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20 July 2020

Mr Andrew Hall
Deputy Chief Inspector of Rail Accidents
Cullen House
Berkshire Copse Rd
Aldershot
Hampshire GU11 2HP

Dear Andrew,

RAIB Report: Near miss between a passenger train and lorry at Mucking AHB level crossing, Essex, 13 March 2019

I write to advise you of the consideration given and action taken in respect of the above report, published on 9 December 2019.

We think this is an excellent example of a RAIB report that can identify the key learning from an incident and have a positive impact on industry, without having to make recommendations. Although we are not formally required to report to RAIB against this report, and this letter should not be seen as a precedent for how we will deal with all learning points going forward, we wanted to share with you details of the action taken in this case by Network Rail in order to address the issues raised in the report, as identified in the learning points. We continue to support the principle of RAIB producing reports with no recommendations on occasions and will publish this response on the ORR website on 20 July 2020.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Oliver Stewart', written in a cursive style.

Oliver Stewart

Initial consideration by ORR

1. The report made no recommendations but included 4 learning points.
2. ORR brought the learning points to the attention of Network Rail and HSE. ORR did not ask these organisations to provide a formal response.

Learning Points

1. Irrespective of any signals provided by banksmen or other people, drivers of road vehicles must always comply with all Highway Code requirements relating to the use of level crossings. All vehicle drivers must obey the flashing red stop lights (paragraph 86a).
2. Banksmen, traffic marshals, and others involved in the control of construction vehicle movements should ensure that any manoeuvres near level crossings do not interfere with the safe operation of the crossing. If there is a risk that vehicle movements could interfere with normal operation of a level crossing, guidance must be obtained from railway operational staff (paragraph 86b).
3. Construction site planning and briefings for road vehicle movements near level crossings must take account of hazards associated with manoeuvring vehicles close to level crossings (paragraphs 86b and 87).
4. Effective planning, management support and supervision is essential for all construction activity on or near the railway, including short duration works on isolated and/or small sites (paragraph 87).

ORR consideration and actions taken

3. ORR brought the learning points to the attention of Network Rail with the expectation of bringing them to the attention of different divisions of Network Rail likely to be involved in construction work in the vicinity of level crossings. Network Rail completed their own level 2 investigation into the incident.
4. Network Rail wrote to their principal contractors raising the local actions from the level 2 investigation for them to review and consider within individual organisations (see para 5).
5. The RAIB report, as well as Network Rail's own report, were raised with the Heads of Safety and Sustainability for Capital Delivery (previously Infrastructure Projects) to review and take any learning relevant for their region forward.
6. We also brought the learning points to the attention of the HSE Construction Industry Advisory Network (CONIAN) as we considered the learning from the RAIB report to be applicable to construction sites near, but not directly related to, the operational railway.

Information in support of ORR action

7. On 7 January 2020, ORR sent an email to CONIAN, asking them to share the learning from the Mucking RAIB report with their member organisations:

The Office of Rail and Road (ORR) recently held an internal meeting to consider the Rail Accident Investigation Branch (RAIB) report [Near miss between a passenger train and lorry at Mucking AHB level crossing, 13 March 2019](#).

RAIB independently investigates accidents to improve railway safety, and inform the industry and the public. ORR, as the health and safety regulator for the UK railway industry, has a statutory role to pass reports and recommendations to those organisations best placed to act upon them. Those organisations are usually within the railway industry and ORR have an established relationship with them.

There were four learning points in the report relating to the safe movement of road vehicles operating on construction sites near level crossings. The panel reviewing the report for ORR concluded that the learning points would be applicable to vehicle movements on any construction site near a level crossing, not just those directly related to the railway. I would therefore be grateful if you could bring the report and the learning points to the attention of the Construction Industry Advisory Network members.

The learning points state:

- 1. Irrespective of any signals provided by banksmen or other people, drivers of road vehicles must always comply with all Highway Code requirements relating to the use of level crossings. All vehicle drivers must obey the flashing red stop lights.*
- 2. Banksmen, traffic marshals, and others involved in the control of construction vehicle movements should ensure that any manoeuvres near level crossings do not interfere with the safe operation of the crossing. If there is a risk that vehicle movements could interfere with normal operation of a level crossing, guidance must be obtained from railway operational staff*
- 3. Construction site planning and briefings for road vehicle movements near level crossings must take account of hazards associated with manoeuvring vehicles close to level crossings*
- 4. Effective planning, management support and supervision is essential for all construction activity on or near the railway, including short duration works on isolated and/or small sites*

8. On 21 November 2019, Network Rail sent the following letter to their principal contractors:

On 13th March 2019 there was a serious incident at Mucking AHB Level Crossing that resulted in a near miss between a passenger train and a concrete delivery lorry. A Safety Alert was sent out across the business (also included) in May 2019.

Following the investigation there was numerous actions raised that Network Rail would like you to consider as a Principal Contractor, and take action where appropriate.

Please ensure relevant staff are made aware of these actions, and that your management and safety culture reflect the standards expected of those working for and on behalf of Network Rail.

Local actions from the Level 2 Mucking Report

A7.4. The Principal Contractor to review how they are meeting the requirements of NR/L2/OHS/044: Planning and managing construction work for their portfolio of projects with regards to making sure that railway interface risks (such as working near level crossings) are identified and managed.

A7.5. The Principal Contractor shall review and update accordingly the project:

- a) Construction Phase Plan*
- b) Work Package Plans*
- c) Task briefing sheets*

A7.6. The Principal Contractor to review the process by which 'visitors' to site (including delivery organisations and haulers) are captured and briefed prior to commencing works. This is to include providing relevant key safety information to visitors in advance of them arriving on site.

A7.7. The Principal Contractor to review the process by which the competence, experience and behaviour of individuals appointed to key safety roles are formally assessed and recorded in order to confirm they have the required attributes.

A7.10. The Principal Contractor is to review the process by which it plans and manages work that is not on or near the line ('high street environment') so that:

- a) It enables those who undertake the work to be involved in the planning*
- b) The right information is provided and clearly communicated to the relevant people in a timely manner*
- c) Hazards associated with working in proximity to the operational railway are adequately considered.*

A7.11. The Principal Contractor to review the project organisation structure and roles/responsibilities so that:

- a) There is clear understanding of who hold overall responsibility for civils construction work on site*
- b) Supervisors have a clear reporting line.*