

Judge backs California drought regulators

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A judge has cleared the way for California's drought police to go after water districts accused of illegally diverting water.

In a closely-watched case, Sacramento Superior Court Judge Shellyanne Chang late Monday declined a Delta water district's request for a preliminary injunction against the State Water Resources Control Board. The board is pursuing administrative enforcement actions against a handful of water districts for allegedly taking water to which they had no legal right.

"This certainly is a win," said David Rose, staff counsel at the water board. The judge "did really say, 'I'm going to let those processes go forward and I'm not going to get in the way of this.'"

Just a month ago, Chang handed the state board a defeat. Several water districts sued the board, challenging a series of "curtailment notices" it issued to thousands of districts, informing them they no longer could pull water from rivers or streams. The judge granted several districts, including the West Side Irrigation District in the Delta, a [temporary restraining order](#). She said the notices violated the districts' due process rights because they contained "coercive" language that made them seem like orders.

The restraining order was seen as a potentially big setback to the state in its effort to clamp down on water use during the drought.

In response, the board rewrote and reissued the notices in an effort to make clear the water districts had the right to challenge the state's findings. One day later, the board filed a [cease-and-desist case](#) against West Side, accusing the district of illegally taking water from the Old River in San Joaquin County in May.

The district is facing fines of up to \$10,000 a day for every day it drew water from the river, although it could plead its case before the state board in an administrative proceeding.

The district's lawyers said at a court hearing last week that state's actions were still illegal, despite the rewritten curtailment notices. They also said they doubted West Side could get a fair hearing before the state board, and argued that the cease-and-desist proceeding was an act of retaliation for West Side's earlier court victory. The district said the pumping of water from Old River was a legal diversion conducted as part of a long-standing recycling program.

Chang said the rewritten curtailment notices give water districts their due process, and she declined to intervene in the enforcement action against West Side. The Delta district can pursue "a full administrative hearing with the opportunity for both sides to present evidence," she wrote.

West Side's lawyers weren't immediately available for comment.

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