

CANCERVAX CORP  
Form 8-K  
May 25, 2005

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **May 25, 2005**

**CANCERVAX CORPORATION**

(Exact Name of Registrant as Specified in its Charter)

**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**0-50440**  
(Commission  
File Number)

**52-2243564**  
(IRS Employer  
Identification No.)

**2110 Rutherford Road, Carlsbad, CA**  
(Address of Principal Executive Offices)

**92008**  
(Zip Code)

Registrant's telephone number, including area code: **(760) 494-4200**

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(Former Name or Former Address, if Changed Since Last Report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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By letter dated May 20, 2005, CancerVax Corporation (the *Company*), notified SemaCo, Inc. of its decision to terminate the Sublicense Agreement, dated as of March 10, 2004, by and among SemaCo, Barbara Gilchrest, M.D. and the Company (the *Agreement*), effective July 21, 2005. The termination was based on the Company's decision to use its available financial resources to focus on product candidates that are in the later stages of development following the discontinuation of the Company's Phase 3 clinical trial in Stage IV melanoma. However, the Company remains very positive about the potential for SemaCo's T-oligonucleotide technology to result in an effective treatment for patients with cancer. Pursuant to the terms of the Agreement, the Company had obtained an exclusive, worldwide sublicense from SemaCo to develop and commercialize novel technology using T-oligonucleotides for the potential treatment or prevention of cancer. Upon termination of the Agreement, the sublicense from SemaCo will terminate, and all rights to the licensed technology will revert to SemaCo. The Company will not incur any early termination penalties as a result of the termination of the Agreement.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement.**

As previously disclosed, on December 23, 2004, the Company entered into a Loan and Security Agreement (the *Loan Agreement*) with Silicon Valley Bank (*SVB*). Under the terms of the Loan Agreement, the Company is allowed to borrow, from time to time, up to \$18 million on or before December 31, 2005. At the Company's option, the interest rate on the amounts borrowed by the Company is either variable or fixed. The variable interest rate is equal to the greater of SVB's prime rate and 4.75% (though the Company has the option of subsequently fixing the interest rate of such variable rate loans at a rate equal to the greater of SVB's prime rate plus 1.25% and 6.00%). The fixed interest rate is equal to the greater of the 4-year U.S. Treasury note rate plus 2.86% and 6.00%. The outstanding amounts under the Loan Agreement are generally payable on a monthly basis over the four-year period commencing on January 31, 2006, such that all outstanding amounts under the Loan Agreement will become paid on or before the final maturity date of December 31, 2009. The Company previously disclosed that it had borrowed approximately \$9.8 million under the Loan Agreement. On May 24, 2005, the Company borrowed approximately an additional \$4.7 million under the Loan Agreement.

The Company has granted SVB a first priority security interest in substantially all of the Company's assets, excluding the Company's intellectual property, to secure the Company's obligations under the Loan Agreement. The Loan Agreement contains various customary representation and warranties of the Company as well as customary affirmative and negative covenants, including, without limitation, financial reporting, limitation on liens, limitations on the occurrence of future indebtedness, maintenance of a minimum amount of cash in deposits accounts of SVB or in the accounts of affiliates of SVB (in an amount at least equal to the outstanding principal amount borrowed under the Loan Agreement), limitations on mergers and other consolidations, limitations on dividends, limitations on investments and limitations on transactions with affiliates. In addition, the Company is generally obligated to maintain, as of the last day of each quarter, cash and cash equivalents in an amount at least equal to the greater of (i) the quarterly cash burn of the Company multiplied by 2 or (ii) the then outstanding principal amount of the obligations under the Loan Agreement multiplied by 1.5. In the event that the Company breaches this financial covenant, it is obligated to pledge and deliver to SVB a certificate of deposit in an amount equal to the aggregate outstanding principal amount of the obligations under the Loan Agreement.

The Loan Agreement contains certain customary events of default, including, among others, non-payment of principal and interest, violation of covenants, cross defaults, the occurrence of a material adverse change in the Company's ability to satisfy its obligations under the Loan Agreement or with respect to SVB's security interest in the

Company's assets and in the event the Company is involved in certain insolvency proceedings. Upon the occurrence of an event of default, SVB is entitled to, among other things, accelerate all obligations of the Company and sell the Company's assets to satisfy the Company's obligations under the Loan Agreement. In addition, in an event of default, the outstanding obligations of the Company will accrue interest at a rate of 2.00% above the rate effective immediately prior to the event of default.

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The Company intends to use the proceeds from the Loan Agreement primarily to construct and equip an additional production suite in its existing manufacturing facility, and to create additional warehouse and laboratory space to support the manufacture of Canvaxin , the Company s lead product candidate, which is being studied in a Phase 3 clinical trial for the treatment of patients with Stage III melanoma.

The Loan Agreement is attached hereto as Exhibit 10.1. The forgoing summary is qualified by reference to the Loan Agreement, which is incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits.**

(c) Exhibits.

<b>Exhibit No.</b>	<b>Description</b>
10.1*	Loan and Security Agreement dated December 23, 2004 entered into between the Company and Silicon Valley Bank.

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\* Incorporated by reference to CancerVax Corporation s Current Report filed with the Securities and Exchange Commission on December 29, 2004.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CANCERVAX CORPORATION

Date: May 25, 2005

By: /s/ David F. Hale  
Name: David F. Hale  
Title: President and Chief Executive  
Officer

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