SESSION CALLED TO ORDER:
Gene St.Godard with WNR Group, facilitator for the WRIA 59 ISF Committee Group, opened the meeting at 1:30 PM. Gene thanked the group for attending the monthly Planning Unit meeting for WRIA 59. Gene informed the group that the meeting would be recorded and the file posted on the project web site. Gene then gave a brief overview of how the meeting would be conducted, and then began the meeting by distributing a copy of the agenda for the meeting. Gene asked if any additions to the agenda were needed. No changes were requested.

Introduction of Participants
Gene opened the floor for people attending the meeting to introduce themselves and who they were representing. Introductions were made around the room. It appeared there was a diversified group of water users who were attending the meeting. The list of participants is presented above.

Update on Project Web-site
Eric Johansen, Stevens County Planning, gave the group an update on the progress with the development of the WRIA 59 ISF and Water Bank web sites. The Planning Department is coordinating the development of the web site and is getting it developed so it can be accessed from the main county web page. Eric told group it should be up and running by end of November. Gene also updated the group that all the information that the group has talked about to date, including recordings of meetings, have been delivered to the County for posting on web site. Gene will email link to group when it is running.

Review of September Meeting Minutes
A copy of the draft September 25th, 2014 Meeting Summary was emailed out to the group. Gene asked if there was any edits or corrections that were required on the Draft Summary. Hearing no edits, corrections, or additions to the meeting summary, it will be finalized for the project files.

MEETING DISCUSSION AND COMMENT:

Ecology Discussion on WAC 173-559 Internal Rule Review
Keith Stoffel, Water Resource Manager with Ecology ERO, gave an overview of the WAC 173-559 ISF Rule review which is currently ongoing at Ecology. Keith informed the group that Ecology’s internal legal review is on-going for all the older instream flow rules, including the Colville River. He updated the group on where the status of the Ecology review.

Keith talked of several court cases that were ruled on, some within the Supreme Court, which has affected how Ecology interprets water resource rules. He also talked about how some court cases have defined that the Counties have responsibility to assure the legal available water. One specifically, the Hirst case out of Whatcom County, affects exempt wells. ISF rules after 1990 typically address exempt wells, but others completed prior to 1990, such as the Colville River rule, does not address the exempt well issue. In order to support County decisions, Ecology intends to review the rules and help with its legal interpretations to the exempt use issue. Interpretations will look forward to how it should be implemented, not back to how it was developed. Ecology will also encourage Counties to do legal review of ISF rules. Ecology’s intent will not challenge County land use decisions, but may have to weigh in if there are other challenges to local decisions.
Wes and Keith discussed how the Hirst case in Whatcom County can affect decisions in Stevens County. Keith explained that Ecology wants to see how that local decision may affect decision making throughout the state.

Joe Mentor also summarized his views of the Hearings Board and Superior Court decisions. Joe supported Ecology’s decision to review each ISF Rule, specifically to how the language in each rule is written. A discussion was also held relative to RCW90.44.050, the exempt well provision; how is a state wide provision in the RCW affect a local instream flow rule. A discussion was held that an exempt water use is still a water right, it is just exempt from the permitting process. Therefore, exempt uses could be regulated under instream flows. An exempt well is not a riparian water rights. But an exempt well establishes a water right. A discussion was also held on the history of water rights, from prior to 1889 statehood to the existing codes.

**Open Discussion**

A generalized discussion was then held to summarize the exempt well process for new members (Stoffel summarized). When a domestic or exempt well is installed and water put to beneficial use, it only skips the permit phase, and is then considered a water right.

Keith gave a summary of the current Fox vs. Skagit County, which is addressing the priority date of the exempt well.

Permit exempt wells are outlined in the water code, but the ISF Rule does not address permit exempt wells. So the question is whether the rule apply to permit exempt wells; are they regulated by the ISF rule?

A discussion was also held on the responsibility of the County to make sure there is “legally available” water when they issued new building permits. Ecology is assessing how they are able to help the counties make this decision; or whether there is water available in the basin with the enforcement of the ISF rule.

A discussion was also held on the passive language in the existing rule, and how it states that “if it is determined that an effect on surface water is occurring, or if it is determined that water is available”, who is the language referring to as who can make that decision. Is it only Ecology, or can it be any person? It appears there are good arguments for either.

A discussion was held on the draft tributary map that Ecology and County prepared in previous discussions. Currently all tribs are closed by the rule. However, some tribs may be available to open for new water rights, specifically in the areas in the headwaters of the watershed. Ecology has currently managed the exempt permit well issue as they are not affected by the exiting ISF rule. However, the permit exempt well needs to be addressed to see if they are causing any impacts on surface water.

An open discussion was held around the room and each attendee gave their input into whether the group should keep moving forward or wait until we hear back from Ecology on their interpretation of the rule. The general consensus was to keep moving forward.

**Public Comment**

Gene asked the group if there was any public comment. No further public comment was offered

**Setting of Next Meeting Time**

A discussion was held on scheduling the next meeting. Gene notified the group that the previously determined meeting date was set for December 3, 2014 from 1:30 to 4:00 PM. The meeting will be held at the Chewelah Municipal Center in Chewelah.

A recording of the meeting is available on the project web site: [http://www.co.stevens.wa.us/Wria59/index.htm](http://www.co.stevens.wa.us/Wria59/index.htm)

**Adjournment**

The meeting was adjourned at 4:30 PM. If you have any questions please call Gene St.Godard at (509) 953-9395 or send an email message to Gene at stgod@comcast.net