REPA Questions and Comments on Draft Land Use Covenant
Former Pechiney Cast Plate Inc. Facility, North Parcel

	Location	Question/Comment
1	Page 1, Top of page	Once recorded, a copy of the Land Use Covenant and Agreement should be sent to U.S. EPA Region 9 (in addition to DTSC).
2	Page 1	This document should be updated with the new owner information. Pechiney should be defined as the previous owner.
3	1.1	This section should roughly note steps that will be taken if any changes in zoning occur.
4	1.1	In the second sentence after "the original property", the phrase "formerly owned by Pechiney Cast Plate" should be added, to mirror the south parcel LUC.
5	1.2.2 and 1.2.3	"Pechiney" should replace all instances of the word "Owner" in these paragraphs
6	1.2.2 and 1.2.5	These sections should reference the PCB cleanup application ("Polychlorinated Biphenyls Notification Plan") and EPA-issued risk-based cleanup approvals and amendments (which were issued under 40 CFR 761.61(c)), since conditions for cleanup may have amended the Notification Plan but not the RAP.
7	1.2.2, Last sentence	The phrase "*will be* mitigated" should be changed to "*has been* mitigated" as site cleanup in areas for redevelopment has been concluded. In general, this LUC should only describe two types of actions: 1) those that have already occurred and 2) conditional actions that must occur if any changes at the site occur (e.g., change in land use or ground disturbance).
8	1.2.6	This section should note the depth of the UWB with respect to the current grade. Furthermore, any section in the LUC that references depths with respect to current grade should be updated any time the site elevation is changes.
9	1.2.7	Since grading and site redevelopment activities will be in progress by the time this LUC will be recorded, "earthwork will be conducted" should be changed to "earthwork has been and will continue to be conducted". Please refer to comment 7.
10	1.2.7	It may be helpful to include a table in this section showing equivalent depths by phase area: with respect to native grade, mean sea level, and final (current) ground surface.
11	1.2.7	A reference to a remediation goal of "above 23 mg/kg" for "below 15 feet below native grade" should be removed. This is not so much a remediation goal as the absence of one below 15 feet bgs.
12	1.2.8, 2nd sentence	A point-by-point comparison of sampling results to the cleanup levels was also used to demonstrate that remedial goals were achieved.
13	1.2.8, Last sentence	Please explain what a de minimus target is. 1.0 should be noted to be a hazard quotient.
14	1.2.9	It should be noted again in this section that areas with UWBs will not be

		disturbed without prior notification to EPA
15	1.2.10	Exhibit E has not been provided for EPA review.
16	1.2.10	Please note options for disposal of the crushed concrete maintained offsite if future owners will dispose of the material.
17	1.2.11	Similar to the South Parcel LUC, 1.2 should reference Appendix F and list the required documents. For example: "Pursuant to the EPA's conditional approval of the PCB remediation, attached as Exhibit F are the following documents: ____, _____."
18	Article II	A definition for "Original Property" should be included in this section. This section should also be revised to describe the new owner (Fruitland) and the previous owner (Pechiney)
19	3	Sections 3.2 and 3.5 should match the text in the corresponding sections of the South Parcel LUC
20	4.2(a)	The last sentence in this section seems to imply that the Soil Management Plan is only required during pre-construction grading (short-term redevelopment). The soil management plan, however, must be implemented both during near-term redevelopment as well as all future ground disturbance activities. Please rewrite the last sentence so that this is clear.
21	4.2(a)(i), Last sentence	Documentation of areas where disturbance occurs should be recorded in the LUC.
22	4.2(a)	Disturbance or removal of soils onsite should not involve the following: 1) moving of soils to other depth intervals with respect to the final grade 2) mixing of soils in different depth intervals (0-5 ft, 5-15 ft, and 15+ ft with respect to native grade) 3) reuse of soils offsite (they must be sent for disposal according to the cleanup levels for the PCBs or sampled adequately in-situ) Please revise this section to reflect these requirements.
23	4.2(a)(iv)	A generic cap inspection, maintenance, and repair plan should be prepared and added to the Covenant in case such plan is needed in the future
24	4.2(a)(iv)	This draft LUC constitutes the "restrictive covenant" referenced in the second sentence. Thus, the second sentence is unnecessary and should be removed. Instead, this section should note that the LUC must be amended if a cap is built. The LUC at that point in time will be amended to contain certain information required in 40 CFR 761.61(a)(8): - the existence of the cap - the requirement to maintain the cap - levels of PCBs in soil under the cap - a certification signed by the site owner that he/she has recorded the notation to the EPA regional administrator Any PCB-contaminated material consolidated under the cap shall be assumed to contain PCBs at the concentrations specified by the cleanup level for that depth interval.
25	4.2(b)	Add the words "For Disposal," before the sentence "Soil containing PCBs…"

		If soils containing 50 mg/kg are stored onsite, applicable requirements in 40 CFR 761.65 must be followed.
26	4.2(d)	The last sentence should be revised to say that "Soil **and concrete** containing PCBs shall be stored on site no longer than 30 days."
27	4.4	A condition should be included here explicitly prohibiting the disturbance of the underground warning barriers or soils within their vicinity.
28	4.4(b)	Engineering controls should be listed. If activities will disturb engineering controls for PCB-impacted material, EPA will need to provide prior approval in writing.
29	4.5	Please clarify what constitutes "reasonable notice" for inspection
30	4.8	If any engineering controls at the property have been required by EPA and such controls need to be inspected, maintained and repaired, then EPA should receive reports associated with such inspections.
31	6.1	EPA should be included here in addition to DTSC.
32	6.1	How many days prior to actions that would violate LUC restrictions will such applications for variances need to be submitted?
33	6.2	The phrase "the Department or the EPA" should be changed to "the Department and the EPA".
34	6.2	The following phrase should be added to the end of the last sentence in the paragraph: "and with the TSCA regulations in 40 CFR 761."
35	7.2	This section should note how many days after recording of the covenant EPA will be sent a copy of the covenant.
36	7.3	Notices to EPA should be addressed to the following address: US EPA Region 9 PCB Coordinator, Land Division 75 Hawthorne Street San Francisco, CA 94105