

BION ENVIRONMENTAL TECHNOLOGIES INC

Form S-8

February 28, 2013

As Filed With the Securities and Exchange Commission on February 28, 2013

Registration Statement No. _____

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

BION ENVIRONMENTAL TECHNOLOGIES, INC.

Exact name of Registrant as Specified in its Charter

Colorado
State or Other Jurisdiction of Incorporation

84-1176672
IRS Employer Identification Number

Box 566/1774 Summitview Way

Crestone, Colorado 81131

(Address of Principal Executive Offices, Including Zip Code)

(212) 758-6622

(Registrant's Telephone Number, Including Area Code)

Bion Environmental Technologies, Inc.

2006 Consolidated Incentive Plan

(Full title of plan)

Mark A. Smith, President

Bion Environmental Technologies, Inc.

Box 566/1774 Summitview Way, Crestone, Colorado 81131

(Name and address of agent for service)

(212) 758-6622

(Telephone number, including area code, for agent of service)

Copy to:

Jon D. Sawyer, Esq.

Jin, Schauer & Saad LLC

600 Seventeenth Street, Suite 2700 South

Denver, Colorado 80202

(720) 889-2211

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 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

(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

| Title of Securities to be Registered Common Stock, No Par Value | Amount to be Registered ⁽¹⁾ | Proposed Maximum | Proposed Maximum | Amount of Registration Fee |
|---|--|--------------------------|----------------------------|-------------------------------|
| | | Offering Price Per Share | Aggregate Offering Price | |
| | 4,000,000 | \$1.90 ⁽²⁾ | \$7,600,000 ⁽²⁾ | \$1,036.64 |
| | | | Total | \$1,036.64 |

(1) Represents increase in the total number of shares reserved for issuance under the 2006 Consolidated Incentive Plan. A total of 8,000,000 shares have previously been registered under a registration statement on Form S-8 (File No. 333-145153) with respect to the 2006 Consolidated Incentive Plan.

(2) Based on the closing price of Registrant's Common Stock on the OTC Bulletin Board on February 27, 2013, of \$1.90.

STATEMENT UNDER GENERAL INSTRUCTION E

REGISTRATION OF ADDITIONAL SECURITIES

The registrant, Bion Environmental Technologies, Inc., previously filed a registration statement on Form S-8 with the Securities and Exchange Commission (Sec File No. 333-145153) in connection with the registration of an aggregate of 3,200,000 shares of common stock to be issued under the 2006 Consolidated Incentive Plan; on June 18, 2008, an amendment was filed increasing the number of shares being registered to 4,200,000; on October 16, 2009, an amendment was filed increasing the number of shares being registered to 6,000,000; and on May 27, 2011, an amendment was filed increasing the number of shares being registered to 8,000,000.

Pursuant to General Instruction E of Form S-8, this registration statement is filed solely to register an additional 4,000,000 shares of the Company's common stock for issuance under the 2006 Consolidated Incentive Plan. This increase was approved by the registrant's Board of Directors on January 15, 2013. Pursuant to Instruction E, the contents of the previously filed registration statement on Form S-8 (File No. 333-145153) are hereby incorporated by reference into this registration statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8.

Exhibits.

Exhibit

| <u>Number</u> | <u>Description</u> | <u>Location</u> |
|----------------------|---|-------------------------------|
| 5.1 | Opinion of Jin, Schauer & Saad LLC regarding legality | Filed herewith electronically |
| 23.1 | Consent of GHP Horwath, P.C. | Filed herewith electronically |
| 23.2 | Consent of Jin, Schauer & Saad LLC | (Contained in Exhibit 5.1) |

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Crestone and State of Colorado on the 28th day of February 2013.

BION ENVIRONMENTAL TECHNOLOGIES, INC.

By: */s/ Dominic Bassani*

Dominic Bassani, Interim Chief Executive Officer (Chief Executive Officer)

By: */s/ Mark A. Smith*

Mark A. Smith, President and Interim Chief Financial Officer (Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Act of 1933, this Form S-8 Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|---|---|--------------------|
| <i>/s/ Edward T. Schafer</i> Edward T. Schafer | Director | February 28, 2013 |
| <i>/s/ Mark A. Smith</i> Mark A. Smith | President, Interim Chief Financial Officer and Director | February 28, 2013 |
| <i>/s/ Jon Northrop</i> | Secretary and Director | February 28, 2013 |

Jon Northrop