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17 October 2013

Ms Carolyn Griffiths
Chief Inspector of Rail Accidents
Rail Accident Investigation Branch
Block A, 2nd Floor
Dukes Court
Dukes Street
Woking GU21 5BH

Dear Carolyn,

Fatal accident at Mexico footpath crossing (near Penzance), 3 October 2011

I write to provide an update¹ on the consideration given and action taken in respect of recommendations 2 and 3 addressed to ORR in the above report, published on 20 June 2012.

The annex to this letter provides details of the consideration given/action taken in respect of each recommendation in that both recommendations are in progress

- Recommendation 2 - *ORR to update RAIB by 31 May 2014*
- Recommendation 3 – *ORR to update RAIB by 28 February 2014.*

We do not propose to take any further action in respect of these recommendations unless we become aware that any of the information provided becomes inaccurate, in which case I will write to you again².

We expect to publish this response on the ORR website on 31 October 2013

Yours Sincerely

Chris O'Doherty

¹ In accordance with Regulation 12(2)(b) of the Railways (Accident Investigation and Reporting) Regulations 2005

² In accordance with Regulation 12(2)(c)

Recommendation 2

The intent of this recommendation is for RSSB to consider what additional data needs to be captured within SMIS to allow a full evaluation of risk at level crossings and to use it, together with any other relevant data, to enhance its current processes for reviewing the effect of the change made in April 2007 to sounding only the low tone of the train horn for passive crossings between 07:00 hours and 23:00 hours.

RSSB should:

- a. identify any additional data that should be captured within SMIS from accidents and near-miss incidents to inform future safety decision-making about level crossings and make the necessary arrangements for that data to be collected by duty holders; and
- b. using the data obtained from implementing part a of this recommendation and any further intelligence contained within SMIS or other sources, enhance its current approach to reviewing the impact of the change to sounding only the low tone of the warning horn for whistle boards at level crossings between 07:00 hours and 23:00 hours and take actions, if appropriate.

Brief Summary on what was previously reported to RAIB on 14 February 2012

1. RSSB advised that:

Part a ... *RSSB will work with Network Rail to ensure it is possible to link the SMIS level crossing locations with the location descriptions in the ALCRM such that SMIS incident data can be linked to specific locations and asset features.*

It is anticipated that this work will be completed by June 2013.

Part b ... *once Network Rail has completed the level crossing census work RSSB should be able to assess the near miss data for level crossings with and without whistle boards for SMIS records going back to 2002, but only on the basis of the current census data. The results will therefore only be approximate as RSSB will not know if whistle boards have been added or removed prior to the census.*

RSSB anticipate that the analysis will be possible by the end of March 2013 depending on when the Network Rail census data is available.

Update

2. RSSB provided further information on 5 July 2013 advising that: *RSSB noted in its letter of 5 October 2012 that RSSB would work with Network Rail to link SMIS level crossing locations with the location descriptions in the ALCRM, such that SMIS incident data can be linked to specific locations and asset features. RSSB noted too that this would be completed by June 2013. However, the work has since become part of a wider initiative: Network Rail's Level Crossing Transparency project.*

Network Rail is in the process of creating a list of around 7,000 level crossings complete with all relevant data (including ALCRM ID) that will be used to populate the level crossing register in SMIS. Network Rail forecasts that this list will be ready mid-August [2013], with a release date into SMIS of early to mid-September 2013.

To ensure accuracy, the data will be refreshed by Network Rail by automatic data transfer in March next year [2014]. Once this phase of the work has been finished recommendation 2(b), the analysis of near miss accident data, can be addressed.

ORR Decision

3. The intention of the recommendation is to allow a review of the effect of the change made in April 2007 to sounding only the low tone of the train horn for passive crossings between 07:00 hours and 23:00 hours (paragraphs 84 to 96 in the RAIB report) as well as the collection and use of accident and near-miss incident data to identify and manage risks at level crossings.

4. The work being done by RSSB and Network Rail will draw together the available data by March 2014 after which the analysis of near miss accident data can be addressed.

5. ORR is satisfied that the extension of time to complete this work is justified, as the work has become part of the Network Rail's Level Crossing Transparency project. ORR will monitor progress.

6. In reviewing all the information received from RSSB, ORR concluded that, in accordance with the Railways (Accident Investigation and Reporting) Regulations 2005, RSSB and Network Rail are taking action to implement part a of the recommendation. When this has been completed the second part of the recommendation can be addressed.

Status: In progress – ORR to update RAIB by 31 May 2014

Recommendation 3

The intent of this recommendation is for Network Rail to undertake a project to develop and implement a national approach to the location and marking of decision points and the measuring of sighting distances at level crossings. This work should be expedited and undertaken as a discrete exercise rather than as part of the three-yearly crossing risk assessment cycle and take account of the emerging findings from RSSB research project T-984 'Research into the causes of pedestrian accidents at level crossings and potential solutions' where relevant.

Network Rail, in conjunction with RSSB where appropriate, should undertake a project to develop a standard national approach to:

- identifying the optimum decision point at each footpath and user worked crossing used by pedestrians;
- marking and signing the optimum decision point at each crossing;
- using that decision point in estimates of sighting distance at footpath and other crossings; and
- briefing staff involved in crossing risk assessment with regard to the approach.

When addressing issues in relation to the marking of decision points, Network Rail should liaise with RSSB on emerging findings from research project T984 'Research into the causes of pedestrian accidents at level crossings and potential solutions', and give consideration to the need to draw upon relevant elements of that research project to inform the development of the national approach. In this context RSSB should prioritise those elements of research project T984 that deal specifically with the marking of decision points, so that they are completed at an early stage in the programme. Once the approach has been developed, Network Rail should implement a programme to review and modify crossings).

Brief Summary on what was previously reported to RAIB on 14 February 2012

7. Network Rail advised that: *The Level Crossing Team is working closely with Rail Safety and Standards Board and members of the team are part of the steering group for Project T984. Initial findings relating specifically to decision points are expected by April 2013.*

The scope of the research also involves investigation into both the concept and first principles of decision points. The project will inform future plans, guidance and standards.

The initial report in April 2013 will shape the plan of action the Level Crossing team will take. The team will update and provide an action plan and relevant timescales depending on the interim results in April 2013.

Update

8. Network Rail provided further information on 13 May 2013 advising that: *As communicated [27 March 2013] the initial report expected from RSSB in April [2013] is now not expected until June 2013.*

The proposed revised completion date is October 2013. The interim action plan is:

- *Review and analyse report findings*
- *Consult industry*
- *Create guidance and necessary tools and methodology.*

The interdependence of this recommendation, Gipsy recommendation 3, required cross industry decision and associated consultation should be noted.

ORR decision

9. ORR is aware that the initial project work has been completed. However, the Network Rail actions to address the issue will not be easy or straightforward, as the research concluded that:

- members of the public do not understand the concept of decision points;
- there could not be a single decision point as it very much depended on the characteristics of the level crossing and the individual;
- members of the public carry out a dynamic assessment as they approached the crossing;
- most people looked at the ground to avoid falling over rather than looking for trains; and
- a high percentage of people did not look for trains at all

We await the Level Crossing Team action plan and expect to update RAIB on this by 31 January 2014

Status: *In progress:* – ORR to update RAIB by 28 February 2014.