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Kimberley Driscoll, Lieutenant Governor
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June 5, 2023

Mr. Joseph DeLorenzo
Associate Administrator for Transit Safety and Oversight & Chief Safety Officer
1200 New Jersey Avenue, SE
Washington DC 20590

Dear Mr. DeLorenzo,

The MBTA would like to thank the FTA team for meeting with us on June 2, 2023, to review the revised ROW Rules Compliance and Safety Work plan. This approach is productive, promotes continuous improvement and helps to ensure alignment between all parties involved. The discussion was very useful to understand the FTA perspective on our initial approach and helped to inform our revisions to the work plan that we will begin to implement immediately as we await your response.

The intent of the below narrative is to provide context to the FTA on how MBTA selected the elements of the plan, some of which are completed, some of which are ongoing or will be accomplished in 60 days. We share the goal of managing risk involving Right of Way (ROW) activities, with a specific focus on reducing both the frequency and severity of incidents. Our intent is to explain our rationale for elements that are being implemented and identify additional actions we have undertaken to improve safety on our rail transit ROW. The submittal is segregated into the areas that will be accomplished in the next 60 days. It will also clarify measures that will require longer than 60 days to assess and implement.

The immediate action letter conveyed the urgency with which the MBTA needed to respond to the near miss incidents. We immediately addressed items b, c, d, e, g, and i with the following actions:

- b – 04/28/23, Increased the number of audits of radio logs
- c – 03/24/2023, Issued SO #23-058 emphasizing repeating back communications between the OCC and ROW personnel
- d – 04/20/23, Began revision of Day and Night Orders draft review process and review of addendum process. Immediately implemented an executive approval for addendums issued after 5PM. Reviewed immediate action letter with Network Rail (under 22-4 CAP 4) to accelerate reviewing and recommending revisions to Day and Night orders (DNO) format.
- e – 05/01/23, Introduced the pilot on the Blue Line, which provided power maps for OCC dispatchers to utilize as a tool to aid in tracking the locations of individuals on the ROW.
- g – 05/17/23, Assigned the Division Chief of OCC to overnight shift at least 3X per week. On 04/24/23 - assigned the Deputy Division Chief of OCC to exclusive overnight shift to coach and train dispatchers, as well as to have leadership present to help oversee high risk activities such as adverse rail movement.
- h – 04/20/23, Implemented new process to submit Rosters for ROW Access 24 hours prior to accessing ROW
- i – 05/23/23, Convened group to revise the ROW checklist

In addition, the IAL daily submissions under the enhanced monitoring requirements include several elements that result in an increase in audits of ROW safety, specifically the daily assessment of deficiency for ROW access report that is reviewed and signed by senior leadership.

As noted in our meeting by both FTA and MBTA leadership, there is concern on both sides that too many changes in a short period of time may create risk and produce outcomes that are opposite of the intended effect of the work plan, potentially increasing risk in the short term. Therefore, several of the work plan elements require detailed analysis to determine the safest path forward. Please see below for clarification on each of the required elements of the work plan, a through j:

a. worker ahead flagging or notice provided to motorpersons in stations in advance of workers on the ROW: The capacity assessment submitted to the FTA on April 24, 2023, clarified that a majority of the near miss incidents took place near Copley Station. This informed our decision to pilot the worker ahead warning system on the Green Line in the Central Subway. Based on past experience with developing a new procedure for ROW Access it will require determining roles and responsibilities, creating signage or other elements, union engagement, workforce training, and adjusting methodology based on lessons learned; therefore, once the pilot has proven to be effective a systemwide roll-out will be considered, which will require greater than a 60-day timeline to implement, once adopted.

b. re-configuration of available radio channels to provide additional capacity for heavy and light rail lines: MBTA has identified this element as a potentially high-risk change to our current processes. This is also an element that will require a long lead time to reprogram potentially thousands of radios, revise our existing procedures and train workers on that procedure. Our radio communication analysis, submitted to the FTA on April 24, 2023, clarified that we have not seen an increase in the volume of communication, but did identify an increase in the number of diversions we are executing. Based on that data, MBTA will implement a pilot RIC/RWP program to hand over radio control for a diversion to the construction logistics representative. This will require defined processes, policies and training to be developed.

c. review and revision of required information to be exchanged between flaggers and dispatchers during radio call on/call off process to ensure unambiguous and explicit communication: MBTA agrees. This element is underway and will be completed within the 60-day time frame. As also described above all staff have had reinforcement instruction via Special Order No. 23-058 to conduct "Read-Back" of critical information exchanged between OCC dispatchers and field staff.

d. review and revision of night and day orders to ensure safety critical information is communicated explicitly: MBTA agrees. This element is underway and initial improvements will be made within the 60-day time frame.

e. adoption of line maps or other tools for OCC dispatchers to track the presence of workers on the ROW: MBTA immediately implemented a pilot to support this element by providing power maps to the dispatchers working on the Blue Line. The pilot will conclude on June 30, 2023 and we will apply lessons learned from the pilot to roll the program out to the other Heavy Rail lines, as well as the Light Rail lines. Additionally, Heavy Rail dispatchers routinely cycle through the Blue Line, which helps to socialize this

activity. The Blue Line was chosen as the pilot station for this activity due to the near miss that occurred on the Blue Line when two rail born equipment were permitted access to the same segment of track, and because of the size and complexity of the Blue Line relative to the other rail lines.

f. increased use of Level 3 protection for some MBTA work crews: This is an element that the MBTA is not including in our work plan. The rationale for excluding it is that Level 3 protection is rarely utilized because definitionally it is for work performed for less than an hour. In past practice, this approach to ROW protection was typically used by tree-trimming crews, but it hasn't been in regular use in recent years as we have incorporated vegetation control with diversion activity or during non-revenue hours. MBTA recognizes the need to assess and evaluate this level of protection to determine if this is an appropriate action, which is included in the work plan within the 60 days.

g. additional training, qualification, and experience requirements for OCC dispatchers managing ROW access: As an immediate change implemented in the OCC, the Division Chief and Deputy Division Chief of OCC are currently working on the overnight shifts to coach, train and develop and support dispatchers. MBTA is working to ensure senior dispatchers are available to work on the overnight shifts. Additionally, on April 11, 2023 Operations implemented immediate actions within the OCC to put in place additional oversight into the night operations within OCC, conducted a safety briefing with all OCC dispatchers on recent near miss incidents, and instructed each dispatcher to log ROW access notes in their logs.

h. additional training and qualification for Operations and Engineering & Maintenance flaggers: Engineering and Maintenance have held several safety stand downs to review the near miss incidents. All E&M forces have been required to receive ROW reinstruction in accordance with the March 24, 2023 DPU Directive and the vast majority have completed that reinstruction (all personnel are required to complete reinstruction before accessing the ROW). All personnel acting as flagpersons are also included in the ROW Addendum Compliance (RAC) training. Furthermore, as defined in Action i the MBTA is in process with developing a new version of its ROW Checklist, which will more closely reflect a railroad worker safety briefing worksheet, that will prompt flaggers to check critical safety conditions with the work to be performed, work site characteristics, worker readiness with proper PPE and current ROW Certification, along with sign-off accountability by the flagger(s) and workforce accessing the ROW demonstrating their understanding of responsibility.


i. enhanced audits of ROW safety: The daily submission of the track access report, signed by the COO, CSO and GM is a daily audit of ROW safety. MBTA agrees. This element is underway and will be completed within the 60-day time frame. Additionally, the revised ROW Checklist will provide greater ability to audit in-field compliance with ROW Safety by providing reminders of safety conditions, and accountability for each person's responsibilities for safely accessing the ROW.

j. changes to the Safety Rules Compliance Program to include requirements for providing feedback to workers (positive and constructive) at conclusion of each observation and collection of additional information to support understanding of the real world conditions under which workers access the ROW: the MBTA revised 3 and created 2 new Rules Compliance Program (RCP) forms relative to ROW Safety under 22-4 CAP 2 which addresses this concern and it would be redundant to include with this submission. Those SRCPs are in the pilot phase, beginning March 1, 2023. MBTA SRCP audits always

include the ability to reinstruct personnel if non-conformance or mistakes are identified. Additionally, to provide positive feedback, MBTA will inform all workers who perform the SRCP audits to continue to emphasize and reinforce proper worker behavior while performing audits. Under 22-12 CAP 1, MBTA is undertaking a review of the SRCP program as a whole and will incorporate the need for constructive and positive feedback as a fundamental part of audit program.

MBTA senior leadership has reviewed the short-term actions contained in the work plan, find them to be appropriate, and have begun implementing immediate measures in managing risk related to ROW Safety as we seek your concurrence. MBTA is available to further discuss these actions and this work plan.

Respectfully,

DocuSigned by:

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General Manager & CEO, MBTA

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