?

19 A Yes.

20 Q And that included letters and emails?

21 A Yes.

22 Q I'm going to give you minority exhibit A.

23 [Lauer Minority Exhibit A

24 Was marked for identification.]

25 BY [REDACTED]:

1 Q This is a letter that you sent on July 8, 2020, correct?

2 A Yes.

3 Q And this reinstated the EcoHealth Alliance grant but suspended it?

4 A Yes.

5 Q Was the suspension of the grant related to the Wuhan Institute of Virology?

6 A Yes.

7 Q Okay.

8 And in the middle of the second page, did you make requests for EcoHealth
9 Alliance to provide more information and records specifically on their work with the
10 Wuhan Institute of Virology?

11 A Yes.

12 Q Okay. Over the next year or so, did you make additional requests to
13 EcoHealth Alliance for records?

14 A Yes.

15 Q And, throughout the process, was it clear in all of your communications that
16 any funding from the EcoHealth Alliance grant could not be directed to the Wuhan
17 Institute of Virology?

18 A Yes.

19 Q And what is the status of the Wuhan Institute of Virology today as it relates
20 to NIH grant funding?

21 A They're debarred.

22 [REDACTED]: It might be worth a few more words on what that means. What
23 does it mean to be debarred?

24 Mr. Rechter. To the extent you know.

25 Dr. Lauer. Yes.

1 So, whenever we process a grant that we're considering funding, we have to look
2 up whether or not they're on what's called the exclusion list. The exclusion list is run by
3 SAM.Gov.

4 If an entity is on that exclusion list, that means that they cannot receive any
5 support from a Federal Government agency. And so the term that gets used for that is
6 that they're debarred.

7 [REDACTED]. So I want to introduce minority exhibit B.

8 [Lauer Minority Exhibit B
9 Was marked for identification.]

10 BY [REDACTED]:

11 Q Dr. Lauer, this is an email from you, correct?

12 A Yes.

13 Q And the second page is a timeline that you created?

14 A Oh. Yes.

15 Q And is that timeline going over your interactions with EcoHealth Alliance and
16 previous interactions with NIH with EcoHealth Alliance starting from June 5, 2013, and
17 running up until the date you created this timeline in June of 2021?

18 A Yes.

19 Q And, during that period, you requested records from EcoHealth Alliance
20 multiple times, correct?

21 A Yes.

22 Q And, based on the timeline, I see at least four times that you made requests
23 for documents before you received them from EcoHealth Alliance. So, if you want to take
24 a quick look at the timeline, or from your recollection, let us know if that sounds correct.

25 Mr. Benzine. I'm sorry. While he's looking, this document isn't Bates numbered.

1 Can you say where you got it?

2 [REDACTED]. Yes. We found this from open-source records. I'm happy to provide the
3 exact link.

4 Mr. Benzine. That's fine.

5 Dr. Lauer. I see three times. What's the fourth time?

6 BY MS. YASS:

7 Q I'm looking at, there's July 8, 2020.

8 A Yes.

9 Q October 23, 2020.

10 A Yes.

11 Q March 4, 2020.

12 A Oh. Yes.

13 Q And then April 13, 2021.

14 A Yes.

15 Q Thank you.

16 Was the purpose of these information requests to enable the EcoHealth Alliance
17 grant-funded work to continue but ensure they were following proper NIH procedures
18 that were required of them?

19 A I think it's fair to say that we were undertaking a compliance review. The
20 grant was suspended, and we were seeking information to help us resolve this
21 compliance review.

22 Q And does EcoHealth Alliance continue to receive grant money today from
23 NIH through NIAID?

24 A Yes.

25 Q And do you know the nature of their NIAID-funded grant work?

1 A Only very generally.

2 Q Okay.

3 I'm going to ask you a couple more specific questions. Again, if you don't know,
4 that's fine.

5 But could you talk a little bit about the risk of zoonotic spillover of infectious
6 diseases?

7 A That's not my area of expertise.

8 Q Okay.

9 Do you know anything about why this specific grant is important to -- or, the
10 research related to this grant is important to NIAID?

11 A That's also out of my area of expertise.

12 Q All right.

13 Changing gears a little bit, thinking about COVID origins, you mentioned that there
14 are many theories around but you don't have a view, necessarily, on where the origin of
15 COVID-19 came from.

16 There are many scientists that have different theories that are floating around,
17 correct?

18 A So I've heard.

19 Q Yeah. And have you discussed theories on COVID origins with other
20 scientists?

21 A Not really.

22 Q But the discussion in general of theories on any topic among scientists is a
23 pretty normal thing to happen?

24 A Yes.

25 Q Some might say it's even part of the scientific process?

1 A Yes.

2 Q And is it also common for people to change their mind on various scientific
3 theories?

4 A Yes.

5 Q And, in fact, that's often expected of scientists?

6 A Yes.

7 Q All right. Thank you.

8 Off the record.

9 [Discussion off the record.]

10 [REDACTED]. We can go back on the record.

11 Hi, Dr. Lauer. My name is [REDACTED]. I'm from the Energy and Commerce
12 Committee minority staff. Thank you for being here today. Thanks for your answers.

13 BY [REDACTED]:

14 Q I want to discuss some of the same time period as my colleague here, so
15 particularly the period of April 2020 through July of 2020, during which time the grant to
16 EcoHealth that we've been discussing came under review, it was terminated, and then
17 simultaneously reinstated but also suspended.

18 Do I have that right?

19 A Yes.

20 Q Okay. Thank you.

21 So I'd just like to get a better sense of, you know, to the extent that you can share
22 how the decisions were made, who was involved in those decisions and, you know, to
23 what extent, you know, that process differed from maybe other grant
24 suspension/termination/reinstatement decisions that you've been involved in.

25 So, I guess, let's start there. Could you just generally describe, from your

1 perspective and your past involvement, how are decisions generally made -- setting aside
2 this specific grant for a moment, how are they generally made to potentially suspend or
3 terminate or reinstate a grant? And if you could, you know, provide who or what, you
4 know, groups might be involved in those discussions.

5 A So, on a high level, these kinds of conversations would happen if there are
6 concerns about noncompliance with terms and conditions of award or if there are
7 concerns about performance, that the science is not progressing appropriately. This
8 would typically occur within the context of the institute or center that's overseeing the
9 grant.

10 If they are concerned enough about noncompliance or nonperformance that
11 they're considering taking an action like a suspension or a termination, this typically
12 would then be brought to our attention in the Office of Extramural Research for guidance
13 and assistance.

14 Q And then what would your role be, typically? You know, when one of the
15 institutes or centers comes to you, says, you know, we think we have an issue with this
16 grant, where do you then take that handoff and then go with it?

17 A It depends upon the specifics of the case. In some cases, we might provide
18 general guidance. And, in other cases, we might say, we're going to take this -- we will
19 take responsibility for this; we'll keep you informed, but we will drive this conversation.

20 Q So, just to understand, there could be some circumstances where the
21 institute or center itself communicates and is responsible for the decision to suspend or
22 terminate, and then, in other instances, your office at NIH would sort of take
23 responsibility for the decision and the communication with the grantee?

24 A Yes, with the caveat that, in all cases, we're working with the institute and
25 center on -- any kind of specific grant action that gets taken is not something that we

1 would do unilaterally; it's something that we would do in collaboration with our IC
2 colleagues.

3 Q And, in addition to yourself, you know, who else -- let me put it this way. Is
4 there anybody that you report up to who would necessarily be involved in that decision?
5 Or do you have the authority, yourself, to, you know, consult, determine what the
6 outcome would be, along with the institute or center?

7 A If we're doing something like a suspension or a termination, I would inform
8 my supervisor.

9 Q Okay. But, typically, the way that you have just described the process, is it
10 fair to say that, typically, discussions and decisions to suspend or terminate would
11 originate from below, at the institute or center, and then come up to you, rather than
12 from the top down?

13 A Sometimes they do begin in the institute or center. And in other cases, like,
14 for example, cases of scientific misconduct, it may actually start in our office.

15 Q Okay.

16 And could you just give some examples -- they don't have to be specific examples,
17 but circumstances? I mean, you said scientific misconduct. Could you just expand on
18 what those circumstances might be, some examples where things would originate in your
19 office versus the institute or center?

20 A So we may be informed about a scientific misconduct concern or
21 investigation that would be reported to us, and then we may or may not take action on
22 the grant, depending upon the specifics.

23 Another area which very typically comes to us first are where there are concerns
24 of harassment, discrimination, hostile work environment. That typically comes to our
25 office, and then we would then take it from there.

1 Q Great. Thank you.

2 So, now, turning to the specific grant that we've been discussing here with
3 EcoHealth Alliance, I'd like to focus on the time period prior to the termination of that
4 grant, which occurred on April 24th of 2020.

5 Could you just describe what the process was that led to that termination, from
6 your perspective?

7 A So I can only describe from my perspective.

8 Q Correct.

9 A So, from my perspective, on April 19th, as I mentioned before, I sent a letter
10 to EcoHealth Alliance, and this was in response to communications I received from my
11 supervisor. I sent a letter on April the 19th instructing them to stop all funding to WIV.

12 And then on April the 24th, I sent a followup letter, and in that followup letter we
13 talked about actual termination of the grant.

14 Q So I think, based on your prior answers, I know the answer to this, but when
15 do you first recall concerns being raised about the EcoHealth Alliance grant?

16 A April 19, 2020.

17 Q Okay. Thank you.

18 So, on April 17th of 2020, 2 days prior, then-President Trump was asked a
19 question at a press conference about funding to the Wuhan Institute of Virology.
20 President Trump said that he had been in meetings about that grant that very morning
21 and, quote, "We will end that grant very quickly," end quote.

22 Do you recall -- well, I suppose, since you first heard about EcoHealth Alliance on
23 April 19th, I know the answer. But do you recall whether you heard about or saw this
24 press conference on April 17th?

25 A No, I have no recollection of seeing it on April 17th.

1 Q Okay. Do you recall whether this press conference or the President's
2 statement at that press conference was discussed subsequently?

3 Mr. Cooke. So, again, as I discussed with Mitch, you know, to the extent that
4 you're asking about specifics regarding internal deliberative communications, we're not
5 going to be able to get into that in this setting.

6 [REDACTED]. Okay.

7 BY [REDACTED]:

8 Q Do you recall whether there was any reaction within NIH to the statement
9 that the President made at the press conference?

10 A I don't remember.

11 Q Okay. Do you recall hearing that the President had said that subsequent to
12 the press conference at some point?

13 A Yes.

14 Q Okay. Do you recall what your reaction was to hearing that he said that
15 grant would be terminated very quickly?

16 A No.

17 Q Okay. You didn't have a strong reaction either way?

18 A I was very busy at the time.

19 Q Okay. Can you recall any other instance where you had heard a President
20 publicly say that an ongoing grant to somebody would be terminated before you had
21 heard of this grant?

22 A No.

23 Q Okay.

24 And, again, I think I know the answers to these, but I'm going to ask anyway just
25 for the record.

1 So had you prepared any analysis or information about the grant or sub-grant for
2 your superiors prior to April 17, 2020?

3 A No.

4 Q Okay.

5 I'd like to introduce what will be marked as -- what did you guys get up to,
6 B? -- minority C?

7 [REDACTED]: Correct.

8 [REDACTED]: Okay.

9 [Lauer Minority Exhibit C
10 Was marked for identification.]

11 BY [REDACTED]:

12 Q And this is an April 18, 2020, email chain that includes emails from yourself
13 and Dr. Tabak and then subsequently --

14 Mr. Cooke. Hey, [REDACTED]?

15 [REDACTED]: Yeah?

16 Mr. Cooke. Can you pass that around?

17 [REDACTED]: Yeah. We'll pass around copies.

18 Mr. Cooke. Can it make its way to the witness as well?

19 [REDACTED]: Yep. Yep.

20 Mr. Cooke. Thanks. Thank you.

21 [REDACTED]: And we'll give it a second for these to get around.

22 These are also not Bates stamped, so this is from a FOIA production.

23 Mr. Benzine. I appreciate that. Thank you.

24 [REDACTED]: For the record, Mitch is nodding, so I think he's familiar with this
25 email, so --

1 Mr. Cooke. It's just one document, right?

2 [REDACTED]. Correct. This is a single document.

3 BY [REDACTED]:

4 Q So take a look at that, and then just let me know when you've had a chance
5 to review it.

6 A Okay.

7 Q Good? Okay.

8 So, starting at, you know, the second page, which is the first email in time, this is a
9 Saturday, April 18, 2020, email from Dr. Tabak to yourself. The subject line is "Partial
10 Suspension-IMPORTANT."

11 A Okay.

12 Q And the email says, "Mike, I have been directed to have this sent on Sunday.
13 I presume you are the right person to send it? I will send if you prefer. Just let me know."

14 A Yes.

15 Q Is this the communication you were referring to when you first became
16 aware of --

17 A Yes.

18 Q -- EcoHealth Alliance?

19 A Yes.

20 Q Okay. And so the partial suspension that's being referred to in that subject
21 line is the partial suspension of funding to the sub-awardee, Wuhan Institute of Virology.
22 Is that right?

23 A Yes.

24 Q Okay.

25 Do you know who directed Dr. Tabak to have this notice sent?

1 Mr. Cooke. Again, you know, to the extent that you're getting into the details, I'm
2 going to instruct Dr. Lauer not to answer.

3 ██████████. Can I ask if he has knowledge as to who did? Okay.

4 Mr. Cooke. You can answer if you know who did.

5 BY ██████████:

6 Q Do you know who instructed --

7 A No.

8 Q Okay.

9 So, further up in that email chain, going to now the first page of that document,
10 there's a Saturday, April 18, 2020, email from yourself to Jodi Black giving her an FYI.

11 Who is Jodi Black relative to you and your position?

12 A She was my deputy.

13 Q Okay. And had Dr. Black been involved in, to your knowledge, any prior
14 discussions about EcoHealth Alliance?

15 A Not that I know of.

16 Q Okay. So what would her role be in a situation like this where termination,
17 suspension of a grant is being discussed?

18 A Well, given that she was my deputy, the Deputy Director of OER, any kind of
19 important activity that I would be involved with I would involve my deputy for help and
20 guidance.

21 Q Okay.

22 And then the following email in time is a Sunday morning, April 19th email.

23 Dr. Black responded, "Does Fauci know and has Emily (CGMO) been informed?"

24 And then in the next email in time, you said, "Hi Jodi -- yes, Tony knows. I doubt
25 Emily knows, so if you could follow-up with her, that would be great."

1 Do you know who the Emily being referred to here is?

2 A So I'm going to base this on the line below. It says "Emily (CGMO)."

3 Q Uh-huh.

4 A So that's the chief grants management official. That would be Emily Linde.

5 Q Okay. Great. And what would her role be in the decision to
6 terminate/suspend/reinstate a grant?

7 A Given that she's the chief grants management official, she has to be looped
8 in on all communications.

9 Q Okay. And what would her decision-making authority be in determination of
10 suspending a grant? So would she be the one to make a decision or, if you made a
11 decision, she might be the one to implement it?

12 A It would be more the latter than the former.

13 Q Okay.

14 And how did you know that Dr. Fauci was aware of that determination?

15 A I don't know.

1 [11:08 a.m.]

2 BY [REDACTED]:

3 Q Okay.

4 So we mentioned, when we discussed how decisions could be made generally
5 about grants, that often the decision might be made at the institute or center and then
6 sort of come up to your office, and then in other instances there would be, you know, a
7 decision made top-down.

8 Talking about that second category, when something might originate in your office
9 or, I guess, above your office, is this typical of how that process would proceed for a, let's
10 call it, again, a top-down decision originating in your office or above your office?

11 A So, I'm sorry, is what typical?

12 Q Yeah. So is it typical that Dr. Tabak, for instance -- we'll use this as an
13 example. Is it typical that you would receive, you know, an email or other communication
14 from Dr. Tabak saying, you know, we need to send this notice of suspension or
15 termination?

16 A No.

17 Q Can you recall any other instance where Dr. Tabak has sent you, on, you
18 know, short, maybe 1 day's notice, something saying we need to take this action on this
19 grant without a prior discussion?

20 A No.

21 Q Okay. So this was unique, then, in terms of how this process was handled
22 with this grant.

23 A Yes.

24 Q Okay.

25 So I just handed you -- we'll mark it as minority exhibit D.

1 [Lauer Minority Exhibit D
2 Was marked for identification.]

3 BY [REDACTED]:

4 Q This is a document with the date April 19, 2020, at the top. It says it is from
5 you to Kevin Olival at EcoHealth Alliance and Naomi Schrag at Columbia University, the
6 subject being "Project Number 2R01AI110964-06."

7 Do you recognize this document?

8 A Yes.

9 Q Okay. So is this the document that was being discussed in the email
10 exchange between Dr. Tabak and yourself?

11 A Yes.

12 Q Okay. So -- I think I know the answer to this. So Dr. Tabak sent you this
13 document to then send on, correct?

14 A Yes.

15 Q So you weren't involved in the drafting of this document?

16 A No.

17 Q Okay. Do you know who was?

18 A No.

19 Q The letter states that -- and I'll quote from it -- "we are pursuing suspension
20 of WIV from participation in Federal programs," end quote, and cites the authorities for
21 this action as 45 CFR section 75.371(d) and 2 CFR section 180.700(c), which allows
22 immediate temporary suspension where, quote, "immediate action is necessary to
23 protect the public interest," end quote.

24 The letter then goes on to say, quote, "It is in the public interest that NIH ensure
25 the sub-recipient has taken all appropriate precautions to prevent the release of

1 pathogens that it is studying," end quote.

2 Do you know who made the determination of what authority NIH had to take this
3 action?

4 A No.

5 Q Okay. And did you have an opinion at the time about whether this was the
6 appropriate action to take?

7 A I was comfortable with the content of this document.

8 Q Okay. And can you explain why, having not been involved in the decision to
9 draft it or take this action, why you were comfortable with it?

10 A Given the knowledge I had at the time, it was -- of course, it was a very busy
11 time. And given the content of, you know, what was in here, this seemed reasonable to
12 me.

13 Q The letter also states -- and this is the last line at the bottom there -- quote,
14 "This suspension of the sub-recipient grant does not affect the remainder of your grant
15 assuming that no grant funds are provided to WIV following receipt of this email during
16 the period of suspension."

17 So was it your understanding at the time that the grant to EcoHealth Alliance itself
18 would not be suspended or terminated?

19 A At that time, on April 19, 2020? Yes, that -- yes, that's right.

20 Q And do you recall, aside from this email from Dr. Tabak, you know,
21 conveying this document to you, did you understand that there might be additional
22 discussions about the EcoHealth Alliance grant at the time that this letter was sent, on
23 April 19th?

24 A On April 19th?

25 Q Uh-huh.

1 A Not that I recall.

2 Q Okay. So, at that time, you believed this was, sort of, the only action that
3 you were aware of that was going to be taken.

4 A Yes. Let me point out, it was a Sunday. It was not a regular workday. And I
5 see now I actually got this late on Saturday night. So I conflated Saturday night with
6 Sunday.

7 Q No, that's fine. I imagine you were working a lot of weekends at the time,
8 so -- appreciate that.

9 Okay. And then I'd like to turn to -- let's see. This is not the one that was
10 introduced. So we'll mark this as minority exhibit E.

11 [Lauer Minority Exhibit E

12 Was marked for identification.]

13 BY [REDACTED]:

14 Q This is the April 24th letter from NIH to EcoHealth regarding the termination
15 of the grant. I'll give you a moment if you want to look at it.

16 A Okay.

17 Q Okay. Great.

18 So this is a letter from you to Drs. Aleksei Chmura and Peter Daszak at EcoHealth
19 Alliance dated April 24th. So this is just 5 days after the letter we were just discussing
20 that suspended the WIV sub-grant, correct?

21 A Yes.

22 Q And the purpose of this letter was to terminate the grant between NIH and
23 EcoHealth Alliance?

24 A Yes.

25 Q Okay. Did you draft this letter?

1 A No.

2 Q Do you know who did?

3 A Yes.

4 Q Okay. Who drafted this letter?

5 A The letter was drafted in my Office of -- within the Office of Extramural
6 Research by my colleagues. And I believe that they did this in coordination with staff at
7 NIAID.

8 Q Why was this letter drafted?

9 A I was asked by my supervisor on the afternoon of April 24, 2020, to do
10 whatever was necessary to terminate the grant.

11 Q So the same day that this letter -- so, that day, you were asked in the
12 afternoon of April 24th? Is that what you said?

13 A Yes.

14 Q So you're asked in the afternoon to do whatever was necessary. And then,
15 that same day, this letter was drafted and sent to EcoHealth Alliance?

16 A Yes.

17 Q Okay. So you said your direct supervisor. So Dr. Tabak told you to do
18 whatever was necessary?

19 A Yes.

20 Q Okay. And do you know why you were asked to do that?

21 Mr. Cooke. So, again, I'm just going to jump in. You know, to the extent that
22 you're asking for additional information on internal deliberations, I'm going to instruct
23 Dr. Lauer not to answer.

24 [REDACTED]. Okay.

25 BY [REDACTED]:

1 Q Can you give an answer to that without getting into internal deliberations?

2 Mr. Cooke. I'm going to instruct him not to answer.

3 [REDACTED]. Okay.

4 BY [REDACTED]:

5 Q So what had changed, from your perspective, that you're aware of, between
6 April 19th, when you told EcoHealth Alliance the suspension didn't affect its grant in that
7 document as long as it didn't give money to the Wuhan Institute, and April 24th?

8 A I was not involved in any direct discussions about this, so I don't know.

9 Q Okay. So, in both instances, you were directly told by Dr. Tabak, on April
10 19th, you know, send the suspension letter, and then on April 24th, we need to terminate
11 this grant.

12 A Yes.

13 Q Okay.

14 Did you review the letter before it was sent?

15 A Yes.

16 Q And did you agree with its contents and the justifications provided in it?

17 A Yes.

18 Q And did you believe at that time that NIH had the appropriate authority to
19 terminate the grant under these circumstances?

20 A At that time, yes.

21 Q Okay. Do you believe now that NIH had the authority to terminate the
22 grant?

23 A No.

24 Q Can you explain why you think that now?

25 Mr. Cooke. So, to the extent that we're getting into any sort of communications

1 with the Office of General Counsel or anything to do with attorney-client
2 communications, I'm going to instruct Dr. Lauer not to answer.

3 [REDACTED]. Okay. And is it necessary for him to -- let me put it this way. Let
4 me ask this question, and let me know if this goes too far.

5 Mr. Cooke. Sure.

6 BY [REDACTED]:

7 Q So did your opinion on whether NIH had the authority to terminate the grant
8 change as a result of your own work and beliefs or as the result of something that
9 resulted from conversations with OGC or others inside the agency?

10 Mr. Cooke. You can answer that.

11 Dr. Lauer. Conversations with OGC.

12 BY [REDACTED]:

13 Q Okay. Understood. Thank you.

14 There was a June 23, 2020, hearing in our committee, the Energy and Commerce
15 Committee, and there was an exchange between -- well, I don't know if you want it, but
16 we have it handy, the transcript handy if we need it, but I'll try to spare one more
17 document for the record. So there was an exchange between Congressman Veasey and
18 Dr. Fauci, who was a witness at that hearing.

19 At the hearing, Congressman Veasey asked Dr. Fauci about the EcoHealth grant
20 termination and why NIH would cancel a grant on coronavirus research.

21 Dr. Fauci responded to that, quote, "It was canceled because the NIH was told to
22 cancel it," end quote. And when asked the reason, he said, quote, "I don't know the
23 reason," end quote.

24 So is that your understanding, as well, as to why the EcoHealth grant was
25 terminated?

1 A I don't -- I was not -- I have no direct knowledge of that.

2 Q Okay. Okay.

3 I want to go back to what was marked previously as minority exhibit A, so this is
4 the July 8, 2020, letter reinstating and simultaneously suspending the EcoHealth grant.
5 So I will let folks flip through and get that again. Let me know when you have it in front of
6 you.

7 A Okay.

8 Q Okay. Terrific.

9 So we're now in July of 2020, so this is about 2-1/2 months after that April 24th
10 termination letter we were just discussing. So you send another letter to EcoHealth
11 Alliance, informing them the grant termination's been withdrawn, the grant is reinstated,
12 and that due to concerns about WIV not satisfying safety requirements, that NIH is,
13 quote, "suspending all activities," end quote, under the grant until concerns were
14 addressed.

15 Is that accurate?

16 A Yes.

17 Q Okay. Were you involved in the decision to withdraw the termination and
18 reinstate the grant?

19 A No.

20 Q Okay. Were you involved in the drafting of this letter?

21 A Yes.

22 Q Okay. And what was your role in preparing this letter?

23 A I don't remember. There were quite a few people who I think contributed to
24 this.

25 Q Okay. Do you recall when the decision was made to reinstate the grant?

1 A No.

2 Q Do you recall -- to the extent that you do -- do you recall if it was similar to
3 prior instances, where it was the same day or the day before that you were notified about
4 the reinstatement? Or was this something that you were aware that it was going to be
5 reinstated for a longer period of time?

6 A As I recall, I was aware of the plan to do something like this, but I don't
7 remember the exact timeline.

8 Q Okay. Do you recall if it was, you know, the same day or the day before?

9 A It was well before the day before.

10 Q Okay. Thank you.

11 So who ultimately had the authority to reinstate the grant?

12 A Well, the authority rests with the NIH.

13 Q So the Director of the NIH would have the authority.

14 A Yes.

15 Q Okay. Were you instructed, similar to the prior two instances, that this was
16 the decision and to prepare the, you know, necessary communication?

17 A Yes.

18 Q Okay. So it was in your office's role to carry out the direction that you had
19 been given.

20 A Yes.

21 Q Okay. And was that given by Dr. Tabak, as with the prior two?

22 A I believe so, yes.

23 Q Okay.

24 So was it your office that drafted the questions in this letter as well, or the -- you
25 know, let me put it this way. On the second page, there are seven specific concerns that

1 are laid out by NIH. Did your office draft all of these?

2 A No.

3 Q Were they provided to you?

4 A I believe so, yes.

5 Q Okay. Do you recall who provided them to you?

6 A My supervisor.

7 Q Okay. And do you know who provided them to him?

8 A No.

9 Q Are the questions that -- well, let me ask it this way. Have you seen other
10 instances where a grant might be reinstated but suspended subject to certain conditions,
11 like was done here?

12 A No.

13 Q Okay. So this is unprecedented, then, in terms of the kind of communication
14 that you were preparing here?

15 A This was not something that I had personally experienced.

16 Q Okay. Do you recall having an opinion at the time as to whether these
17 requests seemed reasonable?

18 A Yes.

19 Q And did you believe at the time that NIH had the authority to ask these
20 questions -- make these -- let me rephrase. Did you believe at the time that NIH had the
21 authority to make these requests of a grantee?

22 A Yes.

23 Q Okay. And is that still your opinion, NIH had the authority to make these
24 requests of a grantee?

25 A I'm comfortable that, you know, with what was happening at the time, the

1 information I had available at the time, that we followed appropriate processes.

2 Q Okay. Great.

3 So, in your opinion, was the decision to terminate the EcoHealth Alliance grant in
4 April of 2020 the result of typical NIH decision-making processes?

5 A I had not experienced anything like that before.

6 Q Okay. Do you know whether it was the direct result of an order from either
7 President Trump or somebody in the White House?

8 Mr. Cooke. Yeah, I'm going to instruct him not to answer that.

9 [REDACTED]. Okay. Understood.

10 BY [REDACTED]:

11 Q Did the unique way in which this grant was -- the sub-award was suspended,
12 then the grant was terminated in short order, and then 2-1/2 months later it was
13 reinstated but suspended with conditions. Did that series of processes of unique or
14 abnormal decision-making affect NIH's ability to oversee the grant and the grantee in any
15 way?

16 A I don't think so, no.

17 Q Okay. Did this in any way, you know, affect subsequent communications or
18 the relationship between NIH and the grantee in a way that made it more challenging to
19 oversee the grant?

20 A No.

21 Q Okay. That's all the questions that I have. So thank you very much for being
22 here. Thank you for your work. And thanks for your ongoing cooperation.

23 A Thank you.

24 [REDACTED]. We'll go off the record.

25 [REDACTED]. Off the record.

1 [Recess.]

2 Mr. Benzine. All right. We can go back on the record.

3 BY MR. BENZINE:

4 Q Dr. Lauer, I want to ask a few questions about some of the questions you
5 were asked last hour.

6 A Yes.

7 Q The first is, you were asked whether from April 2020 forward any taxpayer
8 dollars went to the Wuhan Institute of Virology, and you said no, correct?

9 A As far as I know, that's right.

10 Q Did taxpayer dollars go to the Wuhan Institute of Virology prior to your April
11 19, 2020, letter?

12 A Yes.

13 Q All right. Thank you.

14 You were also asked a lot that the situation surrounding the EcoHealth grant and
15 the letters we talked about was unique, unprecedented, not typical.

16 Was the pandemic unique, unprecedented, and not typical?

17 A Yes.

18 Q Would that maybe warrant a unique or unprecedented or not typical
19 decision?

20 A Yes.

21 Q All right. Thank you.

22 I'm going to go back and ask some questions -- a blanket one I think you touched
23 on, but maybe not directly: Would you sign and send a letter if you did not agree with
24 the contents of the letter?

25 A No.

1 Q All right.

2 I'm going run through the first couple that you talked about last hour pretty
3 quickly.

4 The first letter, April 19, 2020 -- first, I want to clarify, it's not on letterhead. Was
5 it actually sent?

6 A Yes.

7 Q Okay. And did anyone tell you to write this letter?

8 Mr. Cooke. Yeah, I think we've covered this.

9 Mr. Benzine. I know. I'm just trying to --

10 Mr. Cooke. Go ahead.

11 Dr. Lauer. Yes.

12 BY MR. BENZINE:

13 Q Who?

14 A Dr. Tabak.

15 Q In the letter, it is written that -- oh, first, you did not draft the letter, correct?

16 A Yes. That's correct.

17 Q Okay. And you testified previously, you do not know who drafted the letter?

18 A That's right.

19 Q Okay.

20 A That's correct.

21 Q In the letter, it says, "There are now allegations that the current crisis was
22 precipitated by the release from the Wuhan Institute of Virology of the coronavirus
23 responsible for COVID-19."

24 Was that the first time you heard about those allegations?

25 Mr. Rechter. And, Mitch, which exhibit is this, for the record? D?

1 Mr. Benzine. Yes. Minority exhibit D.

2 Dr. Lauer. So, I'm sorry, what are you looking at here?

3 BY MR. BENZINE:

4 Q At the end of the first paragraph, there's a sentence that reads, "There are
5 now allegations that the current crisis was precipitated by the release from the Wuhan
6 Institute of Virology of the coronavirus responsible for COVID-19."

7 Had you heard of those allegations prior to seeing this draft letter?

8 A Not that I recall.

9 Q Turning to minority exhibit E, the April 24th letter, did anyone tell you to
10 write this letter?

11 A Yes.

12 Q And who was that again?

13 A Dr. Tabak.

14 Q And I want to clarify my own question. Did anyone tell you to send this
15 letter?

16 A Yes.

17 Q And it was Dr. Tabak?

18 A Yes.

19 Q But you did not draft this letter.

20 A That's right.

21 Q Okay. Thank you.

22 In regards to both exhibits D and E, you agreed with the language in the letter?

23 A Yes.

24 Q And you signed and sent the letter?

25 A Yes.

1 Q All right.

2 By the time -- by April 24, 2020, were you aware that EcoHealth's year-five
3 progress report was late?

4 A I'm sorry. In April of 2020?

5 Q Correct.

6 A Was I aware that the progress report was late?

7 Q Correct.

8 A No.

9 Q Okay.

10 I want to introduce what will be majority exhibit 6.

11 [Lauer Majority Exhibit No. 6

12 Was marked for identification.]

13 BY MR. BENZINE:

14 Q So this is a letter from the law firm of Tarter Krinsky & Drogin, who represent
15 EcoHealth Alliance, dated May 22, 2020.

16 Are you aware of this letter?

17 A Yes.

18 Q This letter is EcoHealth's appeal of the grant termination. And I want to ask
19 a few questions.

20 On page 3, the paragraph right before subsection D, the first line, EcoHealth's
21 counsel writes, "On April 21, 2020, Dr. Daszak of EcoHealth Alliance responded by email
22 to Dr. Lauer stating that he could 'categorically state that no funds from 2R01 AI 110964-6
23 have been sent to Wuhan Institute of Virology, nor has any contract been signed.'"

24 Can you explain what the number in front of the "R01" and what the "6"
25 means -- what the "2" and the "6" mean?

1 A Sure.

2 So the "2" means that the grant was in its second competitive segment.

3 So, when an applicant submits a grant for the very first time, that number would
4 be a "1," because this would be the first competitive segment. If, after a number of years,
5 the applicant wishes to continue the work, they submit what's called a competing
6 renewal, and they would put a "2" in front of that, indicating that we're now in the
7 second competing renewal.

8 And, then, if there were a subsequent competing renewal, that would still have
9 the number "2." So the number "2" indicates that this was not the first competitive
10 segment but it was a subsequent competitive segment.

11 The number "6" indicates that that project, which would include all competitive
12 segments, was now in its sixth year.

13 Q So we talked about this, that, prior to this date, money had been going to
14 the Wuhan Institute of Virology?

15 A Yes.

16 Q I mean, was Dr. Daszak playing semantics with grant numbers to try to make
17 it look like he wasn't funding the Wuhan Institute of Virology?

18 A I don't know what --

19 Q All right.

20 A -- Dr. Daszak was thinking.

21 Q Going to page 5 of the letter, in the middle of the top paragraph, there's a
22 sentence that starts with "Through this lens" and then has a CFR code.

23 A Yes.

24 Q And it says that "NIH may terminate a Federal award, in whole or in part, if
25 the non-Federal entity fails to comply with the terms and conditions of the award."

1 Would failing to submit a progress report on time constitute a failure to comply
2 with the terms and conditions of the award?

3 A Yes.

4 Q By this time, in May of 2020, were you aware that the year-five report was
5 late?

6 A No.

7 Q For EcoHealth specifically under this grant, would violating the special award
8 condition of greater-than-1 log growth constitute a failure to comply with the terms and
9 conditions of the award?

10 A I'm sorry. Say that again.

11 Q For EcoHealth's grant specifically, they had a special award condition of 1 log
12 growth -- they had to immediately notify NIAID --

13 A Yes.

14 Q Would failing to follow that condition constitute failure to comply with the
15 terms of the award?

16 A Yes.

17 Q And, again, at this point, you were not aware that they had not submitted a
18 year-five progress report, correct?

19 A Yes.

20 Q All right.

21 I want to go to the middle paragraph. It starts with "As of the date of
22 Termination" and reads: "As of the date of Termination, EcoHealth Alliance had not
23 received any notice from NIH, NIAID, or HHS that it failed to comply with any of the terms
24 or conditions of the 2019 Award."

25 Can you terminate an award renewal based on conduct of previous grant years?

1 A Yes, but it really depends upon the circumstances.

2 Q Okay. Is it common that NIH, NIAID, or HHS had not notified EcoHealth that
3 their year-five report at this point was nearly 6 months late?

4 A So that is conceivable, that that would happen.

5 This was a special kind of progress report. It's a progress report that goes
6 between competitive segments. We call that an interim progress report.

7 And we had a mechanism in place at the time whereby, if that interim progress
8 report had not been submitted in a timely way, that would be discovered. Our system
9 would normally discover that when the grant was up for its next noncompetitive renewal,
10 so going from year 6 to year 7.

11 So, at that point, it would be discovered that the interim progress report had not
12 been submitted. That would constitute an automatic bar to funding. The applicant or the
13 recipient would be told, you need to submit that interim progress report because
14 otherwise we cannot proceed with potentially funding you for the following year.

15 Q So it wouldn't be -- I'm trying to distill that. It wouldn't be out of the
16 ordinary for NIH to not know that someone is 6 months late on this specific type of
17 progress report.

18 A Yes, at that time.

19 Q Okay. Have those systems changed since that time?

20 A Yes.

21 Q How so?

22 A We have now built in automated reminders that go to the grant recipient, as
23 well as to NIH staff, if an interim progress report has not been submitted in a timely
24 manner.

25 Q Were those systems changed because of the EcoHealth situation?

1 A Yes.

2 Q All right. Thank you.

3 I want to go back to minority exhibit A, the letter from you to EcoHealth dated July
4 8, 2020, and again ask similar questions.

5 Were you told to send this letter?

6 Mr. Cooke. Sorry. Give us just a second.

7 Mr. Benzine. Yeah.

8 Mr. Cooke. Oh, you got it?

9 Dr. Lauer. It's this one, right?

10 Mr. Cooke. Yep.

11 Mr. Rechter. That's right.

12 Dr. Lauer. Yes.

13 BY MR. BENZINE:

14 Q By whom?

15 A By my supervisor.

16 Q Dr. Tabak?

17 A Yes.

18 Q Okay.

19 I want to go through the seven questions on page 2. And you had testified earlier
20 that -- and correct me if I'm mischaracterizing what you said -- some of these came from
21 internal to NIH; some of them you're not so sure where they came from.

22 A Yes.

23 Q Okay. I want to ask for each one if EcoHealth complied.

24 A Okay.

25 Q So, number one, "Provide an aliquot of the actual SARS-CoV-2 virus that the

1 Wuhan Institute of Virology used to determine the viral sequence."

2 Did EcoHealth provide that?

3 A Not that I know of.

4 Q "Explain the disappearance of Huang Yanling," a scientist at the Wuhan
5 Institute of Virology.

6 Did EcoHealth explain that?

7 A As I remember, there was a subsequent letter that we did receive from
8 EcoHealth that did address that question.

9 Q Okay.

10 A I don't remember what it said.

11 Q "Provide the NIH with Wuhan Institute of Virology's responses to the 2018
12 State Department cables regarding safety concerns."

13 Did EcoHealth ever provide that?

14 A Again, I think that in one of the letters they sent us they addressed that.

15 Q Okay.

16 "Disclose and explain out-of-ordinary restrictions on laboratory facilities," like
17 "diminished cell-phone traffic in October 2019."

18 Did EcoHealth ever explain that?

19 A I -- again, I don't remember. But what I do remember was that one of the
20 letters that they sent us, they went through these questions --

21 Q Okay.

22 A -- and said something.

23 Q I'll skip the next couple but ask about number 7. "EcoHealth Alliance must
24 ensure that all of its subawards are reported in the Federal Subaward Reporting System."

25 A Yes.

1 Q Did they comply with that?

2 A Yes, they did.

3 Q Were they out of compliance prior to this letter?

4 A Yes.

5 Q Can you explain what that means?

6 A Sure.

7 So, if a grant recipient issues a sub-award to another entity, we call that a
8 sub-recipient. When that sub-award is issued, they are required to enter that
9 information -- or enter information about that into the Federal Subaward Reporting
10 System. We call it the FSRS.

11 And then that information, then, is made available to the Federal Government and
12 is also made available to USAspending.gov.

13 Q Is that required in the award's terms and conditions?

14 A Yes.

15 Q Would not reporting your sub-grantees pursuant to the award's terms and
16 conditions be rationale to suspend or terminate the award?

17 A I don't think that -- that is a violation of terms and conditions of an award,
18 but I don't think that it is so severe that we would go that far.

19 Q Would you give the grantee the opportunity to take corrective action?

20 A Yes.

21 Q Okay. And you did that in that letter, correct?

22 A Yes.

23 Q All right.

24 I want to introduce majority exhibit 7.

25 [Lauer Majority Exhibit No. 7

1 Was marked for identification.]

2 BY MR. BENZINE:

3 Q This is a letter, again, from you to EcoHealth, Mr. Chmura and Dr. Daszak,
4 from July 23, 2021. This one hasn't been introduced previously.

5 Do you remember this letter?

6 A I signed this, right? Yes.

7 Q How did this letter originate?

8 A I don't remember.

9 Q Did anyone tell you to send this letter?

10 A That I don't remember.

11 Q Okay.

12 In the first paragraph, it references communications from EcoHealth on April 11th
13 and April 23rd, 2021.

14 A Yes.

15 Q But the last letter that we have, that I think we have -- not saying that we
16 don't have it, but -- that you sent to EcoHealth was July 8, 2020.

17 Did you have communication with anyone at EcoHealth between July 8, 2020, and
18 April 2021?

19 A Yes.

20 Q Over email or via letter?

21 A Both.

22 Q All right. Was the April communications referenced in this letter via email or
23 letter?

24 A This probably -- well, this would've been electronic, but whether it was an
25 email or an email with an attachment, that I can't remember.

1 Q Okay.

2 In this letter, you request EcoHealth to produce documents regarding activities
3 and research at the Wuhan Institute of Virology, correct?

4 A Yes.

5 Q Is it safe to assume that EcoHealth had not produced or published every
6 experiment conducted in conjunction with the Wuhan Institute of Virology under the
7 grant?

8 A I'm sorry. Say that again.

9 Q If you're asking for documents about the activities occurring at the WIV --

10 A Yes.

11 Q -- is it a safe assumption that EcoHealth had not published or otherwise told
12 NIH about everything that they were doing at the WIV?

13 A I think at that point we didn't know, so that's why we were asking for
14 additional information.

15 Q In this letter, it's also the first time you notify EcoHealth that they're now 22
16 months late on their year-five progress report. Is that correct?

17 A Yes.

18 Q Would that have been consistent with the timing that you testified to earlier,
19 that the interim progress report would've come up with the year-seven funding?

20 A So --

21 Q Or was it later than what you would normally see?

22 A It's later than what we would normally see, but -- okay. Well, I'll answer
23 your question. It's later than what we would normally see.

24 Q Okay. When did you learn that the year-five report was late?

25 A Shortly before we sent this letter.

1 Q So July 2021-ish?

2 A Yes.

3 Q Okay. Who told you that the report was late?

4 A I don't remember who told me. I do remember that, at the time, we had
5 received the correspondence from EcoHealth, and so we were going through that. And
6 we were doing a -- as part of our work, we were going through all documents that were
7 related to this grant, and I believe one of my colleagues discovered that that progress
8 report was missing and brought it to my attention.

9 Q In your experience, have you seen an interim progress report 22 months late
10 before?

11 A No.

12 Q Did EcoHealth ever provide a rationale for it being 22 months late?

13 A I do remember that in their letter they said something about being locked
14 out of our system.

15 Q Were you able to verify that?

16 A No, we did not verify that they were locked out of our system.

17 Q In your knowledge, could they have produced the interim progress report on
18 time?

19 A Yes.

20 Q Okay.

21 Would the progress report contain results of experiments conducted at the
22 Wuhan Institute of Virology?

23 A Yes.

24 Q Would you agree that by July 23rd, the date of this letter, EcoHealth and the
25 Wuhan Institute of Virology had not reported the results of all experiments under the

1 grant?

2 A Yes.

3 Q Would you agree, by July 23, 2021, EcoHealth and the Wuhan Institute of
4 Virology had not contemporaneously published the results of all of the experiments
5 conducted at the WIV under this grant?

6 A Not that I'm aware of.

7 Q And you also testified earlier, when we were asking about some people that
8 you talked to, that Dr. Collins had been in meetings with you regarding the EcoHealth
9 situation prior to July of 2021, correct?

10 A Yes.

11 Q Without getting into any deliberations, what were the contents of those
12 meetings? Was it just, EcoHealth is behind? What did you tell Dr. Collins?

13 A I told him that we were conducting a compliance review, that as part of that
14 compliance review we were requesting documents, and that we would need time to go
15 through those documents.

16 Q Did you tell Dr. Collins that EcoHealth hadn't submitted their interim
17 progress report?

18 A When?

19 Q Prior to July 23, 2020 -- 2021.

20 A I don't remember when Dr. Collins first became aware of this. I don't know.

21 Q Okay.

22 I want to introduce minority exhibit 7.

23 Mr. Rechter. Minority?

24 Mr. Benzine. Or, majority. Wow.

25 Mr. Rechter. Wow.

1 Mr. Benzine. It's been a long week.

2 Mr. Rechter. And it's 8, I think.

3 Mr. Benzine. Oh, yeah, it's 8. See? Thank you, Peter.

4 [Lauer Majority Exhibit No. 8
5 Was marked for identification.]

6 BY MR. BENZINE:

7 Q So this is a letter sent by Dr. Collins on July 28, 2021, 5 days after you sent
8 your letter to EcoHealth. And he sent it to the former ranking member of the Committee
9 on Oversight and Accountability, Jamie Comer.

10 Have you ever seen this letter before?

11 A Yes.

12 Q Were you involved in the drafting of this letter?

13 A Minimally.

14 Q I want to flip to page 5 of the letter and go down three paragraphs. It's a
15 paragraph that starts with "Results of the WIV."

16 A Uh-huh.

17 Q It reads, "Results of the WIV experiments under the EcoHealth Alliance grant
18 were reported to NIAID and published contemporaneously in peer-reviewed scientific
19 literature to inform the global scientific community of these findings."

20 Based on what you just testified, is that a true statement?

21 A I don't -- as far as I know, yes, the results of some of these experiments had
22 been published. But I didn't have -- I wasn't directly involved in drafting this, and I didn't
23 have direct knowledge of what was known at that time.

24 Q Okay.

25 The statement doesn't say "results of some WIV experiments." It's unequivocal:

1 Results of WIV experiments are published and reported to NIAID.

2 At this point, at least a year's worth of results were not reported to NIAID.

3 A So the way I would interpret that, I don't see the word "all" of the results.

4 Q No.

5 A I just see "results."

6 Q So that could be interpreted as "some"?

7 A Yes.

8 Q Okay. Fair enough.

9 Do you remember when the interim progress report was eventually submitted?

10 A Yes.

11 Q When?

12 A In August of 2021.

13 Q All right.

14 I want to introduce what will be majority exhibit 9.

15 [Lauer Majority Exhibit No. 9

16 Was marked for identification.]

17 BY MR. BENZINE:

18 Q This is a letter, again, from you to EcoHealth on October 20, 2021.

19 Do you remember this letter?

20 A Yes.

21 Q How did this letter originate?

22 A I don't -- how it originated, I don't remember.

23 Q Did someone tell you to send this letter?

24 A I think this was a letter that we sent, that we initiated this, but my supervisor
25 would have seen it before we sent it.

1 Q Okay.

2 In this letter, you request EcoHealth to produce to you all unpublished data
3 supported by the grant that has not been in any annual reports, correct?

4 A Yes.

5 Q Did you have a suspicion at this point that there was unpublished data?

6 A Yes.

7 Q Why?

8 A Well, because in the course of all scientific work -- and that includes, I would
9 say, potentially every grant that we fund -- all data don't get published.

10 Q Okay.

11 I want to introduce majority exhibit 10.

12 [Lauer Majority Exhibit No. 10

13 Was marked for identification.]

14 BY MR. BENZINE:

15 Q This is a letter on the same date, October 20, 2021, from Dr. Tabak, your
16 supervisor, to the former ranking member of the committee, Jamie Comer.

17 Are you aware of this letter?

18 A Yes.

19 Q Were you involved in the drafting of this letter?

20 A Minimally.

21 Q Do you want me to ask if it's actually gain of function, or is that outside your
22 wheelhouse?

23 A That is outside of my wheelhouse.

24 Q All right. Fair enough.

25 On page 2, at the very bottom, there's a sentence -- the second-to-last sentence

1 says, "The analysis attached confirms that the bat coronaviruses studied under the
2 EcoHealth Alliance grant could not have been the source of SARS-CoV-2 and the COVID-19
3 pandemic."

4 I don't have the analysis with me, but were you involved in the analysis?

5 A No.

6 Q By October 20, 2021, had EcoHealth and the Wuhan Institute published
7 every experiment they conducted pursuant to their grant?

8 A I don't know.

9 Q This is an unequivocal statement that anything worked on by EcoHealth and
10 the WIV could not have been the result -- could not result in the COVID-19 pandemic. Do
11 you agree with that statement?

12 A I don't know. This is -- I would say two things. One, it is outside of my realm
13 of expertise. And, secondly, I wasn't involved in any of those discussions.

14 Q All right. Thank you.

15 All right. I want to go to majority exhibit 11.

16 [Lauer Majority Exhibit No. 11

17 Was marked for identification.]

18 BY MR. BENZINE:

19 Q This is a letter from October 26, 2021, from Dr. Daszak to yourself and
20 Dr. Tabak, responding to both of your October 20th letters.

21 In this letter -- first, are you aware of this letter?

22 A Yes.

23 Q Do you recall the contents of the letter, for the most part?

24 A Yes.

25 Q In the letter, Dr. Daszak claims that they reported the 1-log-growth

1 experiment in their year-four progress report --

2 A Yes.

3 Q -- and that it was one experiment, and the year-five report included followup
4 data that was not ready yet for the year-four report.

5 Is that your recollection?

6 A Yes.

7 Q They say the experiment was conducted some time in 2018; then the
8 year-four report was submitted April 13, 2018.

9 Understanding the award condition said immediately notify NIAID, would you
10 consider waiting for the annual progress report to be immediate notification?

11 A It depends upon the timing. If the experiment had been done many, many
12 months before, then the answer to that would be no. If the timing was such that the
13 progress report would be turned in within, you know, a few weeks of when the
14 experiment was done, then yes.

15 Q And they're pretty vague in this letter. They just say that it happened some
16 time in 2018, and the progress report was submitted in April. Did EcoHealth ever tell you
17 when that experiment was conducted?

18 A No.

19 Q Okay.

20 A Or let me just say, not that I remember.

21 Q Yeah.

22 A Yeah.

23 Q Was this letter the first time EcoHealth asserted the experiments in years
24 four and five were only one?

25 A That I recall, yes.

1 Q Did EcoHealth ever explain to you, outside of this letter, their rationale, why
2 it was only one?

3 A This is what I remember. I don't remember other communications to that
4 effect.

5 Q Did they produce any notebooks or other proof outside of this letter that
6 they only conducted one experiment?

7 A No.

8 Q Did the experiment as outlined in the year-four progress report show
9 greater-than-1 log of viral growth?

10 A So, as I recall, we had discussions about this, and I believe the answer was,
11 we were not convinced that the year-four progress report showed a 1 log increase.

12 Q Do you think it was only one experiment, or do you think year five
13 represented a second experiment?

14 A I don't know. I honestly don't know.

15 Q What would you need to know?

16 A In order -- because we didn't know, we asked for additional information. So
17 what we asked for were the original laboratory notebook entries that contributed to the
18 figures and text in those two progress reports, and we also asked for the original
19 electronic files that constituted the relevant figures.

20 Q And, in your opinion, NIH had the authority to ask for those notebooks and
21 files?

22 A Yes.

23 Q And, in your opinion, EcoHealth should've had access to those notebooks
24 and files?

25 A Yes.

1 Q Did they have access?

2 A I don't know whether they had access.

3 Q Did they tell you that they did not have access?

4 A Yes.

5 Q Okay.

6 Did the experiment in the year-five report show greater-than-1 log of viral
7 growth?

8 A In our discussions, there was a sense that, yes, that progress report indicated
9 that there was a greater-than-1-log increase.

10 Q Would you consider NIH being immediately notified of that experiment?

11 A I'm sorry?

12 Q Was NIH immediately notified of that experiment?

13 A Not that I know of.

14 Q Would 22 months late qualify as immediate notification?

15 A No.

16 Q All right.

17 In this letter to EcoHealth, it says that it provided you with some unpublished data
18 as previously requested in both the letter and some PDF attachments.

19 Do you recall what was in the unpublished data --

20 A No.

21 Q -- beyond the viral trees --

22 A No.

23 Q So you don't recall if there were any concerning experiments in the
24 unpublished data?

25 A I don't remember.

1 Q I want to introduce majority exhibit 13.

2 Mr. Rechter. I think we're on 12.

3 Mr. Benzine. We're on 12?

4 Mr. Rechter. Are we not? I don't know.

5 Mr. Benzine. I don't know. We're on 12? Okay.

6 [Lauer Majority Exhibit No. 12

7 Was marked for identification.]

8 BY MR. BENZINÉ:

9 Q This is another letter from you to Dr. Daszak -- you sure wrote a lot of letters
10 to Dr. Daszak in the span of a year or so.

11 A Yes, indeed.

12 Q -- dated January 6, 2022. And in this letter you state, on November 5, 2021,
13 you requested EcoHealth produce those lab notebooks to validate the -- it's on the
14 second page, under "Laboratory Notebooks and Electronic Files" --

15 A Yes.

16 Q -- that, on November 5th, you had requested the notebooks from the
17 Wuhan Institute of Virology to corroborate EcoHealth's claim that the year-four and
18 year-five progress reports showed the same experiment.

19 We touched on this, but, at this point, by January 6, 2022, had EcoHealth provided
20 you with any notebooks?

21 A No.

22 Q Why not?

23 A I don't know.

24 Q What did they tell you?

25 A I think what it says here in the letter. Quote, "We do not have copies of

1 these, which were created by and retained by the WIV. Nonetheless, I have forwarded
2 your letter to the WIV, and will let you know their response as soon as WIV replies to our
3 request."

4 Q Had you ever seen something like this before, a grantee, like, not having
5 access to their lab notebooks?

6 A Yes, I have seen that.

7 Q Okay. Have you ever seen the sub-grantee refuse to produce it?

8 A Yes, I have seen that.

9 Q In what other situations?

10 A I've seen that in scientific misconduct investigations, where laboratory
11 notebooks or other original files are requested and the parties concerned will state that
12 they lost them, they don't have them.

13 Q So you would consider noncompliance with the request for lab notebooks to
14 be scientific misconduct?

15 A No.

16 Q No?

17 A I --

18 Q You were investigating scientific misconduct, and in order to shield that, they
19 didn't give you the notebooks, correct?

20 A Yes. So --

21 Q All right.

22 A -- in scientific misconduct investigations, we typically ask for laboratory
23 notebooks, to see whether or not there may have been scientific misconduct.

24 Q You asked for the notebooks again in the January 6th letter. Did EcoHealth
25 provide the notebooks after your January 6th request?

1 A No.

2 Q And did they give the same reason?

3 A I think so.

4 Q As of today, has EcoHealth produced any laboratory notebooks to you?

5 A No.

6 Q On July 17, 2023, HHS suspended the WIV from receiving Federal funds.

7 Were you involved in that decision?

8 A No.

9 Q On September 19, 2023, HHS debarred the WIV for a period of 10 years.

10 Were you involved in that decision?

11 A No.

12 Q The HHS IG report on the EcoHealth grant provided a recommendation that

13 HHS debar the WIV -- or, that NIH recommend to HHS to debar the WIV.

14 A Yes.

15 Q Did NIH make that recommendation?

16 A Yes.

17 Q Why?

18 A Two reasons. One is that we knew this recommendation from OIG was
19 coming, and we concurred with that recommendation. And so, in the fall of 2022, we
20 went ahead and made the referral.

21 And the second was that it appeared to us that they were not complying with
22 terms and conditions of award by turning over requested records.

23 Q Whose burden is it to ensure sub-grantee compliance?

24 A The prime recipient.

25 Q Why was the WIV recommended for debarment and not EcoHealth?

1 A I don't know.

2 Q You never heard anyone suggest EcoHealth should be debarred?

3 A I've heard people say that, but I was not involved in any discussions where
4 that came up.

5 Q Okay. So, to your knowledge, you don't know the rationale for punishing the
6 sub-grantee but not the prime?

7 A I don't know why the IG made the recommendation that it did.

8 Q All right.

9 The EcoHealth grant was eventually reinstated, with pretty significant award
10 conditions on it, correct?

11 A Yes.

12 Q Prior to that reinstatement, was EcoHealth in compliance with their terms
13 and conditions?

14 A No.

15 Q Have you seen a grant be reinstated while the prime recipient is currently
16 out of compliance?

17 A Yes. Yes, that can happen.

18 Q Can you provide a reason?

19 A Sure.

20 So our goal is to bring the recipient back into compliance. That is our goal. And
21 so, if we have reason to believe that they are out of compliance, then we work with the
22 recipient to bring them into compliance.

23 Typically, we do that by imposing specific award conditions on grants. And the
24 goal of those specific award conditions is to help the recipient come back into
25 compliance.

1 And also what we sometimes do is, we ask the recipient to put together a
2 corrective action plan. The idea of the corrective action plan is, again, to bring them back
3 into compliance. And then we will work with the recipient to make sure that they
4 develop an appropriate corrective action plan and that they implement it.

5 Q Were any of the award conditions on the reinstatement providing the
6 laboratory notebooks from the Wuhan Institute of Virology?

7 A No. And the reason for that was that, in the reinstatement, we determined
8 that, given that we were not getting those records, the only way that we could reconcile
9 that noncompliance would be by terminating the sub-award. So that's why we
10 terminated the sub-award to WIV. Because we didn't see any other way in which this
11 noncompliance could be potentially resolved.

12 Q Will the Federal Government ever get access to those records?

13 A I don't know.

14 Q I mean, we paid for them. Why can't we -- I don't understand -- EcoHealth
15 obviously took Federal taxpayer money, conducted experiments with it, refused to hand
16 over the work that the taxpayer paid for, and somehow they still get taxpayer money.

17 I mean, that's a pretty big noncompliance problem. Like, I don't -- how is that
18 remedied?

19 A So, again, our philosophy -- and it's not just a philosophy; it's what's
20 grounded in the uniform guidance regulations -- is that, when a recipient is out of
21 compliance, the goal is to bring them back into compliance. And we can do that, as I said,
22 through a variety of means -- through revising terms and conditions of award, through
23 specific award conditions, through a corrective action plan. Because, ultimately, what we
24 want is we want the recipient to be successful and we want them to be compliant with
25 terms and conditions.

1 So, in this particular case, we determined at the time that we could not resolve
2 the WIV record problem. That could not be resolved. And the only way we could resolve
3 it was by terminating the sub-award. But all the various other problems that we were
4 having with EcoHealth, we determined that we would get -- we would attempt to bring
5 them back into compliance through specific award conditions and a corrective action
6 plan.

7 Q In your personal opinion, do you think the award should've been reinstated?

8 A I think we followed all appropriate processes.

9 Q Since the EcoHealth grant has been reinstated, has EcoHealth violated any of
10 the new terms or conditions?

11 Mr. Rechter. So we'll stop there. That's going to be outside the scope of our
12 arrangement today.

13 Mr. Benzine. Can we go off the record?

14 [Discussion off the record.]

15 Mr. Benzine. We can go back on the record.

16 BY MR. BENZINE:

17 Q Is EcoHealth in compliance with all their grants currently?

18 A Right now they are under specific award conditions, and we are
19 implementing those.

20 Q Are they in violation of any specific award conditions?

21 A So the specific award conditions that we imposed were quite substantive.
22 They included that we would have to review all of the draft sub-award agreements.

23 They also included that we -- we changed our reimbursement formula, so instead
24 of giving money prospectively, like we do for nearly all of our grants, they would instead
25 have to submit invoices, we would determine whether or not the charges were allowable,

1 and if the charges were allowable, we would go ahead and reimburse them.

2 So we have had circumstances where we had determined that some charges were
3 not allowable. And we have also determined that the sub-award agreements needed
4 additional work.

1 [12:14 p.m.]

2 BY MR. BENZINE:

3 Q Okay. And none of the sub-award agreements are for the Wuhan Institute
4 of Virology anymore, correct?

5 A That's right.

6 Q I'm going to shift gears a little bit.

7 Generally, as a context question leading in, were you in charge of or otherwise
8 involved in NIH's investigation into foreign influence into biomedical research?

9 A I was involved.

10 Q Were you the lead on it?

11 A I was in some respects the lead on it.

12 Q Okay.

13 A I was one of the leads on it.

14 Q Through that investigation or other EcoHealth compliance efforts, did you
15 ever find that EcoHealth failed to disclose substantial contributions of resources from
16 other organizations, including foreign governments?

17 A EcoHealth was not involved in any of our foreign interference reviews.

18 Q Okay. During your compliance efforts, did you find any evidence where they
19 took undisclosed money from foreign sources?

20 A Not that I know of.

21 Q Did you find any evidence that EcoHealth diverted intellectual property or
22 proprietary information to foreign sources?

23 A Not that I know of.

24 Q Did you find any evidence that EcoHealth shared confidential information of
25 peer reviewers with foreign sources?

1 A Not that I know of.

2 Q I want to ask generally about another EcoHealth grant. And if you're not
3 aware of it, then you're not aware of it, then we can move on.

4 A Okay.

5 Q Are you aware of the DEFUSE proposal that EcoHealth, the Wuhan Institute
6 of Virology, and the University of North Carolina submitted to DARPA?

7 Mr. Rechter. And real quick before you answer, I'm just going to jump in here for
8 the record.

9 So as an accommodation to the committee and pursuant to our discussion
10 between the Department and the majority staff, our authorization will be to answer
11 certain specific questions on this topic for our discussion.

12 So go ahead.

13 Dr. Lauer. Yes, I'm aware of it.

14 BY MR. BENZINE:

15 Q To your knowledge, has NIH funded any research like what was proposed by
16 EcoHealth in DEFUSE?

17 A Not that I know of.

18 Q And in your experience having done this a while, is it common for
19 organizations to begin work prior to submission of a proposal?

20 A Yes.

21 Q Why would they do that?

22 A So, in fact, it's normal that an applicant would do some experiments, and
23 then they would report those out as preliminary results in their -- or preliminary data.

24 And so a grant application will often have preliminary data, which will describe
25 some either early experiments or early work that had been done.

1 Part of this is to demonstrate that they're capable of doing the kind of work that
2 they're proposing to do longer term.

3 Q So you said you were generally aware of the DEFUSE proposal. Are you
4 aware of what they proposed to do?

5 A Only at a very high level.

6 Q Can you --

7 A Well, I heard about this, it came out in the media. And so I looked at the
8 materials that were available online.

9 The scientific content of the grant is, again, beyond my area of expertise. So I
10 would say I took a very superficial look at it. I read some of the news articles and moved
11 on.

12 Q But it would be common in your experience that maybe some of this work
13 had begun prior to the proposal being submitted?

14 A Actually, it's perfectly normal for a grant applicant to do some work and
15 report that as preliminary results or preliminary data at the time that they submit their
16 application.

17 Q Thank you.

18 I've got 16 minutes on the clock, but won't need it, and then we can wrap up.

19 I want to ask a little bit about the intelligence community, any involvement you
20 have, any knowledge you have.

21 They've been investigating the origins of COVID-19 since early 2020. Are you
22 generally aware of these efforts?

23 A I know that they happened.

24 Q Are you aware of the assessment produced on May 26th, 2021?

25 A Just what was produced in the media -- I mean, what I saw in the media.

1 And I'm not sure about that date, but --

2 Q Okay. And then there were a few other assessments. The same kind of
3 answer, what you saw in the media?

4 A Yes.

5 Q At any point were you contacted by anyone in the intelligence community to
6 assist with these assessments?

7 A No.

8 Q Okay. Thank you.

9 Two final cleanup questions.

10 At any point since the beginning of the pandemic, have you used communication
11 devices other than your official phone or official email to talk about the pandemic?

12 Mr. Rechter. About official business?

13 Dr. Lauer. About official business?

14 Mr. Benzine. About official business.

15 Dr. Lauer. No.

16 Mr. Benzine. Okay. Thank you.

17 We can go off the record.

18 [Discussion off the record.]

19 Mr. Strom. On the record.

20 John Strom, senior counsel, Energy and Commerce majority, Oversight and
21 Investigations Subcommittee.

22 Mr. Benzine. Thank you. We can go off the record.

23 [Discussion off the record.]

24 Mr. Strom. On the record.

25 Good afternoon, Dr. Lauer. My name is John Strom. I am senior counsel of the

1 Oversight and Investigations Subcommittee, Energy and Commerce, for the majority. I
2 want to thank you for being here. I'm sorry I missed some of this morning. Also my
3 colleague, who you know, Alan Slobodin, is our chief investigative counsel.

4 [Lauer Majority Exhibit No. 13
5 Was marked for identification.]

6 BY MR. STROM:

7 Q I wanted to just ask a few quick questions regarding what I believe is going
8 to be majority exhibit No. 13, and it's only a few specific questions. It's not the full thing
9 here. But for completeness, we thought we'd produce it all.

10 So this exhibit is the HHS Office of Inspector General's activity file for their audits
11 of the EcoHealth Alliance grant. It contains notes of interviews and meetings held with
12 NIH officials and representatives at EcoHealth.

13 So you probably want to take the clip off because it's printed front to back to try
14 to save some trees.

15 So I would like to turn, if you can, to Bates stamp No. 21. It'll be the first page
16 after this table of contents. And it runs to page 23.

17 So this --

18 A This?

19 Q That's correct, yes. Thank you.

20 So this is a record of a pre-entrance conference meeting held on June 22nd, 2021,
21 between the HHS Inspector General and yourself, as well as members of your team.

22 So I'd like to just ask you -- if you want to quickly review it -- if you're familiar with
23 it, recall that meeting -- not familiar with the document, excuse me, if you recall the
24 meeting.

25 A I recall the meeting.

1 Q Great. So turning to page 22, the first entry on this chronology of events
2 says: May 6th, 2020, Dr. Lauer met with HHS Inspector General Immediate Office, Les
3 Hollie, and HHS Office of National Security, Lisa Aguire, and sent both detailed
4 information about EcoHealth Alliance is aware of.

5 Do you recall what materials you sent them?

6 A Yes.

7 Q Could you describe what you transmitted to them?

8 A Yes. There was an email that I sent on or about that date that had a
9 summary of what we knew at the time, and there were a number of attachments on that
10 email.

11 Q Do you recall if that summary included any emails or materials forwarded to
12 you from NIAID as part of your sort of start of this investigation?

13 A I don't think so.

14 Q Okay.

15 The next entry I'd like to sort of point you to is about halfway down the page. It
16 begins: Subsequent internal dialogue.

17 A Yes.

18 Q If you read that bullet, and if you could just elaborate on what you were
19 trying to convey to the Inspector General's Office there.

20 A Yes. So I did receive a request from Dr. Fenton, who wanted to know about
21 the status of the grant. And as stated here, I would have pointed out that we had not yet
22 received responses to our requests and we had not received documents.

23 Q And then I guess what it sort of appears from that note is that officials at
24 NIAID were advocating for the grant to be reinstated despite EcoHealth not having
25 fulfilled their -- your document request.

1 A What I recall is pretty close to what's here in this document here, that they
2 were asking about the status of it. I don't recall -- I don't remember anybody saying to
3 me that it should be reinstated right away without doing anything.

4 Q So did NIAID pressure or advocate for funding to resume?

5 A I have no knowledge of that.

6 Q I guess more generally, on enforcement matters, would it be unusual for
7 NIAID -- well, for any institute or center program officer to, while a grant is suspended for
8 a compliance review, attempt to find alternative funding opportunities that would allow
9 that grantee to continue the same research?

10 A So if I -- so your question deals with grants other than the specific grant in
11 question? Is that -- I'm not understanding.

12 Q So it seems unusual that -- sorry. Would it be unusual for the program
13 officer on a grant to go to a grantee who is suspended and identify alternative funding
14 opportunities for them to pursue in order to continue that same research proposal?

15 A So in this particular case, the applicant or recipient was not suspended.

16 Q EcoHealth?

17 A It was not suspended. The grant was suspended, but the recipient was not
18 suspended.

19 Q Correct. So it's project specific. So for the specific --

20 A The project was suspended. The recipient was not suspended.

21 Q Correct.

22 A That's an important distinction.

23 Q Sure. It's a project-by-project determination.

24 But is it irregular, unusual for a program officer to say to someone who has a
25 project suspended, "Here are two additional funding opportunities that would allow you

1 to continue this research"?

2 A So what I can say is that just because a grant to a particular recipient is
3 suspended does not in any way preclude them from seeking other sources of funding
4 from the NIH.

5 Q Okay.

6 A Because the recipient is not suspended, only the grant is.

7 Q Okay. Thank you. And I'll move on just so we're not belaboring that.

8 So if you look down -- this is the last question I have for this particular
9 meeting -- on April 23rd, 2021, you said Dr. Daszak submits some documents, then on
10 May 16th your office completed review and determined there were multiple deficiencies.

11 Can you just elaborate on those deficiencies? And to the extent you've already
12 talked about them, if there are any ones that haven't been mentioned?

13 A So there were some subsequent letters that we sent out to EcoHealth in
14 which we laid out those deficiencies in detail.

15 Q Okay. Next sort of section on this report. If we can turn to page 26.

16 A I don't see the page -- oh. I see the page numbers are on the very bottom.
17 Okay.

18 Q Yes. And it is actually this particular meeting agenda begins on 24. And this
19 is notes of an entrance conference held on, I believe, June 30th, 2021?

20 A Okay.

21 Q The part that I'm interested in asking you with is on page 26 where it begins:
22 Dr. Lauer does not believe -- and it's in this -- it's the second to the last -- sort of the last
23 full paragraph, the last two sentences -- Dr. Lauer says he doesn't see how he can put this
24 grant back into active status without receiving answers to NIH's concern.

25 It mentions -- then it goes on to list the letters that you guys sent.

1 So obviously the grant was put back into active status. As a general matter of
2 grant enforcement, who makes that reinstatement decision? Is that made at your office,
3 or is it at the center level?

4 A It depends upon the circumstances. But if there are circumstances that
5 involve concerns about substantial noncompliance, our office would be very much
6 involved in that decisionmaking.

7 Q And then so who has sort of preliminary decisionmaking rights? Is it the
8 institutes or centers? Is it your office? Who's sort of the initiator of, "We're looking to
9 get this person back to yes"? Who starts that process?

10 A It depends upon the specifics. But, for example, if it's our office that's
11 imposing specific award conditions, if it's our office that is working with the recipient on a
12 corrective action plan, if it's our office that's requesting information as part of the
13 compliance review, then we would lead that discussion in collaboration with the IC.

14 Q Okay. And so who did in this instance? Who initiated -- because, I mean --

15 A Yeah.

16 Q -- yes or no, you didn't get the documents you were seeking at the very
17 least?

18 A Yes.

19 Q So who initiated the process of reactivating or putting this grant back into
20 active status?

21 A I don't remember who. I think this was -- there were a number of us who
22 were involved with this.

23 Q Could you elaborate on who was involved?

24 Dr. Lauer. Well --

25 Mr. Rechter. If you know.

1 Dr. Lauer. Well, I know I was involved.

2 BY MR. STROM:

3 Q Sure.

4 A I know that some of my colleagues in the Office of Extramural Research were
5 involved. I did -- I was keeping in very close touch with my supervisor, with Dr. Tabak.
6 And I believe that there were people at NIAID who were involved. But I --

7 Q Okay. Would it be Dr. Erbeling, Emily? I don't think I'm saying her name
8 right.

9 A I don't remember who exactly at NIAID we were working with.

10 Q Okay. We'll keep moving on. So if you can turn to page 44.

11 A Okay.

12 Q So this is notes of a meeting held between OIG and yourself on March 3rd,
13 2022. The note says -- and I will find the part -- that you conferred with other scientists
14 on this matter and they were unable to agree with the EcoHealth Alliance statement that
15 the year-five experiments were simply a continuation of the year-four experiments.

16 Do you recall who you spoke to? And can you list them if you do?

17 A There were people at NIAID, but who exactly I don't remember.

18 Q You don't remember a single specific person?

19 A Well, I do believe that Dr. Stemmy was part of those discussions. But there
20 were others from NIAID as well. And I'm sorry, I don't remember who they were.

21 Q Okay. Just for my general awareness, when you have a research misconduct
22 issue or a scientific integrity issue, is it a common practice for you to sort of consult with
23 colleagues?

24 A Depending upon the circumstances, yes.

25 Q Okay. Do you recall, even though you don't remember these specific people,

1 how you chose that these were the people with the relevant background, knowledge, and
2 sort of expertise?

3 A I don't think I was the one who chose them. I think this was -- as I recall,
4 these meetings were set up by somebody else.

5 Q Okay.

6 A And, obviously, we were critical players in this, and so were our colleagues
7 from NIAID. But I don't remember who chose whom to show up.

8 Q So you don't remember who coordinated this -- you don't remember what
9 office coordinated these meetings?

10 A No, I don't.

11 Q Okay. Last questions on this, and then I'll turn it over to my colleague Alan.
12 If we can go to page 50 through 55.

13 This is the exit conference held between the Inspector General's Office and NIH.
14 There's a complete list of attendees at the end, which begins on page 54 and continues to
15 page 55. Dr. Lauer, you are listed as one of the attendees.

16 So in this note -- in these notes OIG says that -- I apologize, I'll have to take a
17 minute to find the -- it's on page 51 -- that NIH has made extensive changes to its RPPR
18 monitoring system, which includes sending reminders and alerts for the PIs to address.

19 It goes on to note that you said that under normal circumstances, the controls
20 that were in place would have caught this late progress report --

21 A Yes.

22 Q -- but that this was an unusual circumstance.

23 A Yes.

24 Q So RPPRs are the annual progress reports for these grants, correct?

25 A Yes.

1 Q And then, starting with that second sentence: Under normal circumstances,
2 the controls that were in place would have caught this late progress report, but this was
3 an unusual circumstance.

4 Can you elaborate on that?

5 A Yes. So this is what I was talking about, I think, earlier today. This was
6 not -- this was an interim progress report. So this is a progress report that comes
7 between two competitive segments. This is not like between years two and three of one
8 competitive segment.

9 So in this particular case what would have happened is that at the time that the
10 institute would be working up the year-seven, the year-seven grant, the seventh year of
11 the grant, one of the controls that we had in place is that they would have to see whether
12 or not the interim progress report had been received, reviewed, and approved.

13 And they would have seen that that wasn't the case. And then that would have
14 constituted an automatic bar to continue funding. And the grant recipient would be told:
15 It looks like you haven't submitted your interim progress report. Please go ahead and
16 submit it.

17 In this particular case, the timing was such that at the time that that normal set of
18 events would have happened was right at the time that the grant had been terminated
19 and therefore ceased to exist. And so since the grant didn't exist between April of 2020
20 and July of 2020, there was nothing going on, and therefore it wasn't caught.

21 Q Are you aware of whether the program officer, Dr. Stemmy in this instance,
22 would have also received some sort of notification on his side of the system that the
23 progress report was missing, the interim progress report was missing?

24 A So in this particular case, since during that time the grant no longer existed,
25 the grant had been terminated, there were no activities. So I don't know that he would

1 have received something or not, but there were no -- the grant was -- it was as if the
2 grant had vanished.

3 Q Okay. Thank you. That's all the questions I have.

4 A Okay.

5 BY MR. SLOBODIN:

6 Q I just wanted to first follow up on John's line of questioning.

7 So the deadline for the submission of the year-five progress report was
8 September 30th, 2019. I know you talked about the April-July 2020, but how was it that
9 nobody apparently within the NIH that we're aware, we haven't seen any evidence of it,
10 knew about this year-five report not being submitted? So how do you account for
11 September 2019 or up to the point when the grant was proposed or there was an
12 attempt to terminate it?

13 A So at that time the way our system was designed was that the absence of an
14 interim progress report would not be discovered until it was time to receive the next
15 year's progress report, which would then lead to the following year funding.

16 So we're now in year six. There would be a request for the seventh year of
17 funding. That would be the year-six progress report. The way our system was set up at
18 the time is that it would then become apparent that the interim progress report had not
19 been submitted.

20 Q But why wouldn't have your system picked up year-five when they were
21 working on year-six?

22 A I'm sorry?

23 Q So when -- this was a grant renewal, right? Year-five was the last year of the
24 R01?

25 A This is a competitive renewal.

1 Q Right. And by the time they were due to submit their year-five RPPR,
2 EcoHealth had gotten their grant renewed.

3 A Yes.

4 Q They got the money before submitting the RPPR.

5 A Yes.

6 Q Whereas in the previous years to get the money you got to submit the RPPR,
7 right?

8 A Yes.

9 Q So you're telling us there was nothing in the NIH system for the late
10 submission of a year-five progress report for a grant that was renewed. So the situation is
11 we got a grant that was renewed but didn't submit it for year five. You're saying that was
12 a glitch in the NIH system in 2019?

13 A No, I'm not saying that. The system was designed that way so as to prevent
14 gaps in funding. We do not want the science to be interrupted. A competitive renewal is
15 exactly that, it's a competition. It involves submission of a new grant application, which
16 goes through peer review and an extensive deliberative process.

17 And we did not -- the system was designed so that the interim progress report
18 could very well come in after the competitive renewal was funded. That was the way the
19 system was designed, and the system was deliberately designed that way in order to
20 prevent gaps in funding.

1 BY MR. STROM:

2 Q Would it have caught it at year six, that the year-six progress report was due,
3 or the year-seven progress report?

4 A So when the year-six progress report was due --

5 Q In '20

6 A -- in 2020, it would have been in like around, let's say, May of 2020, around
7 that time.

8 Q Yeah.

9 A So when that progress report came in, part of our internal controls that we
10 had in place at the time was to check to see whether or not the interim progress report
11 had been submitted. And if it had not been submitted by that time then that would
12 create an automatic bar and the recipient would be told: We noticed you have not yet
13 submitted your interim progress report.

14 Mr. Rechter. Would that have been an active grant in May of 2020?

15 Dr. Lauer. There was no active grant in May of 2020.

16 BY MR. STROM:

17 Q Because you hadn't awarded the second -- the second non -- the first
18 noncompetitive renewal?

19 A We had not. Yeah, the first noncompetitive renewal of the second
20 competitive segment --

21 Q Yeah.

22 A -- which would have been year-seven.

23 BY MR. SLOBODIN:

24 Q But what you're describing I'm still -- because I'm not sure I'm completely
25 following.

1 So EcoHealth's money for the R02 to get the first installment is not tied to the
2 submission of the year-five RPPR?

3 A That is correct.

4 Q So the processes that would be in place in the four previous years that sort
5 of built in, you don't get your money unless you submit the RPPR. It's not there in that
6 final year. So what we're -- so this is the system.

7 So how could that be? Was EcoHealth the only one that ever had this problem,
8 that this was the first time NIH ever knew about this unusual situation, that you got a
9 renewed grant and for some reason you didn't submit the last year for the R01, nobody
10 would know.

11 A So for the year-six, to get the year-six funding, you have to do much, much
12 more than what you would do in the previous years. Because to get to year-six funding
13 what you have to do is submit a full application. And the full application is essentially in
14 part a progress report of everything that has been done to date.

15 That application goes through peer review. And only about 35 percent of those
16 applications actually get funded.

17 So I think there's an important point to make here, which is that in fact to get the
18 year-six funding it is much more difficult than in the previous years because you have to
19 go through a whole competition, and you have to submit much more documentation than
20 what you would submit in the progress reports previously.

21 Q So let me ask you about that then, because if there -- so in this particular
22 case, EcoHealth was competing to get a renewal of their grant, of research projects, and
23 they submitted in November of 2018. So this was six or seven months after they
24 submitted their RPPR for year four.

25 So what would you expect they would have had in the submission for the renewal,

1 the application? If you go into the peer reviewers, would they have included any
2 information from the year-five, but had not yet been put in the year-five RPPR? Would
3 you expect that there would have been any additional information in the renewal
4 application than what was in the year-four report?

5 A Yes.

6 Q So in this case there wasn't any?

7 A What would be in --

8 Q On the experiment that everybody is -- received a lot of attention, the
9 transgenic mice experiment.

10 Mr. Rechter. If you can let the witness answer the question.

11 Mr. Slobodin. Yeah, I'm just clarifying what I'm talking about.

12 Dr. Lauer. What would be in a competitive renewal would be a summary of all the
13 work that had been done to date, along with a description of the plans for the second
14 competitive segment. So there would be a lot more information that would appear in a
15 competitive renewal than what would appear in a standard progress report.

16 BY MR. SLOBODIN:

17 Q So if there were two experiments -- because this is an issue now in dispute
18 between NIH and EcoHealth; continues to be in dispute. EcoHealth has said publicly that
19 the charts from this transgenic mice experiment that were in year -- there are different
20 charts, there were bits and pieces, but they all related to the same experiment.

21 NIH is not agreeing that it's a single experiment, has not reached that conclusion,
22 or was the reason you asked EcoHealth to get the lab notebooks and the other materials,
23 right?

24 You got to say yes for the stenographer?

25 A Well, I would say that we don't know. We are not convinced that they were

1 the same experiment. And so we determined that we needed additional information in
2 order to make an informed assessment, and that's why we asked for the additional
3 information.

4 Q Right. So what I'm saying is in the submission for the renewal, it's the same
5 information that's in the year-four report. There's no information that was in the
6 year-five RPPR that NIH didn't get until almost two years after the deadline.

7 A I don't recall what was in the competitive renewal.

8 Q Right. Well, wouldn't you have looked at that, though, while you were trying
9 to resolve this issue? Did you guys look at that?

10 A I don't remember looking at it.

11 Q Well, as a practice, if you got a question, and the grantee's disputing publicly
12 with the NIH about what was actually done, wouldn't you look at that just as a matter of
13 good--

14 A As a general practice, yes, but I don't remember what exactly I looked at or
15 what we relied on our NIAID colleagues to opine about. I don't remember.

16 Q But you'd agree that would make sense, to look at that, under these
17 circumstances?

18 A Yes.

19 Q Okay. So now back to this issue about the system. So I get there was a lot
20 more work, but that they were doing in year -- during this time with the renewal, but they
21 were still required to submit the year-five RPPR. That's still there. That doesn't go away
22 because they have a lot more work to do during that year, correct?

23 A Yes.

24 Q So was this the first time that you've ever seen this phenomenon where the
25 last year of an R01 RPPR is not submitted to NIH, they get renewed, and NIH doesn't learn

1 about the missing RPPR until much later? Did that ever happen before?

2 A Typically, we would -- if the -- at that time, under the set of controls that we
3 had at that time, typically we would find out that a report -- that an interim progress
4 report was late about six to eight months later.

5 Q Right. Which tells me there's a gap. And so what I'm trying to find out, was
6 this the first time you ever had that situation where you found out six to eight months or
7 two years, you ever had a similar situation to this?

8 A So we have not had a situation where an interim progress report was
9 two years late, but on the other hand we did have circumstances where an interim
10 progress report might be missing up until 6 months later. That was true. That was the
11 way the system was set up at that time. And since that time we have made our controls
12 more robust to prevent that type of thing from happening.

13 Q When did NIH know about that, about this problem, this glitch? EcoHealth
14 wasn't the first time.

15 A Well, we knew that there were circumstances where the interim progress
16 report came in late. We did know about that.

17 I would point out that in years past we didn't even require that at all because the
18 sense was that the competitive renewal essentially was the interim progress report.

19 So this was a requirement that we put into place for an interim progress report I
20 believe at around 2017, maybe, 2016, 2017, I don't remember exactly when. But let's say
21 in 2013 or 2014 such a report wouldn't even have been required at all because the sense
22 was that the competitive renewal, that was the big interim progress report.

23 Q Okay. So one of the other main compliance issues your office raised with the
24 EcoHealth grant in question here was not complying with the special grant terms
25 involving excessive virus growth were logged more than parental backbone strain, the

1 comparator.

2 Could you walk us through what was the process of how this issue got flagged and
3 how you all reached the conclusion that they weren't in compliance?

4 A When the year-five progress report came in, in August of 2021, I was told
5 that people had looked at it and they had seen a description of a set of experiments in
6 which it appeared that there had been a greater than one log increase in viral activity and
7 that that appeared to be real because it correlated with a dramatic increase in the
8 mortality of the animals that had been infected by those viruses.

9 And so, therefore, the fact that this information had not been made available to
10 us previously might have constituted a violation of terms and conditions of award.

11 Q Why do you say "might"?

12 A I'm sorry?

13 Q You said might violate the special terms and conditions.

14 A Yes.

15 Q So what's in question?

16 A Well, what came in question was, had this experiment been reported
17 previously? If so, when was it reported? How was it reported? Whenever we have a
18 situation where we see -- where we think that there might be a violation of terms and
19 conditions, what we do is we ask questions, we gather information, we gather data. We
20 don't just assume that our first impression is the right impression.

21 Q Okay. Oh, I meant to -- I had one other question on this late year-five report.

22 You said earlier to somebody's questioning today that you were not convinced
23 that EcoHealth -- EcoHealth sent a product. They had a submission. They were trying to
24 submit it in July 2019, and they experienced a lockout. They were locked out of the eRA
25 Commons system, and they weren't able to do it.

1 Now, you said you were not convinced. So could you explain why you were of
2 that view?

3 A Yeah. So our office did an electronic forensic investigation of EcoHealth's
4 encounters with our grant system, and that included both looking at activity logs. Every
5 time that anyone interacts with our system, there is an activity log that describes when
6 they came in, who came in, what actually happened.

7 And it also involved our help desk ticket. So we have a help desk. And so
8 whenever somebody calls in and says, "I am having problems with the system," that
9 encounter that they have with our staff is recorded.

10 We never found any evidence that they had been locked out of our system. We
11 did see that on one day somebody from EcoHealth had attempted to log in through
12 one -- you can log into our system in multiple different ways. And they had attempted to
13 log in in one way and had entered the wrong password, I think, three times. And so that
14 particular channel did get blocked.

15 But then, on the very same day, later they were interacting with our system
16 having logged in through a different route.

17 And then we looked at the help desk tickets, we also looked at emails with NIAID
18 staff, and we never saw any evidence that they claimed that they were unable to submit
19 their progress report because the eRA system had locked them out.

20 Q Okay. And if it had locked them out, weren't there other ways they could
21 have gotten the report into NIH if they had called somebody?

22 A If they were unable to submit any document because they had been locked
23 out of the system, then what they would do is they could call up our help desk, and then
24 our help desk would work with them to figure out what was going on.

25 Mr. Strom. Do you recall what day this activity log occurred where the person got

1 locked out, even just approximation?

2 Dr. Lauer. No, sorry.

3 BY MR. SLOBODIN:

4 Q So now back to this excessive virus growth policy, because I am trying to
5 understand the nature of this oversight.

6 So you said at a staff briefing when this issue came up that for the year-four
7 progress report that there was no excessive virus growth. Although, there was a chart in
8 the year-four report, and it's on page 46 in those documents, it's figure 35. And if you
9 look at the two days post-infection, so that's the X axis, so they were taking
10 measurements, and 35-B, the bar graph, represents viral load in lung tissues.

11 A Uh-huh.

12 Q And on two days post-infection, when WIV-1 is the parental backbone?

13 A Uh-huh.

14 Q You'll remember that was the comparison in the letters. And then you look
15 at the next bar, next to it, it's cross-hashed to SHC014?

16 A Uh-huh.

17 Q And you see X almost -- we're in three logs, not one log, three logs more,
18 two days post-infection. And yet your all's conclusion is that there was no excessive virus
19 growth in what was submitted in year-four?

20 A So I remembered that there were discussions about this with our colleagues
21 at NIAID, and they were not convinced that this constituted a real problem. And as I
22 recall, part of the thinking was, if you look further out in this plot at the end of the
23 experiment, what's called the dead point, actually, if anything, WIV-1 and the second one,
24 they're exactly the same. And then the third one is actually less.

25 Another point that was made was that these -- what's observed here did not

1 correlate with the -- if you want to call it -- the clinical outcome that was measured, which
2 was the change in body weight shown in the first plot.

3 And so in our discussions we were quite uncertain about this, and that's just part
4 of the reason why we felt it was important to get the original electronic records or files as
5 well as the original lab notebook entries.

6 Q So you're saying, I just want to confirm, that looking at this, what was
7 submitted in the year-four report, this chart, actually Figure 35, that the line graph on the
8 weight loss is not consistent, not in alignment with what's in the bar graph.

9 A That's what I recall in those discussions. But I think the main point that I'm
10 trying to make here is that we really weren't sure. We did not know.

11 Q Right.

12 A And because we did not know, that was why we needed to see the original
13 lab notebook entries as well as the original electronic file.

14 Q Okay. What I don't understand, though, is why NIAID would think there was
15 a problem, because -- of some kind, okay? It might not be in violation of excess virus
16 growth, it may be there's some other kind of problem as far as are you getting accurate
17 results here.

18 But what I want to clarify is had they been consistent -- is it your position that
19 EcoHealth could have been in violation of excess virus growth policy in year-four, at the
20 internal agreement with the data when they had the measurements on day two, or it only
21 matters at the end of the experiment where your virus growth was at?

22 A So my position, based on what I personally observed and my own direct
23 experiences, is that at the time there was a great deal of uncertainty. We could not say
24 that they were out of compliance in year four or that they were in compliance in year
25 four. We could not say whether it was the same set of experiments or a different set of

1 experiments. And so, therefore, as we would do in any standard compliance review, we
2 asked for more data.

3 Q But isn't part of the problem the policy itself, right? Because the policy itself,
4 it doesn't say. It didn't say excessive virus growth at the end of the experiment. It just
5 said at some point stop the experiment.

6 Now, if EcoHealth was right and there was only one experiment, and then, say,
7 they collected all of their specimen samples -- the brain tissue, lung tissue -- but they
8 don't do the measurements until -- they do them all together. They don't do them every
9 two days. Maybe they do it all at the end of the experiment. So they don't know in real
10 time until the experiment is done.

11 A Uh-huh.

12 Q And then they would report out. But then the problem is, if EcoHealth was
13 right and there was a single experiment, there's nothing left to stop, right? It's all done.

14 The whole point of having an excessive virus growth policy, what's the point if you
15 don't get the measurements until after the end, unless there's an understanding that
16 there were multiple experiments and the idea was if you're doing it at the end of the
17 experiment it's because, if they see it at the end, then they talk to NIH to see whether
18 they go and do more experimental work. Wouldn't that make sense?

19 A Okay.

20 Q But do we know -- we don't know whether that happened.

21 A I think -- and, again, I'll stress the main point here, which was that in the
22 course of our internal discussions, including our discussions with NIAID, we really weren't
23 sure what had happened, what had not happened, what was reported, what was not
24 reported, what was timely, what was not timely. And the way we could settle it was by
25 seeing the original lab notebook entries and the original electronic files.

1 Mr. Rechter. I think you ought to allow him to answer the question, Alan.

2 Mr. Slobodin. Right. But I want to understand --

3 Mr. Rechter. I know, but --

4 Mr. Slobodin. He's got to enforce the policy. And my concern is this policy wasn't
5 well written.

6 It also didn't specify how it's to be measured. EcoHealth said that it didn't specify,
7 that there were different ways to measure the pathogenicity. There are viral titers and
8 there's --

9 BY MR. STROM:

10 Q Was your understanding of the policy was EcoHealth required to measure
11 their experimental virus growth in such a way that they were would know what then
12 tripped over one log?

13 A I don't know.

14 Q And then I think, to Alan's point here, there's nothing in the policy that says
15 when you have to report the virus -- like, when the virus growth is measured. So whether
16 it's at the end or whether it spikes in the middle of the experiment and they're
17 monitoring it and they catch it.

18 A I don't know. What our responsibility is within our particular office is to
19 determine whether or not -- was there a compliance -- was there a problem with
20 compliance?

21 And in many cases compliance concerns involve the scientific expertise of our
22 colleagues. That's not something that we would make a judgment on. So we rely on the
23 scientific expertise of our colleagues.

24 And then another aspect, important role for our office is to move the process
25 forward. So if that includes, for example, requesting additional information or requesting

1 additional data, we would help facilitate that, which is what we did here.

2 Q Got it. Thank you.

3 Mr. Slobodin. What about on the pathogenicity? That was the whole point of the
4 experiment, right, is to see what the pathogenicity would be of these viruses.

5 Why would they -- and you pointed this out too about the mortality rates. Why
6 weren't they looking at -- why was so much looking at the virus growth and not the
7 number of deaths?

8 Mr. Rechter. Only if you know.

9 Come on, Alan.

10 Dr. Lauer. I don't know.

11 Mr. Slobodin. But you're a scientist. I'm just saying, at a very general level,
12 doesn't require virology expertise, isn't the more compelling evidence the deaths as
13 opposed to what the particular viral measurement is in tissue?

14 Dr. Lauer. So I would say that on a very general level there was enough here for
15 us to be asking questions. And that was the reason why we requested the additional
16 information, the original electronic files and the lab notebook entries.

17 Mr. Rechter. Can we move on to another line of questions, Alan?

18 Mr. Slobodin. Just a quick technical point.

19 So the special grant terms were not included in the year-four notice of award.
20 This was the year -- at least EcoHealth will agree this is when the experiments were
21 conducted.

22 So is that a legal problem? Would that have been a --

23 Mr. Strom. Does that prohibit -- does that cause issues with you taking action
24 against them, because it's not in the terms of the award?

25 Dr. Lauer. I don't think so, no.

1 BY MR. SLOBODIN:

2 Q So in the debarment action memo for the Wuhan Institute of Virology it said
3 that: NIH experts determined it was more probable than not that there were two
4 experiments. Did you know that?

5 A If that was in the memo.

6 Q Is that --

7 A Yeah.

8 Q -- consistent with your recollection?

9 A Yes. You're not showing me the memo right now. But --
10 Dr. Rechter. Do you have something to show the witness?

11 Mr. Slobodin. I can show you the memo, but it's a public document.

12 Mr. Strom. It's a public OIG report.

13 Dr. Lauer. But, yes.

14 Mr. Rechter. Is it the OIG report or the debarment memo?

15 Mr. Slobodin. It's the debarment action memo from -- it's not -- there's no date
16 on it.

17 Mr. Benzine. There's a date on this too.

18 Dr. Lauer. There it is. This is the SDO memo? This is the memo written by the
19 SDO?

20 Mr. Rechter. Alan, why don't you use the document, Alan, if you're going to show
21 it?

22 Mr. Slobodin. Yes, it's in paragraph 27, the last sentence.

23 Mr. Cooke. What record are you looking at?

24 [Lauer Majority Exhibit No. 14

25 Was marked for identification.]

1 Mr. Strom. This will be majority exhibit No, 14, Action Referral Memo issued by
2 the Department of Health and Human Services, Office of the Secretary.

3 While it is -- well, there's no date on it. Take a look at that. And we'll let you guys
4 take a look at this copy, and we apologize about not having more of them.

5 Dr. Lauer. Okay.

6 [REDACTED]. I'm sorry, what was this document?

7 Mr. Slobodin. It's an HHS document. It's a justification for the proposal to debar
8 the Wuhan Institute of Virology. It's July of 2023. It's sort of a chronology [inaudible].
9 One of them was a discussion about -- it's paragraph number 22. And there the issue is
10 about --

11 Mr. Rechter. It is dated -- excuse me, Alan -- for the record, it is dated July 17th,
12 2023.

13 [REDACTED]. Sorry, Alan, are there more of them, because there are like five of
14 us?

15 Mr. Slobodin. Yeah. No, sorry, I didn't make copies. But we can -- you guys
16 can -- I have an extra copy. But it simply says that NIH experts.

17 BY MR. SLOBODIN:

18 Q Do you know which NIH experts they're referring to there?

19 A No.

20 Q Well, do you remember hearing anything like that --

21 A Yes.

22 Q -- that was more probable than not?

23 A Yes, more probable than not. That would be 51 percent, 51 percent or
24 higher.

25 Q Do you agree with that?

1 A Based on the information that we had at the time and based on what I know
2 now, yes, I would still agree with that, that it was more likely than not that these were not
3 the same set of experiments. But 51 percent still constitutes a high level of uncertainty.

4 Q So, again, to get more clarity about the issue of immediate notification from
5 the recipient. So when you have a situation where you've got a grantee like EcoHealth
6 Alliance and they're working with a foreign subgrant recipient doing the research -- and
7 you saw the correspondence, I'm going to rehash this -- what is NIH's expectation as to
8 the role of the recipient, of the grantee? Are they on supposed to be in the loop when
9 they say they're going to monitor?

10 I mean, we have no idea when the experiment or experiments were conducted
11 and EcoHealth ain't telling apparently. We still don't know. I mean, they're claiming it's a
12 single experiment. But you guys are thinking -- and they haven't explained the
13 discrepancies about, notwithstanding the discrepancies, why they think there's a single
14 experiment?

15 So, you know -- so -- anyway, the immediate notification --

16 Mr. Rechter. What is the question?

17 BY MR. SLOBODIN:

18 Q Yeah, the question's on immediate notification.

19 A Yeah.

20 Q So you said it depended on the circumstances. But I want to know -- I mean,
21 the grantee, as the grantee, has the responsibility -- I mean, RPPR is an important
22 document, it's a critical document for NIH, and you want it to be as accurate as possible,
23 correct?

24 A Yes.

25 Q And the recipient, by taking the funds, are committing that what they're

1 submitting to the NIH is going to be accurate.

2 A Yes.

3 Q So the problem is that EcoHealth -- we have no evidence that EcoHealth ever
4 had any access. Do you have any evidence that EcoHealth ever had any access to these
5 experiments, to the electronic files or the lab notebooks, that they ever saw them? Did
6 you ever ask him that?

7 Mr. Rechter. There are three or four questions in there. What is your question?

8 Mr. Strom. Did EcoHealth ever have -- indicate to you that they had access to the
9 electronic files at the WIV for these experiments?

10 Dr. Lauer. What I do know is that we asked EcoHealth twice to provide us with
11 copies of the original lab notebook entries and with the original electronic files and that
12 twice they said that they passed on the request to WIV and they hadn't heard back.

13 Mr. Slobodin. But had they ever had --

14 Dr. Lauer. That's what I know.

15 Mr. Rechter. Let the witness answer the question please.

16 BY MR. SLOBODIN:

17 Q Had they ever had access?

18 A I can only answer what I know.

19 Q Did you ever ask whether they ever had access?

20 A No.

21 Q Well, wouldn't you want to know that? Because they included the
22 information from these experiments that have anomalous results. We just talked about
23 that.

24 Mr. Cooke. So is the question: Would you want to know that?

25 Mr. Slobodin. Yes. Would you want -- would you want EcoHealth -- isn't

1 EcoHealth supposed to know that the information they're putting in an RPPR is accurate?

2 Dr. Lauer. Yes.

3 Mr. Slobodin. So how would they know it if they didn't have access to the lab
4 notebooks or the electronic files for this experiment?

5 Dr. Lauer. That is why we asked for the -- we asked them to provide us with them.

1 [1:42 p.m.]

2 BY MR. SLOBODIN:

3 Q Well, that's after the fact. They had a requirement, right, as a grantee,
4 taking NIH's money -- they committed to it in the letters. They committed to monitoring
5 the sub-grantee.

6 So weren't they supposed to know -- around the time these experiments are being
7 conducted, they should've had access. They should've been knowing what's going on.
8 And wouldn't you want to ascertain that, to see if they were even doing that?

9 Mr. Cooke. I think he's spoken to this a few times now.

10 Mr. Slobodin. He's not spoken to it. We don't know.

11 You're looking prospectively about getting the records that you don't have now.
12 But the question is, why were we even in this box to begin with? And how could you
13 even be confident that what was submitted wasn't, you know --

14 Mr. Rechter. Alan, discrete, straightforward, noncompound questions, please.

15 Mr. Cooke. Just for a clear record, it's helpful to know exactly what's being asked
16 so that he can give an answer to that question.

17 Mr. Slobodin. Yeah, I understand.

18 BY MR. SLOBODIN:

19 Q So the question is, why didn't you guys -- why didn't OER ask EcoHealth
20 about whether they ever had access to the lab notebooks or the data from these
21 experiments? How did they even know what they sent in those reports were accurate?

22 Mr. Cooke. Sorry. And so what is the question?

23 Mr. Rechter. That was three questions.

24 Mr. Slobodin. That was the question.

25 Mr. Rechter. That was three questions, Alan. Please state one question, one part.

1 Mr. Slobodin. It is -- the question is out there: Why didn't you ask what EcoHealth
2 knew at the time of these experiments?

3 Mr. Cooke. Okay.

4 Dr. Lauer. I think we made a presumption that, by virtue of the fact that they
5 were not able to produce these records for us, that they did not have direct access to
6 those records. That's a presumption that we made.

7 BY MR. SLOBODIN:

8 Q Well, why make a presumption? Why not ask?

9 A What we asked for was more than that. What we asked for was for the
10 records themselves.

11 When we did not get those records, we then went ahead and took appropriate
12 actions related to that, including the termination of the sub-award and including
13 additional specific award conditions so as to improve EcoHealth's oversight of
14 sub-awards.

15 Mr. Strom. If I could maybe try to summarize --

16 Mr. Slobodin. But it goes to their integrity. It goes to their integrity, Dr. Lauer.

17 Mr. Strom. I got it.

18 BY MR. STROM:

19 Q If I can try and summarize, you never asked EcoHealth the question, whether
20 they had -- prior to your inquiry, whether they had had sort of near-real-time or
21 continuous or some form of access -- near-contemporaneous access to those lab records.

22 A That's right.

23 Q That was not asked.

24 A That was not asked.

25 Q Okay. Thank you.

1 Mr. Rechter. I think we're out of time here for this round, about an hour.

2 Mr. Slobodin. Well, it's up to you guys. I only have a few more questions, so it's
3 up to you, if you just --

4 Mr. Osterhues. I've got 6 minutes and 40 seconds left.

5 Mr. Rechter. Okay. Can you do it in 6 minutes, do you think?

6 Mr. Slobodin. I will do what I can in the 6-1/2 minutes here.

7 Mr. Rechter. Okay. Great.

8 BY MR. SLOBODIN:

9 Q So, without the lab notebooks or the other documentation on these
10 experiments, is NIH able to conclude whether the virus-live-growth increases could've
11 represented an enhanced pathogen of pandemic concern potential?

12 Mr. Cooke. If you can answer.

13 Dr. Lauer. Yeah, so that's beyond my area of expertise. What I'm being asked to
14 do and what the role of our office is is to determine whether or not there may have been
15 a violation of terms and conditions of award.

16 BY MR. SLOBODIN:

17 Q I didn't see the total number of mice that were involved in this experiment,
18 nor do we know the number of mice that were euthanized or how they were euthanized.
19 Do you know, based on the --

20 A I don't know.

21 Q Okay. And without the lab notebooks and the electronic files, we don't
22 know.

23 A I don't know. That's right.

24 Q So -- and yet, in the -- you had mentioned to the IG on page 335 that --

25 Mr. Strom. Of exhibit 13.

1 Mr. Slobodin. Yeah, exhibit 13.

2 Mr. Rechter. What page?

3 Mr. Slobodin. 335.

4 BY MR. SLOBODIN:

5 Q -- that NIH is satisfied with EcoHealth's compliance regarding the IACUC
6 approval issue, animal care issue. So --

7 Mr. Rechter. Just give the witness a second, please.

8 Mr. Slobodin. Yeah.

9 Mr. Rechter. Where is it?

10 Mr. Cooke. So are we referring to the response to question 4 in the middle of the
11 page?

12 Mr. Slobodin. Let me look for the -- yes. It's the fourth full paragraph. And it's the
13 second sentence. Dr. Lauer stated that EHA had responded to the request. NIH is
14 satisfied with EHA's compliance regarding the IACUC approval issue.

15 Dr. Lauer. Yes.

16 BY MR. SLOBODIN:

17 Q So how could you be satisfied, when you just told me we don't know the
18 total number of mice, we don't know how many were euthanized, we don't even know
19 how they were euthanized, and we don't have the lab notebooks with the documentation
20 that would tell us?

21 A The IACUC approval issue that we were discussing here had nothing to do
22 with the experiments that were done in the WIV laboratory. That was a totally separate
23 issue.

24 Q Okay. So do we have an issue with the WIV experiments on this?

25 A We do have questions about the W -- not regarding the IACUC, but we do

1 have questions about the WIV experiments. That's why we asked for the original
2 laboratory notebook entries as well as the original electronic files.

3 But what is referred to here in this paragraph deals with a completely different set
4 of questions.

5 Q But that's a problem, that we don't know, right? Or is the lack of statistical
6 power that potentially is there, would that get EcoHealth off the hook on the excessive
7 virus growth policy?

8 They're arguing, well, you know, if you're going to make that an issue, we're going
9 to argue our study wasn't that statistically powered. So it wouldn't matter if it only had
10 three mice and they had excessive virus growth. NIH would let them off the hook?

11 A So, sometimes when we have compliance issues, like in this case, we need to
12 consult with scientific experts at the agency. And so the role of our office is to deal with
13 compliance concerns as they come up. Sometimes we need the help of our colleagues
14 who have the scientific expertise to address a question like that.

15 Q Are you aware of any other problems with the eRA Commons system? Are
16 you aware about what happened with the year-four progress report from EcoHealth in
17 the Freedom of Information Act request, where apparently the document that was
18 produced auto-filled-in some sections of the report?

19 A Yes.

20 Q You're shaking your head.

21 A Yes.

22 Q So what's the problem there?

23 A So the problem there was that, at one point, some of our staff at NIH
24 requested the ability to regenerate -- a functionality to regenerate a progress report if it
25 had been discovered later on that there had been errors when the original progress

1 report was submitted. So what that functionality would allow is for a new progress
2 report to be regenerated. The old progress report never disappears. It never leaves our
3 system, but the new regenerated progress report would appear.

4 We now have greatly restricted the use of this functionality. And so, while that
5 functionality is still in place, it requires multiple layers of clearance before we actually do
6 it. This is something which is used very rarely. In fact, since that particular regenerated
7 progress report, there has not been a single other case where this has been done.

8 Q Did you make any referrals to the inspector general on the EcoHealth grant?

9 A So, in one of the previous documents that, you know, somebody showed
10 me -- maybe it was John -- there was a timeline, and part of the timeline was that we
11 thought it would be a good idea -- or, let me -- just one second. I'm going to go back a
12 second.

13 So another thing that John showed me was that, on May 6, 2020, we contacted
14 the OIG. And we contacted them both verbally as well as in writing. John actually asked
15 me that question.

16 Q For what purpose?

17 A So, at that time, there were questions about safety, biosafety, within the
18 WIV laboratory. We had a call with the IG to ask us about what we knew at the time. So
19 we had that conversation, and then that was followed up by an email, which I sent.

20 Q And that's the only referral you made to the inspector general?

21 A And then a second -- I don't know whether you would call it a referral or not.
22 But we thought, in the spring of 2021, I think -- I think it was the spring of 2021. It was
23 whenever we had that -- it would've been before we had that opening entrance
24 conference with the IG that John was asking me about.

25 Mr. Strom. June 2021, thereabouts?

1 Dr. Lauer. Okay. So it would've been in the spring of 2021 that we thought it
2 would be a good idea for the IG to conduct an audit of the grant, including an audit of
3 EcoHealth. Now, it turned out in retrospect that they had the idea also, and they were
4 going to do it. But we thought that it would be a good idea for them to do that.

5 We have had previous cases, noncompliance cases, where we have asked the IG
6 to audit a particular grant. So, because we've had that experience before, we thought
7 that might be a good idea here.

8 BY MR. SLOBODIN:

9 Q This has come out in some FOIA productions, and we actually talked about
10 this with the inspector general at HHS when she was before our subcommittee. So there
11 was some sort of investigation that the IG conducted into EcoHealth -- investigation, not
12 an audit.

13 So that referral had nothing to do with you or the genesis of that investigation?

14 Mr. Cooke. If you know.

15 Mr. Rechter. If you know.

16 Mr. Strom. Yeah, just --

17 Dr. Lauer. I don't know. What I do know is that, as John pointed out, we had a
18 conversation, both verbal and written, with the IG in May of 2020.

19 Mr. Strom. Can -- are you finished?

20 Mr. Slobodin. Go ahead.

21 BY MR. STROM:

22 Q Can I ask one quick question, just so I'm understanding this?

23 So you said the issue with the regenerated year-four progress report is very rare,
24 and there's not been a single other instance where this happens?

25 A Since then, that's right.

1 Q Since then?

2 And then you also said the issue with the year-five progress report is presumably
3 very rare. You've not come up with another instance where that's happened, or are not
4 aware of another instance where that happened.

5 A Yes. So the problem with the year-five progress report, the reason why our
6 system, as designed, did not catch it was because the grant had been terminated in April
7 of 2020. And so, essentially, during the period of time when it should have come in, the
8 grant did not exist.

9 I do think it's important to point out that, throughout this entire time, when there
10 are concerns, you know, as it became apparent that the progress report had not come in,
11 that the grant was completely inactive. The grant was suspended. And, in fact, we
12 explicitly stated that no monies could be spent for grant-related activities.

13 Q Okay. Thank you.

14 Mr. Rechter. So we've got to be close to time now.

15 Mr. Osterhues. We just hit it about 2 minutes ago.

16 BY MR. SLOBODIN:

17 Q I just have one last question. I just want to know, what do you think of
18 EcoHealth's conduct with regard to this oversight of the WIV?

19 A Well, I think that -- you know, what I think has been articulated in the
20 correspondence that I sent, that there were a number of significant compliance concerns,
21 that those compliance concerns led to our implementation of specific award conditions as
22 well as the termination of a sub-award. And, as is the case with all of our compliance
23 cases, our ultimate goal is to bring the recipient back into compliance.

24 Q Well, I'm left unsettled, because you're saying you don't agree with
25 EcoHealth's statement that there was a single experiment. And they were not in

1 compliance in terms of ensuring the accuracy of information in the RPPR. So what do you
2 think of that?

3 Mr. Rechter. Dr. Lauer has answered that question, Alan. He just answered that
4 question.

5 Mr. Slobodin. No, he hasn't really addressed why that's not a -- doesn't rise to a
6 level of an actionable concern of some kind.

7 Mr. Rechter. One more time, and then we're done.

8 Dr. Lauer. We, in fact, did take actions. We took a lot of actions. We terminated
9 the sub-award --

10 Mr. Slobodin. On an integrity issue.

11 Mr. Rechter. Please let him answer the question.

12 Mr. Cooke. Let him finish, please.

13 Dr. Lauer. We, in fact, did take action. We took a lot of actions. We terminated
14 the sub-award. We imposed numerous specific award conditions on the grant recipient.
15 We had also implemented a corrective action plan. We took a lot of steps.

16 Mr. Rechter. Great. We're at time.

17 [REDACTED]. I had two clarifying questions and one other thing I wanted to put
18 on the record. I defer to you and the witness in terms of whether you'd like a break first
19 or --

20 Dr. Lauer. No, we're good.

21 [REDACTED]. Okay.

22 Mr. Benzine. Can your mic pick him up?

23 The Reporter. Yes.

24 [REDACTED]. I'll speak loudly on this one in particular.

25 So I just wanted to put something on the record on majority's exhibit 13. So this is

1 a 345-page production from the HHS OIG. I'm assuming that this was a response that
2 they gave to a May 8th letter from Chair Rodgers and others. Our Ranking Member
3 Pallone and Ranking Members Eshoo and Castor were both CC'ed.

4 This is the first time I've seen this document. This was never provided to us. This
5 obviously is a substantial production, both in terms of volume and substance. It formed
6 the predicate of the majority of our majority colleagues' questions on Energy and
7 Commerce.

8 And, you know, this is a committee document, so the irony is not lost on me that
9 we're talking about documents being submitted late or missing and we are missing an
10 entire production that is fundamental to our ability to participate in a transcribed
11 interview.

12 So I would just respectfully ask that we make sure that we have all the
13 productions that have been provided to you in this investigation so this doesn't happen
14 again. Because it hinders our ability to meaningfully participate otherwise, and it's
15 required by the rules.

16 [REDACTED]. If I could add, that has not happened with respect to the select
17 subcommittee today, and so I'm not repeating that. However, I would repeat the part
18 about ensuring that we also have access to whatever it is that our majority has access to.

19 Mr. Benzine. This was not produced to us.

20 [REDACTED]. Yes, I understand.

21 Mr. Strom. Okay. And I will apologize, and we'll conference with you after this to
22 make sure that we don't have a repeat and that we are looking at the same productions.
23 So I apologize.

24 [REDACTED]. That would be great. Thank you.

25 BY [REDACTED]:

1 Q So two quick clarifying questions.

2 So I just want to confirm -- and I think you've said this before, but I just want to
3 confirm -- that no grant funds went to Wuhan Institute of Virology since you sent the
4 letter to EcoHealth on April 19 of 2020, correct?

5 A Yes. As far as I know, yes.

6 Q Okay. And so, regardless of the delay on the year-five progress report, that
7 was not material to whether the Wuhan Institute received any additional funds, because
8 it has not received any additional funds since April 19 of 2020, correct?

9 A Yes. That's right.

10 Q Okay. Thank you.

11 That was it for me.

12 [REDACTED]. Off the record?

13 [REDACTED]. Off the record. Thank you.

14 [Whereupon, at 1:59 p.m., the interview was concluded.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date