

Before the Hon'ble National Green Tribunal

Principal Bench, New Delhi

O.A. No. 606 of 2022

In the matter of:

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Others

...Respondents

Additional Documents on behalf of Applicants and R-8

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1.	Annexure A-1: The true copy of the illustrations and map of the area as per the CPCB inspection report.	1-14
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Dated: 13.1.24, New Delhi

Filed by:



Kawalpreet Kaur & Deepak Kumar Singh

Advocates for the applicant

576, Masjid Road, Jangpura, New Delhi-110014

kawalpreet303@yahoo.in | 08287908688

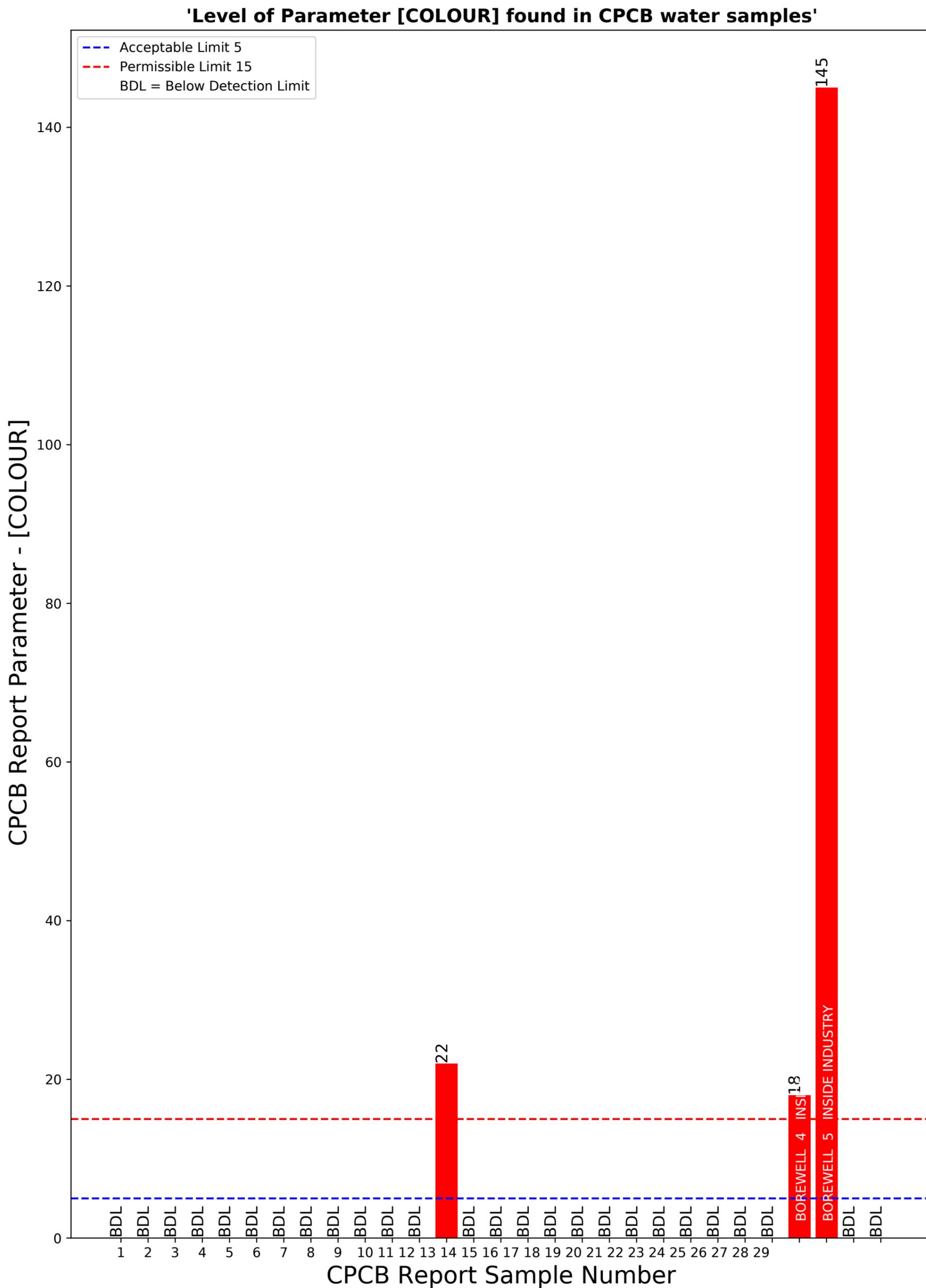
Extracts from Table 4, Table 5: Basic Parameters - CPCB Report, Page 505,506

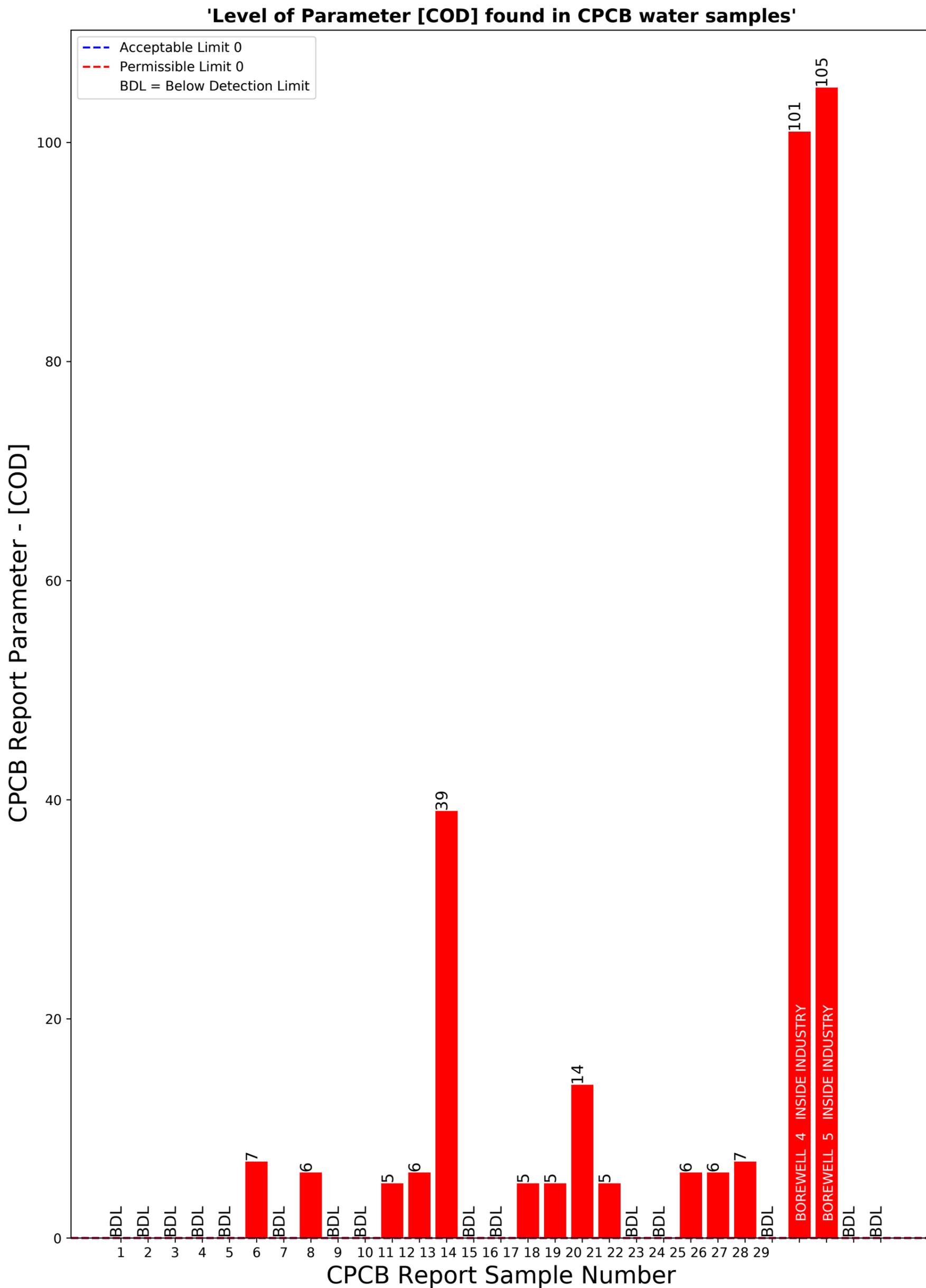
SAMPLE	LOCATION	COLOUR	COD	TURBIDITY	TOC
1	Sh. Buta Singh ; 9463245171 , Lehra Rohi	BDL	BDL	1	BDL
2	Govt High Smart School, Lehra Rohi	BDL	BDL	1	BDL
3	Iqbal Singh; 8417725633, Lehra Rohi Area Bandata Purana (Agriculture Field)	BDL	BDL	2	BDL
4	Govt Primary School, Bandala - Purana, Zira, Ferozepur.	BDL	BDL	1	BDL
5	Sh.Angrej Singh (Sarpanch), 9464207231, Sunehar, Zira, Ferozepur	BDL	BDL	2	BDL
6	Govt Primary Sunehar Self Smart School, Zira, Ferozepur.	BDL	7	2	BDL
7	Govt Primary School, Warra Mansoorwal, Zira, Ferozepur.	BDL	BDL	1	BDL
8	Govt Primary School, Pandori Khatrian,Zira, Ferozepur	BDL	6	1	BDL
9	Inside Industry Old Premises - Borewell 1	BDL	BDL	1	BDL
10	Inside Industry - Borewell 2	BDL	BDL	1	BDL
11	Inside Industry - Borewell 3	BDL	5	1	1.23
12	Animal Dispensary, Ratoi Rohi	BDL	6	1	BDL
13	Sh. Gurtej Singh, 9517100096, Ratol Rohi	22	39	166	3.08
14	Sh. Gurbax Singh s/o Sh.Harbans Singh, 9872266619,Sodhiwala	BDL	BDL	1	BDL
15	Sh. Harpreet Singh. 9781027357 ; Water Works, Sodhiwaia.	BDL	BDL	2	BDL
16	Govt Middle School, Sodhiwaia. Zira. Ferozepur	BDL	5	1	BDL
17	Govt Primary School, Mahian Wala Kalan, Zira, Ferozepur	BDL	5	5	BDL
18	Dhan Dhan Bhagat Baba Duni Chand Ji, Gurudwara, Mahian Wala Kalan	BDL	14	4	1.11
19	Sh.Bhajan Singh s/o Sh. Nail Singh, 8264120297; Mahian	BDL	5	12	BDL
20	Shaheed Gurdas Ram Memorial Primary Kanahliya Sr.Sec. Smart School, Zira	BDL	BDL	5	BDL
21	The Truck Operator Welfare Society, Zira, Ferozepur	BDL	BDL	1	BDL
22	Govt Primary Smart School, Mansoorwal Kalan, Zira, Ferozepur	BDL	6	1	BDL
23	Sh. Meva Singh, 9474104271, Mansoorwal Kalan, Zira, Ferozepur	BDL	6	2	BDL
24	Sh. Gurmail Singh Namdhari (Sarpanch), 8237300009, Mansoorwal Kalan,Zira	BDL	7	2	BDL
25	Sh. Nirmal Singh, Water Works, Mansoorwal Kalan,Zira, Ferozepur	BDL	BDL	2	BDL
26	Inside Industry - Borewell 4	18	101	1323	8.61
27	Inside industry - Borewell 5	145	105	1191	1.92
28	Inside industry - Pizeometer 5	BDL	BDL	2	BDL
29	Inside industry - Pizeometer 3	BDL	BDL	2	BDL

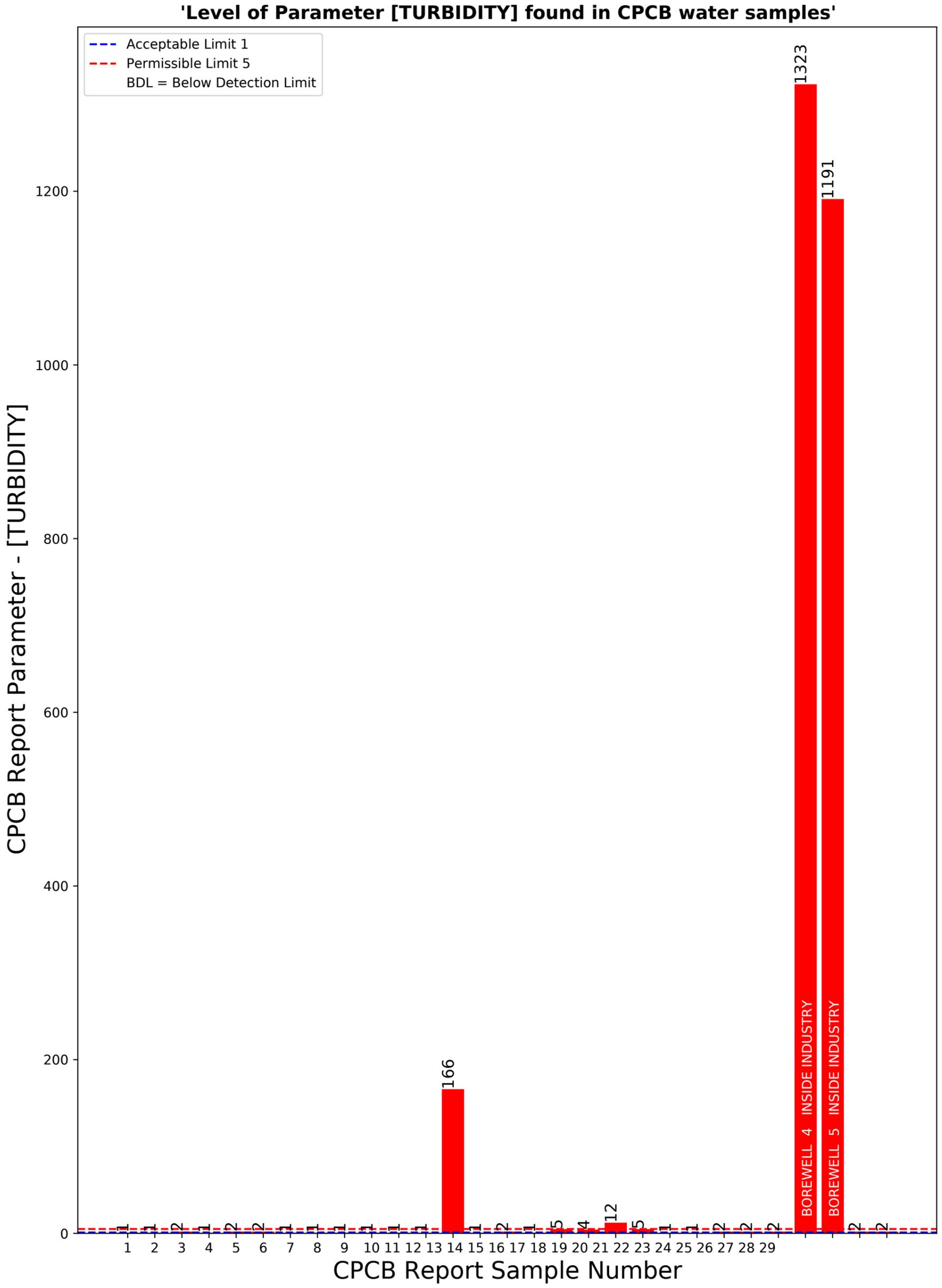
Annexure A-1

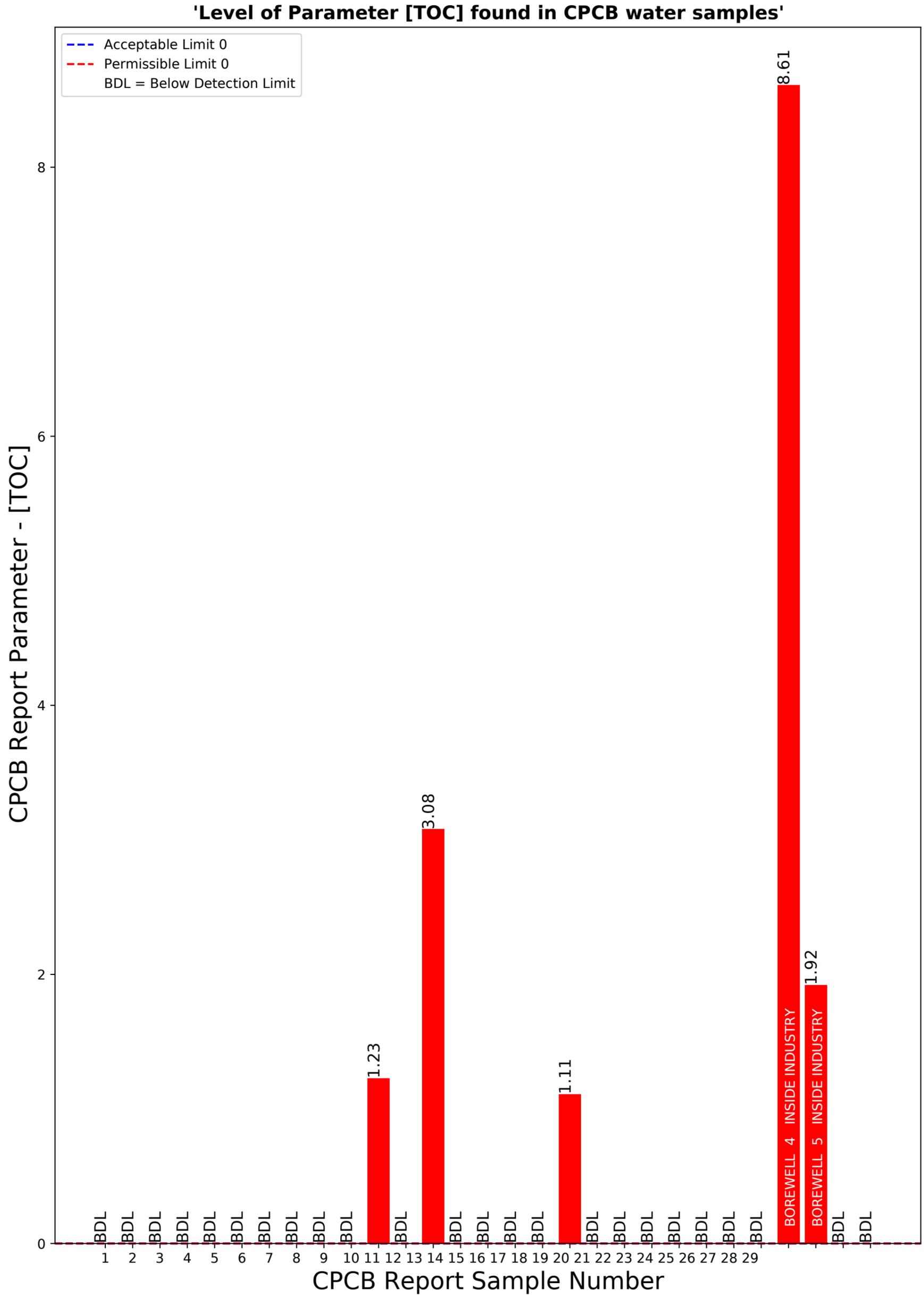
Extracts from Table 6, Table 7: Toxic Parameters - CPCB Report, Page 508,509

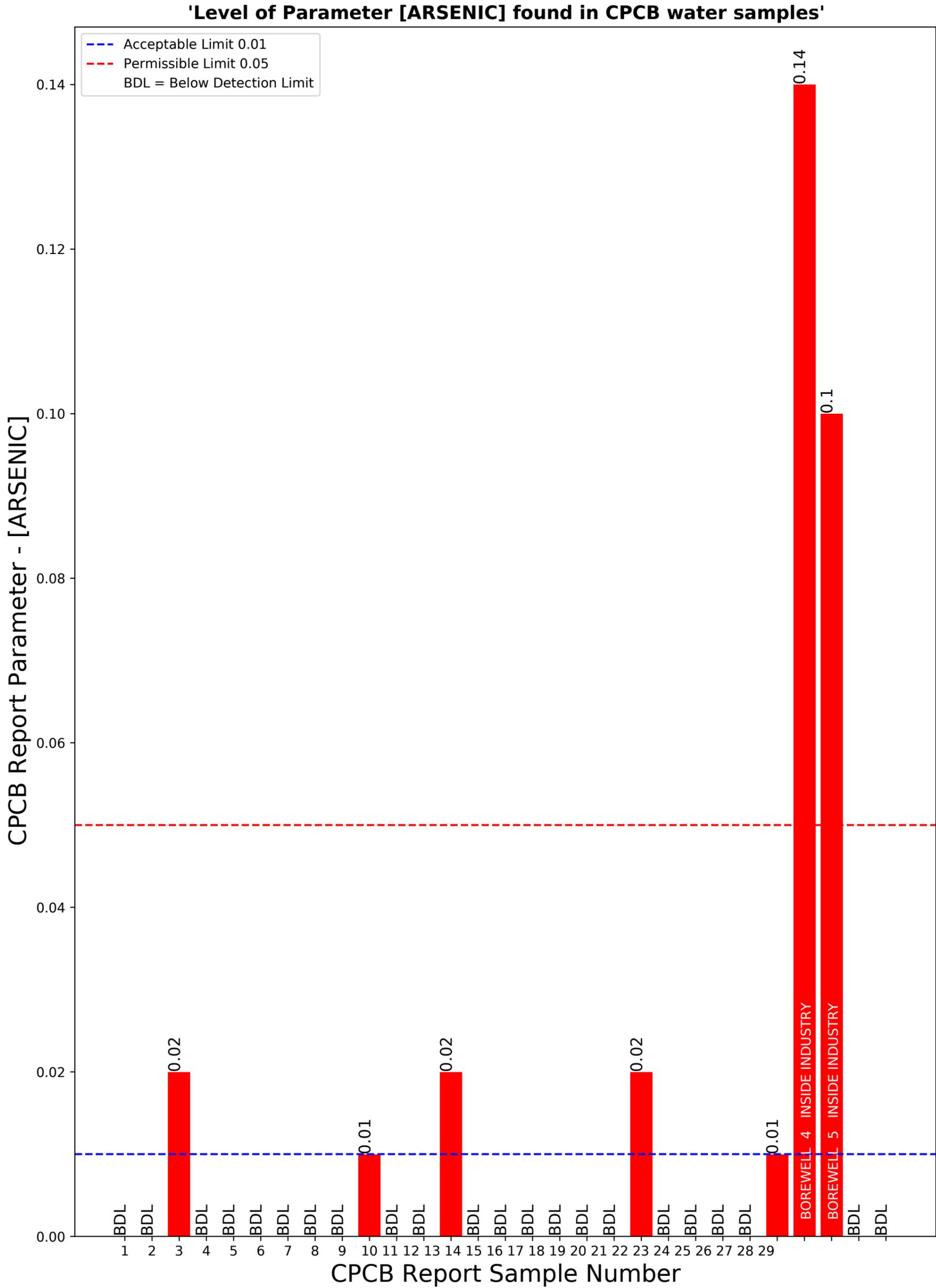
SAMPLE	LOCATION	ARSENIC	CHROMIUM	COPPER	IRON	MANGANESE	NICKEL	LEAD
1	Sh. Buta Singh ; 9463245171 , Lehra Rohi	BDL	BDL	BDL	0.22	BDL	BDL	BDL
2	Govt High Smart School, Lehra Rohi	BDL	BDL	BDL	0.14	0.02	BDL	BDL
3	Iqbal Singh; 8417725633, Lehra Rohi Area Bandata Purana (Agriculture Field)	0.02	BDL	BDL	0.54	0.01	BDL	BDL
4	Govt Primary School, Bandala - Purana, Zira, Ferozepur.	BDL	BDL	BDL	0.04	BDL	BDL	BDL
5	Sh.Angrej Singh (Sarpanch), 9464207231, Sunehar, Zira, Ferozepur	BDL	BDL	BDL	0.05	0.04	BDL	BDL
6	Govt Primary Sunehar Self Smart School, Zira, Ferozepur.	BDL	BDL	BDL	0.24	BDL	BDL	BDL
7	Govt Primary School, Warra Mansoorwal, Zira, Ferozepur.	BDL	BDL	BDL	0.14	0.01	BDL	BDL
8	Govt Primary School, Pandori Khatrian,Zira, Ferozepur	BDL	BDL	BDL	0.06	0.02	BDL	BDL
9	Inside Industry Old Premises - Borewell 1	BDL	BDL	BDL	0.14	0.01	BDL	BDL
10	Inside Industry - Borewell 2	0.01	BDL	BDL	0.19	0.01	BDL	BDL
11	Inside Industry - Borewell 3	BDL	BDL	BDL	0.14	0.1	BDL	BDL
12	Animal Dispensary, Ratoi Rohi	BDL	BDL	BDL	0.04	0.03	BDL	BDL
13	Sh. Gurtej Singh, 9517100096, Ratol Rohi	0.02	0.01	0.02	10.69	0.56	BDL	0.03
14	Sh. Gurbax Singh s/o Sh.Harbans Singh, 9872266619,Sodhiwala	BDL	BDL	BDL	0.04	BDL	BDL	BDL
15	Sh. Harpreet Singh. 9781027357 ; Water Works, Sodhiwaia.	BDL	BDL	BDL	0.21	BDL	BDL	BDL
16	Govt Middle School, Sodhiwaia. Zira. Ferozepur	BDL	BDL	BDL	0.05	BDL	BDL	BDL
17	Govt Primary School, Mahian Wala Kalan, Zira, Ferozepur	BDL	BDL	BDL	0.49	0.02	BDL	BDL
18	Dhan Dhan Bhagat Baba Duni Chand Ji, Gurudwara, Mahian Wala Kalan	BDL	BDL	BDL	0.41	0.14	BDL	BDL
19	Sh.Bhajan Singh s/o Sh. Nail Singh, 8264120297; Mahian	BDL	BDL	BDL	2.23	0.15	BDL	BDL
20	Shaheed Gurdas Ram Memorial Primary Kanahliya Sr.Sec. Smart School, Zira	0.02	BDL	0.02	0.19	0.02	BDL	0.01
21	The Truck Operator Welfare Society, Zira, Ferozepur	BDL	BDL	BDL	0.04	0.02	BDL	BDL
22	Govt Primary Smart School, Mansoorwal Kalan, Zira, Ferozepur	BDL	BDL	BDL	0.06	0.01	BDL	BDL
23	Sh. Meva Singh, 9474104271, Mansoorwal Kalan, Zira, Ferozepur	BDL	BDL	BDL	0.07	0.02	BDL	BDL
24	Sh. Gurmail Singh Namdhari (Sarpanch), 8237300009, Mansoorwal Kalan,Zira	BDL	BDL	BDL	0.1	0.04	BDL	BDL
25	Sh. Nirmal Singh, Water Works, Mansoorwal Kalan,Zira, Ferozepur	0.01	BDL	BDL	0.1	0.03	BDL	BDL
26	Inside Industry - Borewell 4	0.14	0.36	0.15	243.53	3.28	0.22	0.08
27	Inside industry - Borewell 5	0.1	0.28	0.18	206.62	3.72	0.21	0.13
28	Inside industry - Pizeometer 5	BDL	0.01	BDL	0.2	0.08	BDL	BDL
29	Inside industry - Pizeometer 3	BDL	BDL	BDL	0.14	0.05	BDL	BDL

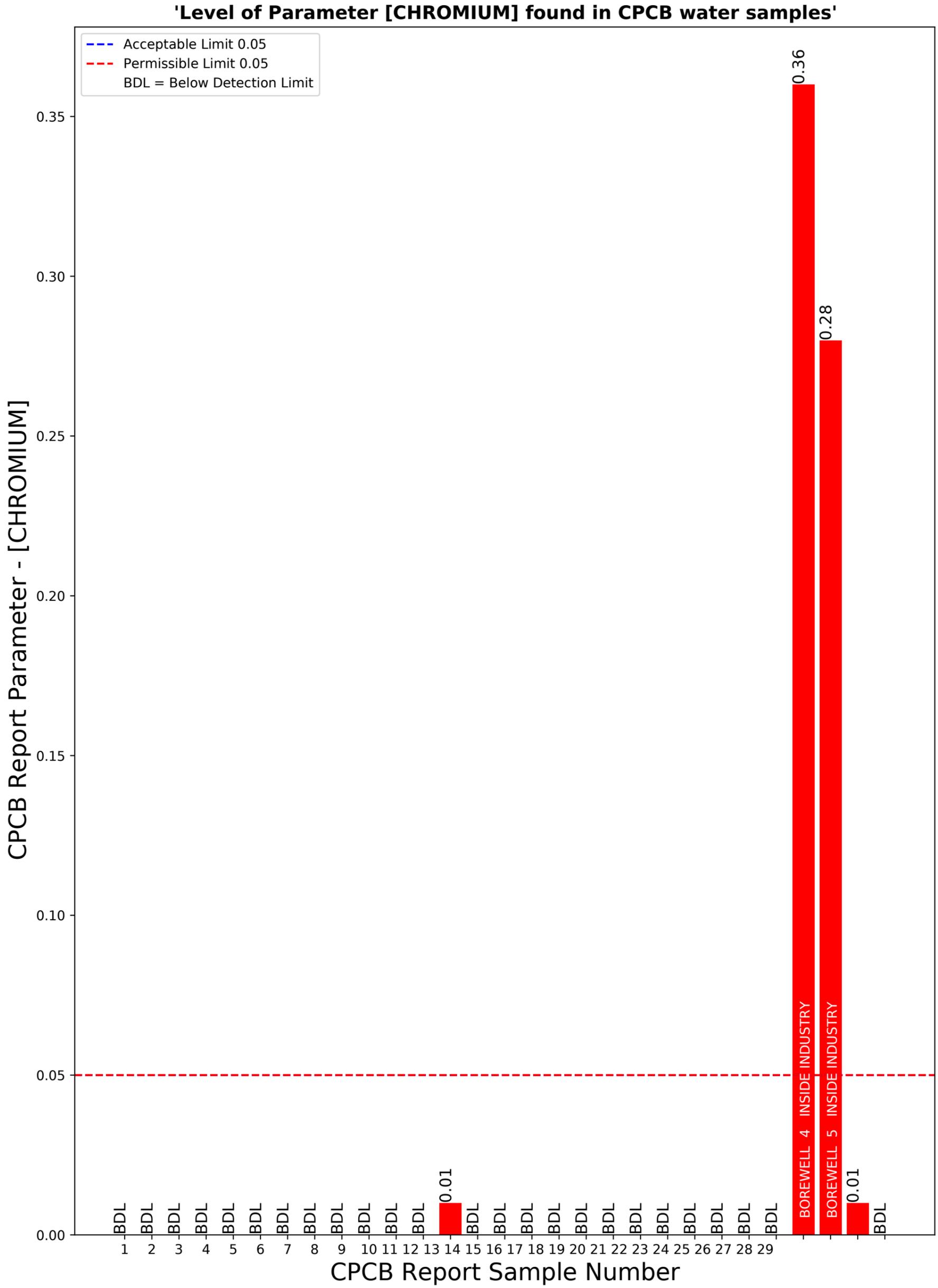


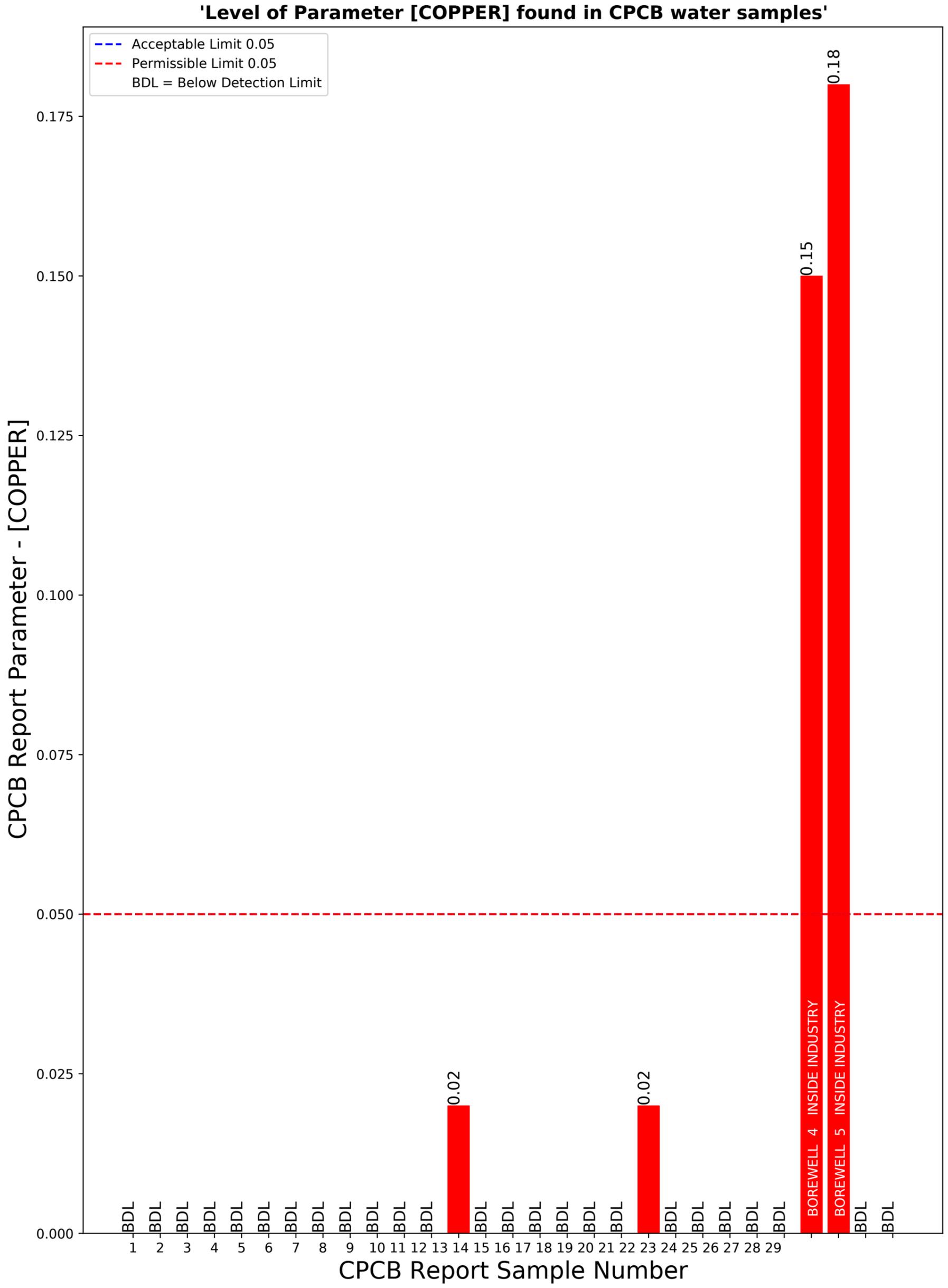


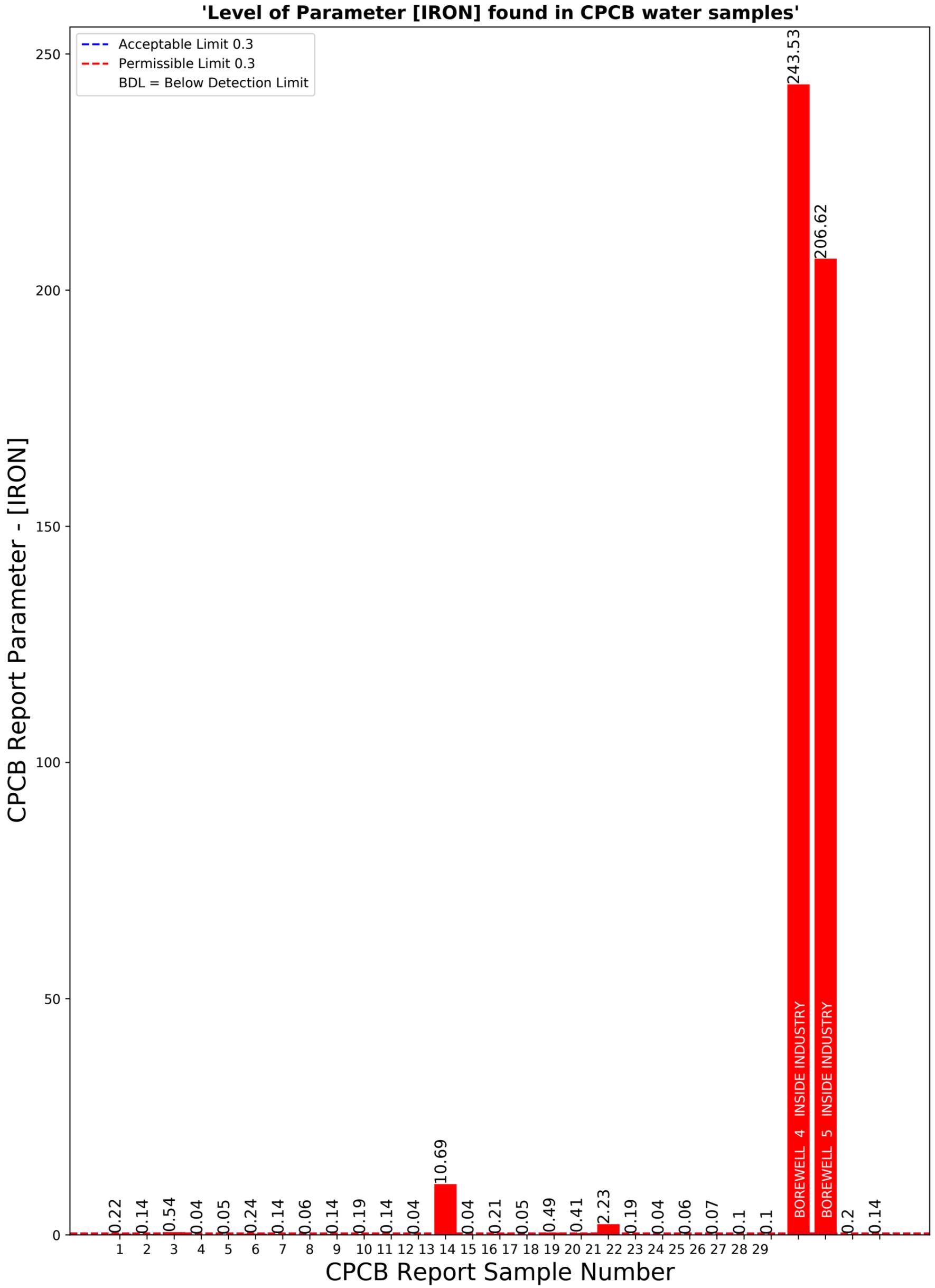


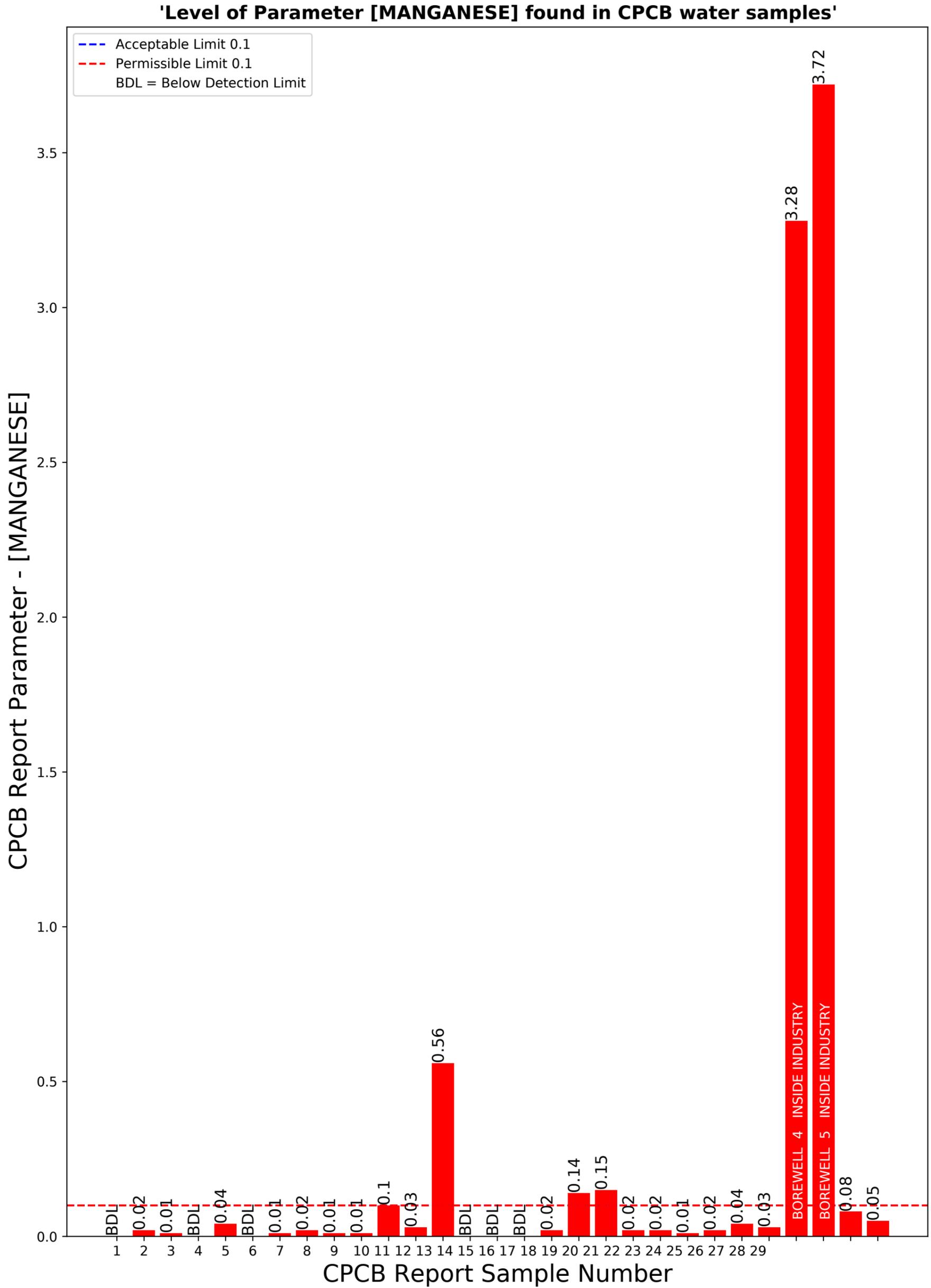


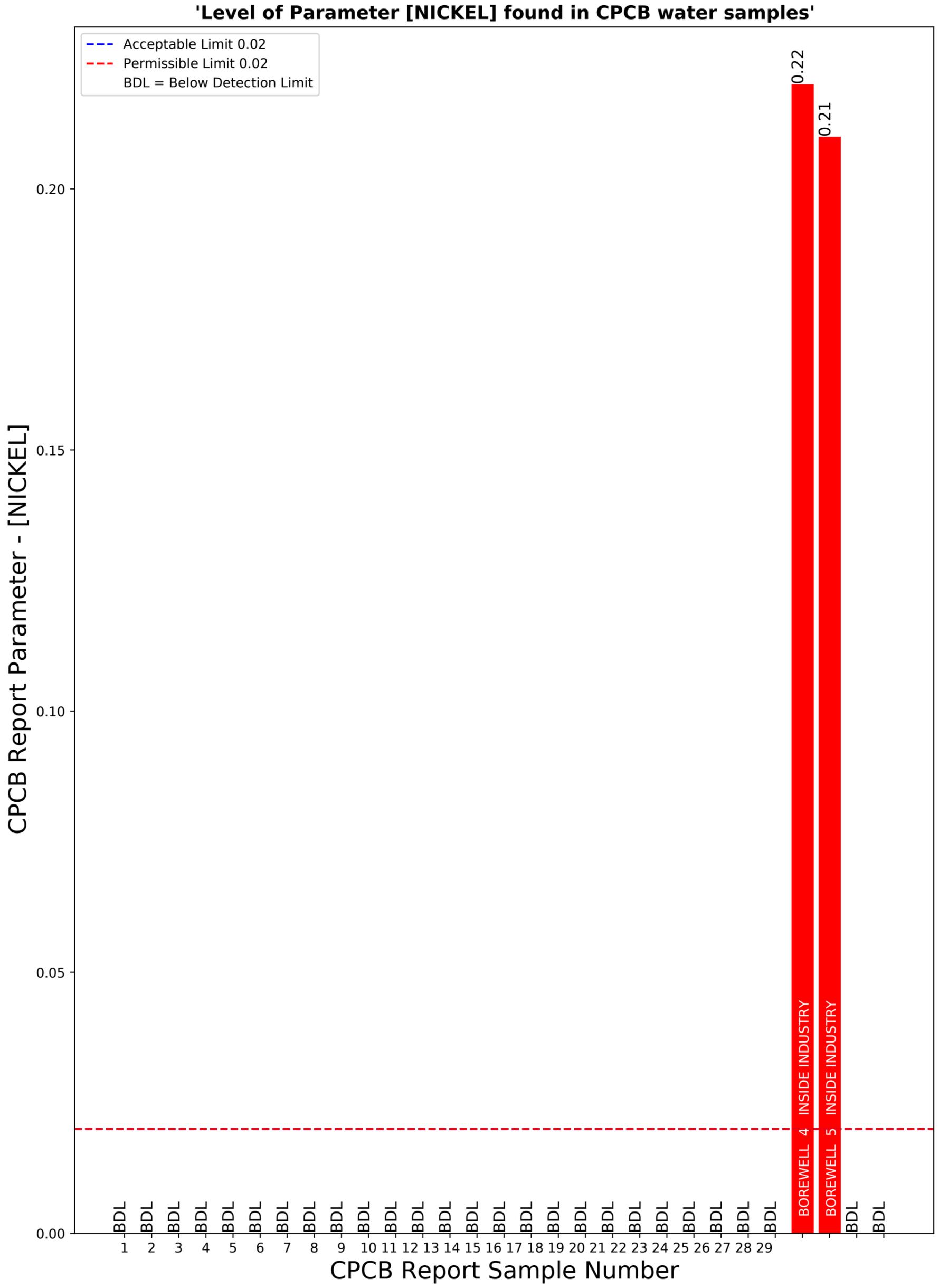


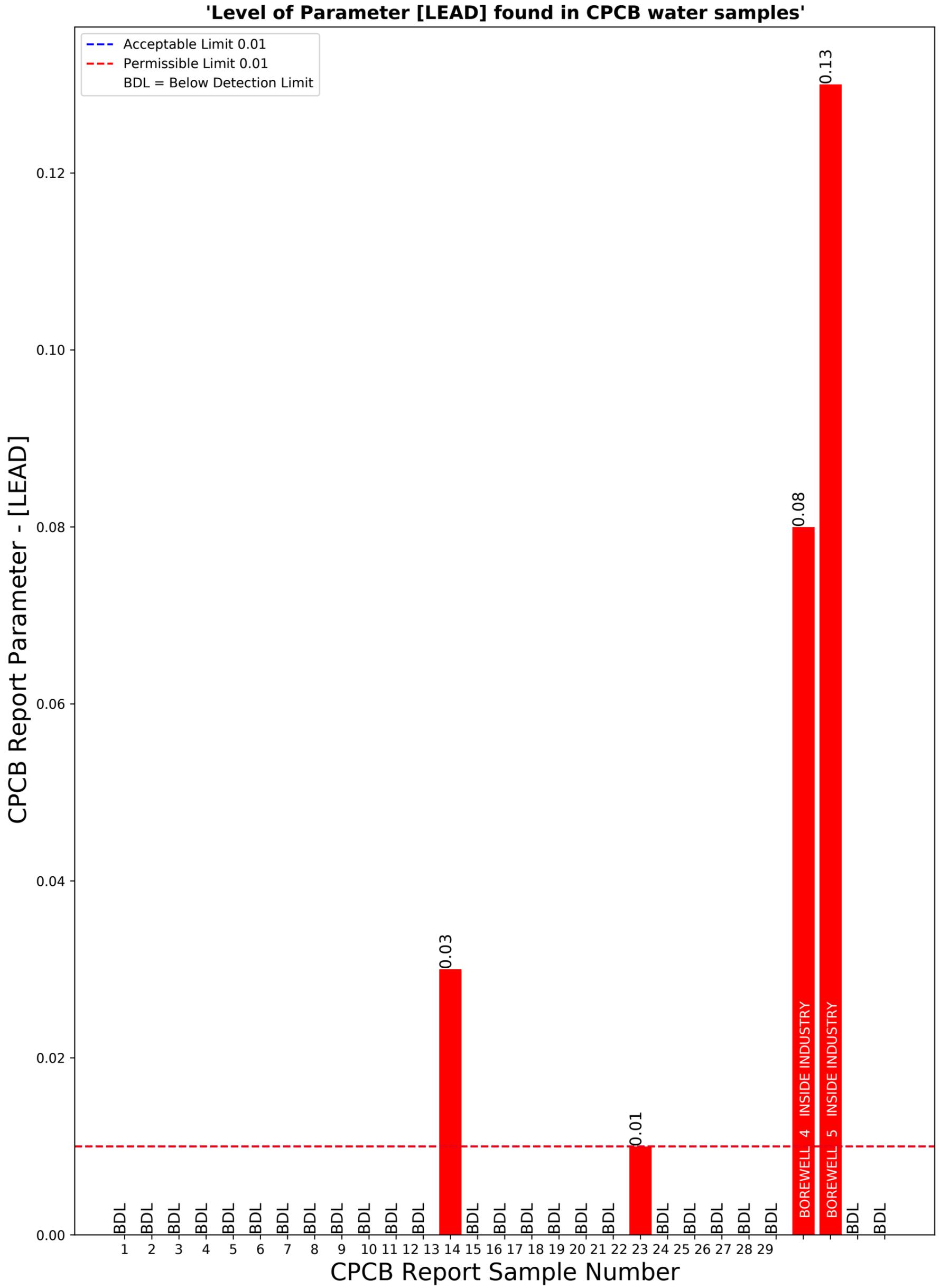




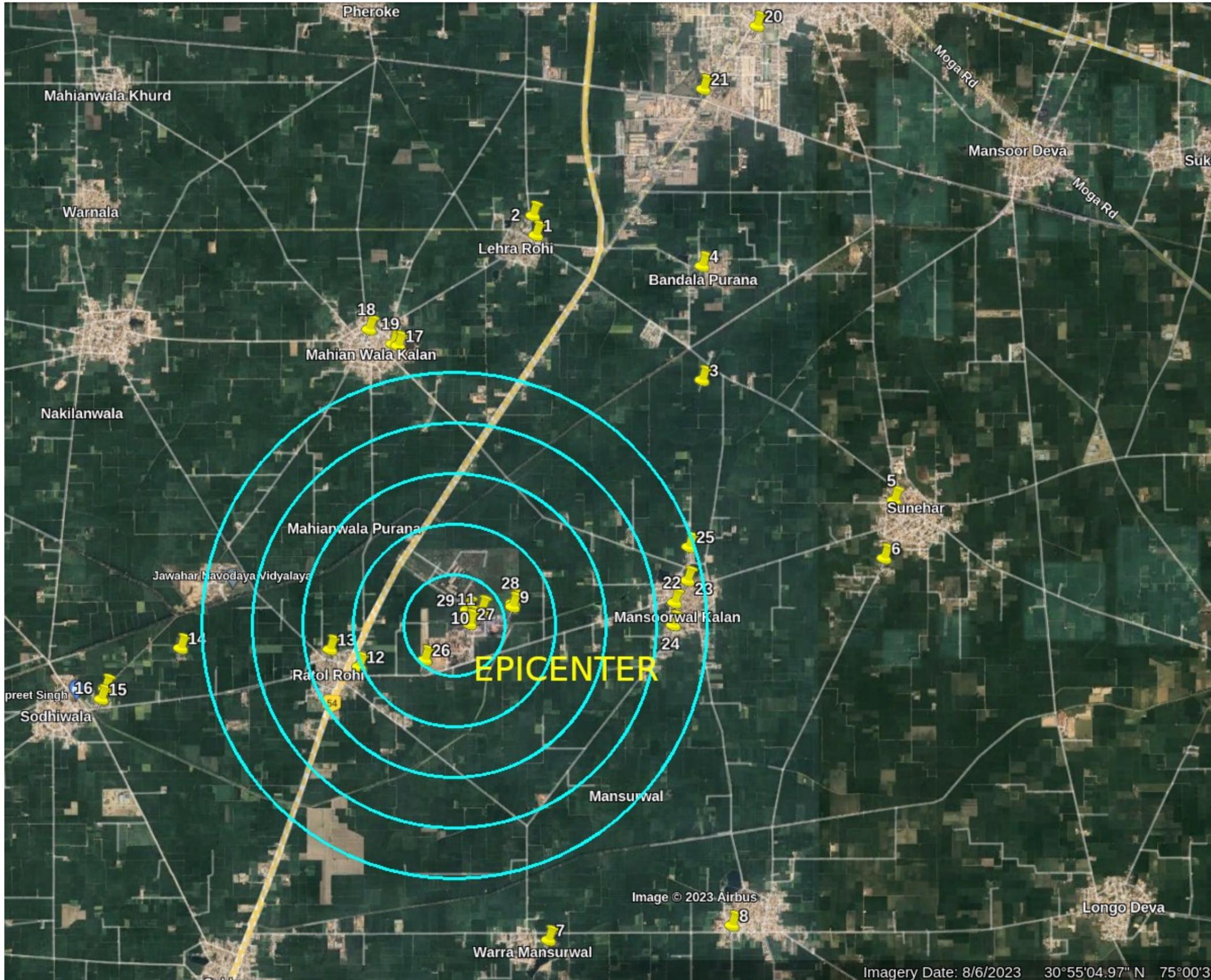








Google Map Plot of 29 Samples taken by CPCB EPICENTER is the area of maximum pollution



Coma. 80.2023 Punjab Pollution Control Board Vs. M.S Malbros International Pvt Ltd.

Present:- Sh.Ajay Batta Adv,counsel for complainant..

File put up before me being duty magistrate as learned CJM/Area Magistrate is on leave. Notice issued to accused not received back. Fresh notice to accused be issued for 05.02.2024.File be sent back to the concerned court.

Date of order:18.12.2023

Rohit Kakar
Stenographer Gr.II

(Gagandeep Singh Kainth)
JMIC/Ferozepur
UID PB-0658
(Duty)

Annexure A-3

**Government of Punjab
Department of Science, Technology and Environment**

Office of the Appellate Authority Constituted under the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act 1981.

Appeal No.34/SLO/AA/2023

Date of Filing:03.08.2023

Date of Decision: 05.09.2023

**M/s Malbros International Pvt. Ltd.,
Village Mansoorwal, Tehsil Zira, District Ferozepur**

v/s

Punjab Pollution Control Board

- Present:**
1. Sh. Vaibhav Jain, Advocate alongwith Sh. Sapan Kumar, Sh. Arvind Tomar, Sh. Pawan Bansal and Sh. Nikhil on behalf of the appellent.
 2. Er. Daljit Singh, Environmental Engineer and Sh. Anish Sharma, Assistant Environmental Engineer on behalf of Punjab Pollution Control Board.

ORDER

The present appeal has been filed under section 28 (1) of the Water (Prevention and Control of Pollution) Act, 1974 by the appellent industry against the impugned order dated 4.7.2023 passed by the Chairman, Punjab Pollution Control Board refusing the application for obtaining the consent to operate of the Board under the Water (Prevention and Control of Pollution) Act, 1974.

- 2) Upon notice, the Punjab Pollution Control Board has put in its appearance through Environmental Engineer, Regional Office, Faridkot and filed reply. The reply was taken on record and copy was supplied to the appellent.

Parties were heard.

The counsel for the appellent submitted that the industry is engaged in production of spirits since 2007 at village Mansoorwal, Tehsil Zira, District Ferozepur Punjab



and is equipped with Zero Discharge Technology for which Multi Effect Evaporation (MEE) Decanters, Dryer, Reverse Osmosis System (RO) and other State of the art technologies have been installed. The unit of the appellant does not discharge any effluent in the nearby water bodies as all the excess water is evaporated and reused in the distillation process through treatment. Further Electro Static Preparators (ESP) have been installed to control air pollution. The initial capacity of distillery was 100 KLD and enhanced by another plant of 180 KLD capacity for manufacturing ethanol after taking due clearance from Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India. The ethanol plant started its commercial production from 3.2.2022. The appellant has obtained all the statutory permits and licenses as applicable for running of distillery, bottling plant, ethanol plant and power generation plant. The distillery has been constantly monitored by the officials of Ministry of Environment, Forest and Climate Change, Central Pollution Control Board, Punjab Pollution Control Board and other regulatory bodies and no lapse has been found in the unit of the appellant in the last 15 years.

The Monitoring Committee headed by Hon'ble Justice Jasbir Singh, Former Judge of Hon'ble Punjab and Haryana High Court visited the distillery and collected water samples from various locations / sites of the villages. Three sets of water samples were collected and sent to PBTI, Mohali; M/s Shri Ram Institute of Industrial Research, Delhi and Punjab Pollution Control Board laboratory for testing. Based on discussions held with the officers of various departments, village panchayats and field visits made by the Monitoring Committee and collection of ground water samples, soil samples and reports submitted by the departments, the Monitoring Committee in its report dated 21.9.2022 concluded that the ground water contamination was due to fecal contamination which was due to domestic sources and further that the possibility of discharge of industrial effluent in underground water was feeble. The Monitoring Committee of the Hon'ble National Green Tribunal also reached a definite conclusion that the unit was not causing any environmental pollution.

The Counsel for the appellant stated that since 23.7.2022, the factory premises of the industry remained closed due to illegal and motivated protests by the nearby villagers and the industry was constrained to approach the Hon'ble Punjab and Haryana High Court in Civil Writ Petition No. 16500 of 2022. The Hon'ble Punjab and Haryana High Court vide order dated 29.7.2022 has issued directions to the State machineries to take steps to ensure that no hindrances are created in ingress and egress of the factory premises by the illegal protests. However, the State Government failed to comply with the aforesaid order. Hon'ble Punjab and Haryana High Court vide orders dated 11.10.2022 and 22.11.2022



had directed the State of Punjab to deposit the amount of Rs. 5.0 Crores and 15.0 Crores respectively with the registry of the Hon'ble Court and recorded In the order dated 11.10.2022 that the unit of the appellant was compliant of all laws and that the Monitoring Committee of the National Green Tribunal has found that the appellant was not causing any pollution.

However, the State Government has formed four committees in consultation with the protestors to look into various grouses espoused by the protestors so as to amicably resolve the issue.

Contesting the report of water and soil committee with regard to the presence of the heavy metals in the water, the counsel for the appellant stated that there is a huge difference in the analyzed values of the parameters in the samples collected from tube-wells located very close to each other. The appellant has added additional land recently in the existing premises of the industry and the tube-well was located in the agriculture land where in the owner of the land was sowing different crops. The unit is not using any chemical in the process containing heavy metals, as such it is proven fact that the industry discharges wastewater containing only organic pollutants. Therefore, the presence of heavy metals may be due to use of inorganic fertilizers (DAP/ Urea) including pesticides, insecticides, herbicides, weedicides to get good yield of crop by the farmer.

The report of soil and crop damage committee has recorded that the fertility parameters in normal range the heavy metals concentrations in the farmers' fields in both list of affected and reference non affected villages were comparable and well within their respective normal range.

As per the report on loss of animal and buffalos, the animals have died because of the nitrate / nitrate toxicity which may be due to toxic levels of nitrate in plants at that time.

The committee formed to investigate the increasing cases of cancer, hepatitis-B etc. in the villages surrounding the factory has also given a favorable report stating that the cause of deaths due to cancer in the region is below then the national average. The cases of Hepatitis B and C have not been attributed or linked to the industry.

The counsel for the appellant also contested the report of the Central Pollution Control Board and stated that the Central Pollution Control Board has acted ultra



vires beyond its jurisdiction. The CPCB in its report has shown the slopes of water table towards NHW from the industry i.e. towards village Mahianwala Kalan. To examine the CPCB report, the industry had sought help from two renowned Hydrologists and their report clearly state the slope of water table from NE to SW from Zira towards the industry, hence the whole basis of CPCB reports and analysis are found to be false and the same has been made with an intent to harm the interest of the industry. As regards to higher concentration of cyanide, selenium, manganese, iron, arsenic, chromium, copper, nickel, lead in the CPCB report, the counsel stated that the unit is not generating any wastewater containing the pollutants. Therefore, the presence of these pollutants in the ground water is required to be investigated by carrying out detailed study. The counsel further stated that the industry had remained closed during the tenure of all these samplings and the report has been intentionally prepared by the CPCB team with political motive to damage the interests of the industry. The directions issued by the CPCB are ultra-vires as the case is sub judice with the Hon'ble Punjab and Haryana High Court and the National Green Tribunal.

The counsel stated that the Punjab Pollution Control Board has reached a completely erroneous conclusion and was under pressure to take a decision to close down the factory of the appellant. The Punjab Pollution Control Board has refused the consent to operate to the industrial unit of the appellant vide order dated 4.7.2023 on the basis of some unwarranted reasons. The appellant industry has complied with the objections raised by the Board and relevant documents have been attached and the details were given by the appellant.

With the above submissions, the counsel for the appellant requested to set aside the order passed by the Board and issuance of directions for grant of consent to operate to the industrial unit under the provisions of the Water (Prevention and Control of Pollution) Act, 1974.

5) The officers of the Board stated that the Board has decided the consent to operate application of the industry under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 on merits, after considering all the facts. The application was not complete in all respects and was lacking in the production of substantial material to show compliance of the conditions of consent already imposed by the Board in the consent to operate letter earlier granted under the provisions of the Water (Prevention and Control of Pollution) Act, 1974. The reasons were clearly mentioned in the order dated 4.7.2023



whereby consent to operate was refused under the Water (Prevention and Control of Pollution) Act, 1974. The compliances now alleged to be shown by the industry to the reasons for refusal of consent to operate have also been examined and It is observed that the industry is still not complying with all the conditions as explained in the refusal letter.

The officer of the Board further stated that the Government of Punjab has also constituted four different committees vide order dated 21.12.2022 and 25.12.2022 with regard to Water Pollution, Public Health Risks (Cancer and Hepatitis) In nearby villages, soil and crop damage / revenue loss of cattle in adjacent areas to look into the grievances of villages relating to appellant industry. The reports given by different committees are also required to be considered.

The officer of the Board stated that the Central Pollution Control Board vide letter dated 17.5.2023 has issued directions u/s 18(1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 considering the complaint against acute pollution of groundwater caused by M/s Malbros International Pvt. Ltd. (Malbros Distillery), Village Mansoorwal, Tehsil Zira, District Ferozepur to the Punjab Pollution Control Board after visiting the unit along with experts deputed by the Central Ground Water Board (CGWB). As per the Central Pollution Control Board report, the groundwater was found to be affected with high concentration of metals and heavy metals (toxic elements) in three villages namely Monsoorwal, Mahianwala Kalan and Rotal Rohi and this finding is in line with the slope of water table in the area as determined by the CGWB team. Hence, the report of Central Pollution Control Board may also be considered to decide the consent application of the industry under the Water (Prevention and Control of Pollution) Act, 1974 and the consent to operate to the appellant may be declined.

6) After hearing the counsel and the representatives of the appellant, the officers of the Board and examination of relevant record, it is observed that the case relating to the consent to operate under the Water (Prevention and Control of Pollution) Act, 1974 was remanded to the Chairman, Punjab Pollution Control Board by the Appellate Authority vide order dated 18.5.2023 with the direction to decide the matter a fresh after taking into consideration all the documents in terms of orders dated 29.3.2023 passed by the Hon'ble Punjab and Haryana High Court in Civil Writ Petition no. 6818 of 2023 and after providing an opportunity of hearing to the appellant.



7) The Board has afforded an opportunity of hearing to the appellant and after considering all the facts and circumstances of the case, the Chairman, Punjab Pollution Control Board has refused the application for obtaining the consent to operate of the appellant under the Water (Prevention and Control of Pollution) Act, 1974 by passing a detailed order dated 30.6.2023. The order was conveyed to the appellant vide letter no. 2123 dated 4.7.2023 by Zonal Office of the Board at Bathinda. The appellant, however, has not enclosed the copy of the order dated 30.6.2023/4.7.2023 of the Board with the appeal case.

8) The main grouse of the appellant is that the Punjab Pollution Control Board while deciding the application for consent to operate under Water (Prevention and Control of Pollution) Act, 1974 has not considered the reports of the monitoring committee as well as that of Punjab Pollution Control Board. In this regard, it is observed that the Board has duly considered the said report of the monitoring committee and the Punjab Pollution Control Board, but these reports in my opinion cannot be relied upon for long duration of time nay forever.

The Board has specially stated in its reply that the appellant was found deficient in compliance of the conditions of the Board and that has resulted into the refusal of consent to operate. The examination of the reasons for refusal of consent to operate as recorded by the Board in the refusal order dated 30.6.2023 /4.7.2023 under the Water (Prevention and Control of Pollution) Act, 1974, reply given by the appellant vis-à-vis the further comments given by the Board in reference to the compliance reported by the appellant has brought out the shortcomings, which are reproduced herein below:

- a) The industry was granted permission by PWRDA for extraction of groundwater @ 2850 m³/day or 1.164 cusec, subject to the certain conditions mentioned therein. In the context, the industry has not specified the time interval for which, it has obtained fresh water from canal as well as from ground and groundwater alone. As such, the claim of industry regarding obtaining of fresh water from the canal @ 0.75 cusec and rest from the groundwater cannot be assessed. The industry was given permission by PWRDA for operation of 4 no. borewells and as per condition of permission, it shall provide separate flow meter at all water extracting structures. Now, the industry has attached record of fresh water usage, wherein there has been no mention of specific water extraction structure i.e. the particular borewell / canal water. As such, the record submitted by the industry in this regard is not authentic.



- b) The industry has submitted that the plant has been operated at same production capacity and same quantity of chemical has been used in the ETP, however as per record of ETP sludge submitted by the industry, there has been variation in the daily sludge generation and moreover the unit for quantity of sludge generation has been mentioned as m³/day, as such the record submitted by the industry for counterling the shortcomings cannot be relied upon.
- c) The industry has not submitted time bound action plan regarding allocation of 2.5 % of the total project cost for enterprise social commitment as per conditions of the Environmental Clearance and has only submitted that they have spent Rs. 6.51 Lakhs for social commitment for the environmental concerns. As such, the reply submitted by the industry is not satisfactory as per shortcoming raised.
- d) From perusals of the medical certificates of employees submitted by the industry, it can be concluded that there has been no mention of the reference on the medical certificates and it seems tempering of the signatures of the certificate issuing authority. As such, the data provided by the industry cannot be relied upon.
- e) There has been no dimensional marking on the plantation area developed / proposed by the industry in the layout plan submitted; as such plantation area cannot be calculated.
- f) The industry was given permission by PWRDA for operation of 4 no. borewells for extracting groundwater @ 2850 m³/day or 1.164 cusec and as per condition of permission, it shall provide separate flow meter at all water extracting structures. Now, the industry has attached record of fresh water usage, wherein there has been no mention of specific water extraction structure i.e. the particular borewell / canal water. As such, the record submitted by the industry cannot be considered for comparing it to authorized fresh water extraction capacity by PWRDA.



It is pertinent to mention here that the State Pollution Control Board under section 25 of the Water (Prevention and Control of Pollution) Act, 1974 is empowered to make such enquiry in respect of application for consent and may grant its consent subject to

such conditions as may be imposed. The Board, thus, in my opinion is under statutory obligation to regulate the conditions of consent to operate in accordance with Law. The Board is also empowered to refuse such consent under the Water (Prevention and Control of Pollution) Act, 1974 for the reasons to be recorded in writing. The perusal of the order passed by the Board has revealed that the Board has afforded an opportunity of hearing to the appellant and has thereafter refused the consent to operate by recording the reasons in writing. Hence, the decision of the Board cannot be termed as an arbitrary decision.

10) Apart from the above, the reports of different committees constituted by the Chief Secretary to Government of Punjab vide office order no.5/94/2022-274/8401-8410 dated 21.12.2022 and 5/94/2022-274/8463 dated 25.12.2022 for the purpose of examination of water pollution and Public Hearing; Public Health Risks, Soil and crop damage/ revenue loss of cattle in adjacent area have also been examined. The reports have made some startling revelations about the prevalent circumstances and the same are summarized herein below:

A) Water/ Sludge Committee (Interim report)

The members of the monitoring committee comprising Dr. Indramani Dhada, Expert IIT Ropar, Prof Dwarika Nath Ratta, Expert TEIT, Patiala and Prof M.S Bhatti Expert GNDU Amritsar in reference to letter no. 5/94/2022-2G4/8463 dated 25.12.2022 of Chief Secretary, Punjab regarding Malbors Factory Zira related complaints with specific objectives related to water pollution have given report in the case which was furnished to the Chairman, Punjab Pollution Control Board by the office of Deputy Commissioner, Ferozpur vide memo no. MA/MC-1/2023/667 dated 28.3.2023.

From the perusal of the report, it is observed that the Monitoring Committee visited the site, did a reconnaissance survey of the area and were apprised of the grievances of the Sanjha Morcha Constituted by the Deputy Commissioner, Ferozpur. The committee members visited the industry and villages within 5 km radius from industry on 26.12.2022, 27.12.2022 and 5.1.2023 and shortlisted a total of 13 sites for sampling (seven within industry premises, six within 5 Km radius from industry) borewells samples (5 nos.) were collected from the Industry premises with soil samples (2 nos.) collected by designed officials from NABL laboratory independently in



presence of committee members. As a control measure, six borewell samples from nearby area (within 5 km radius) were collected to compare the data. A total of 13 samples were collected based upon the test report by NABL accredited laboratory i) SAI Laboratory, Patiala; ii) Shri Ram Institute for Industrial Research (Delhi) and iii) CSIR-IITR(Lucknow) following references have been delineated.

- a) Parameters concerning toxic substances including lead, chromium, arsenic, polychlorinated biphenyl's (PCB), phenolic compounds (undesirable in excessive amounts) are found in the water samples from Malbros industry and values have been found above the permissible limits set by Indian standard for Drinking water.
- b) Concentration of lead found in the water sample is 0.26 ppm which is more than the permissible limit of 0.01 ppm in the Malbros industry.
- c) Concentration of phenolic compounds as C₆H₅OH in the water sample is 0.16 ppm which is more than the permissible limit of 0.002 ppm in the Malbros industry.
- d) Concentration of chromium found in the water sample is 0.22 ppm which is more than the permissible limit of 0.05 ppm in the Malbros industry.
- e) Concentration of Poly chlorinated biphenyl found in the water sample is 245 microgram/L which is more than the permissible limit of 0.5 microgram/L. in the Malbros industry.
- f) Large excavated area with sludge /ash is seen in the Malbros industry. Also, visible in google map.
- g) High concentration of Volatile Fatty Acids found in the soil sample from Malbros industry.
- h) High concentration of objectionable / toxic elements found in soil samples (Manganese 145000 mg Kg. Copper 1602 mg/Kg and Lead 16.60 mg/Kg) from Malbros industry. These test results can be correlated with control soil samples from the area.
- i) Results of comet assay for DNA damage is pending from CSIR-Indian Institute of lexicological Research, Lucknow.



- j) Results of detection of DNA damage tests using (i) Micronucleus (i) chromosomal aberration test as per OECD norm is pending from Shriram Institute for Industrial Research, Delhi.

B) Report of Soil and Crop Damage Committee

Soil and Crop damage committee comprising of Dr. PPS Pannu, Additional Director of Research, Dr. Dharminder Singh, Principal Soil Chemist; Dr. J.P Sing, Head Department of Soil and Water Engineering has submitted its report to Deputy Commissioner, Ferozepur. The important inferences drawn by the committee are reproduced herein below:

- a) Regarding the analysis of Soil fertility parameters of farmer's fields, soil pH was relatively higher in the listed affected villages in comparison to the reference / not in the list of affected villages was alkaline and at one site the soil was sodic. There is need of amendments such as green manuring farm yard manure or gypsum.
- b) Among the affected village the pH of two oil samples collected from the fields located behind the factory (9.14 and 9.34) and nearby villages such as Sunher (8.99) and Badala Purana (9.14 and 8.64) were observed to be higher than the average oil pH (8.62) of these villages. This could possibly be due to the deposition of ash flow from the factory in the nearby field during the times when factory was in operation.
- c) Regarding sugar mill area backside of the factory, the vegetation was almost dead. The fertility parameters such as organic carbon and available nutrient such as phosphorus, copper, zinc, manganese and baron of soil samples collected from this area were extremely high. Soil inside the factory has high pH, electrical conductivity and available potassium.
- d) The analysis of profile sludge sample (comprising of 7 sub samples up to 180 cm depth) from sludge dump revealed that there was a gradual increase in the concentration of heavy metals such as chromium, lead, nickel and arsenic up to 180 cm depth. Substantially higher concentration of all micronutrients and heavy metals were observed at 150-180 cm depth. This suggests a possibility downward movement of these metals which may end up into the groundwater.



11) That it is relevant to mention here that in the background complaints of acute pollution of ground water caused by M/s Malbros International Private Ltd. (Malbros Distillery), the Central Pollution Control Board after visiting the unit along with experts deputed by the Central Ground Water Board had issued certain directions to the Punjab Pollution Control Board vide letter dated 17.5.2023 u/s 18(1)(b) of the Water (Prevention and Control of Pollution) Act, 1974. The report of the Central Pollution Control Board was duly supplied to the appellant industry by the Punjab Pollution Control Board and the conclusions drawn in the report of the CPCB are reproduced here in below:-

- i) Ground water level ranges from 28.44 to 32.07 m BGL (below ground level) in the study area in the monitored tube-wells and the slope of water table is towards NNW from the factory area.
- ii) It was alleged that "The distillery has drilled 25 deep tube-wells in their Compound and dumping toxic water in them leading to high pollution in ground water in radius of 15 Kms, polluting drinking & irrigation water of over dozen villages". In this regard, CPCB Team physically verified 10 Bore-wells and 06 Piezometers installed in the premises of the industry. The representatives of the industry informed that they have obtained permission for 04 bore-wells and 02 piezometers from CGWB/PWRDA, however no details were provided. The industry was also asked to provide the date of installation and the assembly drawing of the bore-wells / piezometers installed in the premises, to know the depth of the bore-well and the zone tapped, but the details are still awaited despite follow up with PPCB and the Industry.
- iii) The existence of such a large number of bore-wells without obtaining permission of CGWB and/or PWRDA in the premises of an industry, claiming to Zero Liquid Discharge is an area of further investigation.
- iv) Further, two bore-wells inside the premises were found to be installed at a distance of few meter from each other, sealed and buried in the soil, despite the fact the 200 mtr distance between two bore-wells is required as per guidelines.

In view of the fact that most of ground water structures identified by CPCB team have been installed by the Industry without obtaining permission from CGWB/PWRDA, the possibility of having more such structures installed illegally without obtaining permission as apprehended in the letter of Hon'ble Member of Parliament (Lok Sabha), can't be ruled out and thus needs further investigation by involving local



revenue department, to know the details of the borewell Is existing at the time of acquiring the land from the local fanners, by the Industry.

- vi) Out of 29 bore-well monitored, 12 bore-wells were yielding water with unpleasant odour, whereas 05 Bore-wells were yielding water with unpleasant odour and Grey/blackish colour, which is also evident and confirmed from the high instrumental analysis values for colour and turbidity.
- vii) The evaluation of data with regard to analysis results of ground water samples for general parameters, revealed that water from none of the 29 bore-wells monitored by CPCB Teams comply with the acceptable and permissible limits for one or more parameters, thereby rendering the water unfit for drinking. TDS, Boron and Sulphate were found be present in very high concentration and beyond acceptable and permissible limits in many samples. While high TDS and sulphate concentration may be an outcome of the industrial activity, however, the exceedance of Boron may not be attributed to the industry under reference.
- viii) The ground water was found to be affected with high concentration of metals and heavy metals (Toxic Elements) in three villages namely Mansoorwal, Mahianwala Kalan and & Ratol Rohi and this finding is in line with the slope of water table in the area, as determined by the CGWB team.
- ix) The presence of cyanide in the borewell located at Village & Ratol Rohi at a concentration of 0.2 mg, which is four times higher than the acceptable limit of 0.05 mg/1, as specified in IS 10500:2012 is an area of concern. Further investigation to pin points the source of this contamination is required in the interest of public health. The same borewell was also found to be having high concentration of Arsenic and very high concentration of lead, as well.
- x) One borewell with 250 ft depth monitored at Village Mahianwala was found be having high concentration of Selenium, Manganese and Iron exceeding the acceptable & permissible limits, while the other borewell with approx. 500 ft depth was found to be having high concentration of Iron and manganese exceeding both acceptable and permissible limits.

The evaluation of the analysis reports w.r.t. monitoring of 02 borewells located in the premises revealed that metals and toxic metals namely Arsenic, Chromium, Copper, Iron, Manganese, Nickel, Lead and Selenium, are present in very high concentration. The concentration of COD and Colour was also very high in these two bore-wells located in the premises of the Industry. The water from both the borewell was having



black colour and foul odour, as observed during sampling. In these borewells, concentration of Arsenic was found to be 2-3 times higher than permissible limits. Similarly, concentration of Chromium, Iron, Manganese, Nickel and Lead were found to be higher by 6-7 times, 650-800 times, 32-37 times, 10-11 times and 8-13 times respectively in comparison to permissible limits specified in IS 10500:2012.

- xiii) Despite the fact that these two borewells were in operational condition, motor, electrical and mechanical connections of one borewell was disconnected, while the other bore-well was sealed and buried in the soil.
- xiv) Since, the samples drawn from the piezometers and 03 bore-wells located in the premises of the industry were found to be free from heavy metal contamination and whereas two bore-wells installed in the same premises are contaminated with high concentration of heavy metals, COD and Colour; it indicates injection of contaminated waste water through reverse boring/pumping into a particular zone tapped in these two bore-wells. However, further investigation is required in this regard, to establish the contaminated zone and take remedial action.
- xv) The sample of the soil contaminated with the sludge was found to be exceeding the Soil Criteria of CCME Canadian Environmental Quality Guidelines for the Protection of Environment and Human Health, for Soil Type (Industry) with regard to Zinc (396.84 mg > 361 mg/Kg), while other elements were within limits. However, further investigation is required to find the contamination at deeper levels and also outside the premises, where photographic and video graphic evidences are available, in the interest of public.
- xvi) Local administration is required to take necessary action to red mark the contaminated bore-wells, to avoid use of contaminated ground water as drinking water, irrespective of the source of contamination, in the interest of public health.
- xvii) Bio-magnification studies are required to know the effect of contaminated water on the crops and accumulation of contaminants in the agro crops and the health risk associated with it, so as to ensure corrective action on the basis of the outcome of the study, if required.
- xviii) CPCB had requested further details (Annexure-1) from M/s Malbros International Pvt. Ltd, for comparing the outcome with the base-line data, correlation and decide further course of investigation and remediation, which are still awaited despite follow up with PPCB and the Industry (Annexure-2).



12) It is observed that the Central Pollution Control Board is the premier and apex regulatory authority established under an Act of the Parliament of India for the prevention, control and abatement of water and air pollution including noise and is performing its functions in a highly professional manner. The report of Central Pollution Control Board is clearly showing ground water contamination with various parameters of pollutants / heavy metals exceeding the prescribed limits. The report of the Central Pollution Control Board, as such, cannot be discarded in a casual manner without consideration.

13) The perusal of the order passed by the Board confirms that the Punjab Pollution Control Board while passing the order for refusal of consent to operate under the Water (Prevention and Control of Pollution) Act, 1974 has not considered and relied solely on the report of the Central Pollution Control Board, but has considered other aspects of the case including the deficiencies in respect of the conditions of the consent earlier granted by the Board and the conditions imposed in the Environmental Clearance granted by the Ministry of Environment, Forest and Climate Change to the appellant industry.

14) Another observation which is weighing heavily on my mind is that as to whether the State Pollution Control Boards being the statutory regulatory authorities can oppose the action of the Central Pollution Control Board. The answer to the observation is not in the affirmative legally. The State Pollution Control Boards being the statutory regulatory authorities to implement the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 does not in any manner oppose the actions of the Central Pollution Control Board. In terms of the provisions of the Water (Prevention and Control of Pollution) Act, 1974 as contained in Section 18(1) (b), the State Pollution Control Boards are bound to comply with the directions of the Central Pollution Control Board. The perusal of the case has confirmed that the Central Pollution Control Board after due consideration of the matter, in fact, has issued directions in the present case vide letter no.PL-20/50/2022-IPC-III-HO-CPCB-HO/1246 dated 14.5.2023 to the Punjab Pollution Control Board u/s 18(1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 and the said directions are reproduced herein below:



- a) Punjab Pollution Control Board (PPCB) considering the violations reported in the CPCB inspection report (Annexure-1) shall ensure appropriate direction to the unit (M/s Malbro's International Pvt. Ltd., (Malbro's Distillery), Village

Mansoorwal, Zira, Ferozepur, Punjab) with respect to necessary remedial measures for the decontamination of the affected site and compliance with the violations observed in the inspection report.

- b) PPCB shall undertake detailed environmental site assessment, as per the CPCB guidelines, by engaging a professional agency / institute having expertise in assessment and remediation of contaminated groundwater and soil and submit the report within 60 days.
- c) Based on the detailed site assessment, PPCB shall ensure that the unit submit a DPR for remediation of groundwater contaminated area in around the premises and execute the work in the supervision of PPCB in a time bound manner. The unit shall bear all the remediation expanses.
- d) PPCB shall impose Environmental Compensation (EC) or initiate legal action for causing injury to the surrounding environment and contamination of groundwater as may be applicable.
- e) PPCB shall issue appropriate direction to the water supply department to analyze the parameters for Drinking Water Quality Standards in water of bore wells installed in the affected area. Depending upon the compliance with the Drinking Water Quality Standards, the use of water from the bore-wells may be prohibited / permitted, as per the case and shall ensure that the unit provide alternative sources of safe drinking water to the affected villages.
- f) PPCB shall issue direction to local authorities and groundwater department to seal the unauthorized bore-wells.
- g) PPCB shall ensure regular monitoring of the groundwater quality in the area and shall ensure no further spread of contamination.

15) To a specific query with regard to the status of the directions issued by the Central Pollution Control Board under section 18 (1)(b) of the Water (Prevention and Control of Pollution) Act, 1974, the officer present on behalf of the Punjab Pollution Control Board confirmed that the Board has initiated action to implement the directions of the Central Pollution Control Board.



16) After examination of the Water / Sludge Committee report, the Chairman, Punjab Pollution Control Board in paragraph 11 of the order dated 30.6.2023 / 4.7.2023 has recorded his observations to the effect that the revelations in the water soil sludge report are damaging to the natural environment. Though heavy metals normally occur in nature and are essential to life but become toxic through accumulation in organisms, arsenic, cadmium, chromium, copper, nickel, lead and mercury, the accumulation of which has been shown in the report are the most common heavy metals which can pollute the environment, excessive accumulation of these heavy metals in the underground water can disturb the finer balance of natural environmental. Hence, the disturbance has to be stopped at the early stage with no relaxation else it may lead to further contamination of underground water. The accumulation of the heavy metals beneath the land in underground water can be logically attributed to the industry in view of the reports of the expert committee in the absence of any other realistic and practicable reason. After considering the matter, I hereby endorse these observations of the Chairman, Punjab Pollution Control Board.

17) It is germane to mention here that water occurs naturally in the environment and is useful to humans and other living organisms. The surface water, subsurface river flow, groundwater are all natural resources of fresh water. Ground water is a renewable and exhaustible natural resource and is part of the natural water cycle. However, the ground water is polluted by human activities. The Hon'ble Supreme Court of India has applied the term Public Trust with regard to the protection and preservation of natural resources: The state as trustee has its obligation to protect and promote the environment. In view of these facts, nobody can be allowed to contaminate the groundwater, which is lifeline to the living organisms as well as the vegetation.

In view of the facts and circumstances of the case, it would be apt and appropriate, if the principle of precaution is applied. The precautionary principle states that if a product, an action or policy has a suspected risk of causing harm to the public or to the environment, protective action should be supported before there is complete scientific proof risk. When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause-and-effect relationships are not



fully established scientifically. The Hon'ble Supreme Court of India while explaining the scope of the precautionary principle in M.C Mehta v/s Union of India has stated that the principle requires anticipatory action to be taken to prevent harm. The harm can be prevented even on a reasonable suspicion. The State Government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

18) It is further relevant to brought on record that the Constitution of India reflects the concern for the environment and it also guarantees the right to a clean environment to its citizens. Public trust doctrine enforces a legal right for the general public and a positive obligation for the state to perform its duty.

19) I have also considered the case with regard to public protests. The Public perception simply means the type of information obtained from a public opinion. The Public perception is not necessarily inaccurate or based on something other than the truth. The public at large can often receive enough factual information in order to form a general opinion about a public figure, celebrity or industry without relying on innuendo or unfounded rumors. Public opinion is the collective opinion on specific topic relevant to society and it is the peoples' views on matters affecting them. The Public perception is also not in favor of the appelland industry and the people of the area are protesting against the operation of the industrial unit of the appelland on regular basis.

20) The consideration of all the facts and circumstances of the case coupled with the relevant provisions of Law, the deficiencies pointed out by the Board, the report given by the committees formed by the Government, the report of the Central Pollution Control Board and further consideration of the facts pointing towards the disturbance of finer environmental balance in terms of underground water does not allow the grant of consent to operate to the appelland industry under the provisions of the Water (Prevention and Control of Pollution) Act, 1974. The protection and preservation of environment outweighs the materialistic articles and objects. Acting on the basis of doctrine of Public Trust, the Precautionary Principle in the background of the CPCB report and considering other relevant factors (technical, environmental as well as social) including the deficiencies pointed out by the Punjab Pollution Control Board, I am not inclined to allow the operation of the industrial



unit of the appellant. Hence, the appeal filed by the appellant for grant of consent to operate to the industrial unit M/s Malbros International Pvt. Ltd. under the Water (Prevention and Control of Pollution) Act, 1974 is declined and the order passed by the Punjab Pollution Control Board for refusal of consent to operate is upheld.

21) The appeal stands disposed of in above terms. File be consigned to record.



25.09.2023
Pronounced

Sd/-
(Rahul Tewari, IAS)
Appellate Authority
-cum-

Secretary to Government of Punjab,
Department of Science, Technology
and Environment, Chandigarh.

Certified Copy

Amrik Singh
Senior Law Officer
Appellate Authority
Government of Punjab
Deptt. of Science, Technology
and Environment, CHD
25-09-2023

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No. 33/2023
(I.A. No. 826/2023)
With
Appeal No. 34/2023
(I.A. No. 827/2023)

IN THE MATTER OF:

M/s Malbros International Pvt. Ltd.

Applicant

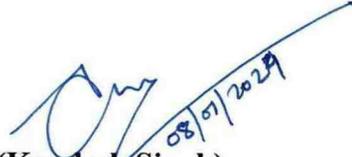
Vs.

Punjab Pollution Control Board &Ors.

Respondents

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S. No.	Particulars	Page No.
1.	Reply Affidavit on behalf of Respondent No. 2, i.e., Central Pollution Control Board, (CPCB) in compliance of Hon'ble NGT order dated 24.11.2023 in Appeal No. 33/2023 With Appeal No. 34/2023, M/s Malbros International Pvt. Ltd Vs. Punjab Pollution Control Board &Ors.	
2.	Annexure-I: A Copy of the directions dated 17.05.2023 under Section 18(1)(b) of Water (Prevention & Control of Pollution) Act, 1974.	
3.	Annexure-II: A copy of the Hon'ble NGT order dated 24.11.2023.	


(Kamlesh Singh)

Scientist E
Central Pollution Control Board
Delhi-110032

Dated: 08.01.2024

Place: Delhi

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
AT PRINCIPAL BENCH, NEW DELHI**

Appeal No. 33/2023

(I.A. No. 826/2023)

With

Appeal No. 34/2023

(I.A. No. 827/2023)

M/s Malbros International Pvt. Ltd.

Appellant

VERSUS

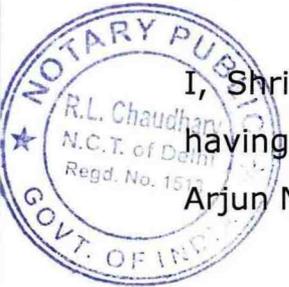
Punjab Pollution Control Board &Ors

Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 2, i.e, CENTRAL
POLLUTION CONTROL BOARD, (CPCB)**

I, Shri Kamlesh Singh S/o Ramesh Chandra Singh aged 41 years, and having office at Central Pollution Control Board, "Parivesh Bhawan", East Arjun Nagar, Delhi -110032, do hereby solemnly affirm and state as under;

That I, in the capacity of Scientist 'E' & Divisional Head, IPC-III in the Central Pollution Control Board (CPCB), am fully conversant with the facts of the case on the basis of the records made available in the office and hence competent and authorized to depose and swear the present Reply Affidavit as under:



1. That the Appellant industry has filed the Appeal 33 and 34 with prayer to set aside the impugned order dated 05.09.2023 passed by the Ld. Appellate Authority and consequently the order dated 04.07.2023 passed by the Chairman Punjab Pollution Control Board refusing Consent to Operate to the Appellate industry and also to direct the PPCB to grant Consent to Operate to the Appellate industry under Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. The appellant industry also states that Ld. Appellate Authority while passing the order heavily influenced by the direction dated 17.05.2023 issued by Central Pollution Control Board in terms of section 18(1)(b) of the Water Act, 1974 and further states that Ld. Appellant Authority fell in grave error in getting influenced by the direction dated 17.05.2023 issued by the CPCB.
2. That it is humbly submitted that CPCB received Office Memorandum dated 20.12.2022 of Lok Sabha Secretariat through the Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEF&CC) regarding matter of urgent public importance raised during Zero Hour in Parliament on 19.12.2022 by Shri Gurjeet Singh Aujla, Hon'ble M.P with respect to pollution caused by the industry i.e, M/s Malbros International Pvt Ltd. Village-Mansoorwal, Tehsil-Zira, District-Ferozepur, Punjab. CPCB also received a VIP reference (KS-MOEF22-1 dated 23.12.2022) of Sh. Jasbir Singh Gill, Hon'ble MP (Lok Sabha) forwarded by the Ministry of Environment, Forest & Climate Change (MOEF&CC) regarding complaint against acute pollution of groundwater caused by M/s Malbros International Pvt Ltd., (Malbros Distillery), Village-Mansoorwal, Tehsil-Zira, district-Ferozpur, Punjab.
3. That it is humbly submitted that the CPCB team visited the said Appellant industry i.e. M/s Malbros International Pvt. Ltd.,

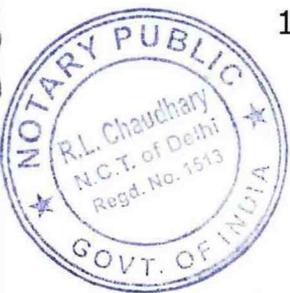


(Distillery), Village-Mansoorwal, Tehsil-Zira, District-Ferozepur, Punjab during 22.02.2023 to 24.02.2023 to investigate the matter related to groundwater contamination along with the subject experts deputed by Central Ground Water Board (CGWB). The inspection report dated 13.04.2023 was prepared by CPCB.

4. That based on the observations and violations observed during the inspection conducted in and around the Appellant industry, specifically concerning groundwater pollution; CPCB, in exercise of its powers conferred under Section 18 (1) (b) of the Water (Prevention and Control of Pollution) Act, 1974, issued directions dated 17.05.2023 to the Punjab Pollution Control Board (PPCB) for ensuring compliance by the said industry. In response to the CPCB directions dated 17.05.2023, the PPCB vide Endst. letter No. 1810 dated 07.06.2023, Endst. No. 1804 dated 07.06.2023, Endst. No. 1798 dated 07.06.2023 communicated the following action taken to CPCB. Copy of the directions dated 17.05.2023 is annexed as-**Annexure-I**.

The following Directions dated 02.06.2023 were issued by PPCB to the said Appellant Industry for strict compliance:

1. *The industry shall carry out necessary remedial measures for the decontamination of the affected site based on the detailed environmental site assessment report of the Board and shall ensure to comply with the violations observed in the inspection report of CPCB (copy attached).*
2. *The industry shall ensure to submit a DPR based on the detailed environmental site assessment report of the Board for remediation of groundwater contaminated area in around the premises and execute the work in the supervision of the Board in a time bound manner and shall bear all the remediation expenses.*



3. *The industry shall ensure safe drinking water from bore-wells installed in the affected villages complying with the drinking water quality standards on the basis of outcome of the analysis of Department of Water Supply & Sanitation.*

The following Direction dated 02.06.2023 was issued by PPCB to the Department of Water Supply & Sanitation for strict compliance:

"That the department of Water Supply and Sanitation shall ensure to analyse the parameters for Drinking Water Quality Standards in water of bore-wells installed in the affected area. Depending upon the compliance with the Drinking Water Quality Standards, the use of water from the bore[1]wells may be prohibited/ permitted, as per the case and shall ensure that the industry (M/s Malbros International Pvt. Ltd., Village Mansoorwal, Tehsil Zira, District Ferozepur) provides an alternative sources of safe drinking water to the affected villages".



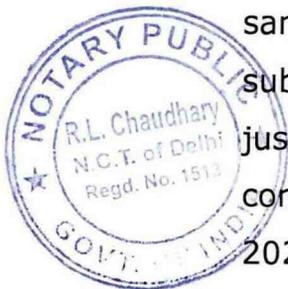
The following Direction dated 02.06.2023 was issued by PPCB to the Punjab Water Regulation & Development Authority for strict compliance:

"To immediately seal the unauthorized bore-wells in the industrial premises of M/s Malbros International Pvt. Ltd., Village Mansoorwal, Tehsil Zira, District Ferozepur."

5. That it is humbly submitted that, PPCB vide letter dated 21.06.2023 has also informed that they have filed a complaint before the Chief Judicial Magistrate, Ferozepur, Punjab section under 43, 44 read with section 47 of the Water (Prevention and Control of Pollution) Act, 1974 on 19.06.2023 and the same is based upon the CPCB Report dated

13.04.2023 as well as the direction dated 17.05.2023 issued by CPCB to PPCB under Section 18 (1)(b) of the Water Act.

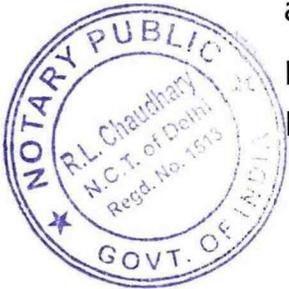
6. That it is humbly submitted that inspection of borewells within the Industry and nearby areas were carried out by CPCB officials, who are Authorized to take samples under section 10 and 11 of the Environment (Protection) Act, 1986. The samples have been collected by CPCB Team in compliance with the provisions of sub-sections (3) and (4) of Section 11 of the Environment (Protection) Act, 1986. Notice in Form 1 (as prescribed under Rule 7 of the Environment (Protection) Rules, 1986) i.e Notice of intention to have sample analyzed by CPCB was issued by CPCB to the representative of M/s Malbros International Pvt Ltd. on both days i.e 23rd - 24th February, 2023 which were duly accepted and received by the industry representatives namely, Mr. Nikhil Kumar, ZLD Manager on 23/2/2023 and Mr. Arvind Maurya, WFP Incharge on 24/2/2023, under the seal of the Company. The samples were sealed, marked & signed by both CPCB Officer & the Appellant Industry representative and sent to CPCB Head Office Laboratory as per the provisions of the Environment (Protection) Act, 1986.
7. That it is humbly submitted that CPCB Team collected 08 samples from the industry's premises (05 bore-wells, 02 Piezometers and 01 soil sample with sludge dumping on it). In reply to the Appellant industry submission that the CPCB team conducted inspection and sampling in just 2.5 Hr. on 24/2/2023, it is humbly submitted that CPCB team conducted inspection and sampling in 3 days i.e from 22nd February, 2023 to 24th February, 2023. While 22nd February, 2023 was dedicated for survey of the Appellant industry and nearby villages, to identify the groundwater table, slope and sampling locations, the sampling was conducted on 23rd and 24th February, 2023. With regard to the sampling conducted by CPCB inside the Industry's premises, it is submitted that 04 samples (03 borewells and 01



sludge/Soil sample) were collected on 23rd February, 2023 and 04 Samples (02 bore-wells, and 02 piezometer) on 24 February, 2023. The geotagged photographs taken at the time of inspection and sampling also show the time of sample collection by CPCB team.

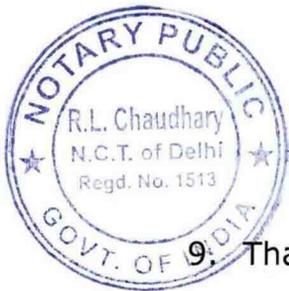
8. That following facts are also significant with regard to the groundwater contamination underneath Industry and surrounding area:

- That during the visit, the CPCB team physically verified 10 borewells and 06 piezometers installed within in the premises of the Unit, however no details of the permission for abstraction of Ground Water were provided by the industry representative. It indicates that the Unit is abstracting groundwater illegally without any NOC/permission from the CGWB, therefore is liable for payment of compensation in accordance with the guidelines issued by the Authorities concerned.



- That CPCB monitored 29 bore-wells within & outside the industrial premises. Out of 29 borewells monitored, 12 bore-wells were yielding water with unpleasant odour, whereas 05 Bore-wells were yielding water with unpleasant odour and Grey/blackish colour (as observed by the team), which was confirmed from the high value in lab analysis report for colour and turbidity.
- That the two bore wells monitored within the premises of the industry were found to be having the highest concentration of COD, colour, turbidity and, heavy metals amongst all the bore well monitored by the team (COD- 101 to 105 mg/l, Colour-18 to 145 colour units, Turbidity – 1 191 to 1323 NTU, Arsenic - 0.10 to 0.14

mg/l, Chromium – 0.28 to 0.36 mg/l, Copper-0.15 to 0.18mg/l, Iron-206.6 to 243.53 mg/l, Manganese – 3.28 to 3.72 mg/l, Nickle-0.21 to 0.22 mg/l, Lead-0.08 to 0.13 mg/l) besides having odour. Despite the fact that these two borewells were in operational condition, motor, electrical and mechanical connections of one borewells was disconnected, while the other bore-well was sealed and buried in the soil. It has also been mentioned in the CPCB report that "Since, the samples drawn from the piezometers and 03 borewells located in the premises of the industry were found to be free from heavy metal contamination and whereas two borewells installed in the same premises are contaminated with high concentration of heavy metals, COD and Colour; it indicates injection of contaminated waste water through reverse boring/pumping into a particular zone tapped in these two borewells. However, further investigation is required in this regard, to establish the contaminated zone and take remedial action."



9. That the Hon'ble Supreme court of India in its judgment delivered in Vellore Citizens' Welfare Forum Vs Union of India and Ors, the Precautionary Principles and Polluter pays Principle were held to be part of the environmental law of the land. It was held that the Polluter pays Principle means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of sustainable development. In Vellore Citizens' Welfare Forum case, the Hon'ble Court explained the principle ('precautionary principle') in the following manner:

"We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays Principle" are essential features of

"Sustainable Development". The "Precautionary Principle" – in the context of the municipal law–means:

- i. *Environmental measures – by the State Government and the statutory authorities – must anticipate, prevent and attack the causes of environmental degradation.*
- ii. *Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*
- iii. *The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign."*

10. That it is humbly submitted that CPCB sought technical assistance of Central Ground Water Board (CGWB) in determining the water table and slop, which was provided by physically visiting the area after conducting scientific survey by the CGWB Experts. It is also worth to mention that Appellant Industry has not provided even the date of installation of bore-wells to CPCB team and assembly drawing of the same, till date despite reminders. It is further stated that the Appellant industry has installed such large number of borewells (physically verified ten borewells and six piezometers) within the premises despite being a zero liquid discharge plant and without the permission of the concerned authority.



11. That it is humbly submitted that the PPCB has provided the details of initial consent to establish / NOC granted vide letter No. RO/FDK/NOC/2006/04 dated 11.05.2006 and consent to operate granted vide letter No. HO/FDK/WPC/2007/F-2249 dated 10.08.2007. The examination of these document indicates that industry was granted consent to establish dated 11.05.2006 subject to a specific condition that the industry will install Dryer of adequate capacity to convert wet cake into powder form and the same shall be used in the

boiler furnace as fuel and / or shall be sold in the market as cattle feed. However, the industry failed to install the Dryer as per the condition imposed in the NOC and the wet cake was sold out directly to the cattle feed industry as informed by PPCB. It was also informed that as per record the industry installed the dryer for the production of cattle feed in powder form @55 TPD and the same was verified by the officer of State Board on 13.03.2015. The exact date of installation of Dryer unit is not yet reported to CPCB.

12. That, EIA report (Study period: October to Dec 2015) was obtained from MoEF&CC vide e-mail dated 21.11.2023. The said EIA report was submitted by the Appellant industry vide letter No. MIL150/16-17 dated 19.12.2016 for obtaining environmental clearance from the MoEF&CC for the proposed installation of Unit-II-Grain based ethanol /ENA/RS/Industrial Alcohol Plant (500 KLPD in existing distillery plant at village-MANSOORWAL, Tehsil-Zira, District –Ferozepur, Punjab. The baseline groundwater quality data of hand pump / tubewell in respect of 03 villages as reported in the said EIA report (Study period: October to December 2015) were compared with the data as of February, 2023 as presented in the CPCB report with regard to the various parameters in various borewells for the said three reported villages namely Mansoorwal Kalan, Pandori Khatrian and Ratol Rohi and the same are as below:

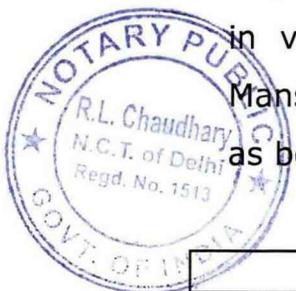


Table No.1 : Ground Water Quality

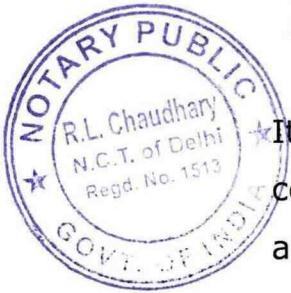
Village	MansoorwalKalan		Village PandoriKhatrian		Village RatolRohi	
	Concentration in 2015. *	Concentration in 2023 **	Concentration in 2015. *	Concentration in 2023 **	Concentration in 2015. *	Concentration in 2023 **
Colour	BDL	BDL-145	BDL	BDL	BDL	BDL-22
Magnesium	6.49	5 to 27	13.94	11	19.63	14-25
Total Dissolved Solids	684	Average: 1246 (619-1905)	548	1068	468	Average 1491 (1101-1882)

Sulphate	34.45	229-1008	33.86	169	33.82	246-730
Iron	0.15	0.06-243.53	0.28	0.06	0.28	0.04-10.69
Zinc	0.24	0.01-0.98	0.21	BDL	0.15	0.01-0.1
Chromium	BDL	0.01-0.36	BDL	BDL	BDL	BDL-0.01
Copper	BDL	0.15-0.18	BDL	BDL	BDL	BDL-0.02
Manganese	BDL	0.01-3.72	BDL	0.02	BDL	0.03-0.55
Lead	BDL	0.08-0.13	BDL	BDL	BDL	BDL-0.03
Arsenic	BDL	0.01-0.14	BDL	BDL	BDL	BDL-0.02
Nickel	BDL	0.21-0.22	BDL	BDL	BDL	BDL

(All parameters are in mg/l except colour)

*Concentration as reported in EIA report of the industry (Study period: Oct-Dec, 2015) in sample from one hand pump/ tube well.

** Concentration as reported in CPCB's report (Sampling period: Feb-23-24, 2023) in sample from various borewells (11 borewells in Mansoorwalkalan, 01 borell in PandoriKhatrian and 02 borewells in RatoRohi).



It is submitted that the analytical data of Groundwater samples collected by CPCB on 23-24 February, 2023, given in Table No.1 above, reveals significant increasing trend in the concentration of various parameters when compared with baseline data of 2015 (as reported in EIA Report of the Industry).

13. It is humbly submitted that, inputs of other subject matter expert Institutes such as CSIR - National Geophysical Research Institute (NGRI) and Central Ground Water Board (CGWB) for conducting site assessment & remedial measures would also be highly helpful. Furthermore, study being conducted by NEERI who has been engaged by PPCB would also be helpful.

14. That the answering respondent craves leave to file detailed para wise response in case need arise and/or as directed by this Hon'ble Tribunal at later stage.

15. That the above said facts are true and correct to the best of my knowledge which is based on the official records maintained at the office of the answering respondent.



कमलेश सिंह DEPONENT
 वैज्ञानिक 'ई' / Scientist 'E'
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
 Central Pollution Control Board
 पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
 M/o Env. Forest & Climate Change, Govt. of India
 परिवेश भवन, पूर्वी अर्जुन नगर, दिल्ली-110 032
 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

VERIFICATION

Verified at New Delhi on this 08 JAN 2024 day of January, 2024 that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

ATTESTED
 NOTARY PUBLIC
 GOVT. OF INDIA

08 JAN 2024

DEPONENT

कमलेश सिंह / Kamlesh Singh
 वैज्ञानिक 'ई' / Scientist 'E'
 केंद्रीय प्रदूषण नियंत्रण बोर्ड
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 Parivesh Bhawan, East Arjun Nagar, Delhi-110032

Additional Document dated 13.01.24 in O.A. 606 of 2022 of the applicant and R-8

1 message

Deepak Singh <deepak.singh@hrln.org>

Sat, Jan 13, 2024 at 4:02 PM

To: chairman.ptl.ppcb@punjab.gov.in, chairmanppcb@yahoo.co.in, zldmalbros@oasisgrp.in, seezobti@gmail.com, mattewarasutlejpac@gmail.com, msppcb@punjab.gov.in, rdchandigarh.cpcb@gov.in, ppcbfdk@yahoo.com, gurnamsingh.cpcb@nic.in, ccb.cpcb@nic.in, narendersharma.cpcb@gov.in, mscb.cpcb@nic.in, cs@punjab.gov.in

Dear Sir/Madam,

Please find the additional document dated 13.01.24 in O.A. 606 of 2022 on behalf of the applicant and R-8 (Sanjha Morcha Zira) listed before the Hon'ble NGT, Principal Bench, Delhi. Please consider it as proof of advance service of the additional document dated 13.01.24 on behalf of the applicant and R-8.

Thank you,

Regards,

Deepak Kumar Singh (Advocate)
Socio Legal Information Centre
576, Masjid Road, Jungpura,
New Delhi-110014



Additional documents in O.A. 606 of 2022 by the Applicant and R-8.pdf

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