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Scott G. Weber, Clerk, Clark Co.

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SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

TEAMSTERS LOCAL UNION NO. 117,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT OF  
CORRECTIONS; and CHERYL STRANGE,  
Secretary of the Department of Corrections, in  
her official capacity,

Defendants.

No. 23-2-02352-06

**ORDER DENYING PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

THIS MATTER having come before the Court on the Plaintiff's Motion Preliminary Injunction, the court having considered the arguments presented by counsel for the parties on October 6, 2023, having been fully informed in these premises, and having reviewed the following pleadings:

Plaintiff's Complaint for Injunctive and Declaratory Relief;

Plaintiff's Motion for a Preliminary Injunction;

Declaration of Chuck Andrus and Exhibits attached thereto;

Declaration of Jeremy Belgarde;

1 Declaration of Ben Berger in Support of Plaintiff's Motion for Preliminary Injunction  
and Exhibits attached thereto;

2  
3 Declaration of Sidney Clark and Exhibits attached thereto;

4 Declaration of Sarena Davis and Exhibits attached thereto;

5 Declaration of Shelley Edwards;

6 Declaration of Mark Francis;

7 Declaration of Alina Kumm;

8 Declaration of Jamse Langenbacher;

9 Declaration of Eamon McCleery and Exhibits attached thereto;

10 Declaration of Amanda Mitchell;

11 Declaration of Shawn Piliponis;

12 Declaration of Ryan Reese;

13 Declaration of Melanie Wheeler;

14 Defendants' Opposition to the Motion for Preliminary Injunction;

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16 Declaration of Todd Dowler in Opposition to Plaintiff's Motion for Preliminary  
Injunction and Exhibits attached thereto;

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18 Declaration of Anita Kendall in Opposition to Plaintiff's Motion for Preliminary  
Injunction and Exhibits attached thereto;

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20 Declaration of Sean Murphy in Opposition to Plaintiff's Motion for Preliminary  
Injunction and Exhibits attached thereto;

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22 Declaration of Siobhan Murphy in Opposition to Plaintiff's Motion for Preliminary  
Injunction and Exhibits attached thereto;

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24 PERC Authorities Cited in Defendants' Opposition to Plaintiff's Motion for  
Preliminary Injunction;

25 Plaintiff's Reply in Support of its Motion for Preliminary Injunction; and

Supplemental Declaration of Sarena Davis.

1 It is hereby ORDERED, ADJUDGED and DECREED as follows:

2 The Washington State Department of Corrections (hereinafter referred to as “DOC”)  
3 has operated Larch Mountain Correctional Center (hereinafter referred to as “Larch”) as a  
4 minimum-security prison since 1956. Teamsters Local Union No. 117 represents a  
5 bargaining unit of DOC employees who work at Washington correctional facilities. DOC’s  
6 decision to warm close Larch significantly impacts the lives of many individuals and  
7 families, especially those working at Larch.

8  
9 The Plaintiff has asserted that the Defendants violated the current Collective  
10 Bargaining Agreement and has requested a preliminary injunction enjoining DOC from  
11 laying off bargaining unit members, engaging in certain unfair labor practices, dis-  
12 establishing inmate fire suppression crews, and taking other action in connection with the  
13 planned closure of Larch.

14 In order to obtain a preliminary injunction, a party must show: (1) a clear legal or  
15 equitable right; (2) a well-grounded fear of immediate invasion of that right; and (3) that the  
16 acts complained of are either resulting in or will result in actual and substantial injury to the  
17 party.<sup>1</sup> An injunction is “frequently termed ‘the strong arm of equity,’ or a ‘transcendent or  
18 extraordinary remedy,’ and is a remedy which should not be lightly indulged in, but should  
19 be used sparingly and only in a clear and plain case.”<sup>2</sup>

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24 <sup>1</sup> *Washington Federation of State Employees v. State*, 99 Wash. 2d 878, 665 P.2d 1337 (1983).

25 <sup>2</sup> *Kucera v. Department of Transportation*, 140 Wash.2d 200, 209, 995 P.2d 63, 68 (2000), quoting 42  
Am. Jur. 2d Injunctions § 2, at 728 (1969) (now included in § 1 of the May 2023 update).

1 DOC's decision to close Larch falls within its sound discretion and authority.  
2 Because DOC engaged in an appropriate analysis that considered a variety of factors prior to  
3 making its decision to close Larch and the decision was made as a result of a "lack of  
4 work,"<sup>3</sup> the Plaintiff has not established that it has a clear legal or equitable right. Although  
5 the Plaintiff asserts that this Court has the authority to issue a preliminary injunction in aid of  
6 arbitration as a reverse *Boys Market* injunction,<sup>4</sup> within the context of this case, which  
7 includes among other things public sector employment and a request to restore the status quo  
8 existing on June 26, 2023,<sup>5</sup> such a result would not be appropriate.  
9

10 The Plaintiff has failed to demonstrate that it is likely to succeed on the merits of its  
11 unfair labor practice claims under RCW 41.80.

12 Governor Inslee's Emergency Proclamation 23-05 (hereinafter referred to as the  
13 "Proclamation") does not give rise to an implied right of action. In addition, the Plaintiff  
14 does not have standing to bring a claim that the Defendants violated the Emergency  
15 Proclamation by eliminating the Larch forestry crews. Even if the Plaintiff had standing to  
16 pursue that claim, it failed to demonstrate that Defendants violated the Proclamation.

17 The Plaintiff failed to adequately demonstrate that the Defendants have breached the  
18 Collective Bargaining Agreement or that future breaches of the Collective Bargaining  
19 Agreement will occur. As a result, the Plaintiff has not established a well-grounded fear of  
20 immediate invasion of its claimed legal rights.  
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23 <sup>3</sup> DOC's decision also qualifies as a good faith reorganization.

24 <sup>4</sup> *Boys Markets, Inc. v. Retail Clerks Union Local 770*, 38 U.S. 235, 90 S. Ct. 1583, 1594, 26  
L. Ed. 2d 199 (1970).

25 <sup>5</sup> The requested remedy would include moving inmates back to Larch despite sentences that provide  
DOC with discretion to determine their placement.

1 The Plaintiff has submitted evidence of significant impacts on individuals and  
2 families resulting from the Defendants' decision to close Larch, but the damages are  
3 fundamentally grounded in monetary remedies. As such, the preliminary injunction being  
4 sought does not satisfy the required injury prong.

5 Because the Plaintiff has failed to demonstrate the factors required to obtain a  
6 preliminary injunction, the Plaintiff's Motion for Preliminary Injunction is DENIED.

7 Dated this 8th day of October 2023.

8 **Derek J.**  
9 **Vanderwood**

Digitally signed by Derek J.  
Vanderwood  
Date: 2023.10.08 22:03:08  
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10 Derek J. Vanderwood  
11 Clark County Superior Court  
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