DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY
OFFICE OF PUBLIC HEALTH AND SCIENCE

FOR US POSTAL SERVICE DELIVERY:
Office for Human Research Protections
6100 Executive Boulevard, Suite 3B01
National Institutes of Health (MSC 7507)
Rockville, Maryland 20892-7507

FOR HAND DELIVERY OR EXPRESS MAIL:
Office for Human Research Protections
6100 Executive Boulevard, Suite 3B01
Rockville, Maryland 20852

Telephone: 301-435-0062
FAX: 301-402-2071
E-mail: weilc@od.nih.gov

March 30, 2001

Dr. Richard K. Koehn
Vice President for Research
University of Utah
210 Park Building
Salt Lake City, Utah 84112

RE: Human Subject Research Protections Under Multiple Project Assurance (MPA) M-1082

Dear Dr. Koehn:

The Office for Human Research Protections (OHRP), formerly the Office for Protection from Research Risks (OPRR), has reviewed your reports of October 28, 1999 and February 23, 2000, responding to OPRR's requests for corrective action, and re-examined your prior reports regarding the Crash Outcome Data Evaluation System (CODES) study (dated November 24, 1998, and August 3, 1998), and the fertility and reproductive research conducted by Drs. Harry Hatsaka and Ronald Urry (dated July 30, 1999; August 3, 1998; May 5, 1998; and February 3, 1998).

OHRP acknowledges the corrective actions taken by the University of Utah (UoU) as described in UoU's October 28, 1999 report. OHRP finds that UoU has implemented all required corrective actions stipulated in OPRR's August 23, 1999 letter. In particular, OHRP acknowledges that:

(1) The UoU institutional review board (IRB) has reviewed all CODES protocols previously designated as exempt.

(2) UoU has clarified that the IRB is the authority that must determine whether proposed research qualifies for exemption from the requirements of the Department of Health and Human Services (HHS) regulations governing human research subjects under 45 CFR 46.101(b);

(3) UoU has revised its investigator training process to ensure that those conducting

human subject research within the UoU community are aware of the mandate to seek IRB confirmation and approval of exempt status.

(4) UoU has clarified that if the convened IRB determines that a protocol requires substantive modifications, it must be returned to the convened IRB to receive final approval.

(5) UoU has revised its continuing review policies to comply with HHS regulatory requirements at 45 CFR 46.109(e) and OHRP guidance.

In light of these corrective actions, there should be no need for further involvement of OHRP in this matter. Of course, OHRP must be notified should new information be identified which might alter this determination.

At this time, OHRP provides the following additional guidance to UoU with respect to its system for human subject protections:

(1) UoU's Guidelines for Preparation of Applications for Review state that upon the initial review of protocols, the IRB identifies a protocol as "approved" or "approved with comment," in which case the research can proceed, or "approved with conditions," "deferred with comments,"or disapproved with comments," in which case the research may not proceed. OHRP recommends that the Guidelines specify the nature of IRB review required when a protocol receives each of these designations. When the convened IRB requests substantive clarifications, protocol modifications, or informed consent document revisions, IRB approval of the proposed research should be deferred pending subsequent review by the convened IRB of responsive material. When the convened IRB stipulates specific revisions requiring simple concurrence by the investigator, the IRB Chair or another IRB member designated by the Chair subsequently approve the revised research protocol on behalf of the IRB under an expedited review procedure.

(2) OHRP emphasizes that the minutes of IRB meetings should include a written summary of the discussion of controverted issues and their resolution, as required by 45 CFR 46.115(a)(2).

(3) Where HHS regulations require specific findings on the part of the IRB, such as (a) approving a procedure which alters or waives the requirements for informed consent [see 45 CFR 46.116(d), discussed above]; (b) approving a procedure which waives the requirement for obtaining a signed consent form [see 45 CFR 46.117(c)]; (c) approving research involving prisoners [see 45 CFR 46.305-306]; or (d) approving research involving children [see 45 CFR 46.404-407], the IRB should document such findings. OHRP strongly recommends that all required findings be fully documented in the IRB minutes, including protocol-specific information justifying each IRB finding.

(4) UoU's Guidelines for Preparation of Applications for Review states that the protocol

summary submitted by investigators should be no longer than five concise pages. In conducting the initial review of proposed research, IRBs must obtain information in sufficient detail to make the determinations required under HHS regulations at 45 CFR 46.111. UoU should consider elimination of the page limitation for protocol summaries because it may discourage investigators from providing to the IRB information necessary for it to make required determinations under HHS regulations at 45 CFR 46.111.

Please note that OHRP anticipates conducting a compliance oversight visit at UoU within the next 12-24 months.

OHRP appreciates the continued commitment of UoU to the protection of human research subjects. Feel free to contact me should you have any questions.

Sincerely,

Carol J. Weil, J.D.
Division of Compliance Oversight

cc: Dr. Kamal Mittal, OHRP
Dr. Greg Koski, OHRP
Dr. Melody Lin, OHRP
Dr. Michael Carome, OHRP
Mr. Barry Bowman, OHRP
Dr. Kristina Borror, OHRP
Dr. Clifford C. Scharke, OHRP
Dr. Jeffrey Cohen, OHRP
Dr. Jay Jacobson, IRB Chair, University of Utah
Dr. Harry Hatasaka, University of Utah
Dr. Douglas Carrell, University of Utah
Pat Nechodom, Utah CODES Project Director
Dennis Utter, NHTSA
Commissioner, FDA
Dr. David Lepay, FDA
Dr. James McCormack, FDA
Dr. John Mather, ORCA, Dept. of Veterans Affairs