

Merritt, Allen

From: Merritt, Allen
Sent: Thursday, June 12, 2008 2:16 PM
To: 'watermanager@cableone.net'
Cc: Rassier, Phil; Luke, Tim
Subject: Eccles/Flying Hat issue with Hiawatha Canal

Kevin,

As I understand from your description:

Eccles/Flying Hat Ranch transferred their water out of the Hiawatha Canal to another diversion to serve their lands a couple of years ago. In that transfer process IDWR approved the move but required that Eccles/Flying Hat Ranch leave or maintain a portion of their rights in the Hiawatha Canal to prevent injury to the other users in the Hiawatha Canal. The water left in the Hiawatha is not delivered for irrigation to the Eccles/Flying Hat Ranch property but is used for conveyance loss in the canal. I understand that you (WD37 watermaster) presently deliver to Eccles/Flying Hat Ranch a portion of their rights into the head of the Hiawatha and the other portion of their rights to their new diversion. You also assess for these deliveries and they have paid the assessments to the WD37. I further understand that the Hiawatha Canal organization has assessed Eccles/Flying Hat Ranch for ditch maintenance of the Hiawatha Canal which Eccles/Flying Hat Ranch has refused or neglected to pay.

I understand that you have been requested by the Hiawatha Canal organization to refuse or cease delivery of water to Eccles/Flying Hat Ranch at their diversions until the Hiawatha Canal bill is paid.

After our phone conversation earlier today I phoned Phil Rassier, deputy attorney general, and we discussed this matter. Phil and I agree that it does not appear that the WD37 watermaster has the obligation or authority to curtail diversion since the WD37 assessments are being paid. Rather it appears the issue between Eccles/Flying Hat Ranch and the Hiawatha Canal organization is a civil matter between those parties.

If you have questions please call.

Allen