

# 3117

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No. 606 of 2022

And

I.A. Nos. 813 of 2023 and I.A. 749 of 2023

Public Action Committee & Ors.

...Applicants

Versus

State of Punjab & Others

...Respondents

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**Revised Written Submissions of the Applicant and R-8**

Date	Particulars	Page
18.8.22	<p><b>A. OA 606 of 2022 seeking closure of the factory and payment of Rs. 100 crores compensation:</b></p> <p>(i) The OA before this tribunal stated that Malbros International Pvt. Ltd. has been pumping out highly contaminated yellowish brown toxic effluent with alcohol smell.</p> <p>(ii) No other industry present in the Zira town and the tubewells situated adjoining to this distillery as well as from new tubewell installed at Mahiyan Wala</p>	1-11

	<p>Gurudwara situated at a distance of 4Km from the distillery was pumping highly contaminated effluent. The photographs of the water are at page no. 13 of the OA.</p> <p>(iii) The industry has been contaminating the ground water table and as well as the soil. It was discharging the effluent through concrete cement pipe as well as fly ash in open plot after digging deep upto sand strata.</p> <p>(iv) Creation of bores which are upto 1000 feet originally for extracting water has also been used for pressure pumping the effluent back into the ground (Reverse Boring) which contaminates the entire water table in an extensive are. It is stated that the factory owners and officers have a lot of influence with political parties and other persons as a result of which neither the deputy collector nor officials were willing to correct the situation. Ultimately the people organized themselves and passed Gram Sabha resolutions. It is stated that many people and domestic animals have died on account of deadly diseases caused by the pollution.</p>	
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8.12.23	<p data-bbox="451 197 1317 426"><b>B. Reply affidavit of R - 8 (Sanjha Morcha Zira) on behalf of the local people seriously affected by the factory effluent which contains lethal and toxic chemicals:</b></p> <p data-bbox="440 520 1317 1066">(i) R-8 filed a comprehensive reply saying that it is a collective going by the name of Sanjha Morcha Zira which consists of famers, experts, academics, students and other concerned families and they pointed out that the <b>pollution began 10 years ago. 20,000 people in 8 villages have been severely affected and their lives have become miserable.</b> They point out that <b>consent to operate was withdrawn by the PPCB on 11.4.23.</b></p> <p data-bbox="440 1161 1317 1707">(ii) The reply refers to the CPCB report dated 13.4.23 setting out the extracts of the report. <b>There are 25 deep tubewells in the compound of the company into which toxic water is dumped. Thus, the ground water is highly polluted for 15km. Therefore, it is shocking to hear the company say that it is a zero liquid discharge company.</b> Apparently the borewells were made without the permission of CGWB/PWRDA.</p>	2899
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	<p>(iii) This report is sought to be discredited by saying that the CPCB did not inform the company about its visit and conducted the visits ex-parte. This is utterly false and has been dealt in details in these submissions below.</p>	
13.4.23	<p><b>C. <u>CPCB report dated 13.4.23</u> confirming that the effluent from the factory contains a large number of toxic chemicals injurious to the health of the people, environment and animals.</b></p> <p>(i) A turning point in this case was the intervention of the CPCB who filed a report dated 13.04.23 which is on record of the NGT at page no. 493 onwards. This extraordinary and honest report has been the subject matter of the discussion before the NGT time and again. <b>The relevant parts of this Report are as under:</b></p> <p>“2.5 Conclusion and Further Course of Action: The following conclusion may be drawn based on the field investigations, observations, monitoring and evaluation of gathered data:</p> <p>i. Ground water level ranges from 28.44 to 32.07 m bgl (below ground level) in the study area in the</p>	493

	<p>monitored tube-wells and the slope of water table is towards NNW from the factory area.</p> <p>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 &amp; irrigation water of over dozen villages". In this regard, <b>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.</b> 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.</p> <p>iii. The existence of such a <b>large number of bore-wells without obtaining permission of CGWB and/or PWRDA in the premises of an industry, claiming to Zero Liquid Discharge</b> is an area of further investigation.</p>	
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	<p>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.</p> <p>v. 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), cannot be ruled out and thus needs further investigation by involving local revenue department, to know the details of the borewells existing at the time of acquiring the land from the local farmers, by the Industry.</p> <p>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</p>	
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	<p>instrumental analysis values for colour and turbidity.</p> <p>vii. The evaluation of data with regard to analysis results of ground water samples for general parameters, revealed that water from <b>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.</b> 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.</p> <p>viii. <b>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 slop of water table in the area, as determined by the CGWB team.</b></p>	
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	<p>ix. <b>The presence of cyanide in the borewell located at Village Ratol Rohi at a concentration of 0.2 mg/l, which is four times higher than the acceptable limit of 0.05 mg/l, 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.</b></p> <p>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 &amp; 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.</p> <p>xi. <b>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.</b></p>	
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- xii. **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 time 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 borewells 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 videographic 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.

	<p>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.</p> <p>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.”</p>	
23.11.23	<p>D. <b><u>CPCB reply to IA 813 of 2023 rebutting all the allegations made by the company against CPCB</u></b></p> <p>(i) The CPCB has stated that a team of members comprising of officials of CPCB and CGWB had visited the industry over a period of <b><u>three days between 22 and 24 Feb 2023</u></b> for site inspection and collecting samples specifically concerning ground water pollution.</p>	2831

	<p>(ii) The CPCB has followed every rule of the book as is evident from their response to this IA. They have also not presented the facts that their senior functionaries Mr. Nikhil Kumar, ZLD Manager and Mr. Arvind Maurya, WTP incharge were present during the entire duration of three days the inspection. This is evident from their signatures on notices signed by them.</p> <p>(iii) The visit of the CPCB/CGWB team lasted 3 days and not mere 2.5 hours has been clarified by CPCB. The geo-tagged and time-stamped photographs taken at the time of sampling provided by CPCB in its reply to this IA clearly show that this is also a false accusation by R7. Further, the Morcha member who was present affirms that the company had refused to sign and take the samples when they were provided by CPCB.</p>	
	<p><b>E. PPCB initially makes 2 collusive reports in respect of the pollution.</b> Vested interests gathered around the company in order to cover up for the illegal actions done.</p> <p>The PPCB makes two reports with the intention of covering up for the companies discharge of toxic effluents ultimately realizing that the public and</p>	

other experts had no faith in their reports and also after reading the CPCB Report. The consent to operate was refused. The description of the vested interest that gathered around to help the company is described in the submissions below. This included the **office of monitoring committee** headed by the Hon'ble retired judge who gave the company a clean chit. The suspicious reports of the PPCB are made to save the skin of PPCB officials.

**2 Initial Reports prepared by PPCB gave clean chit to Malbros Industries: (i) Undated PPCB Report (ii) Retired judge Committee dated 21.9.22**

The Punjab Pollution Control Board (PPCB) was the agency entrusted with monitoring of this industry and it was their responsibility to keep a check on their pollution ever since this industry was established. Once the story of ground water pollution at Zira broke out in July 2022 in the media and there was a lot of resentment among people of the area. It became a vested interest of PPCB officials to ensure that no pollution by industry is reported to save their own skin. They gave a quick **clean chit to the industry in their report after collecting samples for the first time on**

**19.07.2022 from 3 borewells inside the industry.**

They reported water samples from those 3 borewells as colorless and odourless and free from any pollutants in their report. That was their first report on this issue. For as long as the company has been in existence the PPCB has been giving the company a clean chit year after year despite the extreme suffering of the farmers. The collusion was obvious.

It is pertinent to note it was PPCB was the authority responsible for keeping a check on pollution by industry and therefore, gave a clean chit to the industry in their first report in July 2022. It was a huge conflict of interest for them to give any reports against the industry.

**The first PPCB report relied on samples taken from 3 borewells of the industry out of those very 4 borewells identified by the industry itself. It recorded all 3 samples of water to be colourless. The colluding PPCB was in so much hurry to give industry a clean chit that its report has no letterhead, no date, no reference number, no stamp, not even any mention of name or designation of the authority signing it.**

Later in the second report, also by PPCB officials (under the supervision of a retired judge), clearly records that their team was informed by the industry officials that there were 4 borewells and one was not working at that time. **This team also took samples from those very 3 working borewells as the first report, shown by the industry itself.** This is recorded in the Retired judge report wherein it noted at page no. 39.

*"Monitoring Committee visited the premises of the industry. During visit, Sh. Jasbir Dhiman, Vice President (Technical) of the industry informed the Monitoring Committee that there are 03 working tubewells in the industrial premises, whereas, 4th tubewell is not in operatable condition due to leakage in the pipeline and 5th tubewell has been closed recently due to advise of Vastu Consultant. The Monitoring Committee directed the officers of PPCB to collect water samples of tubewell and find out the reasons for stagnation of wastewater near the septic tank. It was also directed to verify the statement given by the representative of the industry, on the next day*

*in the presence of the representatives of villagers."*  
(Page no. 290)

Then at the insistence of villagers they managed to open the fifth borewell which was hidden under the soil. The report records the 3 samples shown by industry to be colorless whereas the fourth was recorded as having beige colored water. This report too gave clean chit to the company.

#### **Independent committees indicted company**

This was when people realized for the first time that there was a deep nexus and collusion between PPCB officials and the company. Therefore, when four high level expert committees were formed by the **Chief Secretary Punjab**, (Report submitted 26.3.23) the villagers very strongly demanded that PPCB should be kept at bay and no official from PPCB should have any involvement at all in the entire process. This was when the Water Pollution Committee which consisted of Chairman PPCB, Member Secretary PPCB and a Forest Officer from the state was replaced by three independent experts from three top universities of the state. That made all the difference. This committee did a survey and

**chose borewells for sampling on its own without being guided by the industry or the PPCB.** They took samples from 5 borewells of the industry as per their report. This committee got their samples tested from three NABL accredited labs of the country and managed to find toxic heavy metals and other carcinogenic materials in very high concentrations from borewells of the industry.

#### **CPCB report dated 13.4.23**

CPCB team visited in Feb 2023 and managed to find 10 borewells and 6 piezometers which PPCB had completely missed or ignored. Most of these were illegal and without permissions. CPCB team also decided which borewells to take samples from on their own without being guided by the industry officials. Their report notes that three out of seven samples taken from inside the industry were blackish in colour. Their reports found two borewells inside the industry to be extremely highly contaminated with heavy metals and the other five to be relatively much less contaminated. Their scientists and experts clearly reached the conclusion as per their report that these two were used for reverse boring of effluents by the industry. Plotted on bar charts and maps the data can be

clearly visualized as pointing to an epicenter inside the industry which is far higher in contamination than the rest of the surrounding area.

It can be safely concluded that the collusion between PPCB officials and Malbros was the root cause of confusion being deliberately created by them to fool everyone but this cover up failed when independent authorities went in completely leaving out and not involving any PPCB officials and independently decided which borewells to take samples from. The water then finally got recorded as coloured, foul smelling and laced with toxic heavy metals and carcinogens in the lab reports.

In the first two reports in which **PPCB officials were in control of the sampling and testing process no pollution could be detected** but as soon as two independent teams went in without involving any PPCB officials a heavy pollution was detected. The reports of the CPCB and Chief Secretary committee were completely independent of each other and corroborate with each other very strongly. **The corroboration of CPCB and Chief Secretary report in tabular form** is provided herein at page no. 40.

They are further corroborated by a Facebook Live Video broadcasted live from the site by Zira Sanjha Morcha members during the CPCB sampling. It clearly shows blackish water coming out of a borewell which has been running for some time and that colour is clearly of the water and not due to any sand or silt in it as is being demonstrated in the video by taking the water in his hands by the person recording it. The contents of a Facebook live video cannot be altered or doctored later and its timestamps etc. are all created when it is recorded live. The live video of this CPCB sampling is still available on the Facebook page of Zira Sanjha Morcha which is a matter of record and can be verified. The CD which has been annexed with Morcha's affidavit at page no. 2952.

The fact that PPCB only checked the same 3 borewells specified by the industry every time and found colourless water was due to a grand collusion between PPCB and Malbros. That the fourth and the only extra sample taken by PPCB officials from a borewell inside the industry other than the 3 specified by the industry was when the retired judge committee on the insistence of villagers

opened one more hidden borewell using a JCB. Although they found coloured water coming out of it, that colour was later explained away as due to sand in their report. This was all a part of a grand cover up operation by PPCB in collusion with Malbros. This grand collusion and cover up was exposed when villagers did not give up and insisted on sampling by committees completely free from involvement of corrupt and colluding PPCB officials. The reports of the CS committee and of the CPCB finally resulted in uncovering not only the pollution but also the unholy nexus between PPCB officials and Malbros.

#### **Shift in PPCB approach**

Later on, PPCB also agrees with CPCB regarding the toxic nature of the effluent and initiates criminal prosecutions against the company. The **PPCB initiates criminal proceedings against the company** and its officials on 19.06.2023 stating (i) that the company is responsible for the contamination of the entire area, soil, groundwater, crops and air (ii) responsible for dumping the effluents after removing the top soil in the area around the factory, etc. The criminal case which

	<p>was initiated by PPCB has been annexed with the R-8 reply to IA 813.</p>	
27.1.23	<p><b>F. Jamoori Adhikar Sabha Report dated 27.1.23 showing people dying of cancer, kidney failure, liver failure, respiratory diseases and cattle dying due to toxic fly ash.</b> In this report it is stated:</p> <p>“...Earlier the polluted water of the factory used to be dumped in canals or drains but after loud protests by villagers they started dumping effluents in the forest of the defunct sugar mill behind their factory. Now it is being thrown in the underground water via reverse boring.</p> <p>One borewell digger of the area admitted that he had done 4 new borewells inside the factory between 2019 and 2020.</p> <p>People complained of high increase in numbers of flies, mosquitoes and fly ash falling on the villages. In Mansoorwal village one driver said that a few years back he used to work on water tankers and that factory owners used to send six big oil tanker sized tankers whose capacity was 25000 litres each, twice a day ie 12 tankers full to be thrown in canals</p>	2921

	<p>and drains of Moga, Makhu, Ferozepur, Faridkot and other nearby areas. The water used to have bad smell and was thrown after 7 pm and before early morning in a discreet manner. After villagers started complaining and chasing us with sticks we told the factory owners about the huge risk to our lives and they stopped sending such tankers.</p> <p>Fly ash from factory flew and fell on farms with green fodder which was consumed by cattle and 70 of them died. Factory owners paid compensation to villagers via cheques...”</p> <p>The full translated report can be filed before this tribunal as and when directed.</p>	
18.12.22	<p><b>G. India Narrative Report</b> stating that the company (R-7) was selling silver potassium cyanide products (Fesoterodine, and Monoethano) without any permission to manufacture the same.</p>	2936
26.3.23	<p><b>H. The <u>Chief Secretary, Govt. of Punjab report</u></b> dated 26.3.23 elaborating on the toxic nature of the pollution coming from the factory. Although this report comments on the water pollution in</p>	Reply affidavit of R-8

	<p>considerable detail in other respects it is most ambivalent and unsatisfactory. The findings of the committee are set out herein:</p> <p>(i) Borewell samples (5 nos) were collected from the industry premises along with soil samples (2 nos) collected by designated officials from NABI. labs independently in presence of committee members. As a control measure, six borewell samples from nearby areas (within 5 km radius) were also collected to compare the data. A total of 13 samples were collected. Based upon the test reports by the NABL, accredited laboratories (i) SAI Lab (Patiala) (ii) Shriram Institute for Industrial Research (Delhi) (iii) CSIR-IITR (Lucknow), following inferences have been delineated.</p> <p>(ii) Parameters concerning toxic substances including lead, chromium, arsenic, polychlorinated biphenyls (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.</p>	2899. (internal page 28)
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	<p>(iii) Concentration of <b>lead</b> (Table 3 Toxic substances) found in the water sample is 0.26 ppm which is more than the permissible limit of 0.01 ppm in the Malbros industry.</p> <p>(iv) Concentration of <b>phenolic compounds</b> as C<sub>6</sub>H<sub>5</sub>OH (Table 2: Undesirable in excessive amounts) in the water sample is 0.16 ppm which is more than the permissible limit of 0.002 ppm in the Malbros industry.</p> <p>(v) Concentration of <b>chromium</b> (Table 3 Toxic substances) found in the water sample is 0.22 ppm which is more than the permissible limit of 0.05 ppm in the Malbros industry.</p> <p>(vi) Concentration of <b>Poly chlorinated biphenyl</b> (Table 3 Toxic substances) 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.</p> <p>(vii) Large excavated area with sludge / ash is seen in the Malbros industry. Also, visible in google map (see Page 37).</p> <p>(viii) High concentration of <b>Volatile Fatty Acids</b> found in the soil sample from Malbros industry.</p>	
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	<p>(ix) 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 result can be correlated with control soil samples from the area.</p> <p>(x) Results of comet assay for DNA damage is pending from CSIR-Indian Institute of Toxicological Research, Lucknow. Results of detection of DNA damage tests using (i) Micronucleus (ii) chromosomal aberratio test as per OECD norm is pending from Shriram Institute for Industrial Research, Delhi</p> <p><b>Remarks:</b></p> <p>The objectionable concentrations of chemicals found in water / soil can leach to the underground water table when conditions become favourable or with the passage of time. Thus, remediation action is required. Borewell details (number of borewells, depth of borewell, year of installation etc.) were not provided by the Malbros industry as per Annexure-A</p> <p>This study is conducted with random/grab samples to check the water pollution within and outside the industry premises.</p>	
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12.8.22	<p><b>I. Panchayat's resolutions dated 12.08.2022 to close down the factory.</b> The Panchayats concerned passed a series of resolutions calling for the permanent closure of the plant. The resolutions, inter alia, state as under:</p> <p style="padding-left: 40px;">“Panchayats unanimously resolved that the liquor factory Malbros has poisoned our underground water.... They polluted our environment, water and land...and that this industry should be shut down.”</p>	2923
	<p><b>J. Video interviews</b> with two persons who died on account of the pollution. <b>Two persons namely Boota Singh, aged 50 and Rajveer Singh aged 40 died on account of pollution.</b> Before they died a video has been taken about their illness and the cause of their death soon to come. The relevant part of the statement of Rajveer Singh is as under:</p> <p style="padding-left: 40px;">“My name is Rajveer Singh Gill of village Mansurwal, age 35 years. Both my kidneys have failed due to pollution by Malbros. My farm is adjoining the boundary wall of the industry and dirty water often flows into my farm. Ash also keeps falling regularly. There is a lot of bad</p>	Additional affidavit of R8 2941

	<p>smell also. 2-3 times my wheat crop also died. I need dialysis every 4 to 5 days. My farm has become less fertile. My entire family is suffering from illnesses. My wife's liver had to be removed due to damage by polluted drinking water. My father has lost his eyesight due to ash and his knees have also been affected due to bad water. We have spent around 1.5-2 lacs in the last one month on my illness. There are so many flies and mosquitoes that we cannot drink tea in our farm. We cannot hang clothes outside for drying as there is so much ash. We spray insecticides to kill flies 4 times a day.</p> <p>Boota Singh's family explained that he lost his kidneys and liver. The relevant part of Boota Singh's statement is as follows: "My health got affected due to the Liquor factory..."</p> <p>The videos are annexed with additional affidavit of R-8.</p>	
2016	<p><b>K. Malbros Company holds a fake public hearing where persons are brought from outside the district having nothing to do with the factory, and being brought in trucks by the company for a fake</b></p>	2924

	<p>public hearing in support of the company held on 04.05.2016 in the revenue estate of Village Mansoorwala, Tehsil Zira, District Ferozepur, Punjab. A prominent MLA who is also the owner of the factory brought supporters from his constituency Faridkot which is 35 kms away from the factory. This was found out by the people when they telephoned some of the attendees and found to their surprise that they were not from any place close to the factory. When confronted on phone as to why they came they simply said that they were supports of the MLA who had asked them to come.</p>	
	<p><b>L. Submissions of the applicant and R-8 on why no further investigation is necessary.</b> Here it is submitted, inter alia, that there is more than adequate material on record including the CPCB report dated 12.4.23 abovementioned, the reply of the CPCB to IA 813 dated 23.11.23 referred to above, the Chief Secretary, state of Punjab report dated 26.3.23 and all the other documents above mentioned which unanimously confirms that the pollution is coming only from the company and no other source.</p> <p>It is further submitted that company with its prayer for fresh inspection wants desperately to reverse the</p>	2925

damaging findings of the CPCB report and state government report. The company is currently attempting to undo the harm and turn the clock back by submitting application (I.A. 813/2023) to this tribunal for a fresh inspection by NEERI, even though the Chief Minister committee's findings dated 26.3.23 (page 28 of R-8 affidavit dated 10.12.23) and the CPCB report dated 13.4.23.

**Conclusions:**

The applicant and R-8 are opposed to any fresh inquiry being conducted. This is because, first, as indicated above it is unnecessary. Secondly, the company is pressing for a fresh inquiry in order to influence the new inquiry team and dilute the effect of the CPCB report. Thirdly, this company has been closed since last 1.5 years and the water samples produced in court by the applicant on the last occasion shows that as late as December 2023 the water samples were still contaminated.

Applicant however clarifies that it is necessary to make an assessment of the total loss as well as to draw up a plan for remediation i.e. the restoration of the entire ecology which will include. For this the applicant

	<p>requests that CPCB be instructed to submit a report to this limited extent i.e. (i) the total damage caused to the environment and population quantified in rupee term and a scientific plan for the complete restoration of the environment in all its aspects.</p>	
10.12.23	<p><b>M. Additional Affidavit of R-8 dated 10.12.23.</b></p> <p>In the additional affidavit has been submitted that the remedial action does not require a fresh sampling and analysis of the effluents which the company has been pushing for before the tribunal. In addition, the operations of the company were stopped by the residents and the <b>factory stands closed since 24.7.22</b>. No purpose would be served for another fresh inspection when the reports of CPCB are clear.</p>	2941
17.12.23	<p><b>N. Rejoinder Affidavit of the Applicant</b> with photographs showing that when the CPCB visited the factory and took samples they did so in the presence of officers from the company thus proving that the company misled the Hon'ble NGT when they argued that the samples were taken in their absence and that no notice was given to the company prior to the visit of the CPCB.</p>	2967

2.1.24

**O. The reply of the Applicant to IA No. 813 of 2023.**

- (i) **Showing that Chromium, Iron, Manganese, Lead and Nickel are not found in the "ingredients" of Pesticides** and therefore the argument of the company that these chemicals are on account of pesticides and not due to the factory production and reverse boring are false.
- (ii) Also shown in this document is that the epicenter of the pollution is the factory itself and that there is slow movement of the polluted groundwater in the North North-West (NNW direction) apart from a general spread of the pollution in the groundwater of the area centered around the factory. This NNW flow is confirmed by the fact that polluted water emerged from the Gurdwara which is in the NNW direction and members of the Gurdwara and the persons attending the Gurdwara reported of pollution.
- (iii) Also found in this document is the analysis of the groundwater pollution as set out in the CPCB report showing that the highest levels of pollution were found in the 2 borewells mentioned in the CPCB

report which are borewell no. 4 and 5 which are inside the Malbros industry premises.

As per table 6 and table 7 on pages 508 and 509 on analysis of heavy metals and toxic parameters which are described below in detail:

- **Chromium** - In these two particular borewells it is 6-7 times above limit, in two other borewells it is found within permissible limit and in the remaining 25 borewells it is not detected at all.
- **Iron** - 650 times and 800 times above permissible limit in these two borewells. The values found in these two borewells are 243.53 and 206.62 whereas the third highest in the remaining is 10.69 and rest are below that including 22 which are within permissible limit of 0.30.
- **Manganese** - The values are 32 and 37 times above the permissible limit in these two borewells. The values found in these two are 3.28 and 3.72. The third highest value in the remaining samples is 0.56 and 24 borewells are within the limit.

- **Nickel** - 10 and 11 times above permissible limit in these two specific borewells whereas BDL or not detected in all remaining 27 borewells.
- **Lead** - 8 and 13 times above permissible limit in these two specific borewells. Third highest is at 3 times the limit. In One borewell it is within permissible limits. Rest 25 borewells are not detected at all.

This proves the “**epicenter**” of the pollution in the area is within Malbros industry premises, namely borewell 4 & 5. Borewell 4 & 5, which are located within the factory and are very close to each other.

Since the above two borewells are situated within the Malbros industry premises, it indicates injection of contaminated waste water through “**reverse boring**”.

	<p>(iv) Another point of investigation and concern is that the Malbros industry premises is a “<b>zero liquid discharge</b>” plant. The presence and usage of <b>10 borewells</b> and 6 piezometers is highly questionable. Further, the representatives of the Malbros industry conceded that most of these borewells were illegal, without proper permissions from CGWB/PWRDA and they have permission for only 4 borewells.</p> <p>(v) The groundwater of the neighboring three villages, namely Mansoorwal, Mahianwala Kalan and Ratol Rohi, was found to be affected by heavy concentration of metals and heavy metals. This finding is in line with the “<b>water table slope</b>”. (as determined by the CGWB team)</p> <p>(vi) This document also deals with the Report titled “<b>Office of the Monitoring Committee Report</b>” dated 21.9.22. According to the Applicant and R-8 this was a collusive report prepared under the influence of the company. The Applicant has filed IA 262 of 2022 seeking the quashing of this report. This IA was filed prior to the CPCB filing its report dated 24.4.23. That is why there is a relief clause in this IA seeking a fresh technical enquiry. After the CPCB filed its report there was no further need for any further technical inquiry. Hence this IA is not</p>	
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pressed without prejudice to our submissions in the other IAs and the OA. The reports of the CPCB etc. mentioned above demonstrate clearly that this was a collusive report made to whitewash the illegalities of the company and therefore it is requested that no reliance be placed on this report which is clearly a report manufactured and submitted in the NGT for and on behalf of the polluting company.

Further the role of the PPCB over years has been in collusion with the company. Until this OA was filed and these proceedings started the PPCB and the company collusively covered up for the pollution. It is only when the CPCB and other agencies made genuine technical reports highlighting the pollution that it became clear that the PPCB was not doing its role of investigation in accordance with law.

PPCB is also the same agency that was monitoring this industry for a long time and turning blind eye to their brazen acts of pollution and to the complaints of local residents for more than a decade and a half. Any violation by the industry happening for a long time also implies culpability of the regulatory authority under whose immediate jurisdiction and watch such a violation happened, namely PPCB.

	<p>Having said that, the subsequent conduct of the PPCB in prosecuting the company and accepting the findings of the CPCB deserves to be recognised even though belatedly, the PPCB is attempting to perform its duties in accordance with law. Only time will tell as to whether the PPCB will genuinely and honestly come on the right track.</p> <p>(vii) Lastly, the reply by the applicant shows photographs of the CPCB visit showing that the officials of the company accompanying the CPCB officials while taking the water samples. Also, letter dated 21.2.23 of CPCB informing the administration of the visit exists. The CPCB report itself states that the company officials accompanied them during the investigation. The company saying that bottles were not sealed is also wrong as can be evidenced by the applicant.</p>	
5.9.23	<p><b>P. Order of Appellate Authority under the Water Pollution Act, 1974</b></p> <p>The Appellate Authority rejected the company's appeal challenging the refusal to operate certificate given to them by the PPCB. It noted in its order:</p>	3061

	<p>“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 Bard has duly considered the said report... but these reports in my opinion cannot be relied upon for long duration of time nay forever.</p> <p>16. ... The accumulation of 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.”</p>	
18.1.24	<p><b>Q. Company’s stand: Heavy metals comes from pesticides: Untenable</b></p> <p>The applicant and Morcha in its additional affidavit dated 18.1.24 wherein it has been stated that by order of the 3-judge bench of NGT dated 3.11.23 in OA 676 of 2023, NGT directed CPCB to check if any</p>	

	<p>pesticide has caused groundwater pollution. The CPCB report submitted to NGT it is concluded as under:</p> <p><i>“12. Pesticides monitored at 43 locations indicate that all these pesticides were Below Detection Limits (BDL) in the State.”</i></p>	
	<p style="text-align: center;"><b>Prayers sought:</b></p> <p>a. For an order directing the permanent closure of the factory with immediate effect and for the complete dismantling of the factory.</p> <p>b. For an order direct directing Rs. 100 crores be paid to the affected villagers and entire the population by way of compensation for the harm inflicted.</p>	

Table 1 shows the comparison of the samples from CPCB and Chief Secretary Committee Report

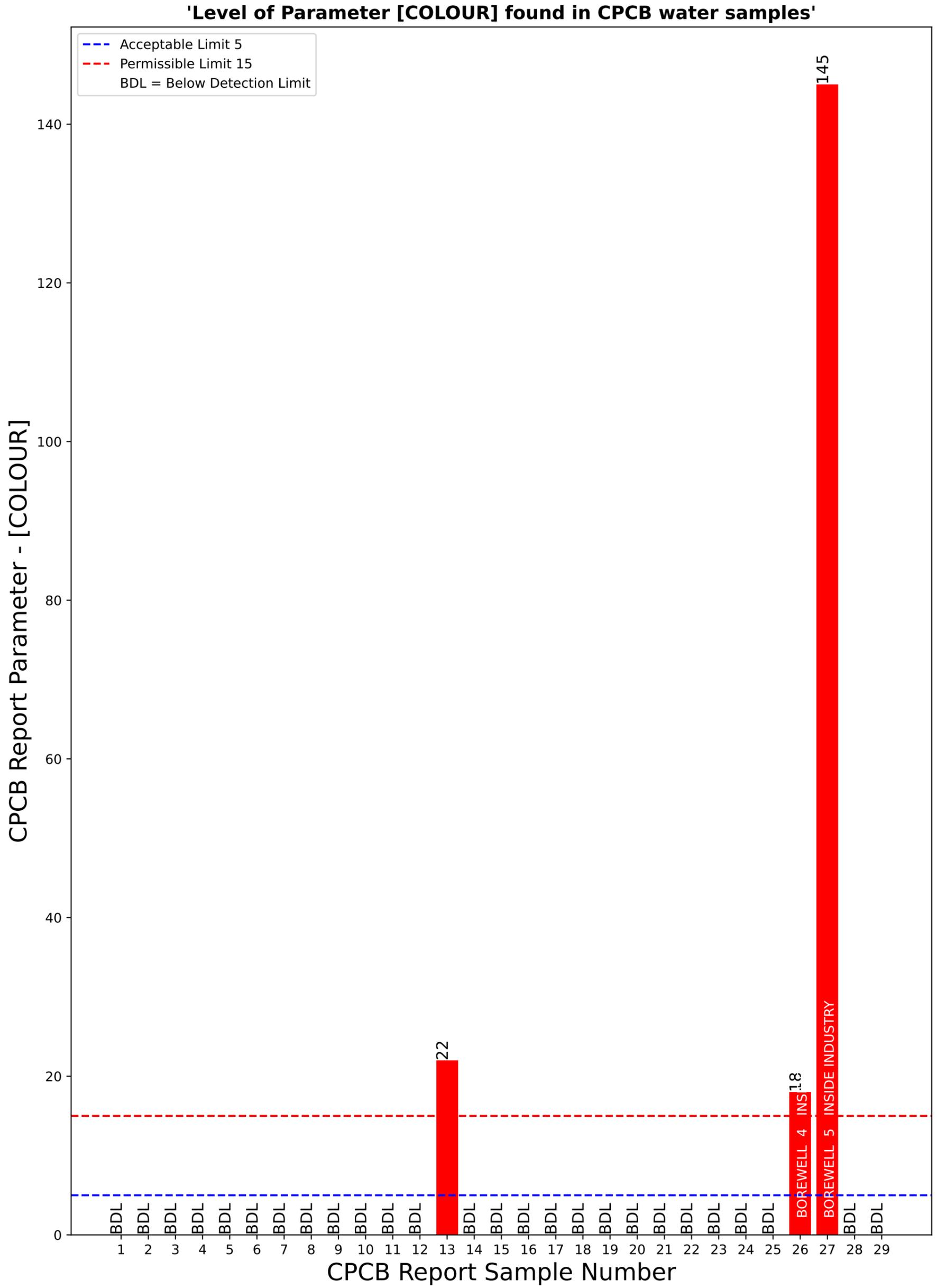
	CPCB	CS Committee	CPCB Ref PDF Page	CS REF PDF PAGE
Arsenic	0.1	0.063	21	57
Lead	0.13	0.26	21	57
Chromium	0.28	0.22	21	57
Iron	206	99.9	21	56
Turbidity	1191	2164	18	56
COD	105	130	18	59
Colour	145	174	18	56

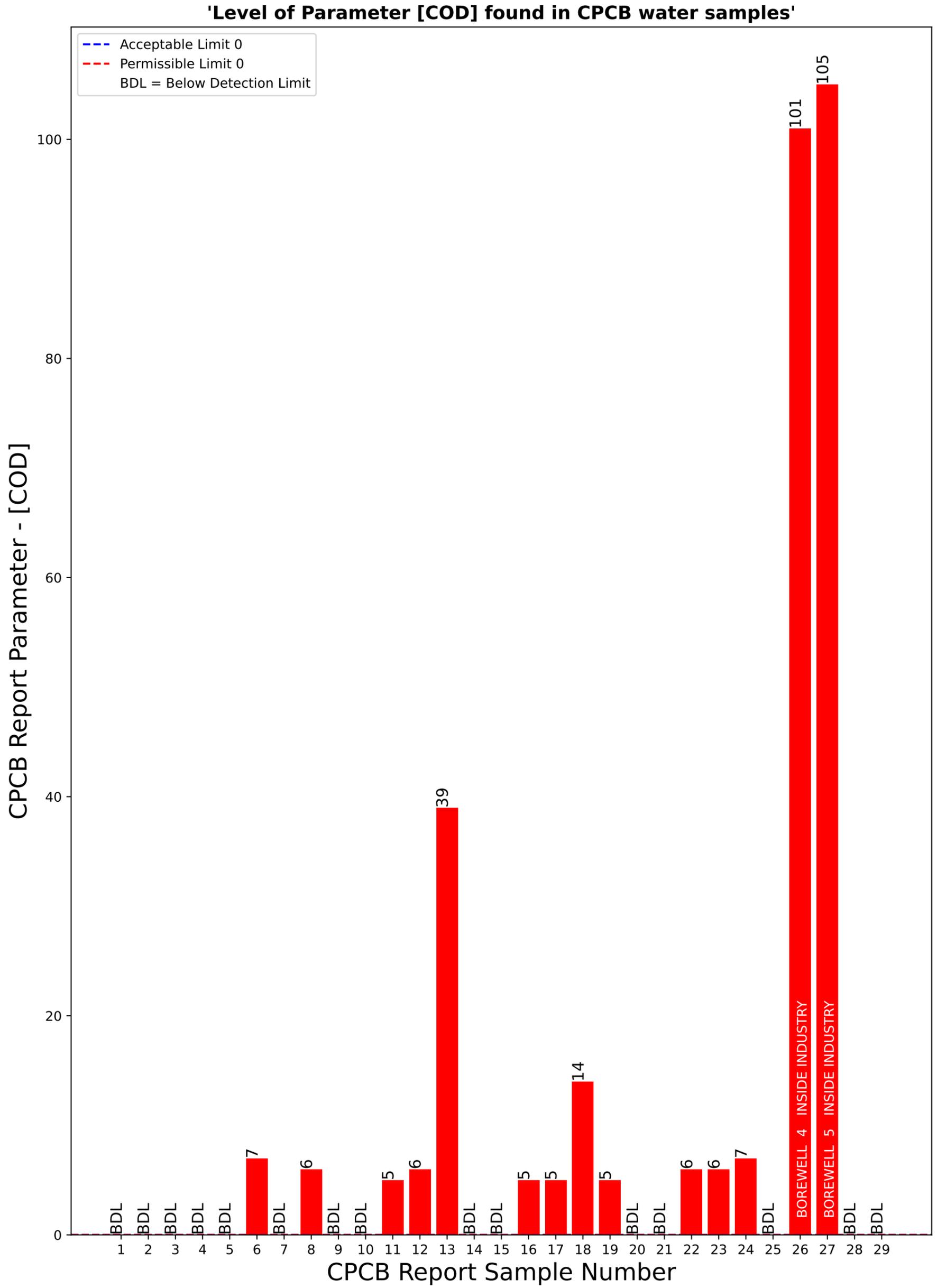
**Extracts from Table 4, Table 5: Basic Parameters - CPCB Report, Page 505,506**

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

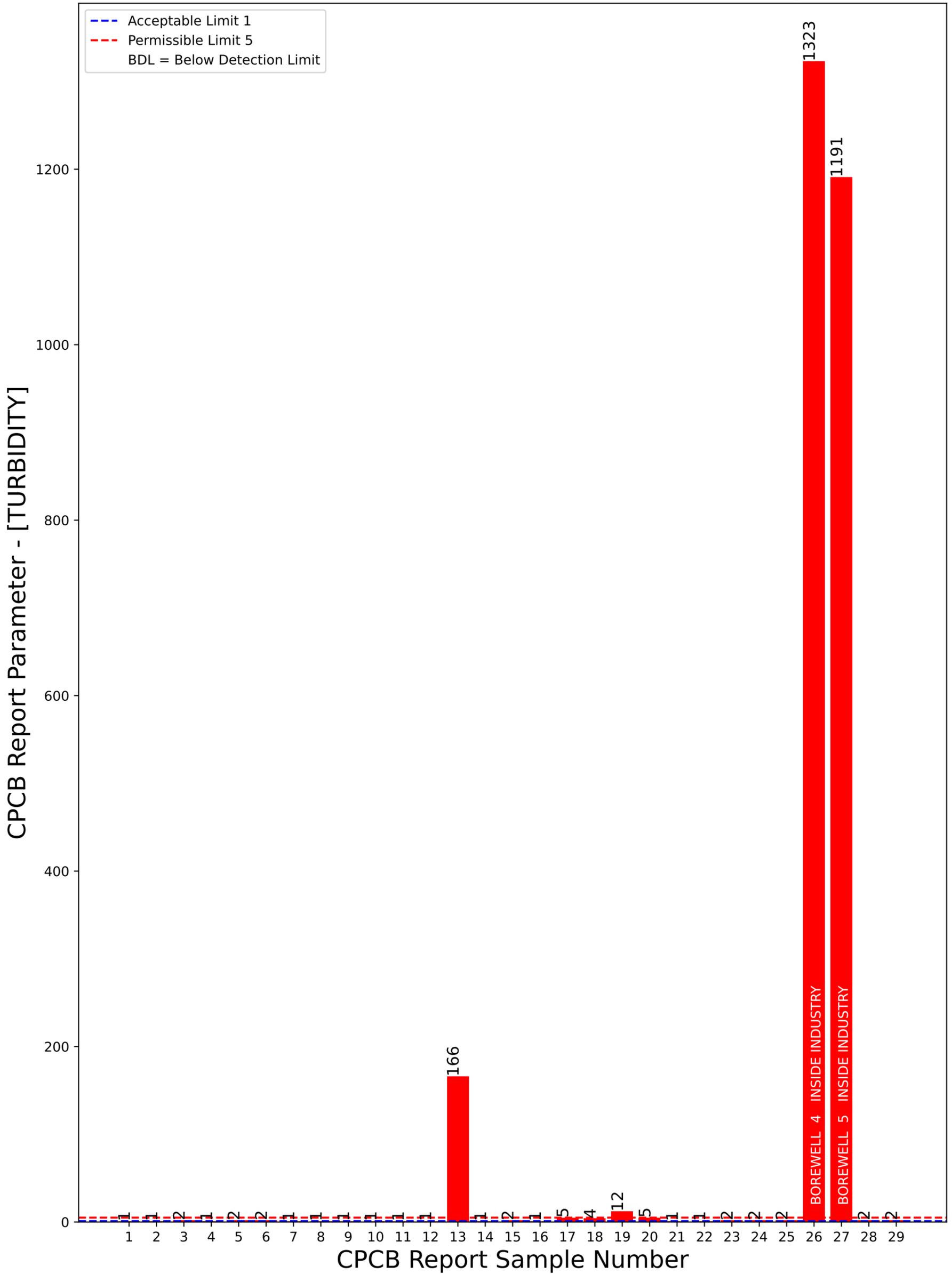
**Extracts from Table 6, Table 7: Toxic Parameters - CPCB Report, Page 508,509**

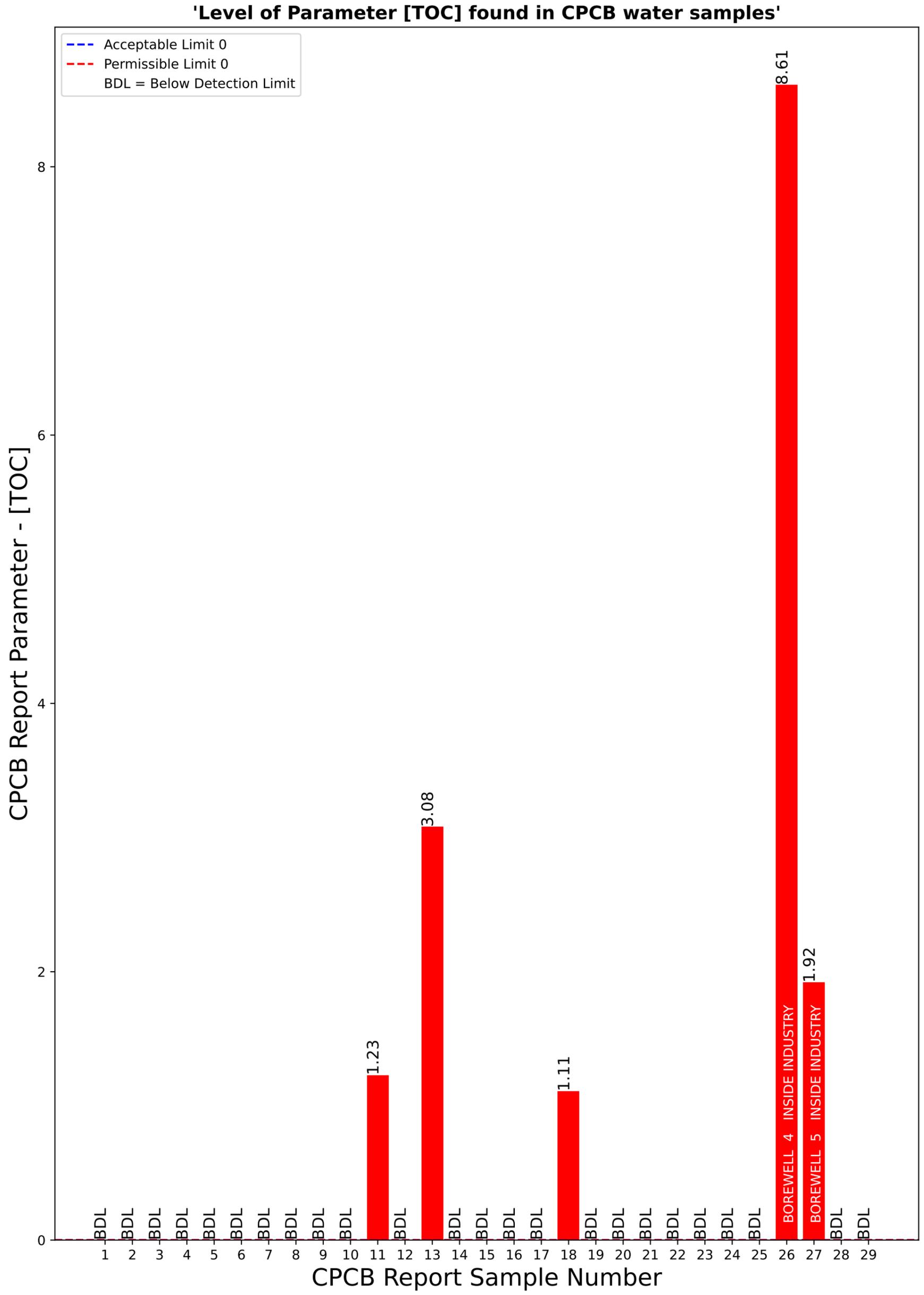
SAMPLE	LOCATION	ARSENIC	CHROMIUM	COPPER	IRON	MANGANESE	NICKEL	LEAD
1	Sh. Buta Singh ; 9463245171 , Lehra Rohi	BDL	BDL	BDL	0.22	BDL	BDL	BDL
2	Govt High Smart School, Lehra Rohi	BDL	BDL	BDL	0.14	0.02	BDL	BDL
3	Iqbal Singh; 8417725633, Lehra Rohi Area Bandata Purana (Agriculture Field)	0.02	BDL	BDL	0.54	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, Ratoi 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

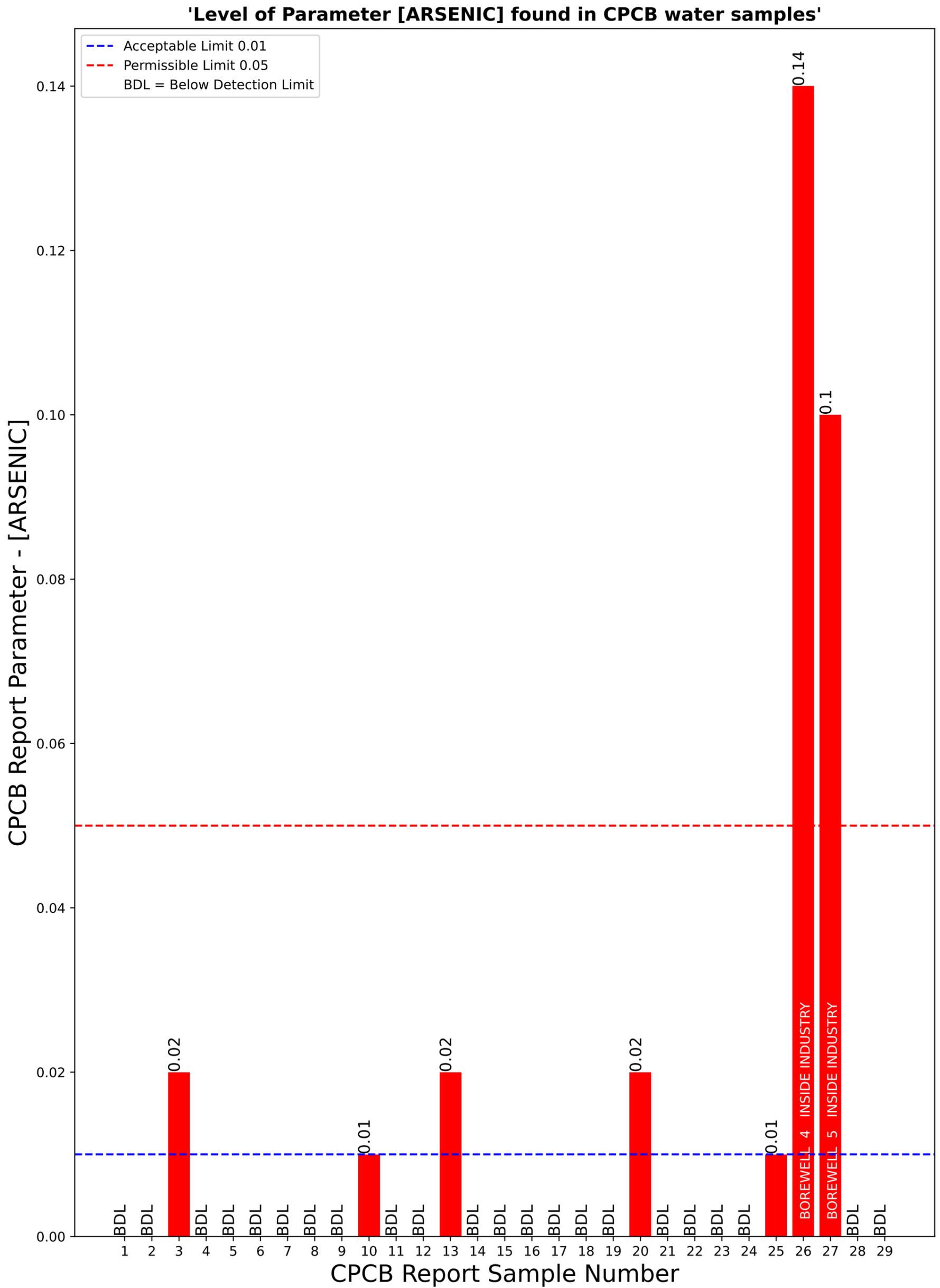




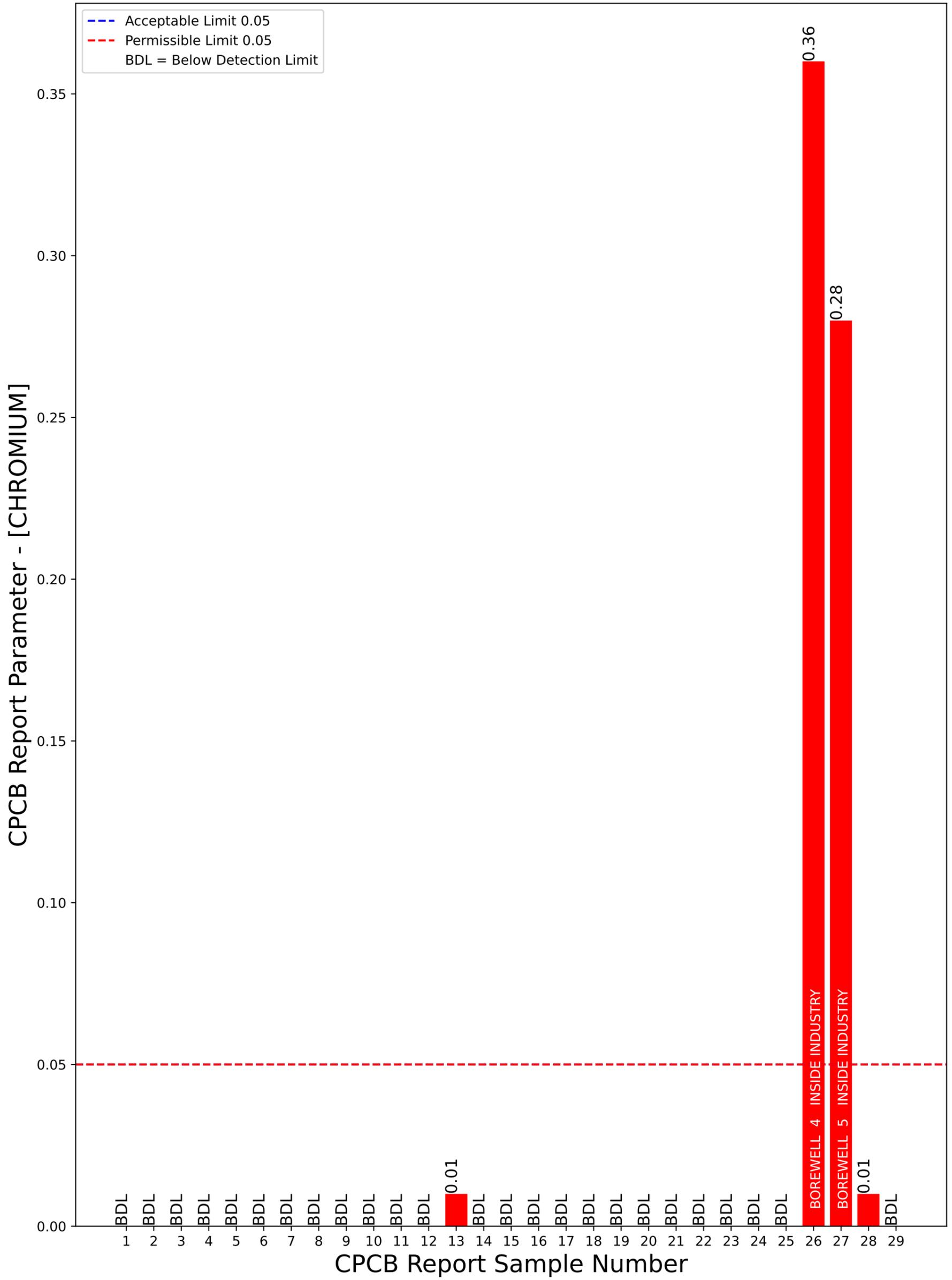
'Level of Parameter [TURBIDITY] found in CPCB water samples'

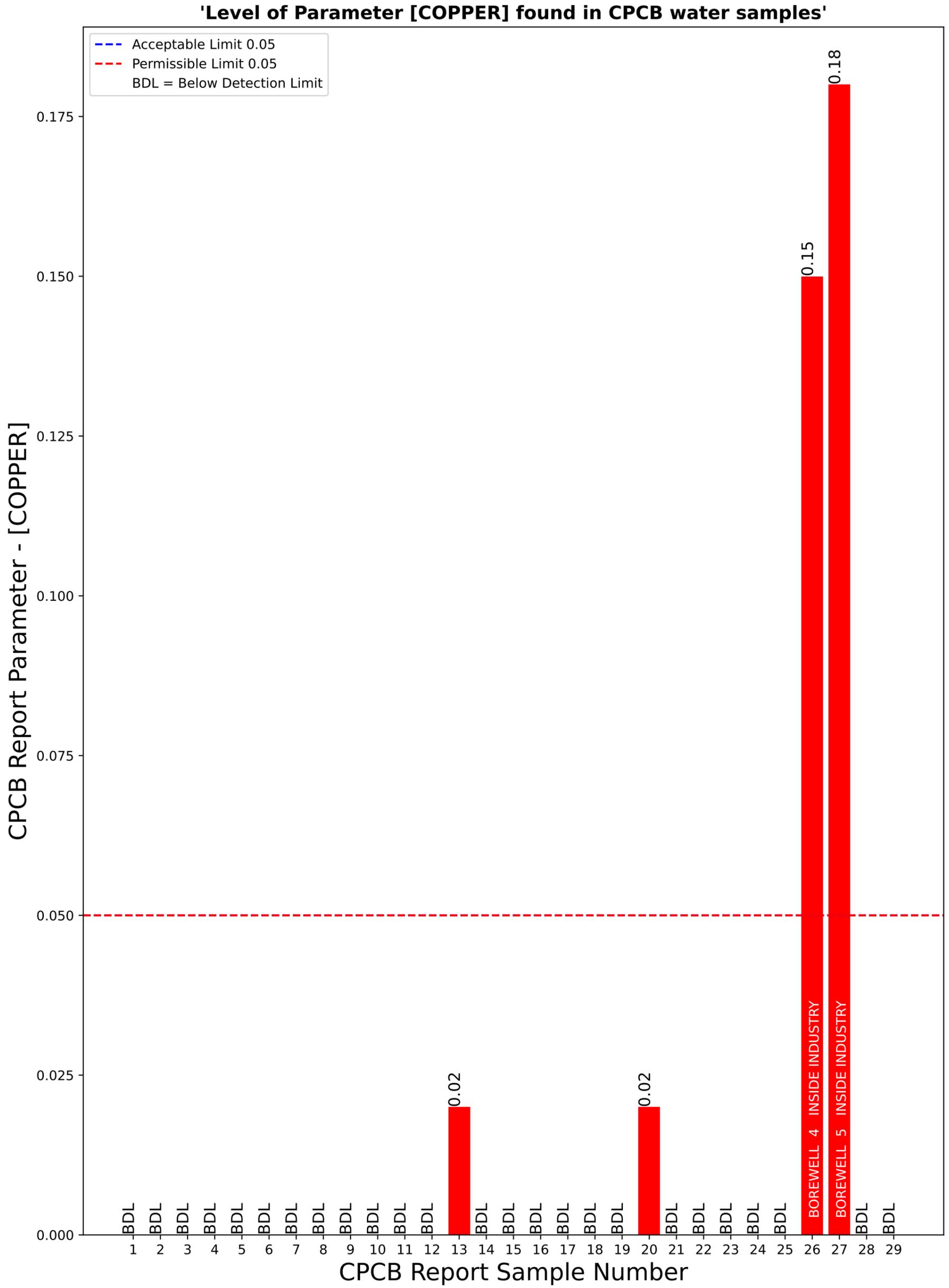


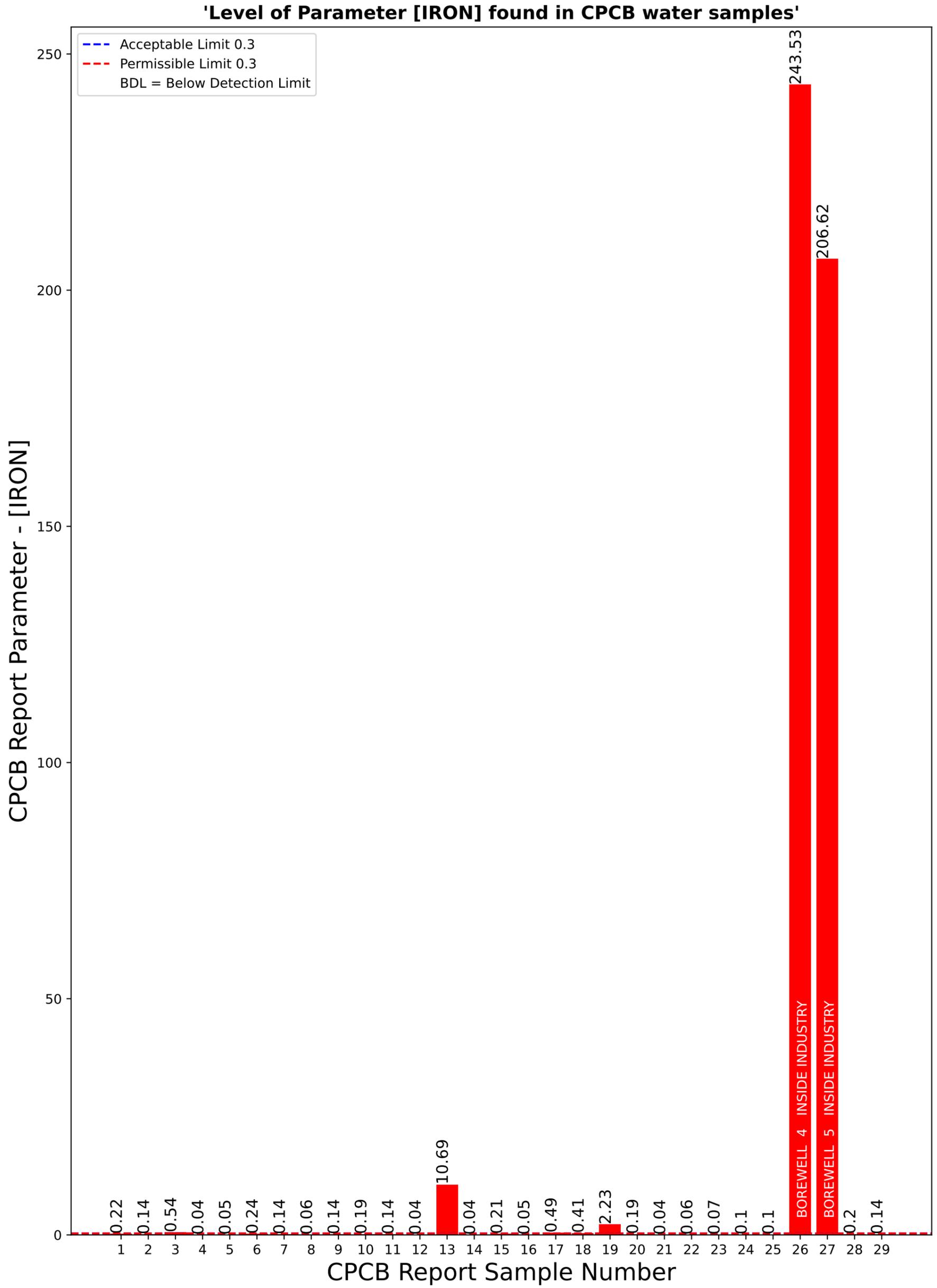


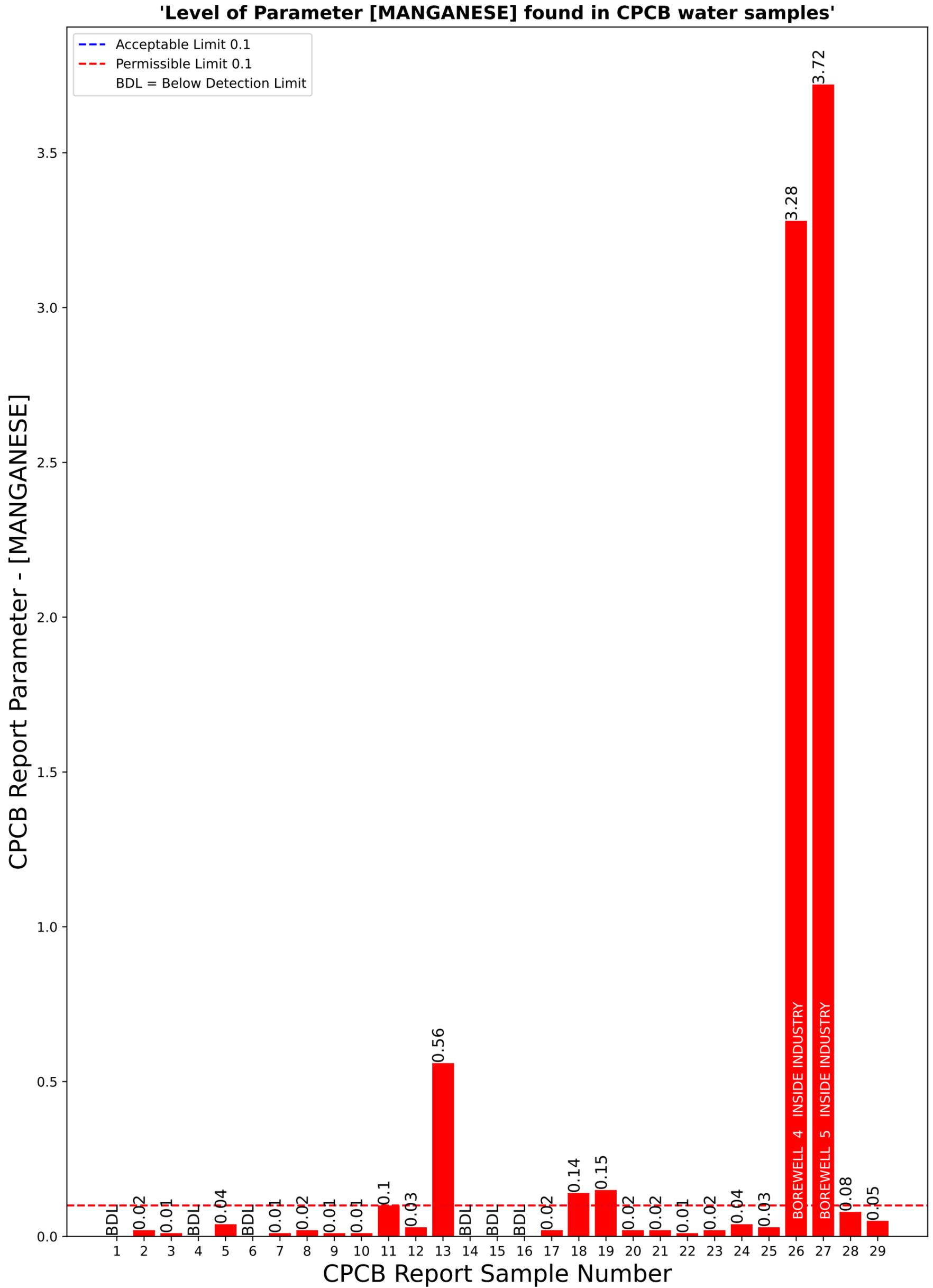


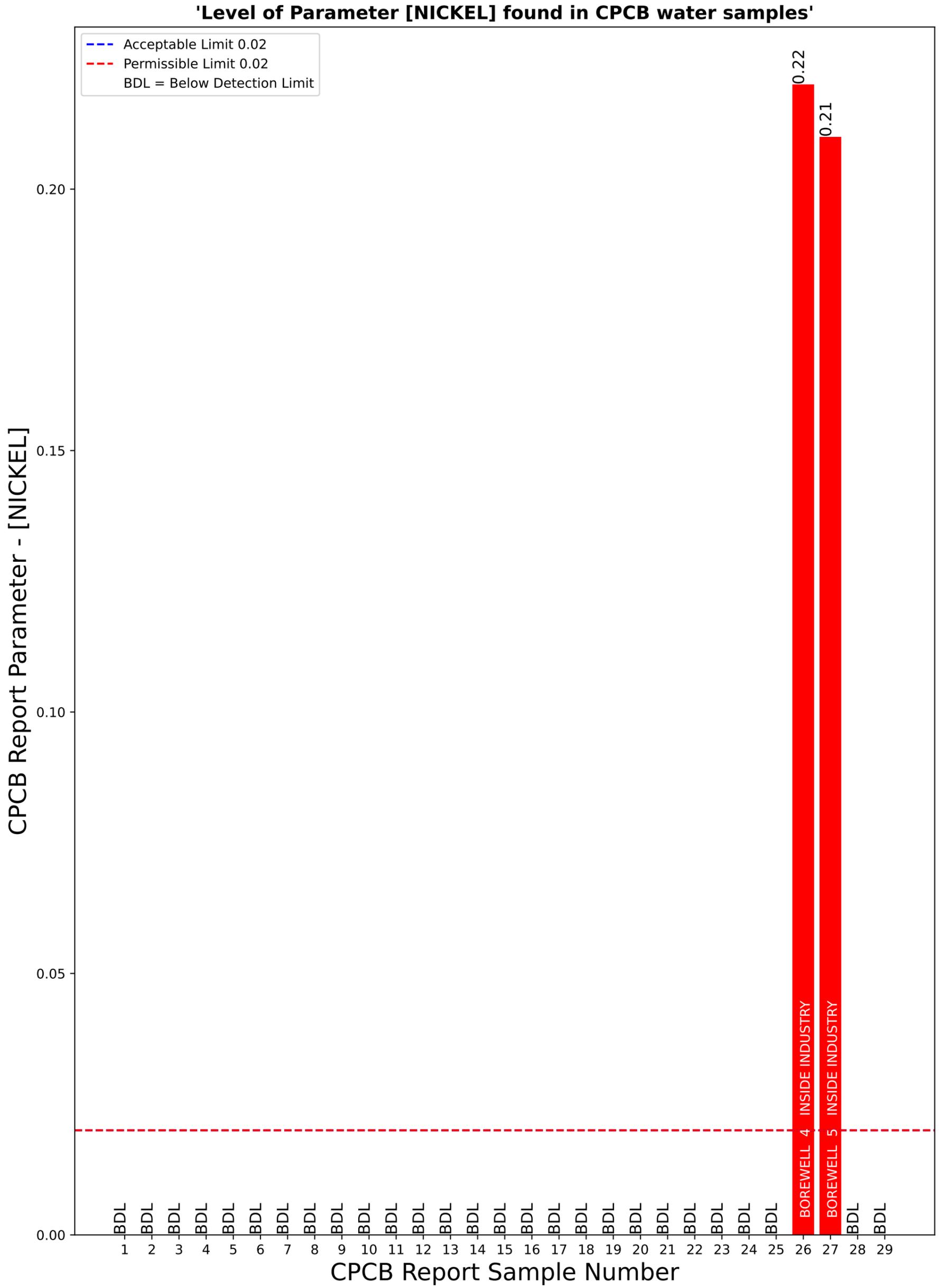
'Level of Parameter [CHROMIUM] found in CPCB water samples'

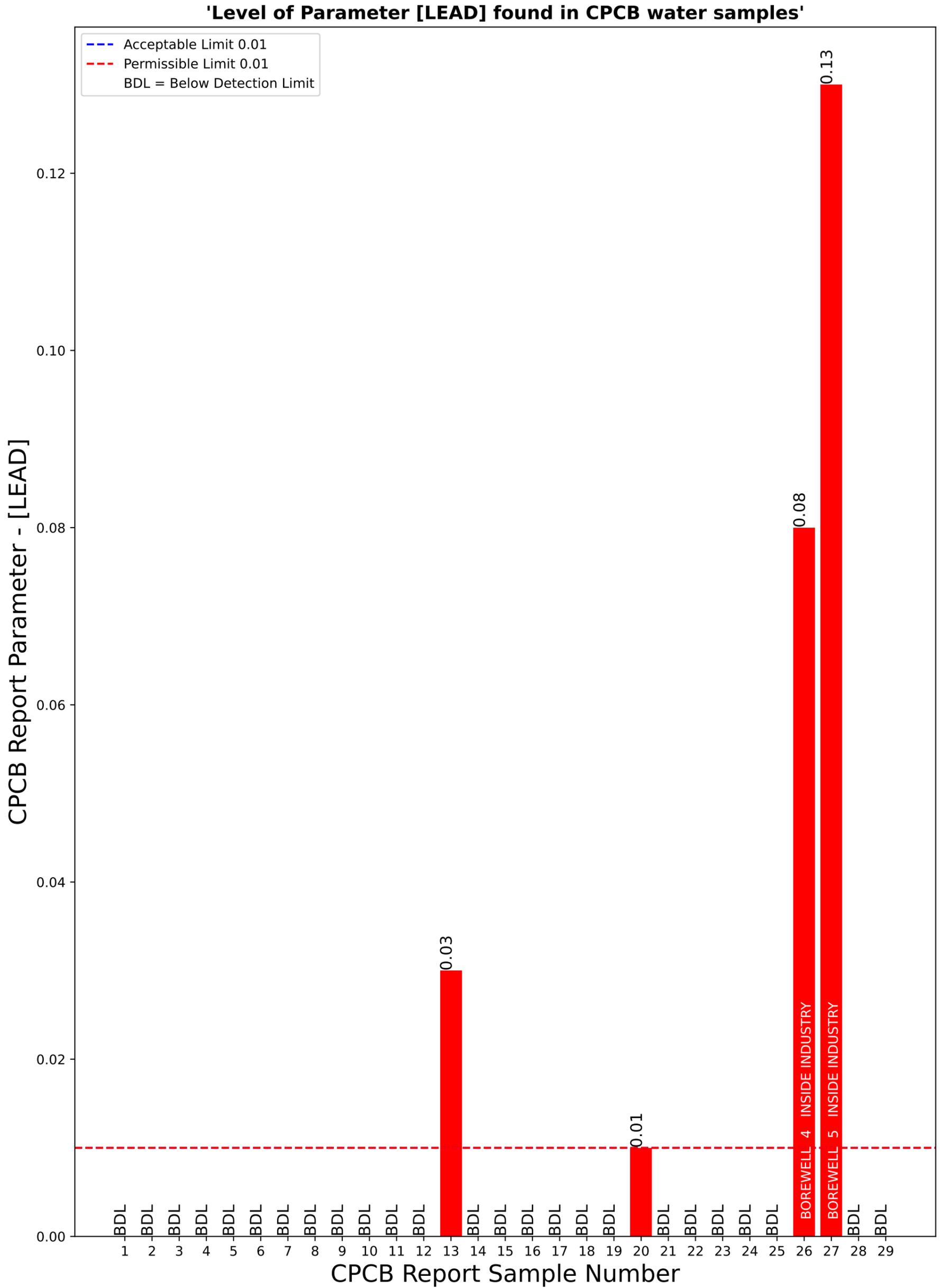




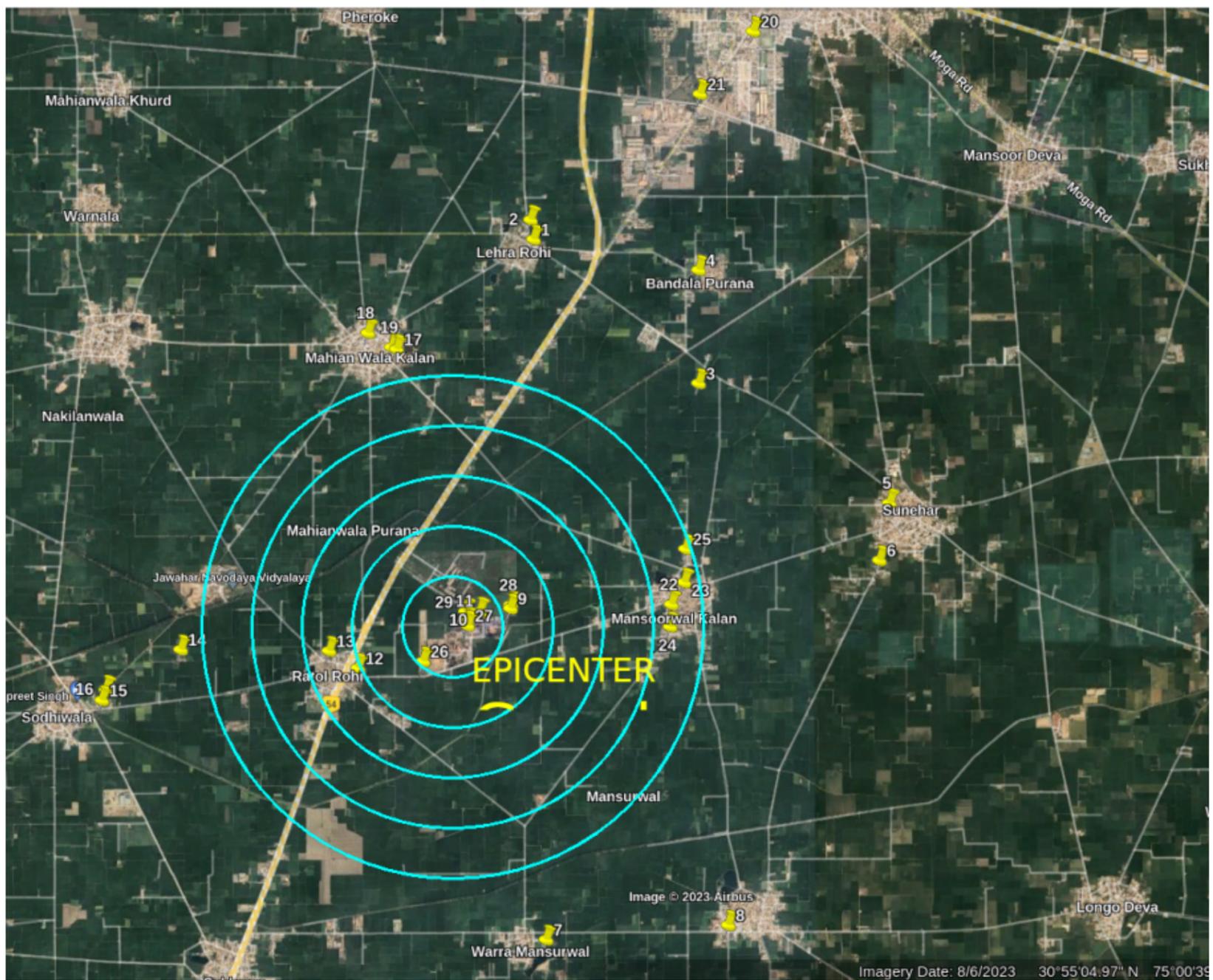








# Google Map Plot of 29 Samples taken by CPCB EPICENTER is the area of maximum pollution



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**Revised Written Submissions in O.A. 606 of 2022 on behalf of the applicant and R-8**

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**Deepak Singh** <deepak.singh@hrln.org>

Tue, Feb 13, 2024 at 11:57 AM

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

Dear Sir/Madam,

Please find the Revised written submission dated 12.02.24 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 revised written submission dated 12.02.24 on behalf of the applicant and R-8.

Thank you,  
Deepak

(On behalf of the Applicant and R-8)

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 **12022024 Revised \_Zira\_Written\_Submissions.pdf**  
3128K