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### **EDO Alert! Successful wildlife protection case**

#### **Grids Ordered Down in Bat Case**

30 November 2006

Judge Alan Wilson SC of the Brisbane Planning and Environment Court today ordered the dismantling of bat-killing electric grids on a lychee orchard in North Queensland. The case of *Booth v Yardley* was brought by conservationist Dr Carol Booth, represented by solicitors from EDO Qld and respected barrister Chris McGrath.

"The Court has now decided getting rid of a grid is essential to prevent its use; the Queensland Ombudsman has also said grids should come down—now it's time for the government to order them *all* down," said Dr Booth today.

"While there are grids there will be illegal electrocutions. They are almost impossible to monitor."

"Grids are worth worrying about—they are very large-scale killers, electrocuting thousands of flying-foxes in a few weeks—and they are inhumane."

EDO solicitor Larissa Waters said Judge Wilson's decision set an important precedent for conservation.

"It demonstrates how important it is for the community to have the right to go before the courts and seek enforcement of conservation law. This is only the second series of cases to have used these rights," Ms Waters said.

"However, it is very costly for the community to take these actions—this is the ninth bat case involving grids—and it is time for the government to bring the grids down so that the community no longer has this burden."

Both Dr Booth and Ms Waters expressed great concern that despite numerous legal judgements confirming that conservation law applies to private properties some farmers refuse to accept this.

"The Yardleys and other farmers in bat and vegetation cases have sought to persuade the courts that their private property rights are paramount. This is deluded—after all, they can't shoot someone or build a nuclear reactor on private property," they said.

"We hope the verdict today will help persuade them to move on and accept their environmental responsibilities. Crop netting is more effective, doesn't kill native wildlife and can pay for itself over a few seasons. It's time the minority of fruit growers who still use electric grids saw the sense of converting to nets."

The judgement will be available shortly from [www.courts.qld.gov.au/qjudgment/pe06\\_001.htm](http://www.courts.qld.gov.au/qjudgment/pe06_001.htm).

EDO Qld would like to thank both Chris McGrath and Carol Booth for their unfaltering dedication to Queensland's native wildlife and the tireless effort they put in to winning this important case.

**Background to the case**

In January this year, Dick Yardley claimed on ABC Radio and in the Cairns Post that he had electrocuted 1100 flying-foxes in defiance of the 2001 government's ban on use of electric grids. He claimed that the ban could not apply to private property.

Mr and Mrs Yardley run a small fruit orchard at Miriwinni near Innisfail in North Queensland with three electric grids.

When the government did not take enforcement action, Dr Booth sought orders from the Planning and Environment Court under the Nature Conservation Act that (a) the Yardleys be restrained from using the grids, (b) the grids be dismantled and (c) a donation be made to assist in rehabilitation of flying-foxes.

Three weeks ago, Dr Booth was successful in getting an interim enforcement order against the Yardleys.

The verdict handed down today is as a result of a full hearing in which the Yardleys argued that private property was excluded from conservation law.

The first series of bat cases—Booth v Bosworth—were under federal law and were successful in getting an enforcement order after the courts determined that probably 18,000 Spectacled flying-foxes had been electrocuted.

The second series of bat cases—Booth v Frippery—were brought under Queensland law. In that case there were admissions in court to the electrocution of about 50,000 Black flying-foxes in a decade. Legal action is ongoing after a successful appeal by Dr Booth sent the case back for a rehearing in the Planning and Environment Court.

The verdict today in Booth v Yardley was for the ninth of these bat cases.

The bats being killed on the Yardley orchard were likely to be Spectacled flying-foxes, endemic to North Queensland, protected under Queensland law and listed as 'vulnerable' under the federal EPBC Act.

Despite advice from the EPA's scientific advisory committee 5 years ago for their listing in Queensland, the Environment Minister has failed to list them because listing would require that killing on orchards not be permitted.

The EPA currently issues permits for farmers to kill flying-foxes on orchards by shooting.