

LSB INDUSTRIES INC
Form 10-Q/A
August 06, 2010
LSB Industries, Inc.

Form 10-Q/A (6-30-2010)

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

Form 10-Q/A
Amendment No. 1

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR
15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2010

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR
15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from
_____ to _____

Commission file number 1-7677

LSB Industries, Inc.
Exact name of Registrant as specified in its charter

Delaware
State or other jurisdiction of
incorporation or organization

73-1015226
I.R.S. Employer Identification No.

16 South Pennsylvania Avenue, Oklahoma City, Oklahoma 73107
Address of principal executive offices Zip Code

(405) 235-4546
Registrant's telephone number, including area code

None
Former name, former address and former fiscal year, if changed since last report.

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant

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was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes
☐ No

Indicate by check mark 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 ☐ No

(Facing Sheet Continued)

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of “large accelerated filer”, “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐ Accelerated filer ☒

Non-accelerated filer ☐ Smaller reporting company ☐

(Do not check if a smaller reporting company)

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Act). ☐ Yes ☒ No

The number of shares outstanding of the Registrant's voting common stock, as of July 30, 2010 was 21,093,683 shares, excluding 4,320,462 shares held as treasury stock.

Explanatory Note

The Quarterly Report on Form 10-Q for LSB Industries, Inc. for the quarterly period ended June 30, 2010, as filed with the Securities and Exchange Commission on August 6, 2010 ("Form 10-Q"), is being amended by this Amendment No. 1 solely to reflect all the exhibits in this report.

In connection with filing of this Amendment No. 1 and pursuant to Rule 12b-15, certain certifications which we filed as exhibits 32.1 and 32.2 with the Form 10-Q were inadvertently not listed or described in the exhibit list under Item 6. Thus, we are filing this Amendment No. 1 to the Form 10-Q to adequately list and describe all exhibits, including exhibits 32.1 and 32.2 which are the certifications under Section 906 for our Principle Executive Officer and Principle Financial Officer. The remainder of the Form 10-Q is unchanged and is not reproduced in this Amendment No. 1. Except for the foregoing amended information, the Form 10-Q continues to describe conditions as of the date of the original filing of such Form 10-Q, and we have not updated the disclosures contained therein to reflect events that have occurred at a later date.

Item 6. Exhibits

(a) Exhibits The Company has included the following exhibits in this report:

- 4.1a Amended and Restated Loan and Security Agreement by and among LSB Industries, Inc., ThermaClima, Inc. and each of its subsidiaries that are Signatories, the lenders and Wells Fargo Foothill, Inc., which the Company hereby incorporates by reference from Exhibit 4.2 to the Company's Form 10-Q for the fiscal quarter ended September 30, 2007.
- 4.1b * Exhibits and Schedules to the Amended and Restated Loan and Security Agreement by and among LSB Industries, Inc., ThermaClima, Inc. and each of its subsidiaries that are Signatories, the lenders and Wells Fargo Foothill, Inc.
- 4.2a Term Loan Agreement, dated as of November 2, 2007, among LSB Industries, Inc., ThermaClima, Inc. and certain subsidiaries of ThermaClima, Inc., Cherokee Nitrogen Holdings, Inc., the Lenders, the Administrative and Collateral Agent and the Payment Agent, which the Company hereby incorporates by reference from Exhibit 4.1 to the Company's Form 10-Q for the fiscal quarter ended September 30, 2007.
- 4.2b * Exhibits and Schedules to the Term Loan Agreement, dated as of November 2, 2007, among LSB Industries, Inc., ThermaClima, Inc. and certain subsidiaries of ThermaClima, Inc., Cherokee Nitrogen Holdings, Inc., the Lenders, the Administrative and Collateral Agent and the Payment Agent.
- 10.1a Asset Purchase Agreement, dated as of December 6, 2002 by and among Energetic Systems Inc. LLC, UTeC Corporation, LLC, SEC Investment Corp. LLC, DetaCorp Inc. LLC, Energetic Properties, LLC, Slurry Explosive Corporation, Universal Tech Corporation, El Dorado Chemical Company, LSB Chemical Corp., LSB Industries, Inc. and Slurry Explosive Manufacturing Corporation, LLC, which the Company hereby incorporates by reference from Exhibit 2.1 to the Company's Form 8-K, dated December 12, 2002.

- 10.1b * Exhibits and Disclosure Letters to the Asset Purchase Agreement, dated as of December 6, 2002 by and among Energetic Systems Inc. LLC, UTeC Corporation, LLC, SEC Investment Corp. LLC, DetaCorp Inc. LLC, Energetic Properties, LLC, Slurry Explosive Corporation, Universal Tech Corporation, El Dorado Chemical Company, LSB Chemical Corp., LSB Industries, Inc. and Slurry Explosive Manufacturing Corporation, LLC.
- 10.2 * Second Amendment to the Nitric Acid Supply, Operating and Maintenance Agreement, dated June 16, 2010, between El Dorado Nitrogen, L.P., El Dorado Chemical Company and Bayer MaterialScience, LLC. CERTAIN INFORMATION WITHIN THIS EXHIBIT HAS BEEN OMITTED AS IT IS THE SUBJECT OF A REQUEST FOR CONFIDENTIAL TREATMENT UNDER THE FREEDOM OF INFORMATION ACT AND THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. THE OMITTED INFORMATION HAS BEEN FILED SEPARATELY WITH THE SECRETARY OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE PURPOSES OF THIS REQUEST.
- 10.3 Consent, Joinder and Second Amendment, dated as of April 1, 2010, by and among LSB Industries, Inc., ThermaClime, Inc., each of the Subsidiaries of ThermaClime identified on the signature pages thereof, the lenders identified on the signature pages thereof, Wells Fargo Capital finance, Inc., as the arranger and administrative agent, and Consolidated Industries Corp., which the Company hereby incorporates by reference from Exhibit 99.3 to the Company's Form 8-K, filed April 7, 2010.
- 10.4 Amendment and Waiver to the Term Loan, dated April 1, 2010, by and among ThermaClime, Inc., Cherokee Nitrogen Holdings, Inc., Northwest Financial Corporation, Chemex I Corp., Chemex II Corp., Cherokee Nitrogen Company, ClimaCool Corp., ClimateCraft, Inc., Climate Master, Inc., DSN Corporation, El Dorado Chemical Company, International Environmental Corporation, Koax Corp., LSB Chemical Corp., The Climate Control Group, Inc., Trison Construction, Inc., ThermaClime Technologies, Inc., XpediAir, Inc., LSB Industries, Inc., each lender party thereto, Banc of America Leasing & Capital, LLC, as Administrative Agent and as Collateral Agent, Bank of Utah, as Payment Agent, and Consolidated Industries Corp., which the Company hereby incorporates by reference from Exhibit 99.4 to the Company's Form 8-K, filed April 7, 2010.
- 21.1 * Subsidiaries of the Company
- 31.1 Certification of Jack E. Golsen, Principle Executive Officer, pursuant to Sarbanes-Oxley Act of 2002, Section 302.
- 31.2 Certification of Tony M. Shelby, Principle Financial Officer, pursuant to Sarbanes-Oxley Act of 2002, Section 302.
- 32.1 Certification of Jack E. Golsen, Principle Executive Officer, furnished pursuant to Sarbanes-Oxley Act of 2002, Section 906.
- 32.2 Certification of Tony M. Shelby, Principle Financial Officer, furnished pursuant to Sarbanes-Oxley Act of 2002, Section 906.

* Previously filed with Form 10-Q

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Company has caused the undersigned, duly authorized, to sign this report on its behalf on this 6th day of August 2010.

LSB INDUSTRIES, INC.

By: /s/ Tony M. Shelby
Tony M. Shelby
Executive Vice President of Finance and Chief Financial Officer
(Principal Financial Officer)

By: /s/ Harold L. Rieker, Jr.
Harold L. Rieker, Jr.
Vice President and Principal Accounting Officer

