

# Part 1 of the Statute

## **75-5-222. State regulation for natural conditions. (1)**

The department may not apply a standard to a water body for water quality that is more stringent than the nonanthropogenic condition of the water body. For the parameters for which the applicable standards are more stringent than the nonanthropogenic condition, the standard is the nonanthropogenic condition of the parameter in the water body. The department shall implement the standard in a manner that provides for the water quality standards for downstream waters to be attained and maintained.

# Part 2 of the Statute

(2)(a) For water bodies where the standard is more stringent than the condition of the water body but subsection (1) is not applicable, the board shall adopt rules consistent with comparable federal rules and guidelines providing criteria and procedures for the department to issue variances from standards if:

(i) the condition cannot reasonably be expected to be remediated during the permit term for which the application for variance has been received; and

(ii) the discharge to which the variance applies would not materially contribute to the condition.

(b) A variance issued pursuant to subsection (2)(a) must be reviewed every 5 years and may be modified or terminated as a result of the review.

# Deliverables needed for initiation of SB325 rulemaking

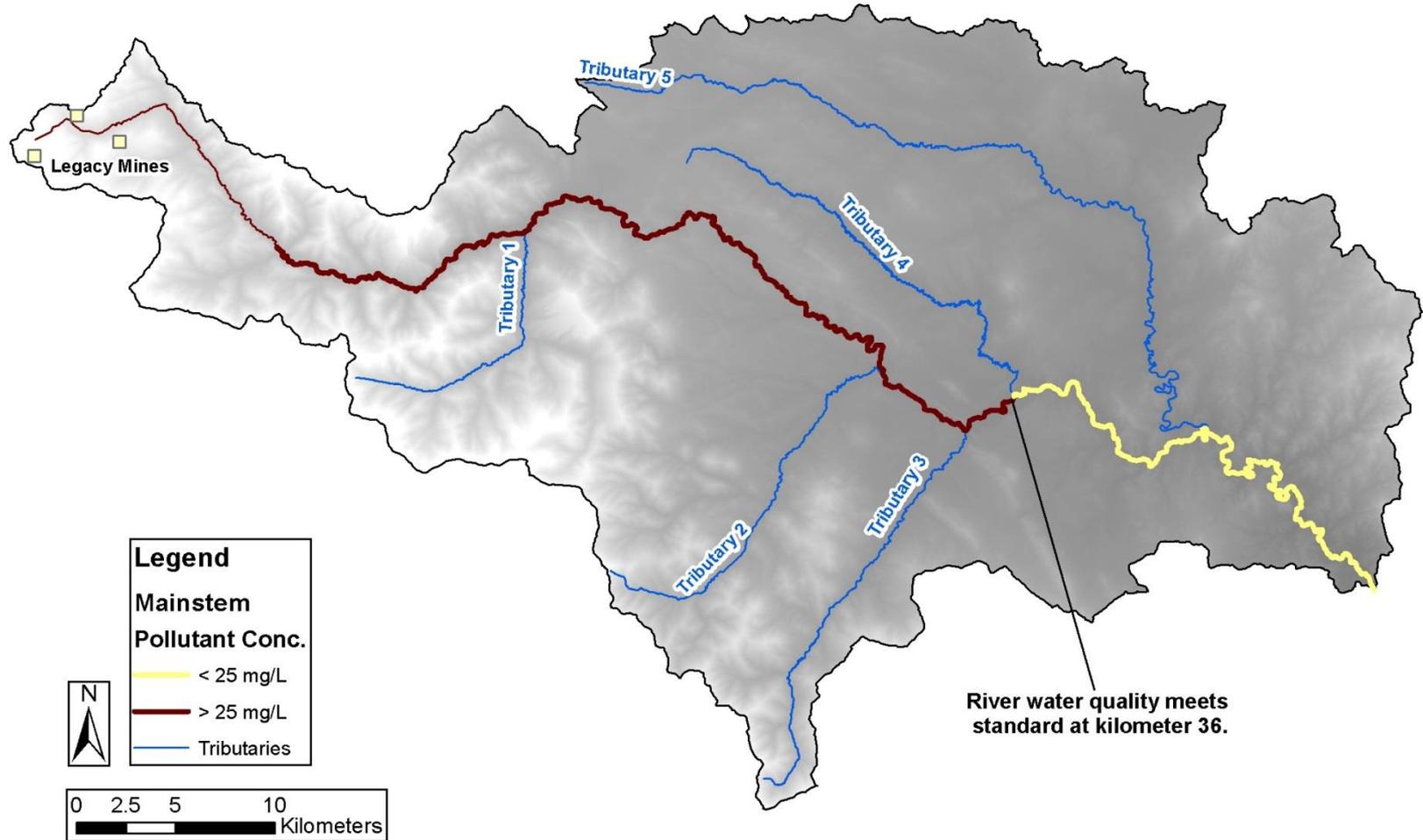
- ✓ Part 2 Rule Language – Draft reviewed by workgroup and DEQ legal
- ✓ Part 2 Guidance – Draft reviewed by workgroup and DEQ legal
- ▣ Part 1 Rule Language
  - Definitions
  - Cross check with other applicable rule language
- ▣ Part 1 Guidance or Circular

# Part 1 Guidance or Circular

- ▣ Part A – Site Specific Criteria (SSC) general method development
  - Demonstration of non-anthropogenic
  - Data needs
  - Selection of criteria
  - Implementation (beneficial use assessments, nondeg implementation, protection of downstream WQS, effluent limit calcs, TMDL calcs, etc)
- ▣ Part B – Arsenic specific method for development of SSC
- ▣ Part C or Appendix/ Addendum- Madison River Case Study
  - Case study for calculating criteria for 3 hydrologic units

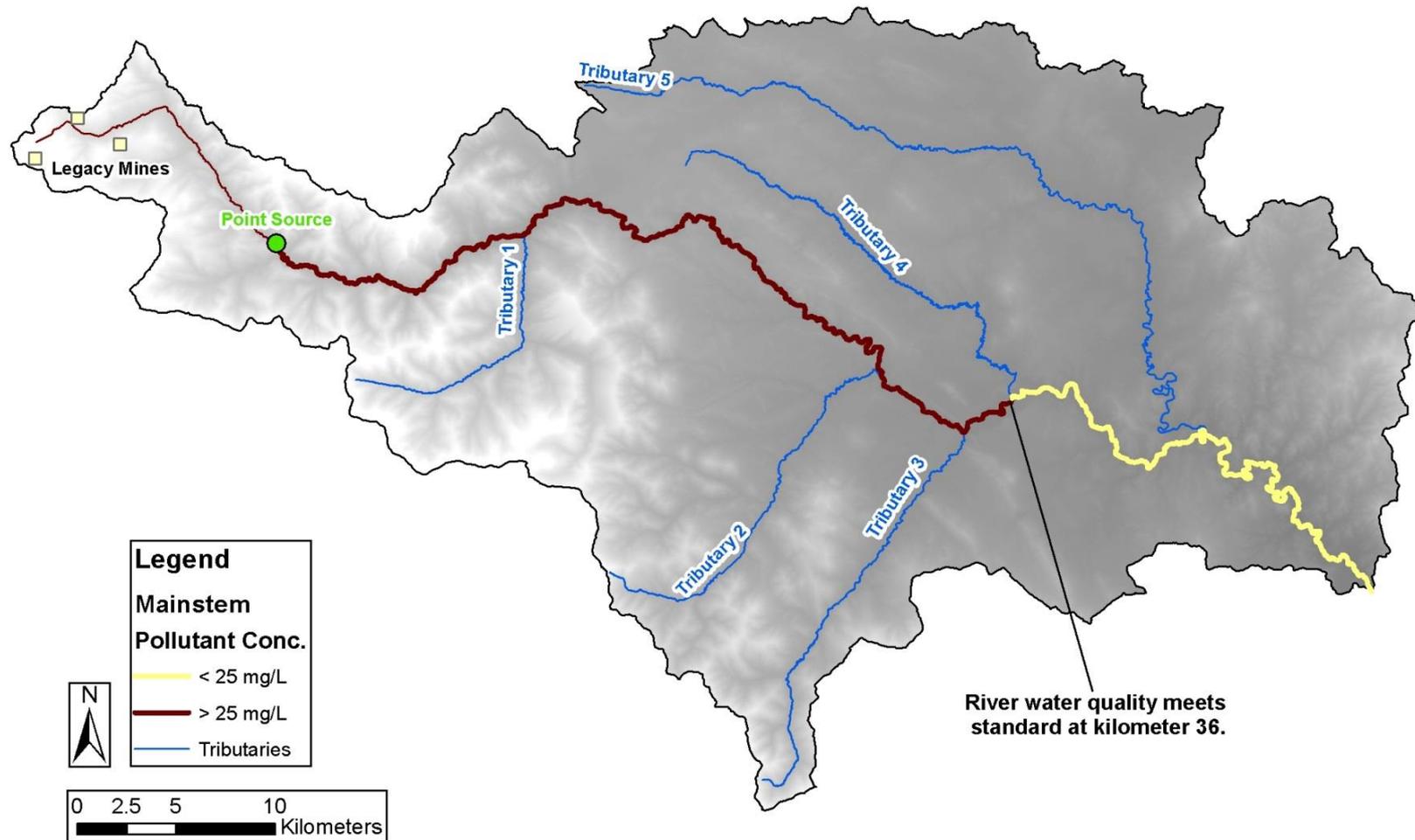
# EXAMPLE WATERSHED-NO POINT SOURCE

**Standard =25 mg/L. Water quality = 50 mg/L in headwaters due to abandoned mining operations**



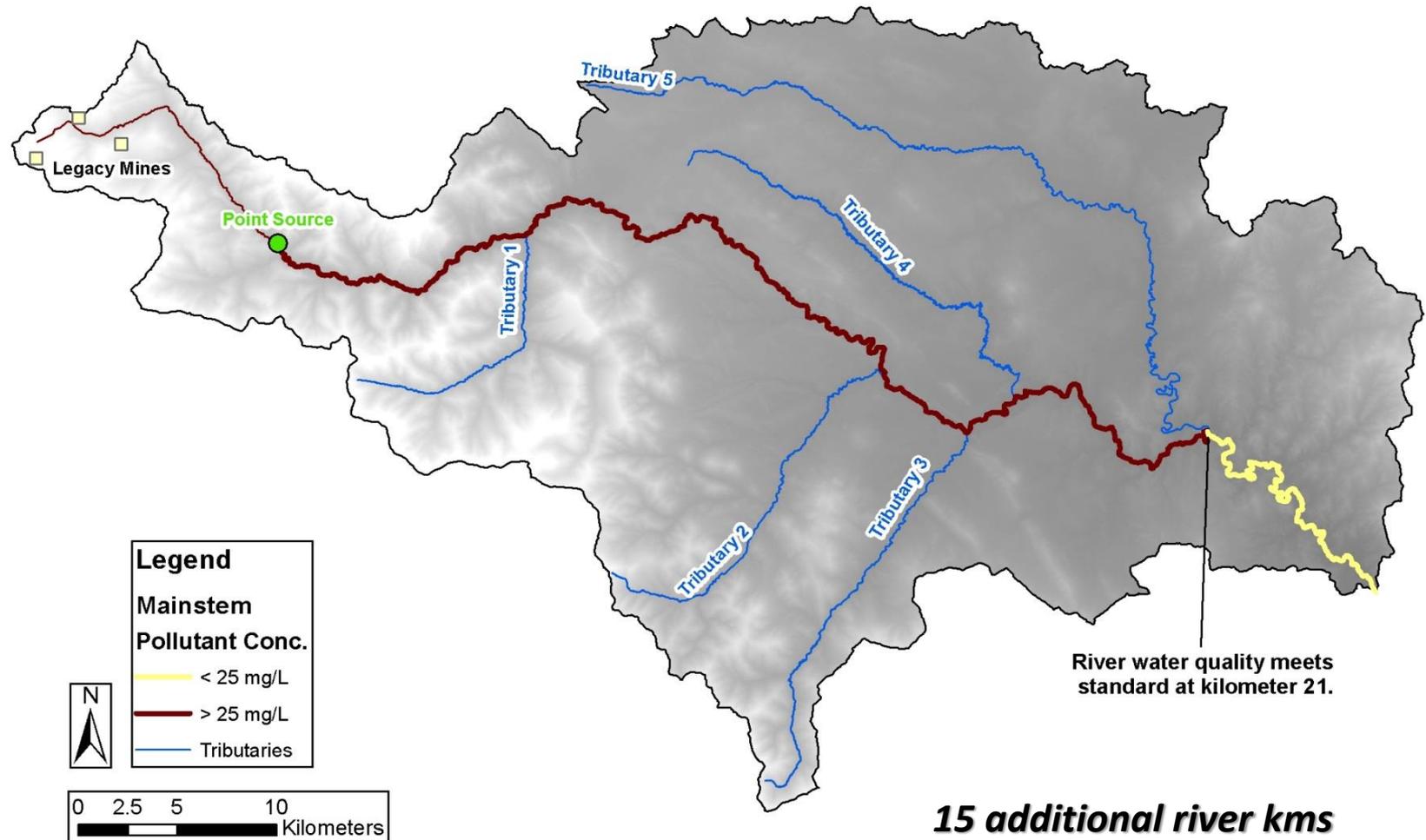
# EXAMPLE WATERSHED-WITH POINT SOURCE

Point source near headwaters. Point source is meeting the WQ standard (25 mg/L) even though background conc. is 50 mg/L



# EXAMPLE WATERSHED-WITH POINT SOURCE

Point source near headwaters. Point source is meeting the background conc. of 50 mg/L



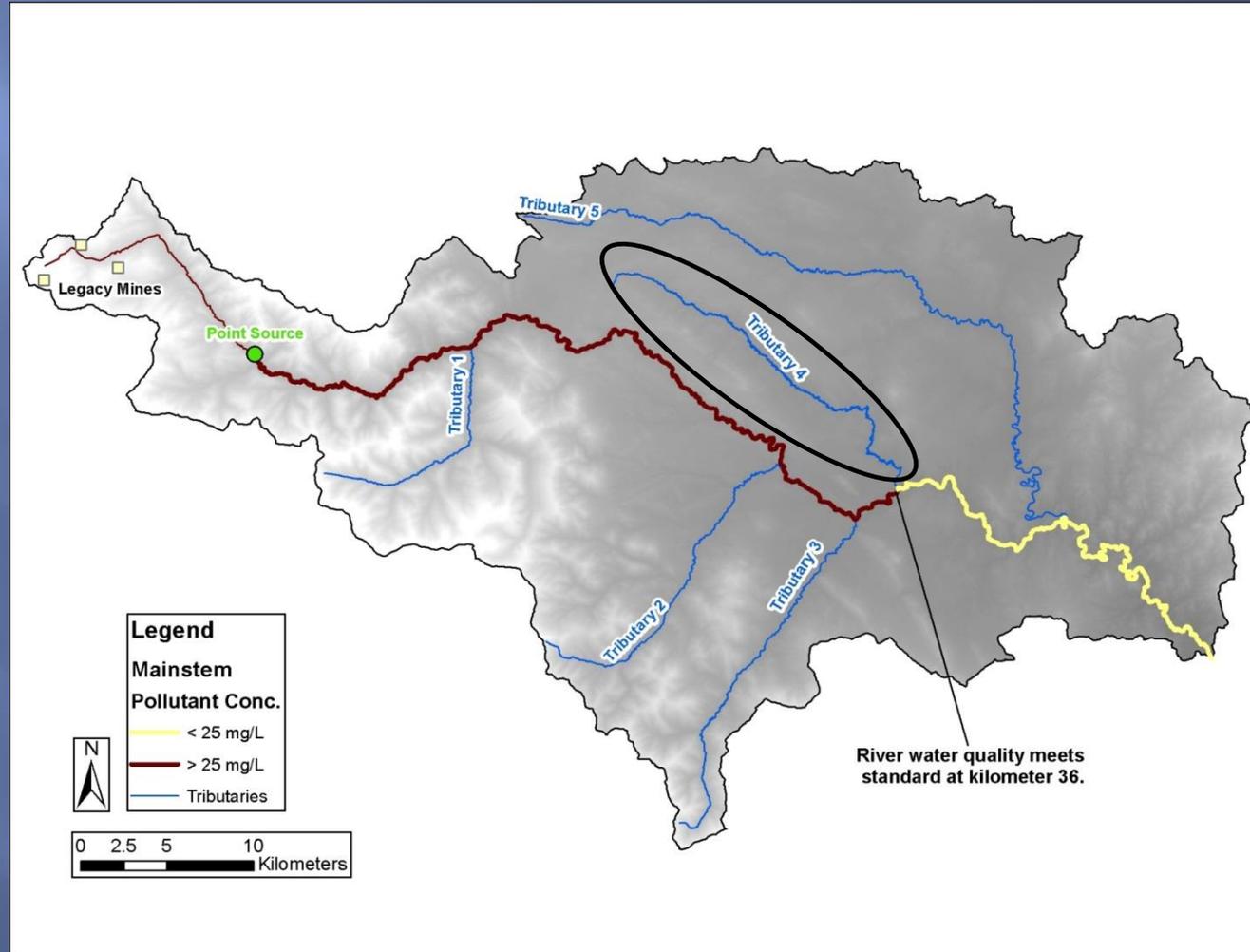
**15 additional river kms exceed standards**

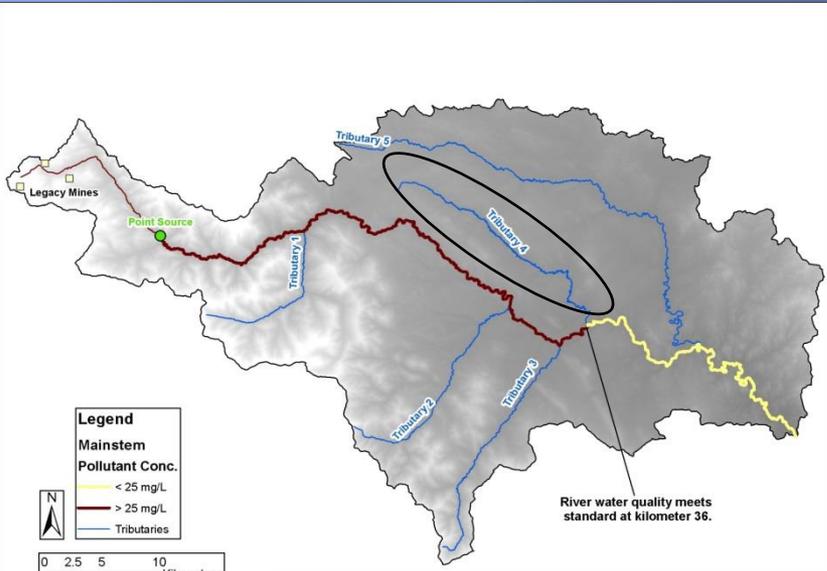
- ▣ If the discharger only meets background WQ (50 mg/L), no variance would be granted (there is material contribution to the problem)
  - WQ standards exceeded for 15 more kilometers (9.3 miles)
  
- ▣ As a result, discharger would:
  - (A) need to meet the standard, or
  - (B) discharge at an intermediate concentration (25-49 mg/L) where standards exceedence remain limited to the confluence with tributary 4
  - If B, then variance may be justified (*next slide....*)

# Increases in pollutant concentrations in the already-affected reach

What if trib 4 had huge volume, such that it could dilute almost any arriving concentration down to standards? then...

*There may exist an increase above background in the already-affected reach that is also “materially contributing” to the problem, even though there is no increase in effected stream length*





The issue pertains to the magnitude of the increase above background in the already-impacted zone (km 100-50)....

