CYTODYN INC
Form 10-K
December 03, 2010

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549
FORM 10-K
[x] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended May 31, 2010

[ ] TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____to _____

Commission File Number 000-49908

CYTODYN, INC.
(Exact name of registrant as specified in its charter)

Colorado	75-3056237
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer or Identification No.)
1511 Third Street Santa Fe, NM	87505
(Address of principal executive offices)	(Zip Code)

Registrant's Telephone Number, including area code: 505-988-5520

Securities Registered pursuant to Section 12(b) of the Act: None

Securities Registered pursuant to Section 12(g) of the Act:

Title of class

Common Stock, no par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. [ ] Yes [X] No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. [ ] Yes [X] No

Indicate by check mark whether the registrant (i) 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

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

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. [ ]

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

Large accelerated filer [ ]	Accelerated filer [ ]
Non-accelerated filer [ ]	Smaller reporting company [X]

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter. $ 15,201,858

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date. As of November 30, 2010 the registrant had 20,942,296 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

CYTODYN, INC

FORM 10-K FOR THE YEAR ENDED MAY 31, 2010

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Item 1. Business

The Company

CytoDyn, Inc. is a Colorado corporation, with its principal business office at 1511 Third Street, Santa Fe, New Mexico, 87505; telephone: (505) 988-5520, facsimile: (800) 417-7252, and website address: www.cytodyn.com. Originally incorporated as Rexray Corporation on May 2, 2002, the Company was renamed CytoDyn, Inc. when Rexray acquired, in October 2003, all of the intellectual property of CytoDyn of New Mexico, Inc. in exchange for 5,362,640 shares of no par value common stock. We discovered and are developing a class of therapeutic monoclonal antibodies to address significant unmet medical needs in the area of HIV/AIDS.

In October 2003 we entered into an Acquisition Agreement with CytoDyn of New Mexico, Inc., pursuant to which we effected a one for two reverse split of our common stock, and amended our articles of incorporation to change our name from Rexray Corporation to CytoDyn, Inc. The acquisition was accounted for as a reverse merger and recapitalization of the Company. Pursuant to the acquisition agreement, we were assigned the patent license agreement dated July 1, 1994 between CytoDyn of New Mexico and Allen D. Allen covering three United States patents along with foreign counterpart patents which describe a method for treating HIV disease with the use of monoclonal antibodies. We also acquired the trademarks, CytoDyn and Cytolin, and a related trademark symbol. The license acquired gives us the worldwide, exclusive right to develop, market and sell the HIV therapies from the patents, technology and know-how invented by Mr. Allen. The term of the license agreement is for the life of the patents of which the first will expire in 2013. The original expiration dates on the issued patents are 2013 to 2016. There is an automatic extension of the expiration date on U.S. patents equal to the number of years the drug under the patent is being studied in clinical trials. Typically this provides another four to five years on the earliest claims. CytoDyn's counsel expects its patents to be extended until 2017 to 2020 depending upon the original date of the issued patents.

CytoDyn, Inc. is a biotechnology company (concept company) that develops pharmaceutical products to be marketed by one or more pharmaceutical marketing

companies. Typically, the biotechnology company does not realize income from the sale of product sold directly by the biotechnology company. Rather, the biotechnology company develops a pharmaceutical product using funds provided by investors until the development of the product has progressed to the point where the biotechnology company can enter into a strategic alliance with a pharmaceutical marketing company. While there is no guarantee as to if or when CytoDyn will enter into such a strategic alliance, or what its terms might be, the pharmaceutical marketing company typically acquires a significant stake in the biotechnology company, thereafter providing the funds for completion of drug development, obtaining a right of first-refusal to market the drug if approved, along with an option to buy out the biotechnology company in stages, the last stage usually being after the drug has been marketed for a number of years. A maximum return on investment for those investing in the biotechnology company is usually achieved when the strategic alliance is in place or has been for a number of years, and before the product actually enters the marketplace.

Subsidiaries

Advanced Genetic Technologies, Inc.

On January 30, 2007, the Company acquired the subsidiary Advanced Genetic Tehcnologies, Inc. which holds the exclusive right to develop an improved version of Cytolin(R) using two antibodies invented at Harvard University Medical School's CBR Institute for Biomedical Research pursuant to an acquisition agreement. The Company has not used these two antibodies in our research and development efforts to date but we intend on using these in future research and development efforts.

In exchange for $100,000 and seven years of prepaid license fees, the Company issued 100,000 preferred shares of unregistered stock to Utek Corp. in exchange for 1,000 shares or 100% of Advanced Genetic Technologies, Inc. common stock. On July 2009, the preferred shares were converted into 2,356,000 common shares of the Company's stock.

Advanced Influenza Technologies, Inc.

In June 2006 the company acquired pursuant to an acquisition agreement the subsidiary Advanced Influenza Technologies, Inc., ("AITI"). AITI was incorporated under the laws of Florida on June 9, 2006. The Company issued 2,000,000 shares of unregistered securities for 1,000 shares or 100% of AITI stock. The Company acquired a prepaid sponsored research project for $162,000, a license agreement for $150,000, and acquired $109,399 in expenses associated with the license agreement and cash of $512,200. This subsidiary was abandoned as the Company terminated the license agreement acquired by AITI for a DNA plasmid vaccine from the University of Massachusetts.

Business

Treatment for HIV/AIDS Cytolin(R)

CytoDyn, Inc. discovered and is developing a class of therapeutic monoclonal antibodies to address significant unmet medical needs in the areas of HIV & AIDS. Cytolin(R) has been observed to treat HIV/AIDS through immunologic mechanisms that delay the ability of HIV infection to impair the immune system, leading to the illness known as Acquired Immune Deficiency Syndrome or AIDS.

How it Was Discovered

Just over a decade ago, three scientists who were working independently of each other discovered why HIV does not cause disease in the other mammals it can infect. There are, of course, other viruses that are similar to HIV and that can cause AIDS-like diseases in animals, such as simian immunodeficiency virus (SIV) and feline immunodeficiency virus (FIV). However, the human immunodeficiency virus (HIV) only causes disease in humans and not in the other mammals it can infect, such as chimpanzees. In discovering why this is the case, researchers also demonstrated why humans infected with HIV lose all of their CD4 T cells even though only a minority of those cells become infected with HIV. This was demonstrated by Joyce Zarling[1] at the Yerkes Primate Research Center, Leonard Adelman[2] at the University of Southern California, and Allen D. Allen then at Olive View-UCLA Medical Center. The seminal paper, published in the Journal of Immunology in 1990, was by Zarling. She and her colleagues conducted a cross-species study. It proved to a scientific certainty that the reason only humans develop AIDS in response to HIV infection is that only humans respond to the infection with a proliferation of cytotoxic T lymphocytes (CTL) that indiscriminately kill human CD4 T cells, including healthy, uninfected CD4 T cells.

The question that Zarling and Adelman did not answer is why this should be the case. In terms of understanding the mechanisms involved in HIV disease, one should ask what particular mechanism the anti-self, anti-CD4 CTL use to indiscriminately destroy human CD4 T cells. Because of the huge volume of HIV-literature that was focused on many diverse issues, the key was to know where to look. As a consequence, Allen was able to ascertain the cytotoxic mechanism because he had a model to start with.

Hepatitis, when associated with hepatitis B and C virus, has been known for years to be a disease that is triggered by an infection and that results in the destruction of the liver by CTL. The destruction of the liver occurs because its surface becomes coated with intercellular adhesion molecules (ICAM). The co-receptor to ICAM is LFA-1. What makes a CD8 T cell a cytotoxic cell rather than a suppressor cell is the overproduction of LFA-1. When the CTL circulate through the liver, the LFA-1 binds to the ICAM killing the hepatocytes or liver cells. Interferon-alpha is the gold standard for treating serum hepatitis because it down regulates the ICAM molecules on the liver so that the CTL do not harm that organ. Not surprisingly, then, Bofill, et al have shown that increased numbers of CTL predict the decline of CD4 T cells in HIV patients. By knowing the mechanism of action, Allen[10] was able to identify a class of monoclonal antibodies that could prevent the indiscriminate destruction of CD4 T cells by CTL. Cytolin(R) is one such antibody and is our lead product.

Why Cytolin(R) is a Unique Treatment for Early HIV Infection

During the past decade, significant improvements in the antiviral "cocktails" used to treat HIV/AIDS have transformed this once fatal disease into a chronic, manageable condition. These drugs are the ingredients of Highly Active Antiretroviral Therapy (HAART), which has saved countless lives and is well tolerated by most patients, although all drugs have side effects.

The current standard of treatment recommends withholding antiviral drugs until the disease has progressed to the point where the drugs are required to maintain a patient's health, typically a period of about five years from initial infection. A chief reason for withholding treatment during the early years of HIV infection is that antiviral drugs attack the virus directly. As a result, natural selection promotes the evolution of HIV into species that are resistant to those drugs. If antiviral drugs were prescribed too early, then the virus might become resistant to those drugs, rendering them ineffective, by the time they were necessary to maintain a patient's health.

Cytolin(R) is a monoclonal antibody administered by intravenous infusion and might expand the standard of treatment. In preliminary clinical trials, and in compassionate use involving hundreds of patients treated for about two years, Cytolin(R) produced encouraging results in delaying or reversing disease progression while acquiring a good safety record.

Significantly, Cytolin(R) is not an antiviral drug although it has a significant, albeit indirect, antiviral effect (log reduction in viral burden). A first-in-class drug, Cytolin(R) is designed to prevent the wholesale destruction of helpful CD4 T cells by a person's own killer T cells. The killer T cells are made by the human body in response to HIV infection as part of the natural defense against the virus. As first shown by Zarling, et al in 1990 (Journal of Immunology, vol. 144, page 2992), the ability of these killer T cells to indiscriminately destroy CD4 T cells is a trait unique to humans, explaining why HIV infection does not cause disease in the other species the virus can infect. It has been known since the beginning of the AIDS pandemic that a wholesale loss of CD4 T cells is the reason why individuals infected with HIV become susceptible to the opportunistic infections and cancers that characterize AIDS. Up until the 1990s when three independent studies identified the killer T cells as the cause of the problem, the reason for the wholesale loss of CD4 cells remained a mystery because the virus infects relatively few CD4 T cells.

The fact that Cytolin(R) has no direct effect on the life-cycle of the virus precludes the emergence of Cytolin(R)-resistant virus due to the long-term use of Cytolin(R). This is in contrast to the antiviral drugs whose use promotes the evolution of drug-resistant virus. Consequently, a potential indication for Cytolin(R) would be to administer it early in the infection in order to delay the natural progression of the disease and, therefore, the time when antiviral drugs become necessary. If so, healthcare providers could treat individuals infected with HIV more quickly, rather than spending years just watching and waiting.

Monoclonal Antibodies

Genetically engineered monoclonal antibodies are man-made antibodies that target specific antigens on a cell or compound. Advances in antibody production technologies, such as high productivity cell culture has enabled manufacturers to produce antibody products more cost-effectively. Many monoclonal antibodies have been approved for marketing as therapeutics by the FDA, and a large number of monoclonal antibodies are currently under investigation in clinical trials. Other companies have monoclonal antibodies in clinical research to treat HIV/AIDS however their approach is completely different from ours. Our monoclonal antibody treats HIV disease by preventing killer T cells from destroying the CD4 T cells in humans infected with HIV. It is the wholesale loss of CD4 T cells in humans infected with HIV that results in a suppression of the immune system, leading to the illness known as Acquired Immune Deficiency Syndrome or AIDS.

Cytolin(R) Research Experience

Our President and CEO, Allen D. Allen, has been researching treatments for HIV and AIDS since 1987. He received three U.S. patents and additional foreign counterpart patents, now licensed to us, covering the use of these antibodies for treating patients with HIV. Our leading drug candidate, Cytolin(R), is based on a monoclonal antibody that protects CD4 cells from CD8 cells, thus preventing the weakening of the immune system.

In 1993, a small group of scientists and doctors treated six HIV-infected patients with Cytolin(R). Blood and skin tests of these patients demonstrated that the antibody was producing improvements in the immune function of each patient. In 1995, subacute and acute toxicology studies found Cytolin(R) safe to administer to humans.

A relatively small number of physicians in the United States administered Cytolin(R) to their HIV-infected patients over two years. As results from this initial use became available, other physicians obtained and administered Cytolin(R) to their patients as well. Four of the doctors using Cytolin(R) allowed CytoDyn's predecessor to send in an independent Institutional Review Board to inspect the medical records of 188 patients treated with Cytolin(R) once or twice a month over 18 months. Data were recorded and summarized and formed part of the material presented to the FDA as an early indication of the safety and potential efficacy of Cytolin(R).

In 1996, the FDA approved a drug master file, designated BB-DMF#6836, for the manufacture of Cytolin(R) at Vista Biologicals Corporation. CytoDyn of New Mexico and Vista Biologicals Corporation worked cooperatively to develop the drug master file. In accordance with the practice of the FDA, the drug master file was issued to and became the property of the entity with the capacity to manufacture the drug, in this case Vista Biologicals Corporation. By contract with Vista Biologicals Corporation, CytoDyn of New Mexico had the exclusive right to reference the drug master file, that is, to authorize Vista Biologicals Corporation to manufacture Cytolin(R) in accordance with the terms of the drug master file.

In 1996, the FDA also designated our investigational new drug application for Cytolin(R) as BB-IND #6845, and subsequently approved a clinical trial.

In 2002, Symbion Research International, a contract research organization, completed a Phase I a/b clinical trial of Cytolin(R). The trial was sponsored by Amerimmune, Inc., the previous licensee of CytoDyn of New Mexico but Symbion was never paid for its work. As a result, its work product became Symbion's. We entered into a buy-sell agreement with Symbion to purchase the Phase Ia study data in 2004. The Phase Ia study, conducted in 13 subjects suffering from HIV/AIDS, found Cytolin(R) to be safe and well tolerated. The initial safety study affirmed the safety and tolerability of the drug in these dose groups, as well as preliminary efficacy in lowering the concentration of HIV by up to one log (measurement of efficacy) and increasing T-cell counts in the study's patient population with no severe adverse events reported. Some of the data were presented as an abstract and poster session, entitled "Phase I Study of Anti-LFA-1 Monoclonal Antibody (Cytolin(R) in Adults with HIV Infection" at the 9th Conference on Retroviruses and Opportunistic Infections held in Seattle, Washington on February 24-28 2002 as well as the 16th International AIDS Conference held August 2006 in Toronto, Canada.

The Company went through a period of years where legal issues delayed the progress of this treatment. Also, at the time Cytolin(R) was discovered, the medical community was just beginning to develop antivirals as the protocol for treating HIV patients. Cytolin(R) is an immune based therapy that does not directly attack the virus and thus is not an antiviral. Cytolin(R) is part of a class of drugs called monoclonal antibodies or "targeted therapies". These targeted therapies did not exist when the Company was first formed. Today there are many that treat other serious diseases such as Cancer and Autoimmune diseases. Our Company's approach to HIV disease was unique but not incorrect. No other company is or has developed a targeted therapy that works like Cytolin(R) for HIV disease.

Current Clinical Trials

CytoDyn has agreed to provide a research grant and GMP product to Massachusetts General Hospital for the purpose of conducting an ex-vivo study of Cytolin(R). The study has enrolled 10 adults with early HIV infection and 10 healthy controls, each of whom will be required to participate for six months. The study began in July 2010 therefore we expect the study to be completed by January 2011. The study design and objectives are available to view at http://clinicaltrials.gov, search word, cytolin.

The Principal Investigator is Eric S. Rosenberg, MD, an Associate Professor of Medicine in the Infectious Diseases Division of Massachusetts General Hospital and a prominent researcher specializing in HIV/AIDS. More than the Principal Investigator, Dr. Rosenberg designed the protocol for the study after an extensive review of the relevant literature and human experience related to Cytolin(R).

Risks of Academic Research

Massachusetts General Hospital is a nonprofit, tax-exempt facility with the mission of improving the public health by engaging in research for the purpose of discovering and making available to the public new and improved medical treatments and information. As a consequence, Massachusetts General Hospital does not conduct studies unless its researchers are free to publish the study results as, how, and when they see fit, provided only that the trade secrets of CytoDyn may not be disclosed.

When researchers have such unrestricted freedom to publish, it can pose a risk to the company developing a drug. This is because the outcome of clinical research is uncertain and the results may differ significantly from the expectations of the company and the researchers. However, CytoDyn's management believes this risk is minimal inasmuch as Cytolin(R) has already been used to treat hundreds of patients over extended periods of time. Consequently, the study is unlikely to produce unexpected or surprising results that would call the safety and efficacy of Cytolin(R) into question. Nonetheless, the study may fail to meet its objectives for any number of reasons. These include but are not limited to the failure of in-vivo events to manifest in vitro, enrollment of patients whose HIV infection is still too early, and the failure of a sufficient number of human subjects to complete the study.

The Company's Approach to New Drug Development is Combining Elements From The Public and Private Sectors

New Drug Development in The Public Sector

The federal government obtains tax dollars from individuals and corporations and redistributes those dollars to public teaching hospitals for the purpose of funding basic medical research. Faculty members at most public teaching hospitals are expected to publish original research papers in the peer-review journals. Since these published papers constitute a contribution to medical knowledge, this knowledge provides society with an intangible benefit in return for the tax dollars expended. A significant portion of the basic science that underlies Cytolin(R), i.e., the "prior art," was funded by the National Institute of Allergies and Infectious Diseases.

New Drug Development in The Private Sector

Individual and institutional investors voluntarily place their money at risk to provide operating capital for use by the drug companies. These companies conduct their own clinical trials. The new drugs that were successful generated such large earnings that the drug companies have historically offered investors a substantial return on investment.

The Company's Model of New Drug Development

The study CytoDyn is funding at Massachusetts General Hospital is science-intensive, and is intended as a prelude to a follow-on clinical trial that may or may not be conducted by the same institution.. Over and above conducting the study, Massachusetts General Hospital, not CytoDyn, designed the study and serves as its sponsor, all as part of its mission of "improving the public health by engaging in research for the purpose of discovering and making available to the public new and improved medical drugs and information," to quote the recitals of the agreement between Massachusetts General Hospital and CytoDyn, Inc.

In other words, CytoDyn is funding research of a type that is usually funded by the government, except that the funds represent money voluntarily placed at risk by investors rather than tax dollars. In particular, while CytoDyn will retain its intellectual property rights and will have access to the study data, it will not own the data, which will be owned by Massachusetts General Hospital. The research provides Massachusetts General Hospital the opportunity to pursue its mission of conducting basic and potentially seminal research using funds from a non-governmental source that belongs to a deep-pocket segment of the economy and is generally more flexible than the government. The advantage for the Company is in avoiding the high costs arising from the FDA's regulation of clinical trials, especially when the trials are sponsored by a drug company. The Company will also benefit from a prestigious teaching hospital confirming the Company's research.

The FDA licenses medicinal products for sale in interstate commerce under a particular label only if they receive data supporting that label and only if some company asks them to do so. CytoDyn may or may not be the company that requests a license to market Cytolin(R) under a label. Under our current thinking we hope to enter into a strategic alliance after the next two studies under which a larger pharmaceutical marketing company will seek a license from the FDA to market Cytolin(R) and under a license from us to use our intellectual property in that manner. However there is no guarantee that we will wind up pursuing this strategy.

Timing and anticipated completion dates for research and development.

We estimate that the initial clinical trial to be conducted by Massachusetts General Hospital will take one year to complete. The study enrollment began January 13, 2010, hence the completion of the clinical trial is expected in January 2011. The Company's intention is to either fund additional clinical trials and/or enter into a strategic alliance.

Traditional Clinical Trials Process

Phase I
Phase I includes the initial introduction of an investigational new drug or biologic into humans. These studies are closely monitored and may be conducted in patients, but are usually conducted in a small number of healthy volunteer subjects. These studies are designed to determine the metabolic and pharmacologic actions of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. During Phase I, sufficient information about the investigational product's pharmacokinetics and pharmacological effects are obtained to permit the design of well-controlled, scientifically valid, Phase II studies.

Phase II
Phase II includes the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug. Phase II studies are typically well-controlled, closely monitored, and conducted in a relatively small number of patients, usually involving several hundred people. In some cases, depending upon the need for a new drug, it may be licensed for sale in interstate commerce after a "pivotal" Phase II trial.

Phase III
Phase III studies are expanded controlled clinical studies. They are performed after preliminary evidence suggesting effectiveness of the drug has been obtained in Phase II, and are intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall benefit/risk relationship of the drug. Phase III studies also provide an adequate basis for extrapolating the results to the general population and transmitting that information in the physician labeling. Phase III studies usually include several hundred to several thousand people.

CytoDyn may enter into a strategic alliance with a pharmaceutical marketing company after completion of the current clinical trial or after completion of the second clinical trial. There is no guarantee that a strategic alliance would be achieved after either of those trials.

Competition

The pharmaceutical and biotechnology industries are characterized by rapidly evolving technology and intense competition. CytoDyn will compete with other more established biotechnology companies with greater financial resources.

Our potential competitors include entities that develop and produce therapeutic agents for treatment of human and animal disease. These include numerous public and private academic and research organizations and pharmaceutical and biotechnology companies pursuing production of, among other things, biologics from cell cultures, genetically engineered drugs and natural and chemically synthesized drugs. Almost all of these potential competitors have substantially greater capital resources, research and development capabilities, manufacturing and marketing resources and experience than CytoDyn. Our competitors may succeed in developing potential drugs or processes that are more effective or less

costly than any that may be developed by CytoDyn, or that gain regulatory approval prior to our potential drugs. Worldwide, there are many antiviral drugs for treating HIV and AIDS. In seeking to manufacture, distribute and market the various potential drugs we intend to develop, we face competition from established pharmaceutical companies. All of our potential competitors in this field have considerably greater financial and personnel resources than we possess. CytoDyn also expects that the number of its competitors and potential competitors will increase as more potential drugs receive commercial marketing approvals from the FDA or analogous foreign regulatory agencies. Any of these competitors may be more successful than CytoDyn in manufacturing, marketing and distributing its potential drugs.

Manufacturing and Source for Raw Materials

We negotiated a contract with manufacturer Vista Biologicals Corporation to manufacture a humanized version of the Company's lead product, Cytolin(R) at a cost of $229,500, which will be paid over twelve (12) months beginning in March 2010. $163,265 was paid by November 2010. Although a murine (mouse) version of Cytolin(R) was used for previous human experience that included some 200 patients successfully treated for up to two years, as well as an encouraging Phase I(b)/II(a) study, the Company believes that a fully-humanized version is necessary for the clinical trial that is expected to follow the current one.

The Company expects to have its proprietary, fully-humanized version of Cytolin(R) ready for bulk manufacturing in early 2011.

The initial clinical trial which is being conducted by Massachusetts General Hospital will cost the Company approximately $550,000 of which $412,000 was paid by November 2010. In May 2010, the Company agreed to provide an additional $204,000 for the current clinical trial of Cytolin(R) which is included in the cost above. This will enable the Principal Investigator to hire additional personnel in order to ensure that key data from the study will be available by December 31, 2010. Pursuant to our agreement with MGH, the balance of $137,000 will be due on January 21, 2011.

Patents and Trademarks

We have a License Agreement with Allen D. Allen, our President and CEO that gives us the exclusive right to develop, market and profit from his technology worldwide. This includes issued U.S. patents 5,424,066; 5,651,970 and 6,534,057, foreign counterparts, as well as European Patents No. 94 912826.8 and 04101437.4. Hong Kong, Australian and Canadian patents have been obtained as well. The original expiration dates of the U.S. patents are 2013 to 2016. There is an automatic extension of the expiration date on U.S. patents equal to the number of years the drug under the patent is being studied in clinical trials. Typically this provides another four to five years on the earliest claims. CytoDyn's counsel expects its patents to be extended until 2017 to 2020 depending upon the original date of the issued patents. We estimate the costs associated with these issued patents to be approximately $100,000 per year. The Company intends to file a new patent application covering its humanized version(s) of Cytolin(R) during the next fiscal year if our research and development efforts warrant it.

CytoDyn(R) and Cytolin(R) are our registered trademarks. Our service trademark mark symbol is:

[GRAPHIC OMITTED]

Government Regulation

Our research and development activities and the manufacture and marketing of our products are subject to rigorous regulations relating to product safety and efficacy by numerous governmental authorities in the United States and other countries. The Federal Food, Drug and Cosmetic Act and other federal and state statutes and regulations govern, among other things, the testing, manufacture, safety, effectiveness, labeling, storage, record keeping, approval, advertising and promotion of our products in the U.S. The lengthy process of seeking drug approvals, and the subsequent compliance with applicable statutes and regulations, require the expenditure of substantial resources. Failure to comply with applicable regulations can result in refusal by the FDA to approve product license applications. The FDA also has the authority to revoke previously granted product approvals.

We are subject to various laws and regulations relating to safe working conditions, clinical, laboratory and manufacturing practices, the experimental use of animals and the use and disposal of hazardous or potentially hazardous substances, including radioactive compounds and infectious disease agents, used in connection with our research. The extent of government regulation applying to our business that might result from any legislative or administrative action cannot be accurately predicted.

Research and Development Costs

Company sponsored research and development expenses were $328,775, $468,700, And $1,748,703 in 2010, 2009 and for the period October 28, 2003 through May 31, 2010, respectively. We expect that research and development expenses will increase as we seek to expand development of our current and future product pipeline. They have decreased over the past two years.

Employees

We have four full time employees and a varying number of consultants engaged in management and product development. CytoDyn is severely understaffed and will expand its employee force if we complete further financings estimated to be $5 million to $15 million. There can be no assurance we will be able to locate or secure suitable employees upon acceptable terms in the future.

Item 1A. Risk Factors

This item is not required for smaller reporting companies

Item 2. Properties

Our principal offices are located at 1511 Third Street, Santa Fe, New Mexico 87505. We have leased approximately 1,200 square feet of office space for one year beginning September 1, 2010 until August 31, 2011 at $1,650 per month.

Item 3. Legal Proceedings

None

Item 4. Submission of Matters to a Vote of Security Holders

On April 24, 2010 the Company's shareholders approved an amendment to the Company's Articles of Incorporation increasing the number of authorized shares of common stock from 25,000,000 shares to 100,000,000 shares. The effective date of the amendment was April 29, 2010.

Part II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Price Ranges of Common Stock

CytoDyn, Inc. trades on the OTC Pink Sheets under the ticker symbol CYDY.

Aggregate Number of Holders of Common Stock

The approximate number of record holders of our common stock on November 30, 2010 as 750. This includes shareholders that hold the shares in street name with Broker/Dealers.

The table below provides the high and low sales prices of our common stock for the periods indicated, as reported by the Pink Sheets quotations system:

Price Range of Outstanding Common Stock

Year Ended May 31, 2010	High	Low
First Quarter Ended August 31, 2009	$ .70	$ .21
Second Quarter Ended November 30, 2009	1.97	.50
Third Quarter Ended February 28, 2010	2.06	1.55
Fourth Quarter Ended May 31, 2010	2.08	1.30

Year Ended May 31, 2009	High	Low
First Quarter Ended August 31, 2008	$1.00	$ .30
Second Quarter Ended November 30, 2008	$ .66	$ .35
Third Quarter Ended February 28, 2009	$ .49	$ .29
Fourth Quarter Ended May 31, 2009	$ .80	$ .25

Dividends.

Holders of our common stock and preferred stock are entitled to receive dividends as may be declared from time to time by our Board of Directors. We have not paid any cash dividends on our common stock and do not anticipate paying any in the foreseeable future. Management's current policy is to retain earnings, if any, for use in CytoDyn's operations and for expansion of the business.

Securities Authorized for Issuance under Equity Compensation Plans.

Equity Compensation Plan Information

The following table sets forth information regarding outstanding options and rights and shares reserved for future issuance under our existing equity compensation plans as of May 31, 2010:

	(a)	(b)	(c)
Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-Average future exercise price of outstanding options, warrants, and rights	Number of securities remaining available for issuance under equity compensation plans (excluding securities)
Equity compensation plans approved by security holders	4,201,122		3,398,878
Equity compensation plans not approved by security holders(1)	3,459,054		
Total(2)	7,660,176	$1.42	3,398,878

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(1) As of May 31, 2010 we had: 19,875,895 shares of common stock issued and outstanding; 3,398,878 shares currently reserved and available for future option grants.

Recent Sales of Unregistered Securities

During the three months ended May 31, 2010, the Company issued 632,000 shares of common stock at $.50 per share, and realized cash proceeds of approximately $288,000, net of approximately $28,000 in offering costs. In connection with the sales, the Company relied on the exemption provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 under the Act. The investors were all "accredited investors" as such term is defined in Rule 501 of Regulation D.

During the three months ended May 31, 2010 the Company issued 25,700 shares of Series B Convertible Preferred Stock (Series B) at $5.00 per share for cash proceeds totaling approximately $128,500. The Series B is convertible into ten shares of the Company's common stock, with an effective fixed conversion price of $.50 per share. In connection with the sales, the Company relied on the exemption provided by Section 4(2) of the Securities Act of 1933, as amended and Rule 506 under the Act. The investors were all "accredited investors" as such term is defined in Rule 501 of Regulation D.

Item 6. Selected Financial Data

This item is not required for Smaller Reporting Companies

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

THIS FILING CONTAINS FORWARD-LOOKING STATEMENTS. THE WORDS "ANTICIPATED," "BELIEVE," "EXPECT," "PLAN," "INTEND," "SEEK," "ESTIMATE," "PROJECT," "WILL," "COULD," "MAY," AND SIMILAR EXPRESSIONS ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. THESE STATEMENTS INCLUDE, AMONG OTHERS, INFORMATION REGARDING FUTURE OPERATIONS, FUTURE CAPITAL EXPENDITURES, AND FUTURE NET CASH FLOW. SUCH STATEMENTS REFLECT THE COMPANY'S CURRENT VIEWS WITH RESPECT TO FUTURE EVENTS AND FINANCIAL PERFORMANCE AND INVOLVE RISKS AND UNCERTAINTIES, INCLUDING, WITHOUT LIMITATION, GENERAL ECONOMIC AND BUSINESS CONDITIONS, CHANGES IN FOREIGN, POLITICAL, SOCIAL, AND ECONOMIC CONDITIONS, REGULATORY INITIATIVES AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS, THE ABILITY TO ACHIEVE FURTHER MARKET PENETRATION AND ADDITIONAL CUSTOMERS, AND VARIOUS OTHER MATTERS, MANY OF WHICH ARE BEYOND THE COMPANY'S CONTROL. SHOULD ONE OR MORE OF THESE RISKS OR UNCERTAINTIES OCCUR, OR SHOULD UNDERLYING ASSUMPTIONS PROVE TO BE INCORRECT, ACTUAL RESULTS MAY VARY MATERIALLY AND ADVERSELY FROM THOSE ANTICIPATED, BELIEVED, ESTIMATED, OR OTHERWISE INDICATED. CONSEQUENTLY, ALL OF THE FORWARD-LOOKING STATEMENTS MADE IN THIS FILING ARE QUALIFIED BY THESE CAUTIONARY STATEMENTS AND THERE CAN BE NO ASSURANCE OF THE ACTUAL RESULTS OR DEVELOPMENTS.

The following discussion and analysis of our financial condition and plan of operations should be read in conjunction with our financial statements and related notes appearing elsewhere herein. This discussion and analysis contains forward-looking statements including information about possible or assumed results of our financial conditions, operations, plans, objectives and performance that involve risk, uncertainties and assumptions. The actual results may differ materially from those anticipated in such forward-looking statements. The words expect, anticipate, estimate or similar expressions are also used to indicate forward-looking statements.

Background of our Company

CytoDyn, Inc. discovered and is developing a class of therapeutic monoclonal antibodies to address significant unmet medical needs in the area of HIV/AIDS. CytoDyn, Inc. has sponsored a research grant to Massachusetts General Hospital in Boston, Massachusetts, to design and sponsor clinical trials in addition to conducting those trials on our lead product Cytolin(R), an immune therapy intended to treat early HIV infection. Although CytoDyn, Inc. will retain all of its intellectual property rights and will have access to the study data, the data will be owned by Massachusetts General Hospital (MGH). A chief benefit for CytoDyn, Inc. is that the Company will not have to deal directly with the FDA. Moreover, the high costs and long delays associated with the FDA's oversight of clinical trials may be significantly reduced in the case of clinical trials designed and sponsored by a leading teaching hospital.

The FDA licenses medicinal products for sale in interstate commerce under a particular label. Only if they receive data supporting that label and only if some company asks them to do so. CytoDyn may or may not be the company that requests a license to market Cytolin(R) under a label. Under our current thinking we hope to enter into a strategic alliance after the next two studies under which a larger pharmaceutical marketing company will seek a license from the FDA to market Cytolin(R) and under a license from us to use our intellectual property in that manner. However there is no guarantee that we will wind up pursuing this strategy.

We negotiated with a contract manufacturer Vista Biologicals Corporation to manufacture GMP product for the our current clinical trial of Cytolin(R) at a cost of $565,000, all of which was paid by September 2008. The initial clinical trial to be conducted by Massachusetts General Hospital will cost the Company approximately $550,000 of which $412,000 was paid by November 30, 2010. The balance of $137,500 is due in January 2011.

We negotiated a contract with manufacturer Vista Biologicals Corporation to manufacture a humanized version of the company's lead product, Cytolin(R) at a cost of $229,500, which will be paid over twelve (12) months beginning in March 2010. $163,265 was paid by November 2010. Although a murine (mouse) version of Cytolin(R) was used for previous human experience that included some 200 patients successfully treated for up to two years, as well as an encouraging Phase I(b)/II(a) study, the Company believes that a fully-humanized version is necessary for the clinical trial that is expected to follow the current one.

The Company expects to have its proprietary, fully-humanized version of Cytolin(R) ready for bulk manufacturing in early 2011.

Human subjects have been recruited for the initial study conducted by Massachusetts General Hospital from the clinic of the Principal Investigator, Dr. Eric Rosenberg. The study protocol calls for 10 adults with early HIV infection and 10 healthy control subjects. The enrollment was closed as of July 23, 2010 therefore we expect the study to be completed by January 2011.

We registered a clinical trial of Cytolin(R) with the government's website at www.clinicaltrials.gov, ID NCT01048372. The public has online access to this federal database, which describes the key elements of clinical trials and their status. To peruse the continually updated public record for the study of Cytolin(R) on the government's website, enter "Cytolin" as search terms (case sensitive).

Subsequently, CytoDyn, Inc. may fund a follow-up clinical trial using venture capital or, at that time, may enter into a strategic alliance for completion of research and the subsequent marketing of Cytolin(R) if approved. In the former case, CytoDyn, Inc. will need to provide a new batch of humanized product, which we estimate will cost on the order of another half million dollars. The Company is conducting a private placement of common shares to secure the capital needed for the follow-up study. We cannot yet estimate the cost of a follow up study at this time.

There are many factors that can delay clinical trial benchmarks. However, the Company hopes to receive the results and analysis of the upcoming clinical trial during 2011.

Benchmark	Some Factors That Can Cause Delays+
Patient Outreach	Manufacturing Delays Documentation Delays IRB Delays Delays in Regulatory Review or Approval Force Majeure
Dose First Patient	Fill and Finish Delays Slower Than Expected Patient Enrollment

	Force Majeure
Lock Database - Begin Statistical Analysis	Slower Than Expected Patient Enrollment Clinical Hold Laboratory Error Protocol Deviation Force Majeure
Release Final Report	Additional Stratification Required Computer Hardware or Software Malfunction Force Majeure

+There are other factors, known and unknown, such as unexpected financial hardships, that can cause delays.

Clinical Trials Process - Described below is the traditional drug development track. Under the Company's current business plan, much of this initial work will be sponsored and conducted by the MGH, eliminating the need for CytoDyn to deal directly with the FDA. Traditionally, the Company would enter into a strategic alliance with a larger pharmaceutical company after development has progressed to a certain point. While there can be no guarantee that this will occur in our case, if it does, then our larger partner would usually be responsible for dealing with the FDA.

Phase I

Phase I includes the initial introduction of an investigational new drug or biologic into humans. These studies are closely monitored and may be conducted in patients, but are usually conducted in a small number of healthy volunteer subjects. These studies are designed to determine the metabolic and pharmacologic actions of the investigational product in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness. During Phase I, sufficient information about the investigational product's pharmacokinetics and pharmacological effects are obtained to permit the design of well-controlled, scientifically valid, Phase II studies.

Phase II

Phase II includes the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug. Phase II studies are typically well-controlled, closely monitored, and conducted in a relatively small number of patients, usually involving several hundred people. Depending upon need, a new drug may be licensed for interstate marketing after Phase II if it is a "pivotal" study.

Phase III

Phase III studies are expanded controlled clinical studies. They are performed after preliminary evidence suggesting effectiveness of the drug has been obtained in Phase II, and are intended to gather the additional information about effectiveness and safety that is needed to evaluate the overall

benefit/risk relationship of the drug. Phase III studies also provide an adequate basis for extrapolating the results to the general population and transmitting that information in the physician labeling. Phase III studies usually include several hundred to several thousand people.

Patents

We have a License Agreement with Allen D. Allen, our President and CEO that gives us the exclusive right to develop, market, sell and profit from his technology worldwide. This includes issued U.S. patents 5,424,066; 5,651,970 and 6,534,057, foreign counterparts, as well as European Patents No. 94 912826.8 and 04101437.4. Hong Kong, Australian and Canadian patents have been obtained as well. The original expiration dates of the U.S. patents are 2013 to 2016. There is an automatic extension of the expiration date on U.S. patents equal to the number of years the drug under the patent is being studied in clinical trials. Typically this provides another four to five years on the earliest claims. CytoDyn's counsel expects its patents to be extended until 2017 to 2020 depending upon the original date of the issued patents. We estimate the costs associated with these issued patents to be approximately $100,000 per year. We intend to file for an additional patent during the next fiscal year covering our humanized version of Cytolin(R) if our research and development efforts warrant it.

Going Concern

We will require additional funding in order to continue with research and development efforts.

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying financial statements, the Company is currently in the development stage with losses for all periods presented. As of December 3, 2010 these factors, among others, raise substantial doubt about the Company's ability to continue as a going concern.

The financial statements do not include any adjustments relating to the recoverability and classification of liabilities that might be necessary should the Company be unable to continue as a going concern. The Company's continuation as a going concern is dependent upon its ability to obtain additional operating capital, complete development of its medical treatments, obtain FDA approval, outsource manufacturing of the treatments, and ultimately to attain profitability. The Company intends to seek additional funding through equity offerings or licensing agreements to fund its business plan. There is no assurance that the Company will be successful in these endeavors.

Results of Operations

Results of operations for the year ended May 31, 2010 compared to May 31, 2009 are as follows:

For the years ended May 31, 2010 and 2009 the Company had no activities that produced revenues from operations.

For the year ended May 31, 2010, the Company had a net loss of approximately ($3,737,000) compared to a net loss of approximately $(1,573,000) for the corresponding period in 2009. For the year ended May 31, 2010 and 2009, the Company incurred operating expenses consisting

primarily of stock-based compensation, consulting and salaries, research and development, and amortization.

The operating expenses for the years ended May 31, 2010 and 2009 are as follows:

	2010	2009
Stock-based compensation	$ 1,740,000	$ 628,000
Legal and accounting	209,000	123,000
Salaries and consulting	962,000	437,000
Research and development	329,000	469,000
Amortization	4,000	9,000
Other	429,000	203,000
Total	$ 3,673,000	$ 1,869,000

Stock-based compensation increased approximately $1,112,000 primarily due to a a significant grant of options in the fourth quarter of fiscal year 2010. A significant amount of the grants had immediate vesting rights, which resulted in a significant increase in stock-based compensation in the fourth quarter of 2010. Legal and accounting expense increased approximately $86,000 as we incurred increases in audit and accounting fees relative to an increase in our registration filings, which was offset by a decrease in legal fees as our past litigation was settled in fiscal year 2009. Salary and consulting expense increased approximately $525,000 in 2010 relative to 2009, as our operations increased with the our increases in cash proceeds from equity offerings, which allowed us to hire our Chief Operating Officer. Additionally, some of our employees converted from part time to full time during fiscal year 2010. The research and development expenses decreased approximately $140,000 from fiscal year 2010 to 2009. During 2009 we incurred significant expenditures related to the manufacturing of products used in our clinical trials that are currently in process. We expect research and development expenses to increase as our clinical trials progress.

Interest expense in 2010 related to convertible debt increased relative to 2009 due to fully amortizing our beneficial conversion feature associated with the conversion option related to this debt. There was no beneficial conversion features associated with convertible debt during 2009. Interest expense related to interest on notes payable decreased from fiscal year 2010 to 2009, as we paid down certain notes during 2010.

During 2009, we recognized approximately $337,000 in other income related to the extinguishment of certain debt. Given our current operating environment, we determined that the extinguishment was not extraordinary, but is not included in the operating income of the Company. The extinguishment was due to the statute of limitations expiring on a contract that created the debt.

Liquidity and Capital Resources

On May 31, 2010 we had working capital of $346,000 as compared to a negative working capital of approximately ($219,000) on May 31, 2009.

Cash Flows

Cash used in operating activities of approximately $2,146,000 during fiscal year 2010 increased approximately $859,000 from approximately $1,287,000 in 2009. The

increase in the cash used in operating activities for the above periods was primarily attributable to the following:

- Net loss increased approximately $2,164,000, with an increase in accounts payable, accrued interest payable, and accrued liabilities decreasing approximately $99,000.

The above increases were partially offset by the following:

- Stock-based compensation increased approximately $1,112,000 from 2009 to 2010.

- Debt extinguishment gain of approximately $337,000 in 2009.

There were no other significant changes in cash used in operating activities from 2009 to 2010.

There were no material changes in cash flows from investing activities from 2009 to 2010.

Cash flows provided by financing activities of approximately $2,585,000 during fiscal year 2010 increased approximately $1,116,000 from approximately $1,469,000 during 2009. The increase in cash provided by financing activities for the above periods was primarily attributable to the following:

- Cash proceeds from the sale of Series B convertible stock increased approximately $2,009,000

- Proceeds from the sale of treasury stock increased approximately $559,000.

The above increases were partially offset by the following:

- Proceeds from the sale of common stock decreased approximately $923,000 from 2009 to 2010.

- Purchases of treasury stock increased approximately $436,000 from 2009 to 2010.

- Payments related to equity offering costs increased approximately $72,000 from 2009 to 2010.

There were no other significant changes in cash provided by financing activities from 2009 to 2010.

As shown in the accompanying Financial Statements, for the year ended May 31, 2010 and 2009, and since October 28, 2003 through May 31, 2010 we incurred net losses of approximately $(3,737,000) and $(1,573,000) and $(12,283,000), respectively. As of May 31, 2010, we have not emerged from the development stage. In view of these matters, our ability to continue as a going concern is dependent upon our ability to begin operations and to achieve a level of profitability. Since inception, we have financed our activities principally from the sale of public equity securities and proceeds from notes payable. We intend to finance our future development activities and our working capital needs largely from the sale of public equity securities with some additional funding from other traditional financing sources.

As previously mentioned, since October 28, 2003, we have financed our operations

largely from the sale of common stock and proceeds from notes payable. From October 28, 2003 through May 31, 2010 we raised cash of approximately $5,594,000 (net of offering costs) through private placements of common and preferred stock financings and $1,537,000 through the issuance related party notes payable and convertible notes. Additionally, the Company has raised approximately $612,000 from the issuance of common stock and preferred stock in conjunction with certain acquisitions in prior years.

Since October 28, 2003 through May 31, 2010, we have incurred approximately $1,749,000 of research and development costs and approximately $11,785,000 in operating expenses. We have incurred significant net losses and negative cash flows from operations since our inception. As of May 31, 2010, we had an accumulated deficit of approximately $13,884,000 and working capital of approximately $346,000.

We anticipate that cash used in product development and operations, especially in the marketing, production and sale of our products will increase significantly in the future. We currently do not have any significant material commitments related to capital expenditures. As described above, we do have material commitments related to clinical trials of our product.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

We believe that the following critical policies affect our more significant judgments and estimates used in preparation of our financial statements.

We use the Black-Scholes option pricing model to estimate the fair value of stock-based awards on the date of grant utilizing certain assumptions that require judgments and estimates. These assumptions include estimates for volatility, expected term, and risk-free interest rates in determining the fair value of the stock-based awards.

We issue common stock to consultants for various services. Costs for these transactions are measured at the fair value of the consideration received or the fair value of the equity instruments issued, whichever is more readily measurable. This determination requires judgment in terms of the consideration being measured.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Not applicable for smaller reporting companies

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Item 8. Financial Statements and Supplementary Data

CYTODYN, INC.
(A DEVELOPMENT STAGE COMPANY)

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Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders
CytoDyn, Inc. (A Development Stage Company)
Santa Fe, New Mexico

We have audited the accompanying consolidated balance sheets of CytoDyn, Inc. (a development stage company) as of May 31, 2010 and 2009 and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for the years then ended and the period from October 28, 2003 through May 31, 2010. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. The Company is not required at this time, to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of CytoDyn, Inc. as of May 31, 2010 and 2009 and the results of its operations and its cash flows for the years then ended and the period from October 28, 2003 through May 31, 2010 in conformity with accounting principles generally accepted in the United States of America.

The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern. As discussed in Note 2 to the consolidated financial statements, the Company incurred a net loss of $(3,736,944) for the year ended May 31, 2010 and has an accumulated deficit of $(13,884,485) for the period October 28, 2003 through May 31, 2010, respectively, which raises a substantial doubt about its ability to continue as a going concern. Management's plans in regards to this matter are described in Note 2. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ Pender Newkirk & Company LLP

Pender Newkirk & Company LLP
Certified Public Accountants
Tampa, Florida
December 3, 2010

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Balance Sheets

	May 31, 2010	May 31, 2009
Assets		
Current assets:		
Cash	$ 700,497	$ 265,520
Prepaid insurance	12,127	--
Prepaid license fees	7,500	7,500

Total current assets	720,124	273,020
Furniture and equipment, net	3,549	1,963
Intangible assets, net	--	161
Other assets	23,975	29,600
	$ 747,648	$ 304,744
Liabilities and Shareholders' Equity		
Current liabilities:		
Accounts payable	$ 178,956	$ 269,870
Accrued liabilities	15,209	49,424
Short-term portion of commitment and contingencies	--	25,000
Indebtedness to related parties Short-term portion	153,985	--
Accrued interest payable	25,575	80,329
Short-term portion of notes payable	--	67,500
Total current liabilities	373,725	492,123
Other liabilities:		
Accrued salaries - related party	229,500	229,500
Notes payable, less current portion	--	70,500
Convertible notes payable, net	6,937	21,937
Indebtedness to related parties	--	190,985
Total liabilities	610,162	1,005,045
Shareholders' equity (deficit):		
Series A Convertible Preferred stock; no par value;5,000,000 shares authorized; -0- and 100,000 shares issued and outstanding at May 31, 2010 and 2009, respectively	--	167,500
Series B Convertible preferred stock; No par value; 400,000 shares authorized; 400,000 and -0- shares issued and outstanding at May 31, 2010 and 2009, respectively	2,009,000	--
Treasury stock at cost, 200,000 and -0- shares held at May 31, 2010 and 2009, respectively	(100,000)	--
Additional paid-in capital-treasury stock	313,080	--
Common stock; no par value; 100,000,000 shares authorized; 20,075,895 and 16,221,315 shares issued and outstanding at May 31, 2010 and 2009, respectively	7,145,304	6,285,587
Additional paid-in capital	4,703,875	2,994,153
Prepaid stock services	(49,288)	--
Accumulated deficit on unrelated dormant operations	(1,601,912)	(1,601,912)
Deficit accumulated during development stage	(12,282,573)	(8,545,629)
Total shareholders' equity (deficit)	137,486	(700,301)

	$ 747,648	$ 304,744

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Operations

	Year Ended May 31,		October 28, 2003 through
	2010	2009	May 31, 2010
Operating expenses:			
General and administrative	$ 3,300,815	$ 1,291,773	$ 9,125,633
Amortization / depreciation	2,077	9,392	177,969
Research and development	328,775	468,700	1,748,703
Legal fees	41,795	99,385	732,569
Total operating expenses	3,673,462	1,869,250	11,784,874
Operating loss	(3,673,462)	(1,869,250)	(11,784,874)
Interest income	--	--	1,627
Extinguishment of debt	--	337,342	337,342
Interest expense:			
Interest on convertible debt	(38,604)	--	(734,863)
Interest on notes payable	(24,878)	(40,896)	(101,805)
Loss before income taxes	(3,736,944)	(1,572,804)	(12,282,573)
Income tax provision	--	--	--
Net loss	$ (3,736,944)	$ (1,572,804)	$(12,282,573)
Constructive preferred stock dividends	(6,000,000)	--	(6,000,000)
Net loss applicable to common shareholders	$ (9,736,944)	$ (1,572,804)	$(18,282,573)
Basic and diluted loss per share	$ (.51)	$ (0.11)	$ (1.57)
Basic and diluted weighted average common shares outstanding	18,999,234	14,210,631	11,579,304

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
Balance at October 28, 2003, following recapitalization	--	--	6,252,640	$ 1,425,334	
February through April 2004, sale of common stock less offering costs of $54,000 ($.30/share)	--	--	1,800,000	486,000	
February 2004, shares issued to former officer as payment for working capital advance ($.30/share)	--	--	16,667	5,000	
Net loss at year ended May 31, 2004	--	--	--	--	
Balance at May 31, 2004	--	--	8,069,307	1,916,334	
July 2004, capital contribution by an officer	--	--	--	--	
November 2004, common stock warrants granted	--	--	--	--	
February 2005, capital contribution by an officer	--	--	--	--	
Net loss at year ended May 31, 2005	--	--	--	--	
Balance at May 31, 2005	--	--	8,069,307	1,916,334	

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
Balance at October 28, 2003, following recapitalization	--	--	$ 23,502	$ (1,594,042)	
February through April 2004, sale of common stock less offering costs of $54,000					

($.30/share)	--	--	--	--	
February 2004, shares issued to former officer as payment for working capital advance ($.30/share)	--	--	--	--	
Net loss at year ended May 31, 2004	--	--	--	(7,870)	(
Balance at May 31, 2004	--	--	23,502	(1,601,912)	(
July 2004, capital contribution by an officer	--	--	512	--	
November 2004, common stock warrants granted	--	--	11,928	--	
February 2005, capital contribution by an officer	--	--	5,000	--	
Net loss at year ended May 31, 2005	--	--	--	--	(
Balance at May 31, 2005	--	--	40,942	(1,601,912)	(1,

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
June through July 2005, sale of common stock less offering costs of $27,867 ($.75/share)	--	--	289,890	189,550	
August 2005, common shares issued to extinguish promissory notes payable and related interest ($.75/share)	--	--	160,110	120,082	
May 2006, common shares issued to extinguish convertible debt	--	--	350,000	437,500	
November 2005, 94,500 warrants exercised ($.30/share)	--	--	94,500	28,350	
January through April 2006, common shares issued for prepaid services	--	--	183,857	370,750	
Amortization of prepaid stock services	--	--	--	--	

January through June 2006, warrants issued with convertible debt	--	--	--	--
January through May 2006, beneficial conversion feature of convertible debt	--	--	--	--
March through May 2006, stock options granted to consultants	--	--	--	--

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
June through July 2005, sale of common stock less offering costs of $27,867 ($.75/share)	--	--	--	--	
August 2005, common shares issued to extinguish promissory notes payable and related interest ($.75/share)	--	--	--	--	
May 2006, common shares issued to extinguish convertible debt	--	--	--	--	
November 2005, 94,500 warrants exercised ($.30/share)	--	--	--	--	
January through April 2006, common shares issued for prepaid services	--	(370,750)	--	--	
Amortization of prepaid stock services	--	103,690	--	--	
January through June 2006, warrants issued with convertible debt	--	--	274,950	--	
January through May 2006, beneficial conversion feature of convertible debt	--	--	234,550	--	
March through May 2006, stock options granted to consultants	--	--	687,726	--	

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
March 2006, stock options issued to extinguish debt	--	--	--	--	
Net loss at year ended May 31, 2006	--	--	--	--	
Balance at May 31, 2006	--	--	9,147,664	3,062,566	
Common stock issued to extinguish convertible debt	--	--	119,600	149,500	
Common stock issued for AITI acquisition	--	--	2,000,000	934,399	
Amortization of prepaid stock services	--	--	--	--	
Common stock payable for prepaid services	--	--	--	--	
Stock-based compensation	--	--	--	--	
Warrants issued with convertible debt	--	--	--	--	
Common stock issued for services	--	--	30,000	26,400	
Preferred shares issued AGTI	100,000	167,500	--	--	
Net loss, May 31, 2007	--	--	--	--	
Balance at May 31, 2007	100,000	167,500	11,297,264	4,172,865	

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
March 2006, stock options issued to extinguish debt	--	--	86,341	--	
Net loss at year ended May 31, 2006	--	--	--	--	(2,
Balance at May 31, 2006	--	(267,060)	1,324,509	(1,601,912)	(3,
Common stock issued to extinguish convertible debt	--	--	--	--	
Common stock issued for AITI acquisition	--	--	--	--	
Amortization of prepaid stock services	--	267,060	--	--	
Common stock payable for prepaid services	--	(106,521)	120,000	--	

Stock-based compensation	--	--	535,984	--	
Warrants issued with convertible debt	--	--	92,500	--	
Common stock issued for services	--	--	--	--	
Preferred shares issued AGTI	--	--	--	--	
Net loss, May 31, 2007	--	--	--	--	(2,
Balance at May 31, 2007	--	(106,521)	2,072,993	(1,601,912)	(5,

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
Amortization of prepaid stock for services	--	--	--	--	
Stock based compensation	--	--	--	--	
Common stock issued to extinguish convertible debt	--	--	750,000	75,000	
Rescission of common stock issued for services	--	--	(142,857)	(100,000)	
Original issue discount convertible debt with warrants	--	--	--	--	
Original issue discount convertible debt with beneficial conversion feature	--	--	--	--	
Stock issued for cash ($.50/share)	--	--	642,000	321,000	
Net loss	--	--	--	--	
Balance at May 31, 2008	100,000	$ 167,500	12,546,407	$ 4,468,865	

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
Amortization of prepaid stock for services	--	106,521	--	--	
Stock based compensation	--	--	461,602	--	

Common stock issued to extinguish convertible debt	--	--	--	--	
Rescission of common stock issued for services	--	--	--	--	
Original issue discount convertible debt with warrants	--	--	3,662	--	
Original issue discount convertible debt with beneficial conversion feature	--	--	75,000	--	
Stock issued for cash ($.50/share)	--	--	--	--	
Net loss	--	--	--	--	(1,
Balance at May 31, 2008	--	--	$ 2,613,257	$ (1,601,912)	$ (6,

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
Stock issued for cash ($.50/share)	--	--	3,023,308	$ 1,511,654	
Stock issued for services ($.50/share)	--	--	388,200	194,100	
Stock issued for services ($.37/share)	--	--	150,000	55,500	
Stock based compensation	--	--	--	--	
Stock issued in payment of accounts payable, ($.50/share)	--	--	98,000	49,000	
Stock issued for services ($.42/share)	--	--	15,400	6,468	
Capital contribution	--	--	--	--	
Net loss ended May 31, 2009	--	--	--	--	
Balance at May 31, 2009	100,000	$ 167,500	16,221,315	$ 6,285,587	
Stock issued for cash ($.50/share)	--	--	236,400	118,200	
Stock issued for cash ($.50/share) less offering costs of $28,000	--	--	632,000	290,500	

Stock issued for cash ($.50/share) less offering costs of $15,229	--	--	304,580	137,061	
Conversion of debt to Common stock ($.45/share)	--	--	325,458	146,456	

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
Stock issued for cash ($.50/share)	--	--	--	--	
Stock issued for services ($.50/share)	--	--	--	--	
Stock issued for services ($.37/share)	--	--	--	--	
Stock based compensation	--	--	371,996	--	
Stock issued in payment of accounts payable, ($.50/share)	--	--	--	--	
Stock issued for services ($.42/share)	--	--	--	--	
Capital contribution	--	--	8,900	--	
Net loss ended May 31, 2009	--	--	--	--	(1,
Balance at May 31, 2009	--	--	$ 2,994,153	$ (1,601,912)	$ (8,
Stock issued for cash ($.50/share)	--	--	--	--	
Stock issued for cash ($.50/share) less offering costs of $28,000	--	--	--	--	
Stock issued for cash ($.50/share) less offering costs of $15,229	--	--	--	--	
Conversion of debt to Common stock ($.45/share)	--	--	--	--	

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Changes in Shareholders' Equity
Period October 28, 2003 through May 31, 2010

	Preferred Stock		Common Stock		
	Shares	Amount	Shares	Amount	Sh
Conversion of preferred Stock to common stock	(100,000)	(167,500)	2,356,142	167,500	

Stock-based compensation	--	--	--	--	
Original issue discount Convertible debt with Beneficial conversion Feature	--	--	--	--	
Repurchase of common stock ($.28/share)	--	--	--	--	(1,
Repurchase of common stock ($.50/share)	--	--	--	--	(
Stock issued for cash ($.50/share)	--	--	--	--	
Stock issued for services ($1.45/share)	--	--	--	--	
Stock issued for cash ($.50/share) less offering costs of $28,421	--	--	--	--	
Amortization of prepaid Stock for services	--	--	--	--	
Series B Convertible Preferred stock issued for cash ($5.00/share)	400,000	2,009,000	--	--	
Net Loss, ended May 31, 2010	--	--	--	--	
Balance at May 31, 2010	400,000	$ 2,009,000	20,075,895	$ 7,145,304	(

	Treasury Stock APIC	Stock for Prepaid Services	Additional Paid-in Capital	Accumulated Deficit	De Accu Du Deve S
Conversion of preferred Stock to common stock	--	--	--	--	
Stock-based compensation	--	--	1,671,118	--	
Original issue discount Convertible debt with Beneficial conversion Feature	--	--	38,604	--	
Repurchase of common stock ($.28/share)	--	--	--	--	
Repurchase of common stock ($.50/share)	--	--	--	--	
Stock issued for cash ($.50/share)	123,000	--	--	--	
Stock issued for services ($1.45/share)	95,449	(118,291)	--	--	
Stock issued for cash ($.50/share) less offering costs of $28,421	94,631	--	--	--	
Amortization of prepaid					

Stock for services	--	69,003	--	--	
Series B Convertible Preferred stock issued for cash ($5.00/share)	--	--	--	--	
Net Loss, ended May 31, 2010	--	--	--	--	(3,
Balance at May 31,2010	$ 313,080	$ (49,288)	$ 4,703,875	$ (1,601,912)	$(12,

See accompanying notes to consolidated financial statements.

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Cash Flows

	Year Ended May 31,		October 2003 throu
	2010	2009	May 31,
Cash flows from operating activities			
Net loss	$ (3,736,944)	$ (1,572,804)	$(12,282
Adjustments to reconcile net loss to net cash used by operating activities:			
Amortization / depreciation	2,077	9,392	177
Amortization of original issue discount	38,604	1,010	717
Extinguishment of debt	--	(337,342)	(337
Purchased in-process research and development	--	--	274
Stock-based compensation	1,740,121	628,064	4,534
Changes in current assets and liabilities:			
Accrued legal settlement	(25,000)	--	
Increase in prepaid expenses	(12,127)	36,482	(19
Decrease in other assets	5,786	7,640	(23
Decrease in accounts payable, accrued interest and accrued liabilities	(158,927)	(59,447)	519
Net cash used in operating activities	(2,146,410)	(1,287,005)	(6,440
Cash flows from investing activities:			
Furniture and equipment purchases	(3,663)	(1,951)	(16
	(3,663)	(1,951)	(16
Cash flows from financing activities:			
Capital contributions by executive	--	8,900	14
Proceeds from notes payable to related parties	3,000	--	705
Payments on notes payable to related parties	(40,000)	(44,513)	(160
Proceeds from notes payable issued to individuals	--	--	145
Payments on notes payable issued to individuals	(27,500)	(7,000)	(34
Proceeds from convertible notes payable	--	--	686
Proceeds from the sale of common stock	588,990	1,511,654	3,179
Proceeds from Series B preferred stock	2,009,000	--	2,009

Purchase of treasury stock	(436,000)	--	(436
Proceeds from sale of treasury stock	559,210	--	559
Payments for offering costs	(71,650)	--	(153
Proceeds from issuance of stock for AITI acquisition	--	--	512
Proceeds from issuance of stock for AGTI acquisition	--	--	100
Proceeds from exercise of warrants	--	--	28
Net cash provided by financing activities	2,585,050	1,469,041	7,154
Net change in cash	434,977	180,085	697
Cash, beginning of period	265,520	85,435	3
Cash, end of period	$ 700,497	$ 265,520	$ 700

See accompanying notes to consolidated financial statements

CytoDyn, Inc.
(A Development Stage Company)
Consolidated Statements of Cash Flows

	Year Ended May 31,		October 2003 throu
	2010	2009	May 31,
Supplemental disclosure of cash flow information:			
Cash paid during the period for:			
Income taxes	$ --	$ --	$
Interest	$ --	$ --	$ 3
Non-cash investing and financing transactions:			
Net assets acquired in exchange for common stock in CytoDyn/Rexray business combination	$ --	$ --	$ 7
Common stock issued to former officer to repay working capital advance	$ --	$ --	$ 5
Common stock issued for convertible debt	$ --	$ --	$ 662
Common stock issued for debt	$ 125,500	$ --	$ 245
Common stock issued for accrued interest payable	$ 20,956	--	$ 20
Options to purchase common stock issued for debt	$ --	$ --	$ 62
Original issue discount and intrinsic value of beneficial conversion feature related to debt issued with warrants	$ 38,604	$ --	$ 719
Common stock issued for preferred stock	$ 167,500	$ --	$ 167
Treasury stock issued for prepaid services	$ 118,291	$ --	$ 118

Common stock issued on payment of accounts payable	$ --	$ 49,000	$ 49

See accompanying notes to consolidated financial statements.

CYTODYN, INC.
(A DEVELOPMENT STAGE COMPANY)
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1 - Organization

CytoDyn, Inc. (the "Company") was incorporated under the laws of Colorado on May 2, 2002 under the name Rexray Corporation ("Rexray"). In October 2003 we entered into an Acquisition Agreement with CytoDyn of New Mexico, Inc., pursuant to which we effected a one for two reverse split of our common stock, and amended our articles of incorporation to change our name from Rexray Corporation to CytoDyn, Inc. The acquisition was a accounted for as a reverse merger and recapitalization of the Company. Pursuant to the acquisition agreement, we were assigned the patent license agreement dated July 1, 1994 between CytoDyn of New Mexico and Allen D. Allen covering three United States patents along with foreign counterpart patents which describe a method for treating HIV disease with the use of monoclonal antibodies. We also acquired the trademarks, CytoDyn and Cytolin, and a related trademark symbol. The license acquired gives us the worldwide, exclusive right to develop, market and sell the HIV therapies from the patents, technology and know-how invented by Mr. Allen. The term of the license agreement is for the life of the patents. The original expiration dates on the issued patents are 2013 to 2016. There is an automatic extension of the expiration date on U.S. patents equal to the number of years the drug under the patent is being studied in clinical trials. Typically this provides another four to five years on the earliest claims. CytoDyn's counsel expects its patents to be extended until 2017 to 2020 depending upon the original date of the issued patents. As consideration for the intellectual property and trademarks we paid CytoDyn of New Mexico $10,000 in cash and issued 5,362,640 post-split shares of common stock to CytoDyn of New Mexico.

The Company entered the development stage effective October 28, 2003 upon the reverse merger and recapitalization of the Company and follows Financial Standard Accounting Codification No. 915, Development Stage Entities.

Advanced Influenza Technologies, Inc. ("AITI") was incorporated under the laws of Florida on June 9, 2006 pursuant to an acquisition during 2006.

Advanced Genetic Technologies, Inc. ("AGTI") was incorporated under the laws of Florida on December 18, 2006 pursuant to an acquisition during 2006.

CytoDyn, Inc. discovered and is developing a class of therapeutic monoclonal antibodies to address significant unmet medical needs in the areas of HIV and AIDS.

2 - Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of CytoDyn, Inc. and

its wholly owned subsidiaries; AITI and AIGI. All intercompany transactions and balances are eliminated in consolidation.

Going Concern

The accompanying financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. As shown in the accompanying consolidated financial statements, the Company is currently in the development stage with losses for all periods presented. As of December 3, 2010 these factors, among others, raise substantial doubt about the Company's ability to continue as a going concern.

The consolidated financial statements do not include any adjustments relating to the recoverability of assets and classification of liabilities that might be necessary should the Company be unable to continue as a going concern. The Company's continuation as a going concern is dependent upon its ability to obtain additional operating capital, complete development of its medical treatment, obtain FDA approval, outsource manufacturing of the treatment, and ultimately to attain profitability. The Company intends to seek additional funding through equity offerings and licensing agreements to fund its business plan. There is no assurance that the Company will be successful in these endeavors.

Use of Estimates

The preparation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company considers all highly liquid debt instruments with original maturities of three months or less when acquired to be cash equivalents. The Company had no cash equivalents as of May 31, 2010 or May 31, 2009. The Company maintains its cash in bank deposit accounts, which at times, may exceed federally insured limits. The Company has not experienced any losses in such accounts.

Furniture and Equipment

Furniture and equipment are stated at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the related assets, generally three to seven years. Maintenance and repairs are charged to expense as incurred and major improvements or betterments are capitalized. Gains or losses on sales or retirements are included in the consolidated statements of operations in the year of disposition.

Impairment of Long-Lived Assets

The Company evaluates the carrying value of long-lived assets under U.S. GAAP, which requires impairment losses to be recorded on long-lived assets used in operations when indicators of impairment are present and the undiscounted future cash flows estimated to be generated by those assets are less than the assets' carrying amount. If such assets are impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying value or fair value, less costs to sell. There were no impairment charges for years ended May 31, 2010 and 2009, and for the period October 28, 2003 to May 31, 2010.

Research and Development

Research and development costs are expensed as incurred.

Financial Instruments

At May 31, 2010 and May 31, 2009, the carrying value of the Company's financial instruments approximate fair value due to the short-term maturity of the instruments. The Company's notes payable have market rates of interest, and accordingly, the carrying values of the notes approximates the fair value.

Stock-Based Compensation

U.S. GAAP requires companies to measure the cost of employee services received in exchange for the award of equity instruments based on the fair value of the award at the date of grant. The expense is to be recognized over the period during which an employee is required to provide services in exchange for the award (requisite service period). U.S. GAAP provides for two transition methods. The "modified prospective" method requires that share-based compensation expense be recorded for any employee options granted after the adoption date and for the unvested portion of any employee options outstanding as of the adoption date. The "modified retrospective" method requires that, beginning upon adoption, all prior periods presented be restated to reflect the impact of share-based compensation expense consistent with the pro forma disclosures previously required under U.S. GAAP. The Company adopted the modified prospective method, and as a result, was not required to restate its financial results for prior periods. Prior to June 1, 2006, the Company recognized compensation expense to the extent of employee or director services rendered based on the intrinsic value of stock options granted under the plan.

The Company accounts for common stock options, and common stock warrants granted based on the fair market value of the instrument using the Black-Scholes option pricing model utilizing certain weighted average assumptions such as expected stock price volatility, term of the options and warrants, risk-free interest rates, and expected dividend yield at the grant date. The risk-free interest rate assumption is based upon observed interest rates appropriate for the expected term of the stock options. The expected volatility is based on the historical volatility of the Company's common stock at consistent intervals. The

Company has not paid any dividends on its common stock since its inception and does not anticipate paying dividends on its common stock in the foreseeable future. The computation of the expected option term is based on the "simplified method" as the Company's stock options are "plain vanilla" options and the Company has a limited history of exercise data. For common stock options and warrants with graded vesting, the Company recognizes the related compensation costs associated with these options and warrants on a straight-line basis over the requisite service period.

U.S. GAAP requires forfeitures to be estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Based on limited historical experience of forfeitures, the Company estimated future unvested option forfeitures at 0% as of May 31, 2010 and May 31, 2009.

Stock for Services

The Company issues common stock and common stock options to consultants for various services. Costs for these transactions are measured at the fair value of the consideration received or the fair value of the equity instruments issued, whichever is more reliably measurable. The value of the common stock is measured at the earlier of (i) the date at which a firm commitment for performance by the counterparty to earn the equity instruments is reached or (i) the date at which the counterparty's performance is complete.

(Loss) Per Common Share

Basic (loss) per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period. Diluted (loss) per share is computed by dividing net (loss) by the weighted average common shares and potentially dilutive common share equivalents. The effects of potential common stock equivalents are not included in computations when their effect is anti-dilutive. Because of the net losses for all periods presented, the basic and diluted weighted average shares outstanding are the same since including the additional shares would have an anti-dilutive effect on the loss per share calculation. Common stock option and warrants to purchase 7,660,176, 4,975,976 and 7,660,176 shares of common stock were not included in the computa