

DEPARTMENT OF ENVIRONMENTAL PROTECTION

v.

WINTERWOOD ACRES, INC., et al.

Submitted on Briefs January 27, 2011

Decided February 1, 2011

Panel: ALEXANDER, LEVY, SILVER, MEAD, GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

Winterwood Acres, Inc., Winterwood Farm, LLC, and Beltie, Inc., (collectively, Winterwood) appeal from a judgment of the District Court (Biddeford, *Janelle, J.*), granting the Department of Environmental Protection's (DEP) motion to enforce a previously-entered contempt order. Contrary to Winterwood's contentions, the court's findings that Winterwood discharged pollutants into State waters without a license, in violation of the order of contempt, were not clearly erroneous, nor did the court apply an incorrect legal standard. *See Pratt v. Spaulding*, 2003 ME 56, ¶ 10, 822 A.2d 1183, 1186 ("In determining if clear error has been committed in fact-finding, we review the record, and inferences that may be drawn from the record, most favorably to the trial court result."); *Estate of Anderson*, 2010 ME 10, ¶ 7, 988 A.2d 977, 979 (stating that a court's application of law to its factual findings is reviewed de novo).

As to Winterwood's contention that the court erroneously admitted DEP evidence after the close of evidence to Winterwood's prejudice, it is not apparent that the court admitted or relied upon the newly-revised reports, but if it did, the court did not abuse its discretion in doing so. *See Dalphonse v. St. Laurent & Son, Inc.*, 2007 ME 53, ¶ 16, 922 A.2d 1200, 1205 (stating that the court has discretion to determine whether a party may reopen its case after the close of evidence, it should admit the evidence to prevent an unfair result, and the court may consider

“whether allowing additional evidence would be necessary for an accurate adjudication, would give the court a more complete picture, or would create any unfair disadvantage to the other party”); M.R. Civ. P. 43(j).

The entry is:

Judgment affirmed.

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Winterwood Farm, LLC, and Beltie, Inc.:**

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