

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**Washington, D.C. 20429**

**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): August 4, 2011**

**Summit State Bank**

(Exact name of registrant as specified in its charter)

California  
(State or other jurisdiction of  
incorporation)

32203  
(FDIC Insurance Certificate No.)

94-2878925  
(IRS Employer Identification  
Number)

500 Bicentennial Way  
Santa Rosa, California  
(Address of principal executive offices)

95403  
(Zip Code)

(707) 568-6000  
(Registrant's telephone number, including area code)

N/A  
(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))

### **Item 1.01 Entry into a Material Definitive Agreement**

On August 4, 2011, as part of the Small Business Lending Fund (“SBLF”) program of the United States Department of the Treasury (“Treasury”), Summit State Bank (the “Bank”) entered into a Small Business Lending Fund-Securities Purchase Agreement (the “Purchase Agreement”) with the Secretary of the Treasury, pursuant to which the Bank (i) sold 13,750 shares of the Bank’s Senior Non-Cumulative Perpetual Preferred Stock, Series B (the “Series B Preferred Stock”) to the Secretary of the Treasury for a purchase price of \$13,750,000. The Series B Preferred Stock was issued pursuant to the SBLF program, a \$30 billion fund established under the Small Business Jobs Act of 2010 that was created to encourage lending to small business by providing capital to qualified community banks with assets of less than \$10 billion. The Series B Preferred Stock was issued under a new Certificate of Determination to the Bank’s Articles of Incorporation (the “Certificate of Determination”).

The Series B Preferred Stock qualifies as Tier 1 capital for bank regulatory purposes. The Series B Preferred Stock has a liquidation preference of \$1,000 per share. Holders of the Series B Preferred Stock are entitled to receive non-cumulative dividends, payable quarterly, on each of January 1, April 1, July 1 and October 1, beginning October 1, 2011. The dividend rate, which is calculated on the aggregate Liquidation Amount, has been initially set at 5% per annum based upon the current level of “Qualified Small Business Lending”, or “QSBL” (as defined in the Certificate of Determination) by the Bank. The dividend rate for future dividend periods will be set based upon the “Percentage Change in QSBL” (as defined in the Certificate of Determination) between each dividend period and the “Baseline” QSBL level which is the average of the Bank’s QSBL for each of the four full quarters ending on June 30, 2010, adjusted by the amount of any gains realized by the Issuer resulting from mergers and acquisitions, or purchases of loans, as measured since, and including, the quarter ending on September 30, 2010. Such dividend rate may vary from 1% per annum to 5% per annum for the second through tenth dividend periods, from 1% per annum to 7% per annum for the eleventh dividend period through year four and one-half. If the Series B Preferred Stock remains outstanding for more than four and one-half years, the dividend rate will be fixed at 9%. Prior to that time, in general, the dividend rate decreases as the level of the Bank’s QSBL increases. Such dividends are not cumulative, but the Bank may only declare and pay dividends on its common stock (or any other equity securities junior to the Series B Preferred Stock) if it has declared and paid dividends for the current dividend period on the Series B Preferred Stock, and will be subject to other restrictions on its ability to repurchase or redeem other securities.

The Series B Preferred Stock is non-voting, except in limited circumstances. In the event that the Bank misses five dividend payments, whether or not consecutive, the holder of the Series B Preferred Stock will have the right, but not the obligation, to appoint a representative as an observer on the Bank’s Board of Directors. In the event that the Bank misses six dividend payments, whether or not consecutive, and if the then outstanding aggregate liquidation amount of the Series B Preferred Stock is at least \$25,000,000, then the holder of the Series B Preferred Stock will have the right to designate two directors to the Board of Directors of the Bank.

The Bank may redeem the Series B Preferred Stock at any time at a redemption price per share equal to the per share liquidation amount plus accrued but unpaid dividends to the date of redemption for the current period, subject to the approval of the Bank’s federal banking regulator.

As required by the Purchase Agreement, \$8,593,264 of the proceeds from the sale of the Series B Preferred Stock was used to redeem the 8,500 shares of the Bank’s Fixed Rate Non-Cumulative Perpetual Preferred Stock, Series A (the “Series A Preferred Shares”) issued in 2008 to the Treasury in the Troubled Asset Relief Program, plus the accrued and unpaid dividends owed on the Series A Preferred Shares. The Bank entered into a repurchase letter agreement with Treasury providing for the redemption of the TARP preferred shares (“Repurchase Agreement”).

As part of the 2008 TARP transaction, the Bank issued a warrant to Treasury to purchase 239,212 shares of the Bank’s common stock for a per share price of \$5.33 per share. The warrant has a term of 10 years. The per

share price of the Bank's stock at the close of business on August 4, 2011 was \$6.35. The Bank has 15 days from the closing of the SBLF transaction to notify the Treasury whether it wants to repurchase the warrant. If the Bank does not provide this notice before the expiration of such 15 day period, Treasury will be deemed to have notified the Bank that it intends to sell the Warrant. The Bank is preparing a proposal to Treasury to initiate the process for its repurchase of the Warrant.

This description of the Purchase Agreement and the Repurchase Agreement is qualified in its entirety by the actual forms of these agreement, which are attached as exhibits to this report and are incorporated herein by reference.

### **Item 3.02 Unregistered Sales of Equity Securities.**

The information set forth under "Item 1.01 Entry into a Material Definitive Agreement" is incorporated by reference into this Item 3.02. The issuance and sale of the Series B Preferred Stock was exempt from registration pursuant to Sections 3(a) (2) and 4(2) of the Securities Act of 1933, as amended. The Bank has not engaged in a general solicitation or advertising with regard to the issuance and sale of such securities and has not offered securities to the public in connection with this issuance and sale.

### **Item 3.03 Material Modification to Rights of Security Holders.**

The terms of the Series B Preferred Stock impose limits on the ability of the Bank to pay dividends and repurchase shares of common stock. Under the terms of the Series B Preferred Stock, no repurchases may be effected, and no dividends may be declared or paid on preferred shares ranking pari passu with the Series B Preferred Stock, junior preferred shares, or other junior securities (including the common stock) during the current quarter and for the next three quarters following the failure to declare and pay dividends on the Series B Preferred Stock, except that, in any such quarter in which the dividend is paid, dividend payments on shares ranking pari passu may be paid to the extent necessary to avoid any resulting material covenant breach.

Under the terms of the Series B Preferred Stock, the Bank may only declare and pay a dividend on the common stock or other stock junior to the Series B Preferred Stock, or repurchase shares of any such class or series of stock, if, after payment of such dividend, the dollar amount of the Bank's Tier 1 Capital would be at least 90% of the Signing Date Tier 1 Capital, as set forth in the Certificate of Determination relating to the Series B Preferred Stock, excluding any subsequent net charge-offs and any redemption of the Series B Preferred Stock (the "Tier 1 Dividend Threshold"). The Tier 1 Dividend Threshold is subject to reduction, beginning on the second anniversary of issuance and ending on the tenth anniversary, by 10% of the aggregate liquidation amount of Treasury's investment in the Series B Preferred Stock for each one percent increase in QSBL over the baseline level.

### **Item 5.02 Departure of Directors or Certain Officers; Election of; Appointment of Certain Officers; Compensation Arrangements of Certain Officers.**

As a result of the redemption of the TARP Preferred Shares, the Bank is no longer subject to the TARP Executive Compensation requirements.

### **Item 5.03 Amendment to Articles of Incorporation or Bylaws; Change in Fiscal Year**

On August 3, 2011, the Bank filed a Certificate of Determination with the California Secretary of State for the purpose of amending its Articles of Incorporation to fix the designations, preferences, limitations and relative rights of the Series B Preferred Stock. The Certificate of Determination is attached as Exhibit 3.1 to this report and is incorporated by reference herein. The Form of Stock Certificate for the Series B Preferred Stock is attached as Exhibit 4.1 to this report and is incorporated herein by reference.

In addition, effective August 4, 2011, the Bank amended its Bylaws to provide that for so long as the Series B Preferred Stock is outstanding, it will reserve two of the up to 15 positions on its Board of Directors to ensure that

the holder of the Series B Preferred Stock may designate two persons to the Board of Directors of the Bank should the right arise. The Bylaws, as amended, are attached as Exhibit 3.2 to this report and are incorporated herein by reference.

**Item 8.01 Other Information.**

On July 28, 2011, the Bank issued a press release announcing the sale of \$13,750,000 of Series B Preferred Stock to Treasury pursuant to the Purchase Agreement and the redemption of the Series A. The press release was filed on Form 8-K dated July 28, 2011 and is incorporated by reference.

**Item 9.01 Financial Statements and Exhibits.**

Reference is made to the exhibits listed in the Exhibit Index included with this report.

**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.

SUMMIT STATE BANK

Date: August 4, 2011

By: /s/ Dennis Kelley

Dennis Kelley

Senior Vice President and Chief Financial Officer

Exhibit List

Exhibit	No. Description of Exhibit
3.1	Certificate of Determination for the Series B Preferred Stock
3.2	Amended and Restated Bylaws
4.1	Form of Certificate for the Series B Preferred Stock
10.1	Small Business Lending Fund-Securities Purchase Agreement, dated August 4, 2011, between Summit State Bank and the Secretary of the Treasury, with respect to the issuance and sale of the Series B Preferred Stock
10.2	Small Business Lending Fund Side Letter, dated August 4, 2011, between Summit State Bank and the Secretary of the Treasury
10.3	Repurchase Agreement dated August 4, 2011, between Summit State Bank and the United States Department of the Treasury, with respect to the repurchase and redemption of the TARP Preferred Stock