

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MALLINCKRODT LLC, *et al.*,)
)
Plaintiffs,)
)
v.) CV-08-420-B-W
)
DAVID P. LITTELL, in his capacity as)
Commissioner of Maine Department of)
Environmental Protection, *et al.*,)
)
Defendants.)

ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs move for a temporary restraining order to enjoin the Commissioner of the Maine Department of Environmental Protection and the Department itself from enforcing a clean-up order. To determine whether to issue a temporary restraining order, the Court applies the same four-factor analysis used to evaluate a motion for preliminary injunction. *Northwest Bypass Group v. United States Army Corps of Eng'rs*, 453 F. Supp. 2d 333, 337 (D.N.H. 2006). Those well established factors are:

- (1) the likelihood of success on the merits; (2) the potential for irreparable harm [to the movant] if the injunction is denied; (3) the balance of relevant impositions, i.e., the hardship to the nonmovant if enjoined as contrasted with the hardship to the movant if no injunction issues; and, (4) the effect (if any) of the court's ruling on the public interest.

Esso Standard Oil Co. v. Monroig-Zayas, 445 F.3d 13, 17-18 (1st Cir. 2006) (quoting *Bl(a)ck Tea Soc'y v. City of Boston*, 378 F.3d 8, 11 (1st Cir. 2004). As with a preliminary

injunction, the party seeking relief bears the burden of demonstrating that these factors “weigh in its favor.” *Nieves-Marquez v. Puerto Rico*, 353 F.3d 108, 120 (1st Cir. 2003).

The Court has reviewed and considered the motion, and concludes that Plaintiffs have failed to establish the potential for irreparable harm. *Matos v. Clinton Sch. Dist.*, 367 F.3d 68, 73 (1st Cir. 2004) (stating that irreparable harm is a “necessary threshold showing for awarding preliminary injunctive relief”).

Accordingly, it is hereby ORDERED that the Plaintiffs’ Motion for Temporary Restraining Order (Docket # 4) be and hereby is DENIED.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 8th day of December, 2008

Plaintiff

MALLINCKRODT LLC

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Plaintiff

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