

INVIVO CORP
Form 10-K/A
November 12, 2003

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FORM 10-K/A

Amendment No. 1

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

- x **Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the fiscal year ended JUNE 30, 2003**

OR

- o **[] Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the transition period from _____ to _____**

Commission file number 0-15963

INVIVO CORPORATION

(Exact name of registrant as specified in its charter)

DELAWARE
(State or other Jurisdiction
of Incorporation or Organization)

77-0115161
(I.R.S. Employer
Identification No.)

4900 HOPYARD RD., SUITE 210,
PLEASANTON, CALIFORNIA
(Address of principal executive offices)

94588
(Zip Code)

Registrant's telephone number, including area code: (925) 468-7600

Securities to be registered pursuant to Section 12(b) of the Act:
NONE

Securities to be registered pursuant to Section 12(g) of the Act:
COMMON STOCK, \$.01 par value per share

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes o No x

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The aggregate market value of registrant's voting Common Stock held by non-affiliates of the registrant as of December 31, 2002 was approximately \$56,397,200.

There were 3,917,149 shares of the registrant's Common Stock, \$.01 par value per share, outstanding as of September 19, 2003.

DOCUMENTS INCORPORATED BY REFERENCE:

Portions of the Registrant's definitive proxy statement to be filed pursuant to Regulation 14A not later than 120 days after the end of the fiscal year June 30, 2003 are incorporated by reference in Part III.

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NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K contains forward-looking statements regarding Invivo Corporation's plans, expectations, estimates and beliefs. These forward-looking statements are only predictions and involve risks and uncertainties, including among other things, statements regarding the Company's anticipated revenue, costs and expenses. Actual results could differ materially from those discussed in, or implied by, these forward-looking statements. Forward-looking statements are identified by words such as believe, anticipate, expect, intend, plan, will and other similar expressions. In addition, any statements that refer to expectations, projections or other characterizations of future events or circumstances are forward-looking statements. You are cautioned not to place undue reliance on the forward-looking statements, which speak only as of the date of this Annual Report on Form 10-K. The Company is not obligated to update or revise these forward-looking statements to reflect new events or circumstances. Factors that could cause actual results, events or circumstances to differ from forward-looking statements made in this report include those set forth in the following Risk Factors section. You are also urged to carefully review the risks described in other documents that Invivo Corporation files with or furnishes to the Securities and Exchange Commission from time to time, including quarterly reports on Form 10-Q and current reports on Form 8-K.

WE HAVE AMENDED OUR ANNUAL REPORT ON FORM 10-K FOR THE YEAR ENDED JUNE 30, 2003 TO REFLECT OUR THREE FOR TWO STOCK SPLIT THAT WAS EFFECTED ON SEPTEMBER 26, 2003. ITEMS 5, 6, 7, AND 8 UNDER PART II HAVE BEEN AMENDED.

Table of Contents**PART II****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS****MARKET INFORMATION**

The Company's common stock is traded on the Nasdaq National Market under the symbol SAFE. The following table describes, for the quarters indicated, the high and low sale prices for a share of the Company's common stock as reported on the Nasdaq National Market.

	<u>HIGH</u>	<u>LOW</u>
YEAR ENDED JUNE 30, 2003		
First Quarter	\$ 10.13	\$ 8.08
Second Quarter	\$ 10.29	\$ 7.63
Third Quarter	\$ 10.17	\$ 8.77
Fourth Quarter	\$ 12.30	\$ 8.89
YEAR ENDED JUNE 30, 2002		
First Quarter	\$ 8.05	\$ 5.94
Second Quarter	\$ 9.10	\$ 7.33
Third Quarter	\$ 9.00	\$ 7.76
Fourth Quarter	\$ 10.19	\$ 7.33

As of June 30, 2003 the Company had 54 stockholders of record of its common stock and approximately 800 beneficial holders.

DIVIDEND POLICY

The Company intends to retain future earnings to finance the expansion of its business and does not anticipate paying any cash dividends on its common stock in the foreseeable future. If the Company were to declare dividends in the future, such dividends would be paid at the discretion of its board of directors after taking into account various factors, including, among other things, the Company's financial condition, results of operations, cash flows from operations, current and anticipated cash needs and expansion plans, the income tax laws then in effect and the requirements of Delaware law. In addition, the Company's credit facility prohibits the payment of dividends without consent from the lender.

The Company has not declared cash dividends on its common stock in the two most recent fiscal years.

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The operations data set forth below with respect to the fiscal years ended June 30, 2003, 2002 and 2001 and the balance sheet data at June 30, 2003 and 2002 are derived from, and are qualified by, reference to the Company's audited consolidated financial statements included elsewhere herein and should be read in conjunction with those financial statements and the notes thereto. The operations data set forth below with respect to the fiscal years ended June 30, 2000 and 1999 and the balance sheet data at June 30, 2001, 2000 and 1999 are derived from audited consolidated financial statements not included herein. The historical results presented below are not necessarily indicative of the results to be expected for any future fiscal year.

(IN THOUSANDS, EXCEPT PER SHARE DATA)
FISCAL YEAR ENDED JUNE 30,

	2003	2002	2001	2000	1999
CONSOLIDATED STATEMENT OF OPERATIONS DATA:					
Sales	\$53,340	\$42,088	\$38,054	\$36,633	\$34,717
Gross profit	27,260	22,095	20,069	19,056	18,545
Operating expenses					
Selling, general and administrative	19,291	15,910	15,510	13,560	12,722
Research and experimental	3,337	3,026	2,615	2,288	2,371
Other income (expense)	582	183	747	1,088	(153)
Loss on Sale of G.C. Industries			(601)		
Income tax expense	1,724	1,133	695	1,314	974
Income from discontinued operations		3,416	1,658	1,984	1,492
Net income	\$ 3,490	\$ 5,625	\$ 3,054	\$ 4,967	\$ 3,818
Basic net income per common share	\$.55	\$.85	\$.46	\$.77	\$.71
Weighted average common shares outstanding (basic)	6,389	6,641	6,604	6,494	5,328
Diluted net income per common share	\$.51	\$.82	\$.45	\$.73	\$.66
Weighted average common shares outstanding (diluted)	6,756	6,871	6,714	6,746	5,747

	JUNE 30,				
	2003	2002	2001	2000	1999
CONSOLIDATED BALANCE SHEET DATA:					
Working capital	\$26,873	\$38,838	\$31,380	\$26,730	\$22,949
Total assets	59,333	60,758	52,011	49,476	44,641
Long-term debt	1,351	1,464	1,647	1,393	1,375
Stockholders' equity	44,097	49,481	43,709		