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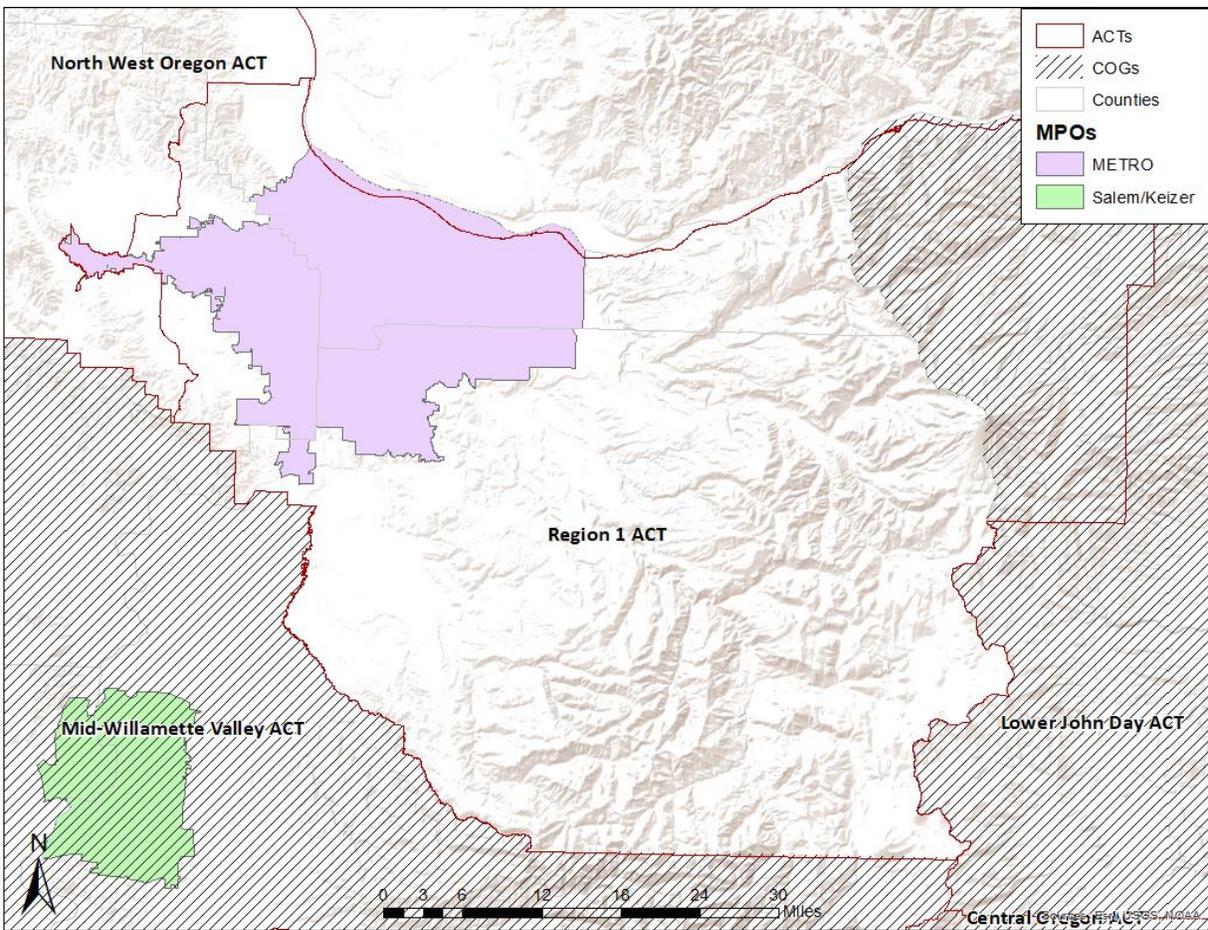
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# Regional Decision-Making in Oregon’s Area Commissions on Transportation

## Introduction

In 2008, local agencies on the periphery of the Portland metropolitan area began discussions with the Oregon Department of Transportation about forming an intergovernmental institution to prioritize transportation investments affecting their citizens (ODOT 2015a). In 2015, the result was to form the Region 1 Area Commission on Transportation (R1ACT). Until then, Area Commissions on Transportation (ACTs) existed in all parts of the state to engage local agencies and the public in the federally mandated State Transportation Improvement Program (STIP) process, except areas of Region 1 that were not also in the Metro regional government’s jurisdiction. When the ACTs were formed in the late 1990s and early 2000s, Metro’s internal committee structure served the function of the ACT for the Portland area and so a standalone ACT was not created. The problem was that Metro’s boundaries end at the regional urban growth boundary and do not represent rural communities adjacent to Metro, as shown in Figure 1 below, creating an unclear policy ‘grey zone’ for communities in the region outside of Metro. These ‘grey zone’ communities lacked a clear forum to engage regional transportation policies impacting them.



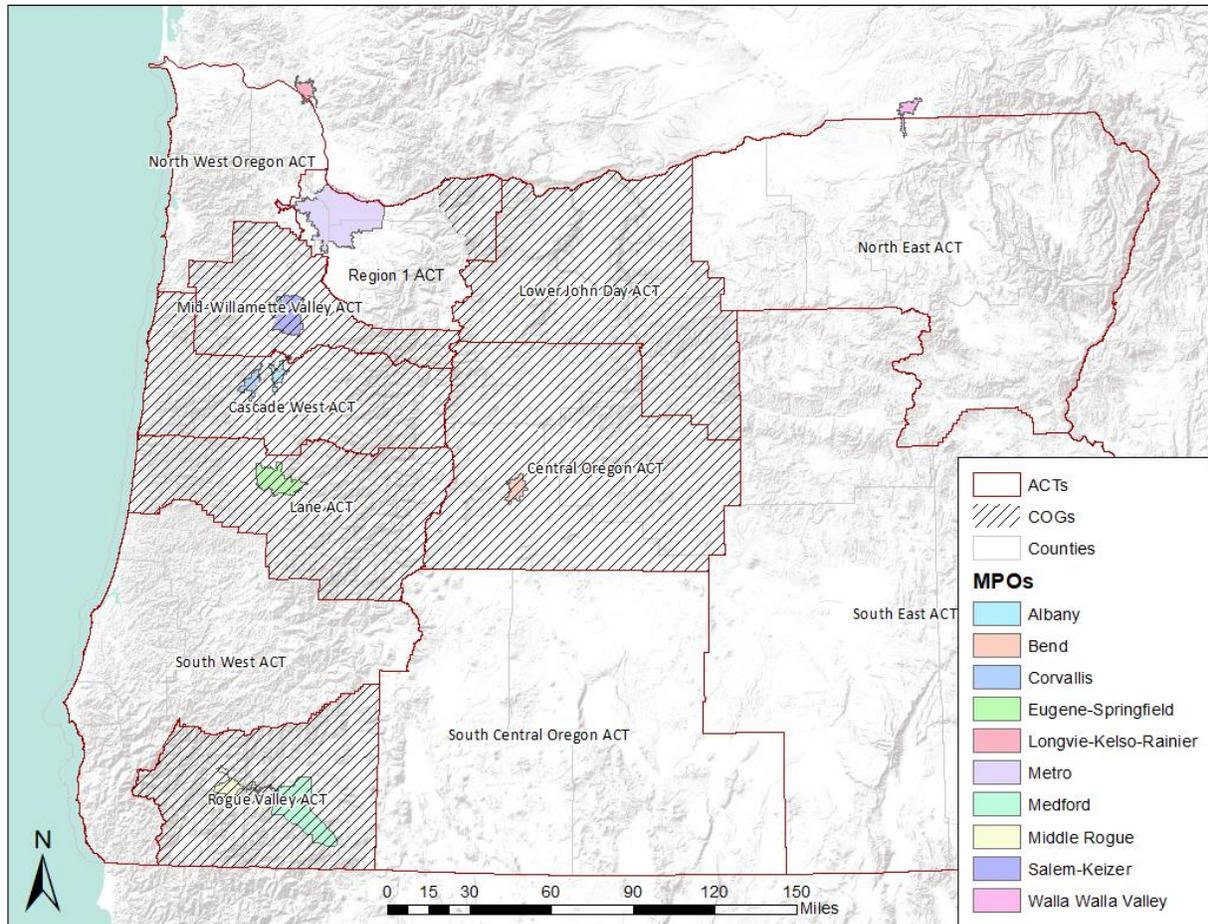
**Figure 1. The Portland metropolitan area and surrounding ACT boundary.** Data Sources: ODOT 2010; ODOT 2013; ODOT 2015b. Basemap data from ESRI (2021).

In other words, regional institutions existed with some form of authority over regional transportation investments, yet many stakeholders were essentially excluded from the process. Authority was vested in one institution which did not represent all stakeholders. The statewide ACT system, now encompassing all parts of Oregon, seeks to address this dual challenge of prioritization and participation by engaging key stakeholders in statewide transportation policy through regional forums reflecting local interests.

In this paper, I argue that the ACT system is Oregon's manifestation of a broader national transportation policy trend away from centralized, technocratic decision-making and towards decentralized, regional, participatory policy-making. In the following sections, I describe Oregon's regional policy making structure followed by an overview of the organization, composition, and authority of the ACT system. I then examine broad national transportation policy trends and regional governance literature in the United States, concluding with an evaluation of the ACT system based on this analysis. I use this evaluation to identify improvement opportunities and future research needs. While the ACT system exhibits many characteristics of an inclusive regional process, there remain opportunities to improve and clarify ACT decision-making authority and regional stakeholder participation.

### **ACTs in Oregon's Regional Transportation Policy Framework**

Oregon has a diverse and often overlapping network of regional policy-making institutions. Steckler et al (2010) organizes regional institutions in Oregon into five categories: one regional government (Metro), intergovernmental entities (Councils of Government or COGs), state-sponsored (ACTs, watershed councils, and others), federally designated (MPOs), and ad-hoc regional efforts. Metro, Oregon's lone elected regional government, exercises planning authority over the Portland metropolitan area, while COGs coordinate planning in Oregon's six other metropolitan areas (Figure 2). Often different regional institutions are housed in the same agency, such as the Mid-Willamette Valley Council of Governments (Intergovernmental) and Salem-Keizer Area Transportation Study (MPO).



**Figure 2: Oregon's regional transportation institutions.** Data Sources: ODOT 2010; ODOT 2013; ODOT 2015b. Basemap data from ESRI (2021).

MPOs exercise regional decision-making for federal transportation funding in their respective areas. MPOs are responsible for preparing a Regional Transportation Plan (RTP) and developing a related Metropolitan Transportation Improvement Plan (MTIP) for federal funding, the latter of which is incorporated into the wider STIP. Except in the Portland region where Metro is both MPO and COG, Oregon integrates separate MPO and COG institutions by having COGs act as the regional convening and staffing body for MPO RTP and MTIP development (Steckler et al 2010). The MPO-COG relationship reflects common practice nationally, although levels of integration vary from state to state. MPOs and COGs provide regional forums in certain areas of Oregon, but do not encompass the entire state.

The ACTs, falling into Steckler et al's (2010) 'state-sponsored' category, are a system of regional bodies throughout Oregon that collaborate on transportation policy issues and advise the Oregon Transportation Commission (OTC). ACT jurisdictions are coterminous with the six COG boundaries but also include the rest of the state where no COGs operate. Steckler et al's (2010) research finds that, in spite of their lack of formal authority, ACTs most effective roles are engaging the public in STIP development process and creating better project priorities than if the process were conducted at the state level alone. In their report, Brody and Margerum (2009) argue that the ACT system was created by state initiative to "improve communication and

interaction between the OTC and local stakeholders and to facilitate regional cooperation among local government jurisdictions” (1). ACT formation was meant to improve engagement in two dimensions: state-to-local as well as local-to-local. In the remainder of this section, I examine this dimension in more detail.

Oregon’s state transportation policy framework is organized in a council-manager system similar to municipal governance. The OTC, a five-member group appointed by the governor, establishes overall state transportation policy and approves capital investments while the Transportation Director manages day-to-day operations through the Oregon Department of Transportation (ODOT). Among its many duties, the OTC is the final approval body for the STIP and statewide transportation plans and the oversight body for state transportation spending (OTC 2016). While the OTC allows citizens and local agencies to comment on its statewide processes, the reality is that a five-member commission can only engage local stakeholders so often or directly. Instead, an OTC committee recommended creating Area Commissions to subdivide OTC engagement throughout the state (Highway Division 2003). The goal was to create more opportunities for local engagement on statewide policy, regional project selection, and provide regional commitment to capital investments. The effect is to delegate public involvement to regional stakeholders without delegating decision-making.

The ACT system is composed of 12 mutually-exclusive areas encompassing all of Oregon (Figure 2), with a voting membership intended to represent the region’s population, interests, and impacted population (Brody & Margerum 2009). While the exact number of members varies between ACTs (from 14 to 40 members), the average number is 24 voting members per ACT with at least 50% required to be local elected officials from cities, counties, and MPOs (OTC 2003). Other voting members include ODOT, tribes, and special districts along with a number of ex-officio members.

Functionally, the ACTs advise ODOT on STIP development and project prioritization in their respective regions, providing opportunities for the public to engage in decision-making (Brody & Margerum 2009). STIP development allows ACT members to review applications for, filter, and prioritize transportation projects in their region for some state and federally-funded programs for inclusion the STIP (Egan 2012a; Egan 2012b; Egan 2013). ACT members discuss and review projects based on local and state plans, state policies, public benefits, and environmental impacts (Brody & Margerum 2009). For regions without an MPO, the ACT is the primary STIP project prioritization forum. For regions that also have an MPO, the project selection process is primarily managed through the MPO’s MTIP process for its respective jurisdiction with ACT cooperation. The prioritized ACT projects are then sent to the OTC for final approval.

The ACT system primarily coordinates the STIP-development process at the region level, providing a deconflicted regional prioritization of transportation investments to the OTC. In contrast to MPOs and the state, ACTs have no formal decision-making authority; they can only coordinate and advise. In spite of having no formal authority, the ACT system enjoys wide support from Oregon regions (Steckler et al 2010) and seems to address the policy grey zones mentioned before. If the ACTs have no delegated decision-making over regional transportation investments, and indeed have less authority than any other regional forum, why do they receive such broad support? In the next section, I argue that the ACT’s value represents a broader shift nationally to localized transportation public involvement and exhibit some of the features of effective regional governance.

## **Transportation Decision-Making at the End of the 20<sup>th</sup> Century**

Transportation investments in the US are heavily tied to federal legislative mandates, leading to state and local manifestations of national policy. For example, the STIP development process is required of every state under 23 USC 135 (Highways) and 49 USC 5304 (Public Transportation). That said, transportation policies have gradually shifted in how they are implemented by local, state, and federal policy makers. Oregon's ACT system therefore reflects two national trends in transportation decision-making: decentralization and local participation. In the decades since the initiation of the National Highway System, transportation decision-making in the United States has gradually moved away from centralized, technocratic processes to more decentralized, participatory processes. Opening up the decision-making process is likely due to a mixture of factors, from popular backlash to prior government decisions and constrained fiscal capacity to centrally deliver large-scale projects.

Fields and Cradock (2014) characterize federal transportation policy in three movements: Interstate Era, Safe-T Era, and MAP-21 Era, beginning as highly centralized and relatively closed to the public and gradually decentralizing and expanding public participation. The early part of the Interstates Era (1956-1973) was primarily led by state and federal policy makers and focused on building high-capacity freeways between metropolitan areas. The passage of the 1976 Federal-Aid Highway Act, constituting the start of the latter interstate era (1976-1991), allowed for more discretion by state and local agencies to prioritize types of investments (Fields and Cradock 2014). The Interstate Era was characterized by financial solvency (a gas-tax user fee system) and efficiency (high-capacity highways between metropolitan areas) as the highest goals, with little focus on intra-urban transportation needs (Mohl 2012).

Mohl (2012) argues that urban highway construction in the 1950s-1960s created an "imbalance between people and cars," devastated and dislocated urban neighborhoods, and failed to align transportation systems with the dense built environment of urban areas. Urban transportation investments under the early Interstate Era often reflected the priorities of technocratic practitioners and bore little resemblance to the communities they were built in (Mohl & Rose 2012). The result was a revolt against centralized and large-scale interstate projects in the 1970s, parallel to the Interstate Era's shift to greater local decision-making (Mohl 2012).

The Safe-T Era (1991-2010) saw a shift away from large-scale interstate projects and towards smaller-scale, multi-modal, and intra-urban projects (Fields & Cradock 2014). Fields and Cradock (2014) argue that negative impacts of urban highway construction in the Interstate Era motivated diverse stakeholders, such as environmentalists, active transportation advocates, and legislators to push for greater involvement by regional institutions and citizens in transportation decision-making. The Safe-T Era therefore enabled a greater mixture of project types by localizing decision-making and enabling urban areas to control more of the funds spent in their regions.

Fields and Cradock (2014) characterize that the latest era as MAP-21 (2010-Present), a bill that funds a variety of modes and supports even greater local decision-making. The two-year bill was eventually replaced by the Fixing America's Surface Transportation (FAST) Act in 2016, which bears close resemblance to MAP-21 (FHWA 2016). Both bills provide dedicated funding to non-highway modes and allow for federal funds to be spent on enhancement (complete streets features) rather than highway expansion projects. The FAST Act was further replaced by the Infrastructure Investment and Jobs Act (IIJA) of 2021, which expands many of

the funding programs of its predecessors but otherwise seems to build off of the policy direction of MAP-21 (Congress.gov 2022). Fields and Cradock (2014) argue that the original goals of efficiency and solvency remain priorities at federal and state levels, but introducing flexible funding structure and local prioritization of investments enable regional coalitions to better advocate for local needs. Requirements to develop a STIP institutionalize coherent project selection for states and regions, while flexible funding enables a more nuanced suite of regional projects.

Transportation decision-making in the US builds on the lessons of prior eras, both positive and negative. Mohl (2012) argues that while the state and federal relationship for transportation investment has not changed, the level at which policymakers prioritize investment as fundamentally shifted over the past decades. As many interstate roads reach the end of their serviceable life and funding becomes more constrained, Mohl (2012) argues that “stakeholders in urban transportation see an opportunity to come up with better alternatives the second time around” (96). Rather than centralized and highway-focused priorities, state and federal policies now promote greater regional and multimodal processes that engage local stakeholders. In theory, improved and earlier project buy-in by affected stakeholders should produce transportation projects more reflective of regional needs. Put another way, allowing local stakeholders to have more power over what projects get funded and why should lead to more context-sensitive solution in the end. For both states and the federal government, this has meant working through regional governance systems and promoting greater local ownership of transportation decisions.

### **Regional Governance**

If transportation decision-making is decentralized to regional stakeholders, what should this look like? How should stakeholders organize to address regional challenges? Literature on regional governance suggests that representative institutions with proper authority to address the regional challenge in question are the preferred structure. Campbell and D’Anieri (2002) argue that regional institutions arise from four goals of administrative efficiency, economic competitiveness, ecological protection, and social equity. Primary documents from ODOT and the OTC suggest that, of Campbell and D’Anieri’s goals, efficient and equitable outcomes are the primary motivators for ACT development (Highway Division 2003; OTC 2003). Administrative regionalism seeks efficiency gains by coordinating activities between local agencies. For example, a stretch of road owned by multiple agencies needing snow plowing could be most cost-effectively managed by buying one plow for the entire road rather than each agency independently buying its own plow. Equity regionalism seeks redistributive policies that address unequal allocations of power, services, and resources. Campbell and D’Anieri (2002) argue then that these two goals sit at opposing ends of a ‘power continuum,’ with administrative regions being less difficult to implement and equity regions being far more so. The effect is that, in seeking regional action, institutions and policies requiring more regional authority are often discarded in favor of less difficult policy routes—efficiency is politically easier to implement than equity.

In her analysis of regional governance challenges, Foster (2011) argues that policymakers forming or evaluating regional institutions should ask the following questions: by what authority, exercised by whom, and in what territory? Foster (2011) argues that (in reverse order) institutional boundaries should match the scale of the challenge, members roles and responsibilities should be clearly identified, and it should be clear what tools the institution has

to address the original challenge. The three criteria described are rarely accomplished in a pure form because it creates overlapping jurisdictions and requires one or more agencies to cede some authority to another (Foster 2011). Instead, regional challenges are often tackled through institutions that do not match the geography affected and without the full authority to act. She concludes by arguing that no matter the form, regional institutions should seek greater efficiency, fairness, accountability, participation, economic development, and environmental sustainability (Foster 2011).

### **Evaluating Oregon's ACT System**

Returning to the original question, I ask whether Oregon's ACT system addresses the dual regional challenge of prioritizing transportation investments and engaging all affected stakeholders in the process. Based on the elements derived from transportation history and regional governance literature, I argue the ACT system partially resolves the regional challenge it was designed to address while successfully engaging affected stakeholders in the process. This suggests lessons can be derived from Oregon's experience for other states but also that improvement opportunities remain.

First, I would expect project delivery to be more efficient under the ACT process than if chosen outside the ACT process. 'Efficient' can be thought of as more cost-effective or timely than under other processes: local and independent, state, or federal. Effective regional project coordination should reduce the costs and time to deliver projects a whole. Campbell and D'Anieri (2002) argue that efficiency is the least difficult to advocate for regional action and I would expect it to be present in even the least formal institutions. Instead, studies on the ACT system and primary documents make no reference to efficiency gains.

Second, the ACT boundaries were designed to reflect the "geographic community" of interest affected by STIP development (Steckler et al 2010). When formally adopted in 2003, the ACT system provided regional engagement forums for the majority of Oregon communities not engaged with MPO or COG institutions. In that way, the ACTs provided a coordinating institution to match the regional policy gap these areas experienced. For the Portland metropolitan area, Hood River County, and Lane County, which opted to initially not form ACTs, the ACT role was either performed by a COG-MPO or communities attempted to engage directly with the state. This created gaps in the ACT system where communities were not engaged (or not equitably so) in the state-sponsored regional process. Since Brody and Margerum's (2009) and Steckler et al's (2010) writing, ACTs have been formed in these gap areas as well, ensuring all parts of Oregon have a regional engagement forum.

Third, it is unclear whether members' roles are fully understood by all parties (inside the ACT and externally). Anecdotal evidence suggests some stakeholders believe that the ACT is the final project selection forum (J. Flowers, personal communications, December 2016). Officially, "ACTs have no legal policy, or administrative powers," (Steckler et al 2010), unlike an MPO for example which has some independent discretion over funding decisions in its area. ACTs can only provide recommendations to their parent commission, the OTC. ACT charters and bylaws reflect this lack of formal authority, but at least one ACT website says they are responsible for prioritizing and selecting regional projects that are included in the STIP (NWACT 2021), which is not necessarily true. Unclear language on ODOT websites too suggest that the ACT chooses projects and is the final approval body (ODOT 2021). This function is officially reserved for the OTC alone.

Fourth, Brody and Margerum's (2009) surveys show the ACTs are perceived as inclusive of all affected stakeholders. Designing mutually exclusive jurisdictions for the entire state enables inclusivity at least through all-encompassing geography. In terms of membership, ACTs are required by the OTC to "consider all modes and aspects of the Transportation System" and form a voting membership that is "reflective of its population and interest groups and will be broadly representative of those impacted by ACT recommendations" (OTC 2003), which is to be composed half of affected governments and half of interested parties. But do they influence the STIP decision-making process? This aspect is unclear from existing studies. Steckler et al (2010) makes no mention of the relative influence of members while Brody and Margerum (2009) suggest that, while open to the public, ACT meetings are often held during working hours, little effort is dedicated to public outreach and the complexity of transportation funding processes are not readily grasped by the public. Unequal understanding of the subject matter suggests possible limits to the ACTs inclusiveness and the influence non-public agency members can have on the decision-making process.

Lastly, the literature suggest that in order to be most effective, primary decision-making authority would be delegated (or ceded) to the ACT, equitably representing affected stakeholders so the institution could address the regional challenge. Primary documents and existing studies are quite clear that the ACTs have not been delegated any decision-making authority whatsoever from the state. In this respect, ACTs are similar to COGs, which also have no formal authority. COGs do, however, possess technical staff that can provide planning services for its members and are required to work with the MPOs. MPOs have designated planning and fiscal authorities from state and federal regulations that enable regional policy action. By comparison then, regions without COG or MPO representation possess less authority over regional actions than those that do. There appears to exist, therefore, a statewide disparity of regional authority between ACTs that also have a COG-MPO and those without.

If the ACTs have no formal authority, indeed less even than a COG that has staff, why do they receive such strong support from regional stakeholders? Why would Portland metropolitan communities form an ACT outside of the most formal regional government in the US? Perhaps, as Campbell and D'Anieri (2002) argue, the initial goals are met through the institutional process that results in the desired outcome, which is a regionally-defined set of projects. In other words, if aligning the original challenge (regional engagement) with institution (ACT) results in the desired outcome (regionally-defined priorities), then the system works. In keeping with Foster's (2011) analysis, however, regional authority must in fact be located somewhere in the ACT process in order for it to be considered effective, albeit unstated.

Perhaps, then, it is more important that authority exists only where it is exercised rather than where it is articulated. ACTs would serve their function if projects selected strictly reflected ACT members' needs rather than state or federal priorities. In the STIP development process, if the ACTs collaborated, prioritized, and presented a list of regional projects to the OTC, this would represent the ideal outcome for the given ACT region. If the OTC concurred with the list, the preferred regionally-focused outcome was achieved. If the OTC rejected the list or changed the list of projects, a state-focused outcome was achieved. If indeed a federally-preferred project was prioritized instead, such as a Congressional earmark, then a federally-focused outcome was achieved. If the original unaltered ACT projects lists are consistently those that are adopted, then it suggests that informal regional authority is vested in the ACTs to determine regional priorities and the OTC's decision is administrative only. ODOT STIP development staff remarked that they rarely if ever have seen the OTC or any other body override the ACT priorities (J. Flowers,

personal communication, December 2016). Further research beyond the scope of this paper could look at past STIP cycles to evaluate which and how many ACT lists were incorporated wholesale by the OTC or which lists were changed and for what reasons. Analysis of this data would better articulate which body—ACT or OTC—is actually deciding which projects are built and in what order. Understanding who is making the final discretionary decision would illustrate where authority resides in the STIP process.

### **Conclusion and Future Research**

In summary, the Oregon ACT system provides an inclusive regional engagement forum for the development of the STIP, but gaps and clarifications remain. Decentralizing public engagement from the state to regional levels provides more opportunities for local interests to be heard and for a coherent regional set of priorities to be developed. That said, it is unclear whether the ACT process results in more efficient project delivery or whether the final set of regional investments reflect the ACT priorities. Conversations with ODOT staff suggest the latter is true, but further research is needed to confirm.

Future research could examine cost savings by local agencies and the state by regionalizing project delivery processes, which could include comparisons with local, state, or federal projects that were delivered independently. For example, comparing bridge projects selected and delivered through the ACT process compared to federal Emergency Relief bridge projects, which are ad hoc and driven by federal emergency priorities. Similarly, research could examine efficiency gains in the time to delivery by bundling regional projects together through the ACT process.

Further research could also examine the extent of ACT priority list adoption by the OTC. If regional prioritizations are always adopted, then the ACT system's broad backing from regional stakeholders supports Foster's (2011) analysis that effective regional governance is dependent on where authority is vested, either formally or in practice. In a sense, this means authority rests with the ACTs in practice, not with the OTC, and regional stakeholders perceive this reality. It also could explain why Region 1 communities would want an ACT process instead of Metro. In the Portland area, communities would be gaining de facto authority from the state to prioritize transportation investments and reducing the de jure authority vested in Metro, which is a substantial incentive for local agencies and their residents.

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