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 (Chapter 97-258, Laws of Florida) requires the reporting of financial information for Everglades restoration. The Everglades Forever Act (EFA) [Section 373.4592, Florida Statutes (F.S.)] requires the District to account for all monies used to fund the 1994 Everglades Construction Project (ECP) and the 2003 Long-Term Plan (Burns and McDonnell, 2003[1]), 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 this chapter.

Dedicated funding is essential to the Everglades and Florida Bay protection and restoration programs. The ECP, a major element of the Everglades Restoration Program and the 1994 EFA, comprise one of the nation's largest environmental restoration projects, and together had an original 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 to include the initial phase of the Long-Term Plan, including Stormwater Treatment Area enhancements, research, and operation and maintenance of the ECP. It is currently projected that the Long-Term Plan's initial 13-year phase will cost approximately $1.6 billion. The 2003 Long-Term Plan expands the goals and objectives of the ECP and 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 $39.1 million, split equally between both restoration programs, has been received from the FDOT since 1997.

The District, partnering 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 mill *ad valorem* tax, agricultural privilege taxes, state

[1] Burns and McDonnell. 2003. Everglades Protection Area Tributary Basins Long-Term Plan for Achieving Water Quality Goals. October 2003. Report prepared for the South Florida Water Management District, West Palm Beach, FL.

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 $862.3 million. In Fiscal Year 2008 (FY2008) (October 1, 2007–September 30, 2008), net revenues totaled $88.1 million (unaudited), of which $82.2 million came from *ad valorem* and agricultural privilege tax collections, and the remaining $5.9 million were from the other sources listed above.

Since the EFA's enactment, the District has dedicated its maximum Okeechobee Basin 1/10 mill *ad valorem* taxing authority to the ECP, the Long-Term Plan, and other EFA-related activities. Through FY2008, $575.4 million net *ad valorem* tax revenue was received for Everglades restoration, of which $71.3 million (unaudited) were collected in FY2008. The 0.0894 mill *ad valorem* tax is projected to generate $70 million in FY2009.

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 FY2008 were $163.3 million. During this period, the net C-139 basin agricultural privilege taxes totaled $7.3 million. During FY2008 net agricultural privilege taxes received were $10.9 million (unaudited), and are projected to be $11.6 million in FY2009.

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. **Figures 13-1** and **13-2** show EFA projected revenue and expenditures from project inception through September 30, 2016. The 1994 Everglades Forever Act (EFA) [Section 373.4592, Florida Statutes (F.S.)] with its 2003 amendments requires the South Florida Water Management District (SFWMD or District) to provide, annually, a comparison of actual versus projected revenues and a projection of costs and revenues over the successive five-year period (**Figures 13-3** and **13-4**).

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 EPA (see Chapter 8 of this volume). The Long-Term Plan continues and expands the goals and objectives of the 1994 ECP and, as such, is a critical component Everglades protection and restoration. The revised Long-Term Plan's initial 13-year phase is projected to cost approximately $1.6 billion.

Research and assessment are key to the general requirements of the EFA to evaluate the 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 $67.1 million; during Fiscal Year 2008 (FY2008) (October 1, 2007–September 2008), a total of $10.4 million was expended toward achieving restoration goals.

Florida Bay Restoration Program activities are ongoing, with a projected total cost estimate of $367.0 million. Through FY2008, a total of $25.0 million had been expended for restoration activities from the District's Florida Bay Fund.

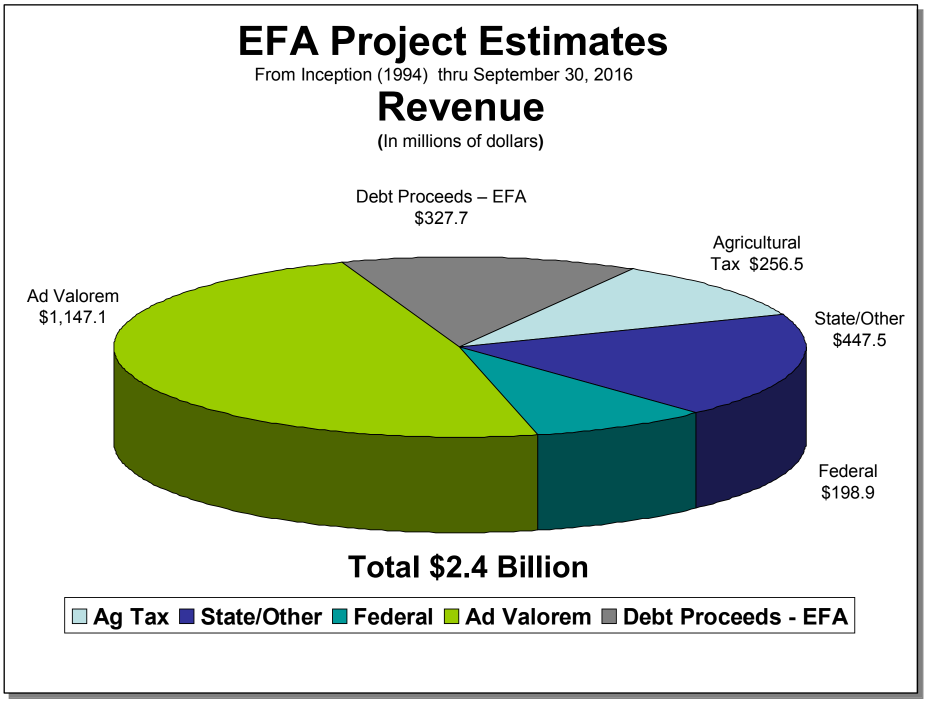

Figure 13-1. Everglades Forever Act (EFA) revenue estimates from inception.

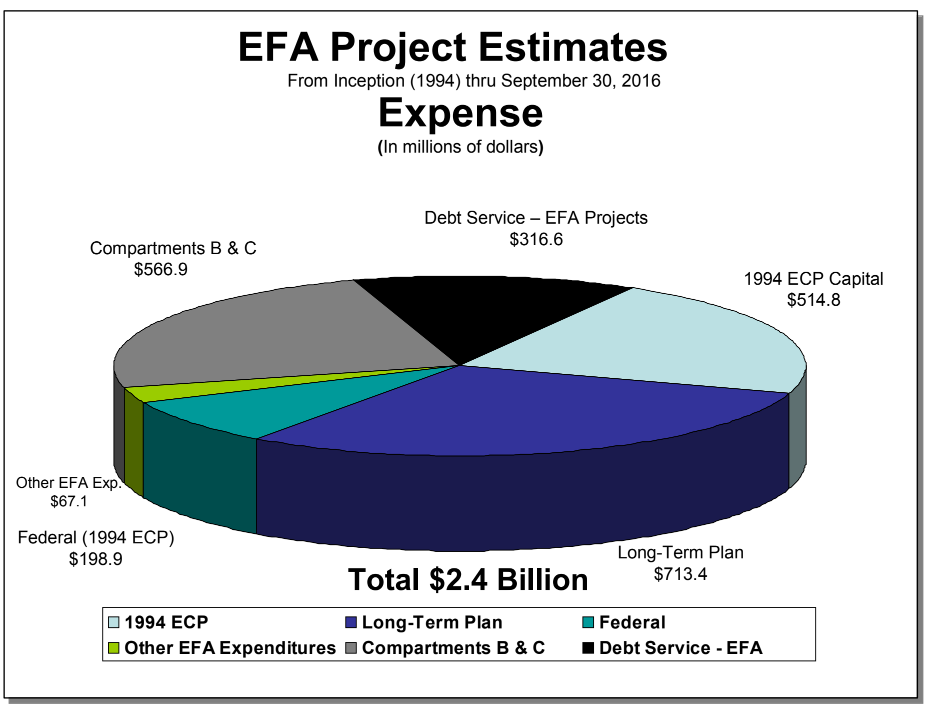

Figure 13-2. EFA project expenditure estimates from inception.

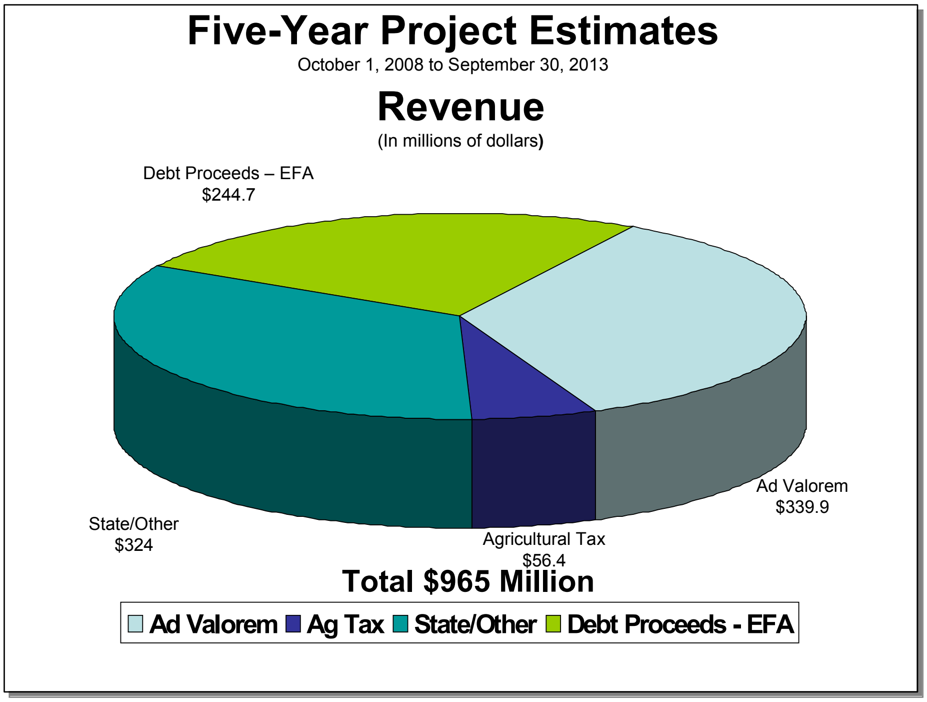

Figure 13-3. Mandated five-year (October 1, 2008–September 30, 2013) revenue estimates for the EFA.

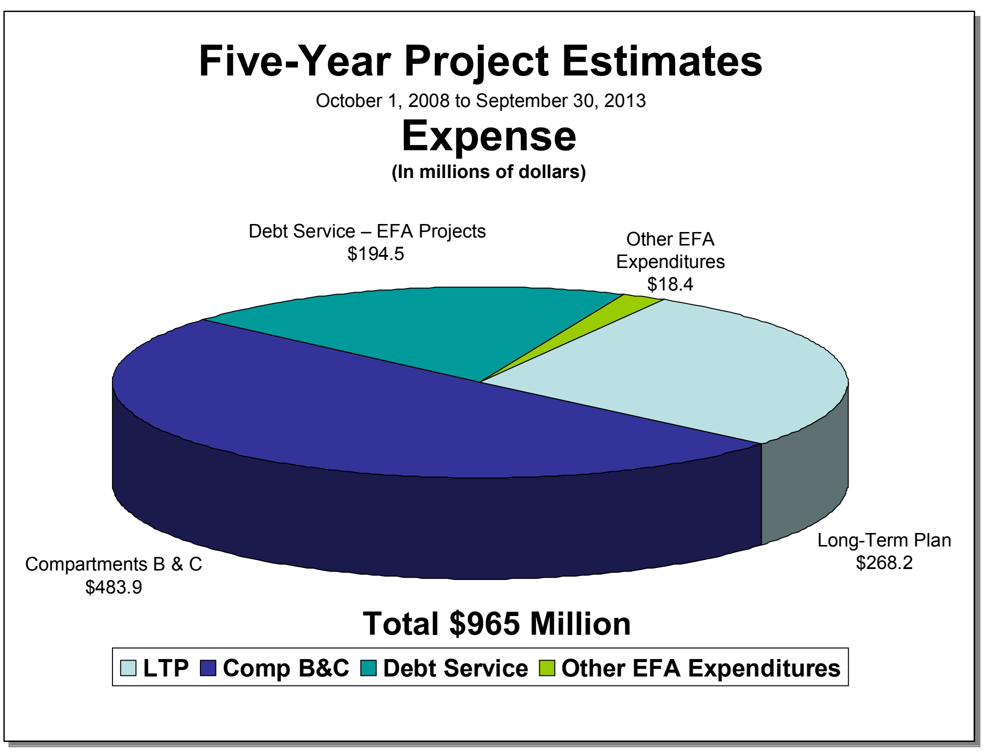

Figure 13-4. Mandated five-year (October 1, 2008–September 30, 2013) expense estimates for the EFA.

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 include 1/10 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 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 $862.3 million compared to original projections of $851.3 million (**Figure 13-5**). Since the EFA's enactment, the District has dedicated its maximum Okeechobee Basin 1/10 mill *ad valorem* taxing authority to the ECP, the Long-Term Plan, and other EFA-related activities. Through FY2008, $575.4 million net *ad valorem* tax revenue was received for Everglades restoration, of which $71.3 million (unaudited) were collected in FY2008. The 0.0894 mill *ad valorem* tax is projected to generate $70 million in FY2009.

The amount of tax revenues collected each year is reduced by early payment discounts provided by each county. These discounts can range from one percent to four 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.

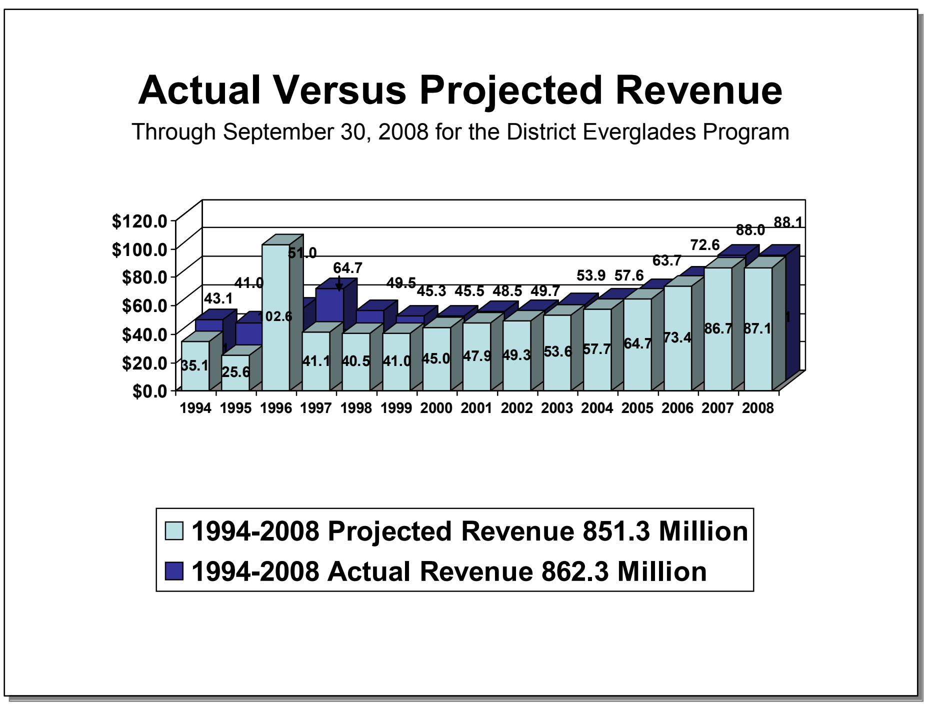

Figure 13-5. Actual versus projected revenues through September 30, 2008.

AD VALOREM TAXES PROVIDE $71.3 MILLION IN FY2008

From the time of the enactment of the 1994 EFA until the 2003 amendment, 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 FY2009) mill *ad valorem* tax associated with design, construction, and implementation of the initial phase of the Long-Term Plan, including operation and maintenance of the ECP and research for the projects and strategies in the initial phase of the Long-Term Plan. For FY2008, net *ad valorem* tax revenues were $71.3 million (unaudited) through September 30, 2008. The 1/10 mill *ad valorem* tax, net after tax collection costs, is projected to generate $68.3 million in FY2009.

EVERGLADES AGRICULTURAL AREA PRIVILEGE TAX RAISES $10.5 MILLION IN FY2008

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.

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 FY2008 were approximately $10.5 million (unaudited) through September 30, 2008. The EAA privilege tax, net after tax collection cost, is anticipated to generate $10.9 million in FY2009.

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 are planned to 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 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 $0.4 MILLION IN FY2008

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.

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 would continue to pay the $4.30 per acre through FY2014. Beginning with tax notices mailed in November 2014, and thereafter, shall be assessed at the rate of $1.80 per acre. In FY2008, the net C-139 basin agricultural privilege taxes collected were $399,155 (unaudited) through September 30, 2008. The C-139 basin agricultural privilege tax, net after tax collection cost, is projected to generate $513,400 in FY2009.

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 Wildlife Management Area 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 $22,125,000 has been received from the FDOT from FY1998–FY2008, 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 *Sources of Revenue* section in this chapter).

The 1994 ECP capital projects were completed in FY2007 for a total cost of $514.8 million. Beginning in FY2004, operations and maintenance (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 FY2008 totaled $12.3 million (unaudited).

The local share of the 1994 ECP capital project is $514.8 million. When combined with the federal share of $198.9 million, the total capital cost associated with the 1994 ECP is $713.7 million. As mentioned above, all O&M costs are now reflected as part of Long-Term Plan estimates (see **Figure 13-2**).

The current schedules reflecting the costs for implementing the revised Long-Term Plan are estimated at approximately $713.4 million not including the construction costs for Compartments B and C Expansion and Buildouts or debt service payments. The estimated construction costs for Compartments B and C Expansion and Buildouts are $566.9 million along with a projected debt service amount of $316.6 million. The estimated costs for other EFA-related expenditures such as monitoring, research and evaluation efforts are $67.1 million. When combined with the 1994 ECP, the total current estimated cost of implementing the EFA program is $2.4 billion (**Figure 13-2**). The Long-Term Plan and costs associated with it are discussed in greater detail in *The Long-Term Plan* section of this chapter.

The five-year forecast (FY2009–FY2013) of revenues by source for the EFA program is $965 million (**Figure 13-3**). Through FY2016, the current EFA program estimate of revenues by source is $2.4 billion. All revenues generated are expected to be used for Long-Term Plan-related projects by FY2016. This projection assumes sufficient 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, and C-111 land acquisition (a non-Everglades Construction Project component), 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.

THE 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 latest revisions, the Long-Term Plan's revised initial 13-year phase will cost approximately $1.6 billion. This cost includes construction of Compartments B and C buildouts, STA enhancements construction, STA expansion projects, STA O&M, 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 expansion and buildouts of Compartments B and C, but does not include the costs associated with other EFA-related activities.

In FY2008, a total of $74.4 million (unaudited) was expended for work associated with the District's Everglades Program. Of this amount, $46.6 million was for work related to implementing the Long-Term Plan with the exception of construction costs associated with the expansion of Compartments B and C. O&M accounted for $12.3 million. Construction expenditures associated with the expansion of Compartments B and C (financed through the issuance Certificates of Participation (COPs) totaled $0.9 million. Debt service payments related to the issuance of the first COPs for Compartments B and C was $4.2 million. The remaining $10.4 million was spent on other EFA-related components such as monitoring, assessment, research, and evaluation in the EPA. All of these FY2008 amounts exclude any outstanding commitments/encumbrances at September 30, 2008, that will roll forward into FY2009.

The FY2009 adopted budget is $400.3 million, of which $146.5 million relates to the Long-Term Plan components including the LTP expedited projects, STA enhancements, STA O&M, STA optimization, STA monitoring, source controls, recovery of impacted areas, adaptive implementation, Long-Term Plan program management, and debt service payments. Also included in the budget is $244.7 million (prior year COPs proceeds) to be used for the construction of Compartments B and C buildouts. The remaining $9.1 million covers payment of property appraiser and tax collector fees and other EFA-related components such as research and evaluation in the EPA.

The five-year forecast (FY2009–FY2013) for the District Everglades Program totals $965 million, which is comprised of $946.6 million for the Long-Term Plan of which $483.9 million is for the construction of Compartments B and C buildouts (supplemented from prior year COPs proceeds), $268.2 is for Long-Term Plan related activities such as source control, optimization, operations and maintenance of the STAs and $194.5 million is for the payment of debt service associated with the expansion of Compartments B and C and construction of the buildouts. The remaining $18.4 million is for other EFA-related projects such as monitoring, assessment, research, and evaluation. (**Figure 13-4**).