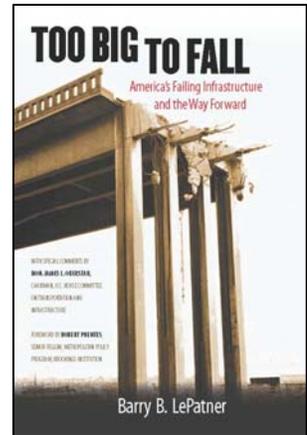


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For an interview with Barry LePatner or a review copy of the book, please contact Dottie DeHart, DeHart & Company Public Relations, at (828) 325-4966 or Dottie@dehartandcompany.com.



We All Fall Down:

Seven Key Steps for Stabilizing the Nation's Infrastructure

For too long we have taken the nation's infrastructure system for granted. Now, as the system ages and a lack of proper maintenance increasingly endangers the traveling public, it's time to act. Author Barry LePatner provides solutions for how we can begin to get our all-important infrastructure system on a path to recovery.

New York, NY (October 2010)—Consider for a moment how many bridges or overpasses you cross on your way to and from work each day. Or how many your children cross to and from daycare or school. How familiar are you with the water and gas pipelines that line the ground underneath your home or street? What do you know about the levees holding back local bodies of water from flooding your town?

Now consider what would happen if one of those bridges collapsed, as Minneapolis's I-35W Bridge did in 2007. Or what if a gas line exploded near your home, as recently happened in California? Or how quickly could you get to safety if a levee failed, as happened recently in Wisconsin?

If you haven't given the scenarios much thought, you aren't alone. Many Americans and the public officials who are meant to protect them take the infrastructure that keeps the U.S. running for granted, says Barry LePatner. But once you have been presented with a full accounting of the severity of the situation, that is a risk no one in our nation can afford to take.

In *Too Big to Fall: America's Failing Infrastructure and the Way Forward* (University Press of New England, 2010, ISBN: 978-0-9844978-0-5, \$27.95, www.TooBigToFall.com), LePatner uses the infamous collapse of the I-35W Bridge as a microcosm for the problems plaguing the nation's infrastructure as a whole. He exposes decades-long government failure on a national as well as state level—and explains the imperatives for getting a grip on the nation's infrastructure problems sooner rather than later.

“Correcting the nation's widespread infrastructure problems while continuing to meet the needs of a growing population—one that is set to grow by 100 million people by 2040—will take an enormous national commitment,” says LePatner, whose new book includes forewords from U.S. Rep. James Oberstar (D-MN), Chairman of the House Committee on Transportation and Infrastructure, and Robert Puentes, Senior Fellow at the Brookings Institution. “To address current needs and make the required structural changes in our system, we need to educate our politicians and our citizens about the critical state of our nation's infrastructure and infuse them with a renewed sense of urgency to act before it is too late.”

The American Society of Civil Engineers' 2009 *Report Card for America's Infrastructure* concluded that the overall condition of our nation's infrastructure—including its dams, wastewater treatment plants, power grid, roads, and bridges—deserves a grade D. The U.S. transportation system includes more than 600,000 bridges, of which nearly a quarter are deemed to be either “structurally deficient” or “functionally obsolete,” equivalent to a rating of “poor” and unable to withstand their original design standards.

“Today, the average bridge in the United States is more than fifty years old,” says LePatner. “Most bridges in the country were designed for a fifty-year life span, and because states have been using transportation funding for new projects instead of needed maintenance, the traveling public is traversing tens of thousands of bridges that do not meet acceptable standards of safety. We can no longer avoid addressing this problem. We are running out of time.”

For the nation to do better and become truly smarter about the way it maintains and protects its critical infrastructure system, significant changes are needed. As Robert Puentes states in his foreword, “To understand the severity of the situation, one has to acknowledge that our nation's infrastructure system is not simply a bridge here or a highway system over there. It is a network of networks. And if one aspect of the system suffers, so do all the rest.”

To address these shortfalls, LePatner sets out several possible solutions in the final chapter of *Too Big to Fall*.

Create a national clearinghouse for bridge information. Despite a number of major bridge collapses in recent years that occurred from amazingly similar causes, federal and state transportation agencies have been shown to be unaware of these problems and therefore have not taken steps to correct bridges with similar defects. Through the Federal Aviation Agency, the airline industry has alerts that immediately advise all airlines of problems with a defective aircraft that require immediate attention before similar planes can go back into service. A similar database should be created to require the Federal Highway Administration (FHWA) and the National Transportation Safety Board (NTSB) to alert all state transportation departments of any bridge failure with the correlative obligation to take immediate steps to remediate all affected bridges in their jurisdictions.

Here's how the system would work: A national alert would go out immediately after a bridge failure, urging transportation agencies to inspect all similarly designed or constructed bridges within their purviews. Immediate warnings to close at-risk bridges would be sent from the centralized database, and information from follow-up investigations to ensure compliance and corrective work would be gathered and recorded there. All of this would be publicly available information to ensure local communities that transportation funding was going where most needed in any state.

“Creating a national clearinghouse for the collection and widespread dissemination of information to transportation agencies about the different types, conditions, remedial alternatives, and inspections relevant to the vast number of bridges in our nation’s infrastructure is long overdue,” says LePatner.

Improve the role of the NTSB. The NTSB serves as an investigative and reporting agency, whose reports provide recommendations to other federal agencies after civil aviation accidents and accidents in other modes of transportation—including railroad, highway, marine, and pipeline. However, the NTSB report on the I-35W Bridge collapse failed to highlight the real causes of the collapse—a record of maintenance neglect and disregard for needed corrective action urged by several consultants—which, in turn, has prevented transportation agencies across the nation from addressing corrective action on 7,980 bridges that currently are in serious jeopardy of collapse. This report also revealed the importance of expanding the agency’s charter so that it can play a larger role in protecting our fragile infrastructure and ensuring immediate corrective action to avoid future disasters.

The central problem with the NTSB report is that it effectively exonerated the Minnesota Department of Transportation (MN/DOT) of any responsibility for the collapse. However, the maintenance history of the bridge showed extensive wear and tear, corrosion, and signs of incipient failure for many years prior to its collapse. Inspections dating back to 2001 (at least eight years after the bridge was first rated structurally deficient) by MN/DOT inspectors and outside consultants had identified widespread corrosion and fatigue caused by weather and traffic volume. And in June 2006—in its last inspection before the collapse—the bridge received a

sufficiency rating of 50 percent, which under federal standards means the bridge should be considered for replacement. MN/DOT chose to ignore the recommendations of a major engineering firm for strengthening the bridge, instead choosing to implement a program of periodic inspections to monitor the bridge, a bizarre decision given that the structure was already subject to annual review because of its fragile state. Yet, incredibly, the NTSB failed to note any of these facts in its report following the collapse.

“In addition to a central clearinghouse of bridge information, we need a federally chartered agency to analyze bridge failures and to disseminate that information to federal, state, and local bridge owners,” says LePatner. “Congress should require either the NTSB or the FHWA to oversee needed inspections and repairs and to ensure that bridge owners comply quickly and efficiently where necessary. The traveling public deserves no less.”

Create a National Infrastructure Reinvestment Bank. One of the biggest challenges connected to improving the nation’s infrastructure system is funding. There is simply not enough money to fund all of the maintenance, repairs, and new projects needed. Establishing a federal infrastructure bank would help spur major new private investment in order to jump-start funding for urgent transportation projects. Although utilized widely in countries all over the globe, there has been much hesitancy to adapt this funding mechanism in America, despite the desire of private capital sources to make such an investment.

“In the face of rising demand and aging infrastructure facilities, the federal government must act to define priorities and generate competition among investors from the private sector,” says LePatner. “During his campaign and again in 2010, President Obama proposed a National Infrastructure Reinvestment Bank that would invest \$60 billion over ten years, which would be leveraged into almost half a trillion dollars of additional infrastructure spending while generating nearly two million new jobs. However, the key for survival for such a bank is establishing a means for paying back funds to the bank as they are taken out. At present, it is an issue that has not been sufficiently addressed.”

Improve funding oversight. The current system for overseeing the distribution of federal aid for state highway projects through the FHWA is clearly broken. After funds are distributed to the states, it is hard to determine where the money goes from there.

Since its inception, money collected as part of the federal gas tax has been used to build and repair the nation’s roadways. Over the years, though, state and federal officials have started reaching into that pot to fund other less-critical transportation projects not connected to roadways. Too often politicians use infrastructure funds on new projects that will help them get re-elected rather than on their state infrastructure’s much-needed maintenance and repairs.

Consider the perverse reality of MN/DOT’s decision not to fund replacement of the I-35W Bridge. Its “reward” was the immediate allocation by the federal government of \$275 million for a state-of-the-art replacement bridge! Yet, prior to the original bridge’s collapse, MN/DOT chose not to make state-funded repairs that could have saved lives, human injury, and economic consequences that resulted from the collapse. Today, transportation agencies lack the resources to bring up to acceptable standards our aging infrastructure. Requests to politicians go unheeded,

as these agencies lack any political clout with politicians who prefer spending on new roads, tunnels, bridges, and high-speed rail lines that reward campaign contributors.

“According to the American Society of Civil Engineers, the amount of money needed to fix and sustain our nation’s infrastructure exceeds \$2 trillion,” says LePatner. “Finding the money will require the federal government to play an active role. It will require that infrastructure funds collected via an increase in gas taxes be used for their intended purpose. It will entail the development of new, creative relationships between the public and private sectors. It will require a renewed sense of urgency on the part of politicians. And it will involve an extensive reeducation of our leaders and the public on how to develop regional transportation planning needed for the future growth of our nation.”

Implement a new rating system for our nation’s bridges. The current rating system used to categorize the condition of the 600,000 bridges in the National Bridge Inventory (NBI) does not provide the information transportation authorities need to accurately allocate remediation funds. Federal ratings, which utilize a scale of 1 to 9 (9 meaning in excellent condition and 4 meaning in poor condition), result from overall average condition assessments of a bridge’s three or four major components.

According to the FHWA, a bridge is considered “structurally deficient” if the condition rating of one of its major components is less than 5, the bridge has inadequate load capacity, or repeated bridge flooding causes traffic delays. The fact that a bridge is structurally deficient does not imply that it is unsafe or likely to collapse. However, as with the I-35W Bridge, which was rated structurally deficient, the rating is a warning sign and a starting point for closer examination to determine if a bridge is safe for the traveling public.

“A new set of standards for bridge inspections, as well as new requirements for inspectors’ hands-on experience, needs to be created,” says LePatner. “The FHWA should prepare formal programs—to be presented to all transportation agency personnel nationwide—that include visual presentations of precisely what inspectors should observe under situations ranging from the earliest detection of signs of wear and tear to the appearance of conditions that require a structurally deficient bridge to be reclassified as unsafe. Senior officials in state transportation agencies—even those who are not licensed engineers—should be required to attend these sessions and join their staffs on inspections to become personally acquainted with various bridge conditions, in an effort to improve their agencies’ ratings of bridge conditions. We can no longer tolerate ignorance by transportation officials regarding the dire straits of their state infrastructure.”

Increase the use of available technology. For a country generally smitten with technology, it is ironic that when it comes to maintaining our nation’s costly infrastructure, technology is noticeably absent. Using appropriate technology in our nation’s transportation infrastructure will produce enough savings to offset the staggering costs resulting from the past few decades of deferred maintenance. New assessment technologies that exist today are central to overcoming the limiting effects of visual inspection for both bridge management and funding allocation, and offer a variety of benefits to transportation departments and the public.

“Technology exists to anticipate bridge remediation years before rust, corrosion, and cracks in the structure appear,” says LePatner. “The federal government needs to provide states with funds to purchase this equipment and train their inspectors to use it. Enabling bridge inspectors to ensure precision and objectivity in their evaluation process, which in turn allows us to catch problems earlier when they are easier and less costly to fix, can save state governments countless millions of dollars a year in unnecessary remediation costs.”

Restore the engineering profession to its traditional role. In no small part, the inability of our nation’s engineers to play a larger role in transportation infrastructure policy has been a major reason for the profession’s decline and the concomitant decline in our infrastructure in recent decades.

Restoring the engineers in our transportation system to positions where they can exercise their professional judgment free of political or financial constraints is a critical step toward ensuring that work on our most deteriorated roads and bridges is performed according to their needs, rather than treating all infrastructure equally. Increasingly, the engineers in our state transportation departments are being marginalized, moved further from the public eye, and replaced by budget specialists or political appointees with no engineering backgrounds.

“Engineering decisions should be left to engineers, whose judgment and experience must be allowed to come to the fore as our aging roads and bridges reach an even more critical state in the years ahead,” says LePatner. “The inadequate amount of funding for remediation is, and will be for the near future, an important element in how we address this serious problem. But financial concerns should not outweigh the professional judgments of the engineers who are the true stewards of our transportation system, and who are charged with protecting the welfare of the traveling public. We must again learn to trust in their judgment and experience and not let their recommendations be compromised by budgetary constraints.”

“It is my hope to initiate a national debate to engage political, transportation, and national policy experts, as well as average citizens, who are daily affected by the current state of our nation’s infrastructure,” says LePatner. “The risks of continuing to ignore our ill-maintained national infrastructure are almost unimaginable. This discussion must turn into a dialogue at every level of government and policymaking. Our future national security and our ability to retain our global leadership status are at stake.

“We can no longer fail to devote massive amounts of money to repair our aging roads and bridges,” concludes LePatner. “We must begin to structure a national transportation strategy that goes beyond the myopic vision of state and local politicians who prefer to use federal transportation funds for pork-barrel projects. We will need to reorganize our priorities for years to come, or risk the lives and well-being of our fellow citizens.”

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About the Author:

Barry B. LePatner is the author of *Too Big to Fall: America's Failing Infrastructure and the Way Forward*. He is founder of the New York City-based law firm LePatner & Associates LLP. For three decades, he has been prominent as an advisor on business and legal issues affecting the real estate, design, and construction industries. He is recognized as one of the nation's leading advisors to corporate and institutional clients, real estate owners, and design professionals. Mr. LePatner has also been awarded the distinction of Super Lawyer by *Super Lawyers* magazine. In 2009, he was rated as one of the top ten real estate attorneys in New York City by the *New York Observer*.

A November 2007 *Governing* magazine article stated, "If there's a guru of construction industry reform, it's LePatner." In November 2008, an article in *New York* magazine referred to Mr. LePatner as "a Cassandra of infrastructure."

Mr. LePatner is recognized as a thought leader in the construction industry. As the coauthor of *Structural and Foundation Failures* (McGraw-Hill, 1982) and with thirty-five years of experience as a construction lawyer, he brings a special understanding of the engineering, business, and legal issues attendant to the design and construction processes—knowledge he put to good use in writing *Too Big to Fall*. His second book, *Broken Buildings, Busted Budgets: How to Fix America's Trillion-Dollar Construction Industry* (University of Chicago Press, 2007), was very well received inside and outside the construction industry and helped create a national debate among owners, designers, and other key stakeholders.

Mr. LePatner has been featured in the *Wall Street Journal*, *BusinessWeek*, the *Boston Globe*, the *New York Times*, *Forbes.com*, the *Chicago Tribune*, *Infrastructurist.com*, and other prestigious publications. His articles and speeches on the perilous state of our nation's infrastructure have garnered widespread attention, including serving as a commentator on the multi-billion-dollar stimulus plan of the Obama administration. He has appeared on many television and radio broadcasts, including interviews on CNBC, Fox Business Network, and several National Public Radio segments.

A nationally recognized speaker, Mr. LePatner has addressed audiences on topics central to the real estate and construction industries, including events sponsored by the International Economic Forum of the Americas, Syracuse University, and several construction industry associations with audiences including contractors, architects, engineers, construction technology experts, economic experts, and other construction industry thought leaders.

In 2002, Mr. LePatner was honored by the American Institute of Architects with its highest award to a non-architect when he was given an honorary AIA membership. He is also currently on the Board of Trustees of the Design Industries Foundation Fighting AIDS (DIFFA). He has also served on numerous advisory committees including: the Advisory Board, Society for Marketing Professional Services; the Board of the New York Building Congress; Board of Advisors, Legal Briefs for the Construction Industry; American Institute of Architects Advisory Committee; and the National Academy of Sciences.

About the Book:

Too Big to Fall: America's Failing Infrastructure and the Way Forward (University Press of New England, 2010, ISBN: 978-0-9844978-0-5, \$27.95, www.TooBigToFall.com) is available at bookstores nationwide and all major online booksellers.

For more information, please visit www.TooBigToFall.com.