

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**AMERICA FIRST LEGAL
FOUNDATION,**

Plaintiff,

V.

**HENRY J. KERNER, in his official capacity,
The Office of Special Counsel,**

Defendant.

Case No. 22-cv-3576 (APM)


ORDER

For the reasons set forth in the court's Memorandum Opinion, ECF No. 17, the court grants Plaintiff's motion for summary judgment, ECF No. 5, with respect to its APA claim under § 706(2) and declares the Special Counsel's refusal to investigate was contrary to law. The court also remands this matter to the Special Counsel to determine whether he will investigate Plaintiff's allegation of arbitrary or capricious withholding under § 1261(a)(3), (c). Plaintiff's motion is otherwise denied. The court grants Defendant's motion to dismiss Plaintiff's claims under § 706(1) and the Mandamus Act, ECF No. 7.

This is a final, appealable order, to the extent the Special Counsel may wish to appeal.

See NAACP, Jefferson Cnty. Branch v. U.S. Sugar Corp., 84 F.3d 1432, 1436 (D.C. Cir. 1996).

Dated: September 29, 2023


Amit P. Mehta
United States District Court Judge