



**TO: El Dorado County Board of Supervisors**  
**FROM: Al Hamilton, President**

**DATE December 7, 2015**

**REGARDING: Agenda Item 31**

Item 31: This item needs to be pulled indefinitely for several reasons. First of which is the Walker case which says if there is a failure to make the five-year nexus study for mitigation fee act districts, the unexpended, committed or uncommitted funds held on account MUST be refunded to the property owners of record. The Walker case is now the law of California as on November 10, 2015, the California Supreme Court refused to accept the case for a hearing. Since a claim by a property owner within the Diamond Springs/El Dorado Fire District on those unexpended funds has been filed with the county demanding a refund of the unexpended funds in the mitigation fee act account within the Diamond Springs Fire District has been made, those funds are unavailable for any other purpose other than a refund to said property owners of record.

Secondly, the law is clear that the funds currently in the account are unexpended as they are still in the account as the law explicitly says all unexpended funds, committed or uncommitted are to be refunded. That duty to refund as per the Walker case is a statutorily mandated duty of the fund holder, in this case the county.

To claim these funds were expended because the fire district expended their funds to acquire this piece of equipment has no bearing. As long as the money is in the county MFA account, they remain unexpended.

To authorize the commencement of litigation against the Auditor would be a negligent gross misuse of county general fund monies. It may also create personal liability of certain county officials.