

NA

27296

## WARRANTY DEED — STATUTORY FORM

Corporate Grantor

Vol. M96 Page 33727

MTC 382T1KR

New Prime, Inc., a Nebraska corporation

a corporation duly organized and existing under the laws of the State of Nebraska, Grantor,  
conveys and warrants to The Klamath and Modoc Tribes and Yahooskin Band of Snake Indians  
(known as the Klamath Tribes)

Grantee, the following described real property free of encumbrances except as  
specifically set forth herein situated in Klamath County, Oregon, to-wit:

See Exhibit A attached hereto and incorporated herein by this reference.

This deed includes Parcel 6 and is intended to correct and supersede that deed  
dated September 8, 1995, recorded September 15, 1995, in Vol. M95, page 25033,  
by eliminating all restrictions, if any, contained in such deed, including  
without limitation the exclusive right of Grantor, for seven (7) years, to  
manage and control the Gaming Facility to be built on the land being conveyed,  
which is hereby null and void.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The property is free from all encumbrances except

See Exhibit B attached hereto and incorporated herein

by this reference  
The true consideration for this conveyance is \$..... (Here comply with the requirements of ORS 93.030)

Done by order of the grantor's board of directors with its corporate seal, if any, affixed on Sept 30, 1996

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS  
INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS.  
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE  
TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY  
PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY  
LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN  
ORS 30.930.

New Prime, Inc., a Nebraska corporation

By Robert E. Low, President

By Robert E. Low, Secretary

MISSOURI

STATE OF MISSOURI, County of GREENE ss.

This instrument was acknowledged before me on September 30, 1996,

by ROBERT E. LOW

as President

of New Prime, Inc., a Nebraska corporation

Verna Spiller  
Notary Public for Missouri

My commission expires 1/23/99

New Prime, Inc.

Grantor's Name and Address

The Klamath and Modoc Tribes and  
Yahooskin Band of Snake Indians  
(known as the Klamath Tribes)

Grantor's Name and Address

After recording return to (Name, Address, Zip):

Rosalee A. Merritt

Ater Wynne Hewitt Dodson & Skerritt

222 S.W. Columbia, #1800, Portland, OR 97201

Until requested otherwise send all tax statements to (Name, Address, Zip):

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON,  
County of Greene ss.

I certify that the within instrument  
was received for record on the 30 day  
of September, 1996, at  
5 o'clock P.M., and recorded in  
book/reel/volume No. 183/44 on page  
1 and/or as fee/file/instru-  
ment/microfilm/reception No. 183/44,  
Record of Deeds of said County.

Witness my hand and seal of  
County affixed.

NAME

TITLE

By Robert E. Low, Deputy

96 OCT 24 P3:46

# **EXHIBIT "A"** **LEGAL DESCRIPTION**

## **PARCEL 1:**

Parcel 3 of Land Partition 63-92 situate in the NE1/4 Section 16 of Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

## **PARCEL 2:**

That portion of Government Lots 23 and 28 lying West of Highway #97, situated in the SE1/4 of Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

## **PARCEL 3:**

A parcel of land located in portions of Government lots 33 and 34, Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the Northwest corner of Government Lot 33 in Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, from which point the South one-quarter section corner of said Section 16 bears South 00 degrees 09' 40" East 1320.43 feet distant; thence along the North line of said Lot 33 North 89 degrees 49' 56" East 202.69 feet to its intersection with the Westerly right-of-way line, of U.S. Highway 97; thence along said right-of-way line, 70.00 feet distant from the centerline of said Highway 97, South 3 degrees 46' 44" West 82.14 feet to the beginning of a spiral curve at Highway Station 3259+74.9; thence following the right-of-way line Southerly along an offset spiral curve to the left 125.29 feet, the long chord of which bears South 3 degrees 43' 36" West 125.29 feet; (the centerline spiral having a central angle "S" of 1 degree 36' and an increase in degree of a curve per station "a" of 0.2) thence along a jog in said right-of-way line South 86 degrees 23' 17" East 20.00 feet; thence along an offset spiral, 50.00 feet distant from said centerline spiral 276.16 feet, the long chord of which bears South 3 degrees 01' 35" West 276.16 feet to the P.S.C. of the spiral curve at Highway Station 3263+74.9; thence South 78 degrees 10' 40" West 248.01 feet to a point on the Northeasterly right-of-way line of State Highway 62; thence following said right-of-way line 259.04 feet along the arc of a 5779.6 foot radius curve to the left, the long chord of which bears North 25 degrees 48' 58" West 259.01 feet; thence along an offset spiral curve to the left, 50.00 feet from the centerline of said Highway 62 (the centerline spiral having a central angle "S" of 2 degrees 00' and an increase in degree of curve per station "a" of 0.25) 340.93 feet, the long chord of which bears North 28 degrees 18' 50" West 340.90 feet; thence, leaving said highway right-of-way line, North 89 degrees 49' 56" East 322.72 feet to the point of beginning.

## **PARCEL 4:**

A parcel of land situated in Lot 33, Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the quarter section corner on the South boundary of Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon; thence North along the center section line of Section 16, a

-continued-

-Parcel 4 continued-

a 3/4 inch iron pipe; thence South 2 degrees 22' West along said right of way boundary a distance of 333.30 feet to a 3/4" inch iron pipe marking the true point of beginning of this description; thence North 62 degrees 07' East a distance of 629.30 feet; thence due North to a point on the North line of said Lot 33; thence West along the North line of Lot 33 to the East right of way of Highway 97; thence South 2 degrees 22' West along said right of way boundary 333.30 feet to the true point of beginning.

EXCEPTING THEREFROM that portion deeded to the State of Oregon by and through its Department of Transportation, Highway Division recorded September 25, 1989 in Volume M89, page 18018, Microfilm Records of Klamath County, Oregon.

PARCEL 5:

That portion of Government Lots 23 and 28 lying East of Highway 97 and that portion of Government Lot 22 lying West of Williamson River situated in the SE1/4 of Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING THEREFROM a parcel of property in Government Lots 23 and 28, Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Northeast corner of Government Lot 23, at a 5/8" rebar with a plastic cap, stamped R. Scott S&S Survey, Prop. Cor. PLS 2265, from which the 1/4 corner of Section 15 & 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, bears North 89 degrees 33' 01" East, 1297.60 feet; thence along the North line of Government Lot 23 South 89 degrees 33' 01" West, 905.95 feet to the East Right of Way line of U. S. Highway 97, 50.00 feet from the center line, to 5/8" rebar with plastic cap, stamped as said; thence along said Right of Way line South 03 degrees 47' 54" West, 743.27 feet, to a 5/8" rebar with cap; thence South 88 degrees 44' 24" East, 20.00 feet, to a 5/8" rebar with cap along the East Right of Way line of U. S. Highway 97, 70.00 feet from center line; thence along said Right of Way South 03 degrees 27' 20" West 187.70 feet, to a 5/8" rebar with plastic cap; stamped as said; thence East 949.96 feet, to a 5/8" rebar with plastic cap, stamped as said; thence North 00 degrees 08' 48" West 267.17 feet, to a 1/2" iron pin; thence North 00 degrees 10' 08" West, 669.31 feet, to the point of the beginning.

PARCEL 6:

A parcel of property in Government Lots 23 and 28, Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Northeast corner of Government Lot 23, at a 5/8" rebar with a plastic cap, stamped R. Scott S&S Survey, Prop. Cor. PLS 2265, from which the 1/4 corner of Section 15 & 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, bears North 89 degrees 33' 01" East, 1297.60 feet; thence along the North line of Government Lot 23 South 89 degrees 33' 01" West, 905.95 feet to the East Right of Way line of U. S. Highway 97, 50.00 feet from the center line, to 5/8" rebar with plastic cap, stamped as said; thence along said Right of Way line South 03 degrees 47' 54" West, 743.27 feet, to a 5/8" rebar with cap; thence South 88 degrees 44' 24" East, 20.00 feet, to a 5/8" rebar with cap along the East Right of Way line of U. S. Highway 97, 70.00 feet from center line; thence along said Right of Way South 03 degrees 27' 20" West 187.70 feet, to a 5/8" rebar with plastic cap; stamped as said; thence East 949.96 feet, to a 5/8" rebar with plastic cap, stamped as said; thence North 00 degrees 08' 48" West 267.17 feet, to a 1/2" iron pin; thence North 00 degrees 10' 08" West, 669.31 feet, to the point of the beginning.

**EXHIBIT B****Encumbrances**

1. Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.
2. Rights of the public and of governmental bodies and to that portion of the premises described herein, now or at any time lying below the high water mark of the Williamson River, including any ownership rights which may be claimed by the State of Oregon, in and to any portion of the premises now or at any time lying below the ordinary high water mark thereof.
3. Any claim based on any prohibition or limitation on the use, occupancy, or improvements of the land resulting from the rights of the public to use any waters which may cover the land for fishing or navigation, or to use any portion of the land which is now or may formerly have been covered by water.
4. Any adverse claim based upon the assertion that:
  - a. Said land or any part thereof is now or at any time has been below the ordinary high water mark of the Williamson River.
  - b. Some portion of said land has been created by artificial means or has accreted to such portion so created.
  - c. Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Williamson River, or has been formed by accretion to any such portion.
5. Subject to the terms and provisions of instrument dated June 6, 1958, and recorded June 12, 1958, in Volume 300 at page 90, Deed Records of Klamath County, Oregon, to wit:

"Title to the above described property is conveyed subject to any existing assessments for public roads and highways, for public roads and highways, for public utilities, and for railroads and pipe lines and for any other easements or rights of way of record; and there is hereby reserved any and all roads, trails, telephone lines, etc. actually constructed by the United States, with the rights of the United States to maintain, operate or

improve the same so long as needed or used for or by the United States. (Dept. Instr., January 13, 1916, L.D. 512.)"

6. An easement created by instrument, subject to the terms and provisions thereof,  
Dated: July 31, 1962

Recorded: August 23, 1962

Volume: 339, page 513, Deed Records of Klamath County, Oregon

In favor of: Pacific Power and Light Company

For: Electrical transmission and distribution lines

7. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission, which provided that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.

Recorded: May 24, 1990

Volume: M90, page 9957, Microfilm Records of Klamath County, Oregon

8. Subject to a 60 foot non-exclusive private easement for access and utilities as created in Partition 63-92.

(Affects Parcel 1 along the West line)

9. Restrictions as delineated on the Partition Plat 63-92 as follows:

"Access/Utility Easements (60' and 30') shall not be fenced, gated, or blocked in any fashion. "  
Affects Parcel 1)

10. Reservations contained in Patent from the United States of America dated July 26, 1957 and recorded November 6, 1957 in Volume 295, page 396, Deed Records of Klamath County, Oregon, as follows:

"This patent is issued under authority of Section one of the Act of June 25, 1910 (36 Stat. 855), and is subject to the reservation of all subsurface rights, except water, to the. Heirs of Long John, their heirs and assigns, under the terms approved by the Secretary of the Interior, March 25, 1946, pursuant to said Act.

Subject to such rights as the Pacific Telephone and Telegraph Company may have under the Act of March 3, 1901 (31 Stat. 1083)."

(Affects Parcels 2, 5 and 6)

11. An easement created by instrument, subject to the terms and provisions thereof,  
 Dated: April 5, 1963  
 Recorded: April 23, 1963  
 Volume: 344, page 564, Deed Records of Klamath County, Oregon  
 In favor of: Pacific Northwest Bell Telephone Company  
 For: Easement for telephone line  
 Affects Parcel 3)
  
12. Conveyance of Access Rights, subject to the terms and provisions thereof,  
 Recorded: February 15, 1990  
 Volume: M90, page 3084, Microfilm Records of Klamath County, Oregon  
 From: Fred Koehler  
 To: State of Oregon, by and through its Department of Transportation to establish highway access  
 (Affects Parcels 2 and 3)
  
13. Reservations, restrictions and easements as contained in Deed to Restricted Land recorded June 3, 1957 in Volume 293, page 296, Deed Records of Klamath County, Oregon, specifically limited to the following:  
  
 "(1) Right of way to The Pacific Telephone and Telegraph Company for a telephone line approved December 6, 1930, by Jos. M. Dixon, First Assistant Secretary, subject to the terms and provisions of the Act of March 3, 1901 (31 Stat. L., 1058-1083) Departmental regulations thereunder. (2) Right of way to Oregon State Highway Commission for a highway approved August 26, 1946, by G. Girard Davidson, Assistant Secretary, subject to the provisions of the Act of March 3, 1901."  
 (Affects Parcels 5 and 6)
  
14. Reservations, restrictions and easements as contained in Deed recorded June 23, 1965 in Volume 363, page 58, Deed Records of Klamath County, Oregon.  
 (Reference is made to the document for particulars.)  
 (Affects Parcels 4, 5 and 6)
  
15. A Right of Way Easement created by instrument, subject to the terms and provisions thereof,  
 Dated: May 3, 1973  
 Recorded: May 7, 1973  
 Volume: M73, page 5486, Microfilm Records of Klamath County, Oregon  
 In Favor of: Pacific Power & Light Company, a corporation  
 For: Electric transmission and distribution line  
 (Covers other property)

(Affects Parcels 4, 5 and 6)

16. A Telephone Right of Way Easement created by instrument, subject to the terms and provisions thereof,

Dated: August 4, 1986

Recorded: September 15, 1986

Volume: M86, page 16612, Microfilm Records of Klamath County, Oregon

In favor of: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation

For: The right to bury and maintain underground telephone facilities

(Affects Parcels 4, 5 and 6)

17. Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission, which provided that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property.

Recorded: September 25, 1989

Volume: M89, page 18018, Microfilm Records of Klamath County, Oregon

(Affects Parcel 4)

18. Subject to fence encroachments as disclosed by survey prepared by S & S Surveying. (Reference is made to the survey for particulars)

(Affects Parcel 5 and 6)

19. Indenture of Access, subject to the terms and provisions thereof;

Dated: October 20, 1995

Recorded: October 25, 1995

Volume: M95, page 29143, Microfilm Records of Klamath County, Oregon

Between: The State of Oregon by and through its Department of Transportation and Klamath and Modoc Tribes and Yahooskin Band of Snake Indians (known as the Klamath Tribes)

(Affects Parcel 6)

#### 4 - EXHIBIT B

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Ameri title the 24th day  
of October A.D., 19 96 at 3:46 o'clock P. M., and duly recorded in Vol. M96  
of Deeds on Page 33727.

FEE \$60.00

Bernetha G. Letsch County Clerk

By

Kathleen Ross