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EDO Alert! Court cases, office closure and season's greetings! 22 December 2004

What has EDO Qld been up to recently?

We do apologise that our usually monthly joint e-Bulletin with the EDO of Northern Queensland has been delayed. We have been very busy on a number of other matters, including two urgent and unexpected court cases!

Bat Case 3: *Bosworth v Booth*

Remember the 2001 case EDO Qld successfully ran for Dr Carol Booth, to stop a North Queensland lychee farmer electrocuting almost 20% of the population of Spectacled Flying-foxes? Despite being 3 years after the fact, recently farmer Rohan Bosworth sought to overturn the injunction granted by Justice Branson in Dr Booth's 2001 case, which was the first injunction granted under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* ("EPBC Act"). The basis of the application was a politically extreme argument that the EPBC Act could not regulate freehold land, and amounted to an acquisition of land by the Commonwealth for which just terms had not been paid!

On 3 December 2004, Justice Kiefel (responsible for the Bat Case 2 and Nathan Dam judgments) agreed with barrister Chris McGrath that Mr Bosworth's action had no reasonable basis, struck out the application, and ordered indemnity costs in Dr Booth's favour.

The judgement is available from http://www.austlii.edu.au/au/cases/cth/federal_ct/2004/1623.html. Any appeal should be received before 21 January 2005 and we will keep you informed.

Bat Case 4: *Booth v Frippery and Ors*

Flying-foxes have occupied a lot of EDO Qld's time lately, with another court action on 22 December 2004 concerning a different farmer's use of electric grids against Black Flying-foxes. This action under the *Nature Conservation Act 1992* (Qld) is the first use of new third party rights in that legislation, rights which were inserted into the Act in December 2003 after extended advocacy by EDO Qld's Jo Bragg and conservationist Dr Carol Booth.

This morning the Planning and Environment Court made orders with the consent of the parties that farmers Mr and Mrs Thomas and their company Frippery Pty Ltd cease and refrain from killing or injuring the protected bats until 1 November 2005, before which time a full hearing concerning a permanent injunction and an order to dismantle the grids will be held.

Office closure over the festive season

EDO Qld will be closed from 5pm Thursday 23 December 2004 until Monday 10 January 2004.

Your continued support is appreciated

Thankyou to all our recently renewing and new members and donors. We still need your assistance to continue the valuable work we do, so if you haven't already, please join us or renew your membership and consider making a small donation using the form at <http://www.edo.org.au/edoqld/edoqld/new/membership%20form.pdf> – every little bit helps us!

EDO-QLD wishes all members and Bulletin readers a very
Merry Christmas and a Happy New Year!