

Chapter 13: Everglades Forever Act Annual Financial Report

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SUMMARY

The South Florida Water Management District (SFWMD or District) is required to provide detailed financial information on Everglades restoration. The 1997 Everglades Oversight Act requires the reporting of financial information for Everglades restoration. The Everglades Forever Act (EFA) requires the District to account for all monies used to fund the 1994 Everglades Construction Project (ECP) and the 2003 Long-Term Plan for Achieving Water Quality Goals for Everglades Protection Area Tributary Basins (Long-Term Plan or LTP), and to provide a comparison annually of actual versus projected revenues and a projection of costs and revenues over the successive five-year period. These financial reports are central to Chapter 13 of the *2008 South Florida Environmental Report – Volume I*.

Dedicated funding is essential to the Everglades and Florida Bay protection and restoration programs. The 1994 ECP, a major element of the Everglades Restoration Program and the 1994 EFA (Section 373.4592, Florida Statutes), is one of the nation's largest environmental restoration projects, and has a projected cost of \$836.2 million over 20 years. The 2003 state legislative session amended the 1994 EFA to include the Long-Term Plan as the strategy for achieving the long-term water quality goals for the Everglades Protection Area. The amended EFA also expanded the use of the 1/10 mill *ad valorem* tax [for Fiscal Year 2008 (FY2008)], EFA millage rate was reduced to 0.0894 mill due to legislative mandated property tax reduction) to include the initial phase of the Long-Term Plan, including Stormwater Treatment Area enhancements, research, and operations and maintenance (O&M) of the ECP. It is currently projected that the Long-Term Plan's initial 13-year phase will cost approximately \$1.7 billion. The 2003 Long-Term Plan continues and expands the goals and objectives of the 1994 ECP and, as such, is a critical component of the overall effort to restore and protect the Everglades.

The Florida Bay Restoration Program has a projected cost of \$367.0 million. In 1996, the District and the Florida Department of Transportation (FDOT) received federal authorization to redirect the use of Alligator Alley tolls for both restoration programs. A total of \$37.1 million—split equally between both restoration programs—has been received from the FDOT since 1997.

The District, other agencies, and the agricultural community share the cost of implementing the ECP and the Long-Term Plan. Funding sources designated by the EFA for the ECP and the Long-Term Plan include 1/10 (0.0894 in FY2008) mill *ad valorem* tax, agricultural privilege taxes, state land funds, federal funds, excess revenues from Alligator Alley tolls, other environmental mitigation funds, and any additional funds that become available. Since 1994, net revenues received were \$774.1 million. In FY2007 (October 1, 2006 through September 30, 2007), net revenues totaled \$88.0 million (unaudited), of which \$82.9 million came from *ad*

valorem and agricultural privilege tax collections, and the remaining \$5.1 million came from the other sources listed above.

Since the EFA's enactment the District has dedicated its maximum Okeechobee Basin 1/10 (0.0894 in FY2008) mill *ad valorem* taxing authority to the ECP, the Long-Term Plan and other EFA-related activities. Through FY2007, \$504.1 million net *ad valorem* tax revenue was received for Everglades restoration, of which \$71.6 million (unaudited) were collected in FY2007. The 0.0894 mill *ad valorem* tax is projected to generate \$73.2 million in FY2008.

To fund the first phase of the Everglades Restoration Program, the EFA imposes an annual tax on agriculture within the Everglades Agricultural Area (EAA) and C-139 basin. Net EAA agricultural privilege taxes collected from FY1995 through FY2007 were \$152.8 million. During this period, the net C-139 basin agricultural privilege taxes totaled \$6.9 million. During FY2007 net agricultural privilege taxes received were \$11.4 million (unaudited), and are projected to be \$11.6 million in FY2008.

INTRODUCTION

The information contained in this chapter is presented to fulfill the requirements of the 1997 Everglades Oversight Act (Chapter 97-258, Laws of Florida) as they relate to the reporting of financial information for Everglades restoration. The 1994 Everglades Forever Act (EFA) and the 2003 amended EFA require the South Florida Water Management District (SFWMD or District) to annually provide a comparison of actual versus projected revenues and a projection of costs and revenues over the successive five-year period (**Figures 13-1** through **13-3**).

The 1994 EFA and the 2003 amended EFA direct the District to separately account for all monies used to fund the ECP and the Long-Term Plan (LTP). In November 1996, the citizens of Florida voted in favor of a constitutionally created Everglades Trust Fund. The legislation passed in 1997 (Chapter 97-258, Laws of Florida) references the Everglades Trust Fund, requiring specific, identified funds to be allocated. This fund, which strengthened Everglades oversight, will be used to account for all revenues and expenses associated with the ECP and now the Long-Term Plan.

A dedicated funding source is essential to conduct Everglades and Florida Bay protection and restoration programs. The 1994 ECP was the first major step in Everglades Restoration and was part of the 1994 EFA. The 1994 ECP is one of the largest public works projects in the nation for environmental restoration, originally estimated to cost \$836.2 million over 20 years. The 1994 EFA directed the District to acquire land and to design, permit, and construct a series of Stormwater Treatment Areas (STAs) to reduce phosphorus levels from stormwater runoff and other sources before it enters the Everglades Protection Area (EPA). In total, the ECP was composed of 12 interrelated construction projects located between Lake Okeechobee and the Everglades. Land acquisition has been completed and the six STAs described in the 1994 ECP are completed. A few minor close-out components of the 1994 ECP were completed during Fiscal Year 2007 (FY2007) (October 1, 2006 through September 30, 2007).

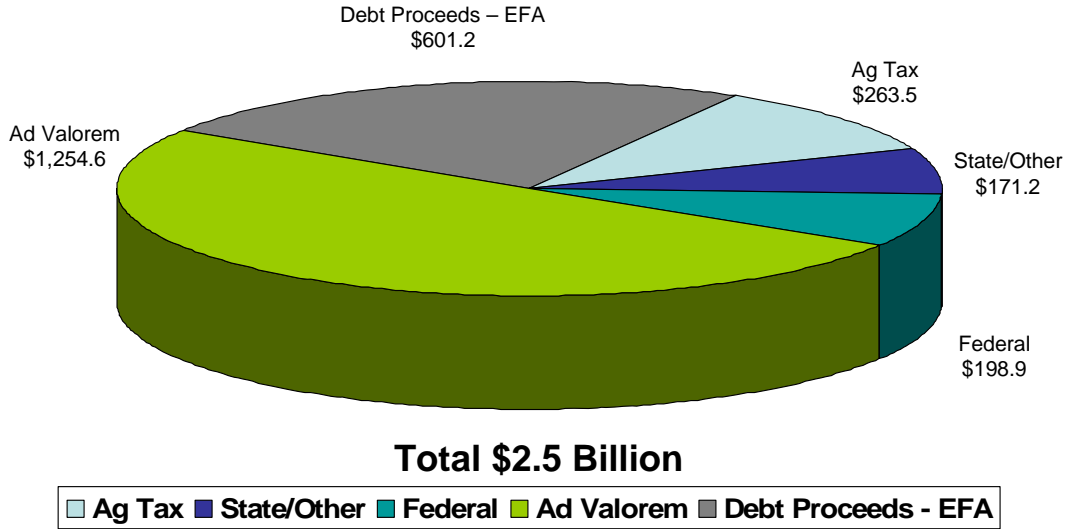
In 2003, the EFA was amended to include the Long-Term Plan as the appropriate strategy for achieving the long-term water quality goals for the Everglades Protection Area (see Chapter 8 of this volume). The 2003 Long-Term Plan continues and expands the goals and objectives of the 1994 ECP and, as such, is a critical component of the overall effort to restore and protect the Everglades. The revised Long-Term Plan's initial 13-year phase will cost approximately \$1.7 billion.

EFA Project Estimates

From Inception (1994) thru September 30, 2016

Revenue

(In millions of dollars)



EFA Project Estimates

From Inception (1994) thru September 30, 2016

Expense

(In millions of dollars)

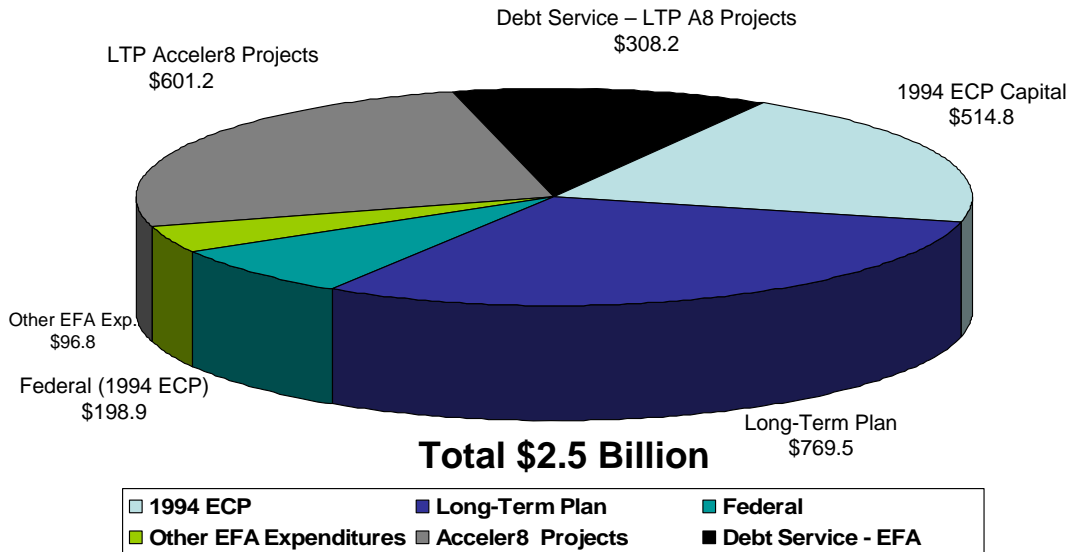


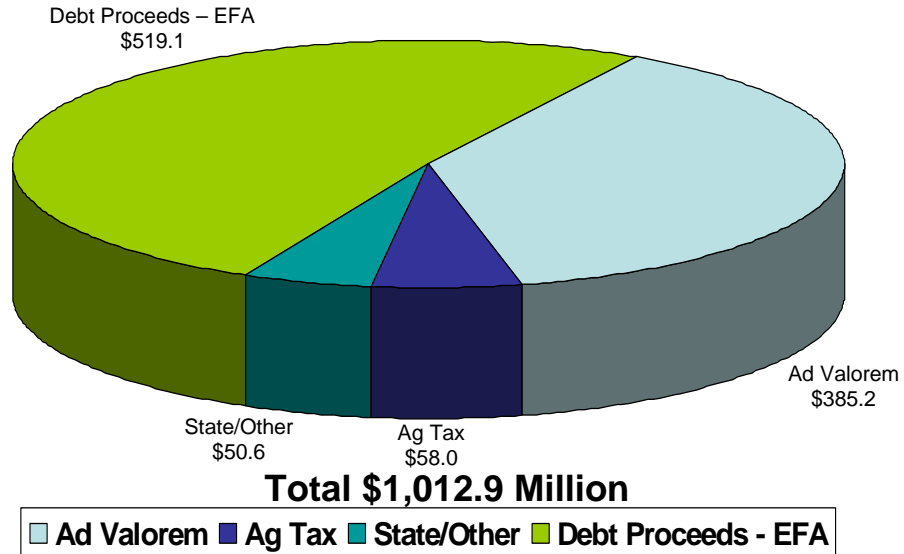
Figure 13-1. Everglades Forever Act (EFA) current project estimates.

Five-Year Project Estimates

October 1, 2007 to September 30, 2012

Revenue

(In millions of dollars)



Five-Year Project Estimates

October 1, 2007 to September 30, 2012

Expense

(In millions of dollars)

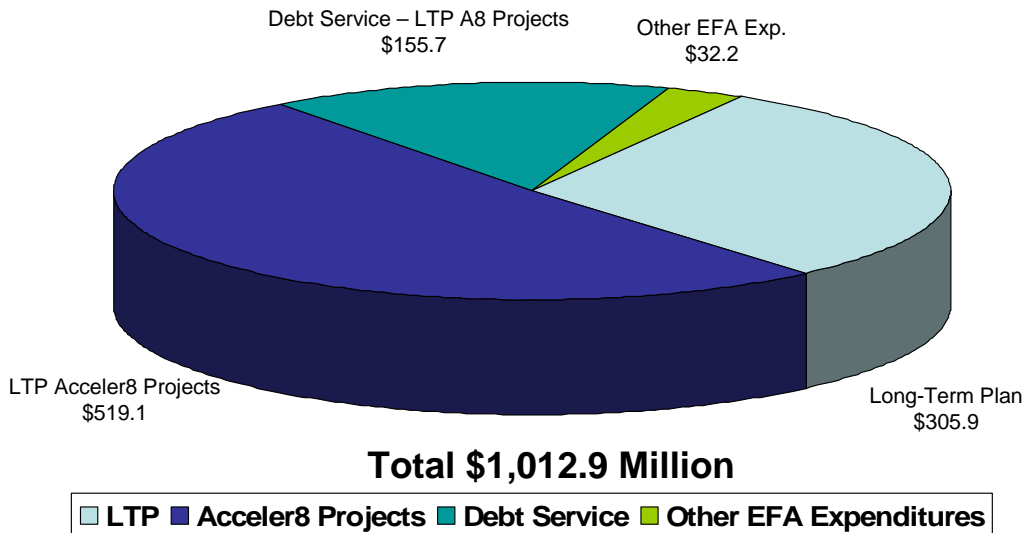


Figure 13-2. Five-year (October 1, 2007 through September 30, 2012) project estimates for the Everglades Forever Act (EFA).

Actual Versus Projected Revenue

Through September 30, 2007 for the District Everglades Program

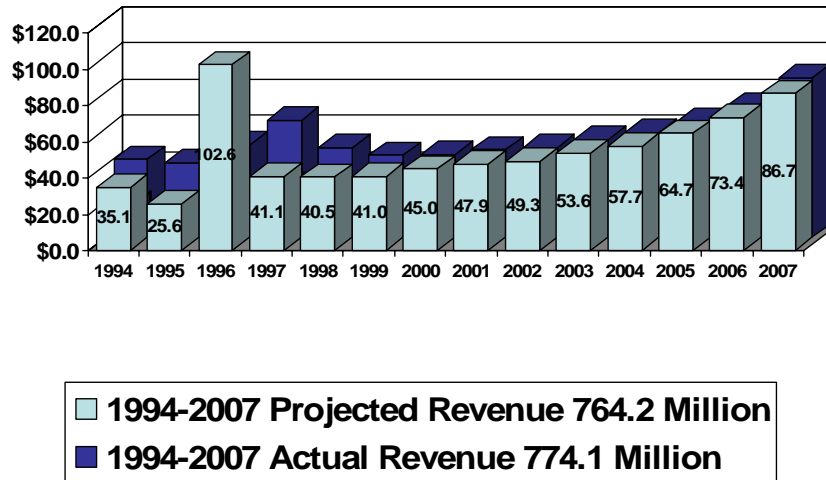


Figure 13-3. Actual versus projected revenues through September 30, 2007.

Research and assessment supports general requirements of the EFA to evaluate ecological and hydrological needs of the EPA, including minimum flows and levels (MFLs). The projected total cost estimate for these other EFA-related activities is \$80.5 million. During FY2007, a total of \$9.7 million was expended for these other EFA-related activities.

Florida Bay restoration program activities are ongoing, with a projected total cost estimate of \$367.0 million. Through FY2007, a total of \$24.0 million had been expended for restoration activities from the District's Florida Bay Fund.

SOURCES OF REVENUE

The total cost associated with implementing the 1994 ECP, the 2003 Long-Term Plan, and other EFA-related activities continues to be shared among the District, other state and federal agencies, and the agricultural community. Funding sources designated by the EFA for the 1994 ECP, the 2003 Long-Term Plan, and other EFA-related activities include 1/10 (0.0894 in FY2008) mill *ad valorem* tax agricultural privilege taxes, state land funds, federal funds, excess revenues from Alligator Alley tolls, other environmental mitigation funds, and any additional funds that become available for this purpose from any other source. The amended EFA expanded the use of the 1/10 (0.0894 in FY2008) mill *ad valorem* tax to include implementation of the Long-Term Plan, which is explained in greater detail below. Since 1994, actual revenues received are \$774.1 million compared to original projections of \$764.2 million (**Figure 13-3**).

The amount of tax revenues collected each year is reduced by early payment discounts provided by each county. These discounts can range from 1 percent to 4 percent, depending on the timeliness of the payment. County processing/collection fees and commissions further reduce the amount of tax revenue available to fund the ECP and the Long-Term Plan.

AD VALOREM TAXES PROVIDE \$71.6 MILLION IN FISCAL YEAR 2007

From the time of the enactment of the 1994 EFA until 2003, when it was amended, 1/10 mill of the District's Okeechobee Basin millage was dedicated to the 1994 ECP. The 1994 EFA gave the District the authority to levy *ad valorem* taxes of up to 1/10 mill within the Okeechobee Basin for land acquisition, design, and construction of the ECP. As required by the 1994 EFA, this was to be the sole direct contribution of *ad valorem* taxes for the construction project.

The 2003 legislative session amended the 1994 EFA (Section 373.4592, F.S.) to expand the use of the 1/10 mill for implementing the 2003 Long-Term Plan (Committee Substitute for Senate Bill [CS/S.B.] No. 626, Chapter 2003-12, Laws of Florida). The amended EFA now allows expenditures from the 1/10 (0.0894 in FY2008) mill *ad valorem* tax associated with design, construction, and implementation of the initial phase of the Long-Term Plan, including operations and maintenance (O&M) of the ECP and research for the projects and strategies in the initial phase of the Long-Term Plan. For FY2007, net *ad valorem* tax revenues were \$71.6 million (unaudited) through September 30, 2007. The 1/10 (0.0894 in FY2008) mill *ad valorem* tax, net of tax collection cost, is projected to generate \$71.5 million in FY2008.

EVERGLADES AGRICULTURAL AREA PRIVILEGE TAX RAISES \$10.9 MILLION IN FISCAL YEAR 2007

To fund the first phase of the Everglades Restoration Program including the Long-Term Plan, the EFA imposes an annual tax for the privilege of conducting an agricultural trade or business on each acre of real property, or portion thereof, within the Everglades Agricultural Area (EAA) and C-139 basins. The 1994 EFA specified that the annual per-acre tax be collected through the normal county tax collection process. The amended EFA (CS/S.B. No. 626, Chapter 2003-12, Laws of Florida) provides a revised computation of the EAA privilege tax, as further discussed below.

The EAA privilege tax rate ranged from a minimum of \$24.89 per acre per year for tax notices mailed from November 1994 through November 1997 to a potential maximum of \$35 per acre for tax notices mailed from November 2006 through November 2013. The 2003 amended EFA states: “for the tax notices mailed in November 2014 through November 2016 [the rate] is \$25 per acre and for tax notices mailed in November 2017 and thereafter shall be \$10 per acre.” Actual net EAA privilege taxes collected in FY2007 were approximately \$10.9 million (unaudited) through September 30, 2007. The EAA privilege tax, net of tax collection cost, is anticipated to generate \$10.9 million in FY2008.

The EFA encourages optimal performance of Best Management Practices (BMPs) (see Chapter 4 of this volume) to maximize the reduction of total phosphorus (TP) loads at points of discharge from the EAA by providing an incentive credit against the EAA privilege tax. Each percentage point by which TP loads are reduced beyond the 25 percent EAA basin requirement will result in incentive credits against the EAA privilege tax as follows: \$0.33 per acre for tax notices mailed from November 1994 through November 1997; \$0.54 per acre for tax notices mailed from November 1998 through November 2001; \$0.61 per acre for tax notices mailed from November 2002 through November 2005; and \$0.65 per acre for tax notices mailed from November 2006 through November 2013. Incentive credits will not reduce the agricultural privilege tax rate to less than the \$24.89 per acre minimum (“minimum tax”).

If the application of incentive credits for the performance of BMPs would reduce the annual EAA privilege tax to an amount less than the minimum tax of \$24.89 per acre, then the unused or excess incentive credits will be carried forward, on a TP load percentage basis, to be applied as incentive credits in subsequent years. Any unused or excess incentive credits remaining after certification of the EAA privilege tax roll for the tax notices mailed in November 2013 shall be canceled.

The EFA also provides incentive credits to individual growers for meeting TP load or TP concentration reduction targets. Individual parcels of property shall be subject to the minimum tax if they have achieved the following annual TP load reduction standards: 30 percent or more for tax notices mailed from November 1994 through November 1997; 35 percent or more for tax notices mailed from November 1998 through November 2001; 40 percent or more for tax notices mailed from November 2002 through November 2005; and 45 percent or more for tax notices mailed from November 2006 through November 2013. In addition, any parcel of property that achieves a TP concentration of 50 parts per billion (ppb) shall be subject to the minimum tax in the next calendar year.

EAA VEGETABLE ACREAGE

The EFA recognizes that vegetable farming is subject to both volatile market conditions and to crop loss from natural events. If the governor, president, or U.S. Department of Agriculture (USDA) declares a state of emergency or disaster due to natural conditions, then payment of agricultural privilege tax will be deferred for one year, and repayment can occur during the project up until FY2014. Since 1994, when the tax went into effect, this provision has been applied twice: in 1997 and in 2001. These deferrals still remain in effect.

C-139 BASIN AGRICULTURAL PRIVILEGE TAX RAISES \$0.5 MILLION IN FISCAL YEAR 2007

As specified in the 1994 EFA, for the 20-year period between 1994 and 2013, the total amount of tax to be assessed annually will not exceed \$654,656. The C-139 basin agricultural privilege taxes were calculated by dividing \$654,656 by the number of acres included on the C-139 basin agricultural privilege tax roll for that year. The amount paid by an individual property owner may change from year to year depending on the number of acres within the C-139 basin that are classified as agricultural. This computation applied to tax notices mailed through November 2002. The amended EFA provided a revised computation of the C-139 agricultural privilege tax, as discussed below.

The 2003 amended EFA sets a tax per acre of \$4.30 for the C-139 basin, based on the November 2001 tax roll. The amended EFA states the following: “The C-139 agricultural privilege taxes for the tax notices mailed in November 2003 through November 2013 shall be computed by dividing \$654,656 by the number of acres included on the C-139 basin agricultural privilege tax roll for November 2001, excluding any property located within the C-139 Annex.” Future C-139 basin tax revenues to the District will be reduced by the number of acres that are no longer on the tax roll. Agricultural interests will continue to pay the \$4.30 per acre through FY2014. Beginning with tax notices mailed in November 2014, and thereafter, agricultural interests shall be assessed at the rate of \$1.80 per acre. In FY2007, the net C-139 basin agricultural privilege taxes collected were \$457,239 (unaudited) through September 30, 2007. The C-139 basin agricultural privilege tax, net of tax collection cost, is projected to generate \$488,400 in FY2008.

ALLIGATOR ALLEY TOLL REVENUES COULD PROVIDE \$63 MILLION

The EFA includes the legislative finding that Alligator Alley, designated as State Highway 84 and U.S. Interstate Highway 75, contributed to the alteration of water flows in the Everglades and also affected ecological patterns of the historic southern Everglades. The legislature determined it is in the public interest to establish a system of tolls for Alligator Alley to raise money to help restore the natural values lost by the highway’s construction.

Toll revenues must be split equally between the Everglades and Florida Bay restoration projects. Projects that qualify for these funds include the ECP; land acquisition to move STA-3/4 out of the Toe-of-the-Boot (an Everglades remnant area in the Holey Land tract at the south end of the EAA); water conveyance projects that enable more water resources to reach Florida Bay; engineering design plans for wastewater treatment facilities for Florida Bay marine waters; and highway redesign to improve sheetflow of water across the southern Everglades.

In 1996, the District and the Florida Department of Transportation (FDOT) received federal authorization to redirect the use of Alligator Alley tolls for these projects. The FDOT and the District entered into a Memorandum of Understanding in 1997, setting out the basis for depositing the funds in the Everglades Trust Fund. This was quickly followed by the transfer and deposit of \$17.0 million in excess toll money representing the first transfer. These funds were allocated based on EFA requirements. As such, the funds were split equally, at \$8.5 million each, between the ECP and Florida Bay restoration projects. Since the initial transfer in 1997, a total of \$20,125,000 has been received from the FDOT from FY1998 through FY2007, which was split equally between both projects.

PROJECT ESTIMATES AND CASH FLOW UPDATED FOR THE EVERGLADES FOREVER ACT PROGRAM

The current project estimates and cash flow include the 1994 ECP, the 2003 Long-Term Plan and other EFA-related elements. The most recent schedule includes current project estimates, actual revenues, and expenditures for completing the 1994 ECP, as authorized by the EFA and described in the February 15, 1994 Conceptual Design document. Current estimates for implementing the Long-Term Plan reflect projected expenditures presented in the Long-Term Plan, dated October 27, 2003, and subsequent revisions occurring in 2004, 2005, 2006, and 2007. Project cost estimates for other EFA-related elements are shown as well. This chapter details the most current and five-year forecast project estimates for all EFA-related elements now funded by the dedicated revenue sources (see the *Sources of Revenue* section in this chapter).

Inception-to-date capital expenditures through FY2007 for the 1994 ECP were \$514.8 million. A few minor close-out ECP components were completed in FY2007. Beginning in FY2004, O&M estimates for the original 1994 ECP and the probable incremental O&M costs associated with the proposed modifications/enhancements to the various STAs and non-STA project components, are now included as part of the Long-Term Plan. STA O&M expenditures for FY2007 totaled \$14.3 million (unaudited).

The local share of the current 1994 ECP capital project estimate is \$514.8 million. When combined with the federal share of \$198.9 million, the total estimated capital cost associated with the 1994 ECP is \$713.7 million through FY2007. As mentioned above, all O&M costs are now reflected as part of Long-Term Plan estimates (**Figure 13-1**).

The current schedules reflecting the costs for implementing the revised 2003 Long-Term Plan are estimated at approximately \$769.5 million, not including the Long-Term Plan Acceler8 projects or debt service payments. The estimated construction costs for Long-Term Plan Acceler8 projects are \$601.2 million, along with a projected debt service amount of \$308.2 million. The estimated costs for other EFA-related expenditures, such as monitoring, research and evaluation efforts, are \$96.8 million. When combined with the 1994 ECP, the total current estimated cost of implementing the EFA program is \$2.5 billion (**Figure 13-1**). The Long-Term Plan and cost associated with it is discussed in greater detail in the *Everglades Long-Term Plan* section of this chapter.

The five-year forecast (FY2008–FY2012) of revenues by source for the EFA program is \$1.0 billion (**Figure 13-2**). Through FY2016, the current EFA program estimate of revenues by source is \$2.5 billion. The schedules show projected cash balance of zero at the end of FY2016. This assumes sufficient anticipated revenues to fund projected and future EFA expenditure needs.

FEDERAL GOVERNMENT-PROVIDED FUNDING

The 1996 Water Resources Development Act provides cost-sharing funding for some programs related to Everglades restoration. In particular, it authorizes the U.S. Army Corps of Engineers to proceed with STA-1 East/C-51 West, C-111 land acquisition, construction and water quality improvement projects, and the Comprehensive Everglades Restoration Plan (see Chapter 7A of this volume).

STA 1-East/C-51 West is the only ECP project component that was federally funded. The federal government was responsible for \$198.9 million of the total estimated cost of \$220.4 million. The remaining \$21.5 million represented the local share of the total estimated cost.

EVERGLADES LONG-TERM PLAN

The 2003 Florida legislature amended the 1994 EFA to authorize implementation of the initial phase of the Long-Term Plan. The 2003 amended EFA also expands and extends the use of the District's 1/10 mill *ad valorem* property tax levy, agricultural privilege taxes, and other funding sources for implementing the Long-Term Plan.

The Long-Term Plan will contain two phases: an initial 13-year phase (2003–2016) and a second 10-year phase (2017–2026). The legislature amended the EFA to require implementation of the first phase. The legislature indicated that a review of the EFA should occur at least 10 years after implementation of the initial phase. The second phase (as needed to meet planning objectives) must be approved by the legislature and codified into the EFA prior to implementation of the projects.

Including the FY2007 revisions, the Long-Term Plan's revised initial 13-year phase will cost approximately \$1.7 billion. This cost includes LTP Acceler8 projects, STA enhancements construction, STA expansion projects, STA operations and maintenance, evaluation and monitoring of the STAs, as well as STA optimization projects and source controls projects. This cost estimate includes the payment of debt service associated with the Long-Term Plan Acceler8 projects but does not include the costs associated with other EFA-related activities.

In FY2007, a total of \$118.0 million (unaudited) was expended for work associated with the District's Everglades Program. Of this amount, \$36.9 million was for work related to implementing the Long-Term Plan with the exception of the Long-Term Plan Acceler8 projects. Operations and Maintenance accounts for \$14.3 million. Construction expenditures associated with the Long-Term Plan Acceler8 projects (financed through the issuance Certificates of Participation (COPs) totaled \$56.8 million. The remaining \$10.0 million was spent on completion of the remaining Everglades Construction Project components (\$0.3 million), and for other EFA-related components such as monitoring, assessment, research, and evaluation in the Everglades Protection Area (\$9.7 million). All of these FY2007 amounts exclude any outstanding commitments/encumbrances as of September 30, 2007 that will roll forward into FY2008.

The FY2008 adopted budget is \$111.0 million of which \$100.1 million relates to the Long-Term Plan components including the LTP Acceler8 projects, STA enhancements, STA operations and maintenance, STA optimization, STA monitoring, source controls, recovery of impacted areas, adaptive implementation, and Long-Term Plan program management. The remaining \$10.9 million covers other EFA-related components such as research and evaluation in the Everglades Protection Area.

The five-year forecast (FY2008–FY2012) for the District Everglades Program totals \$1.0 billion, which is comprised of \$980.7 million for the overall Long-Term Plan of which \$519.1 million is for Long-Term Plan Acceler8 projects (financed through COPs) and \$155.7 million is for the payment of debt service associated with the Long-Term Plan Acceler8 projects. The remaining \$32.2 million is for other EFA-related projects such as monitoring, assessment, research, and evaluation. (**Figure 13-2**).