

# **Appendix E**

## **Section 404 Coordination**



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NEBRASKA REGULATORY OFFICE – WEHRSPANN  
8901 SOUTH 154 STREET  
OMAHA, NEBRASKA 68138-3621

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx>

December 5, 2012

Tony Ringenberg  
Nebraska Department of Roads  
1500 Highway 2  
PO Box 94759  
Lincoln, NE 68509

RE: 2010-2619-WEH / Box Butte & Morrill Counties Heartland Expressway Junction L62A & US-385 to Alliance NH-385-3(118) CN 51432 – Approved Jurisdictional Determination

Dear Mr. Ringenberg:

We have reviewed your request for an approved jurisdictional determination for the above-referenced project. The areas in question were multiple wetlands located along the project route between the Junction L62A & US-385 intersection to Alliance, Nebraska. The project is located in the vicinity of 41.812175° N, -103.150461° W, in Section 6, Township 21 North, Range 50 West in Morrill County, Nebraska.

An approved jurisdictional determination (JD) has been completed for your project and is enclosed. The JD will be posted on our website at <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska/JurisdictionalDetermination.aspx>. The JD will be available on the website within 30 days. If you are not in agreement with the JD, you may request an administrative appeal under U.S. Army Corps of Engineers regulations found at 33 C.F.R. 331. The Request for Appeal must be received within 60 days from the date of this correspondence (by **February 5, 2013**). If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a Request for Appeal, if you do not object to the JD.

This jurisdictional determination remains valid for five years, unless new information warrants revision of the determination before the expiration date.

**Based on the information provided, resources utilized within our office, and a site visit conducted on October 24, 2012; we have made an approved jurisdictional determination.**

- 1) **The Lowline Canal (R4SBCx) is a jurisdictional water of the U.S. It has a relatively permanent flow, bed and bank, OHWM indicators and flows between two waters of the U.S.; Lake Minatare and the North Port Canal.**
- 2) **Snake Creek is a non-jurisdictional swale dominated by upland vegetation. It has no bed and bank, no OHWM indicators, and no hydrophytic vegetation present.**
- 3) **There are 24 wetland areas along the project route that are isolated and non-jurisdictional. These include the following wetlands, which are identified in the enclosed aerial attachments: Wetlands A, B, C D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, and X.**

Non-jurisdictional waters are not subject to Department of the Army (DA) regulatory authorities and no permit pursuant to Section 404 of the Clean Water Act is required from the U.S. Army Corps of Engineers for impacts to non-jurisdictional wetlands.

If, in the future, you plan to place fill material in any waters of the United States, please provide this office with an application for review for possible permit requirements.

Although a DA permit is not required for impacts to non-jurisdictional wetlands, this does not eliminate the requirement that you obtain other applicable Federal, State, Tribal and/or Local permits as required. One such requirement is complying with Title 117 of Nebraska's Surface Water Quality Standards. The Nebraska Department of Environmental Quality (NDEQ) administers this regulation. These standards apply to all "Waters of the State," including isolated and adjacent wetlands, creeks, lakes, rivers, etc. To ensure compliance with NDEQ's standards contact:

Jason Garber  
Nebraska Department of Environmental Quality  
Water Quality Division -- Planning Unit  
PO Box 98922  
Lincoln, NE 68509-8922

The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at <http://per2.nwp.usace.army.mil/survey.html>. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

If you have any questions concerning this verification or jurisdictional determination, please contact Mr. Phil Rezac at the above address, by phone at (402) 896-0896, or by email at [phil.m.rezac@usace.army.mil](mailto:phil.m.rezac@usace.army.mil) and refer to file number **2010-2619-WEH**.

Sincerely,

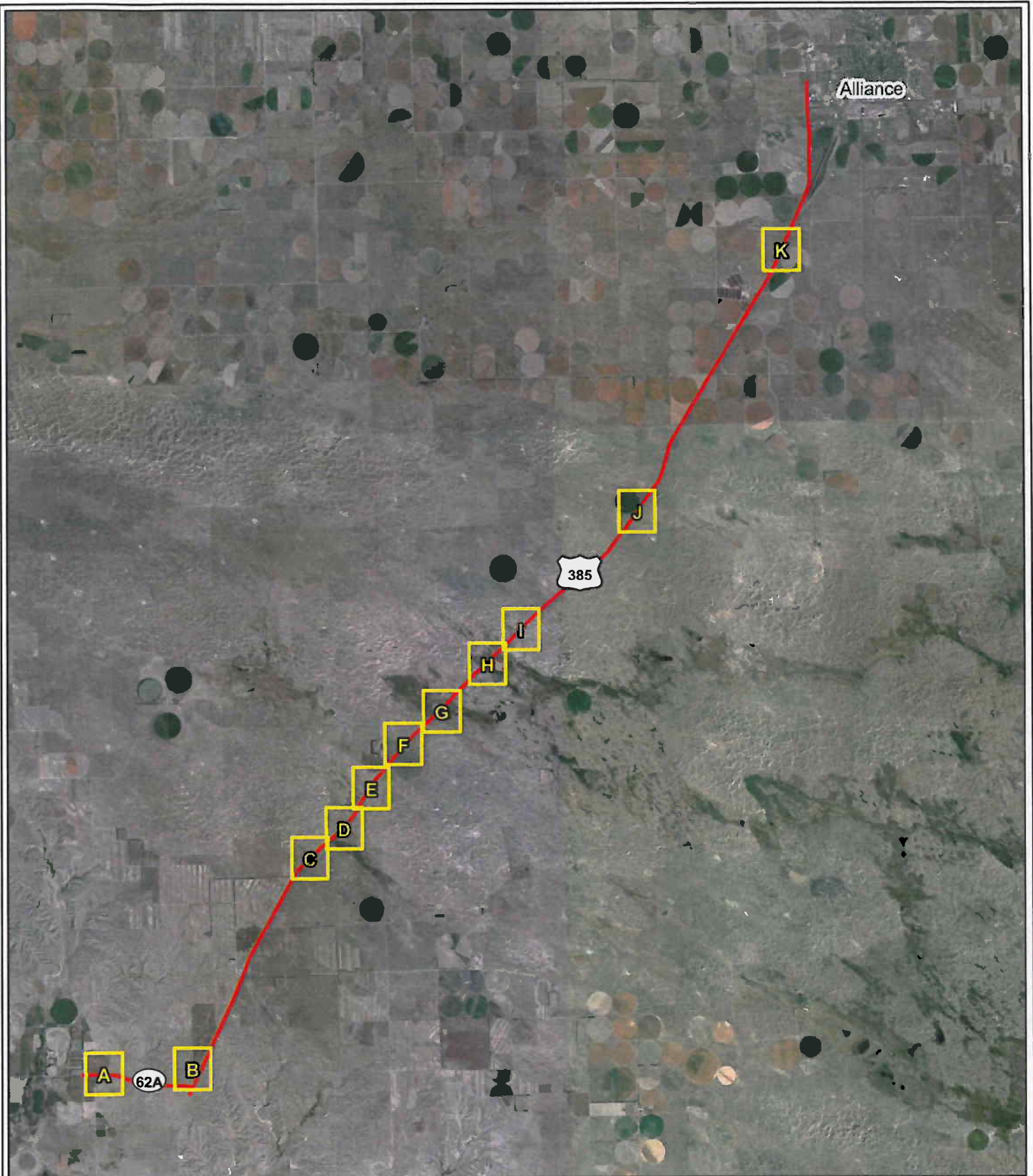


John L. Moeschen  
Nebraska State Program Manager

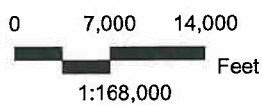
Enclosures

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NDEQ (Garber)  
Olsson (Darling)

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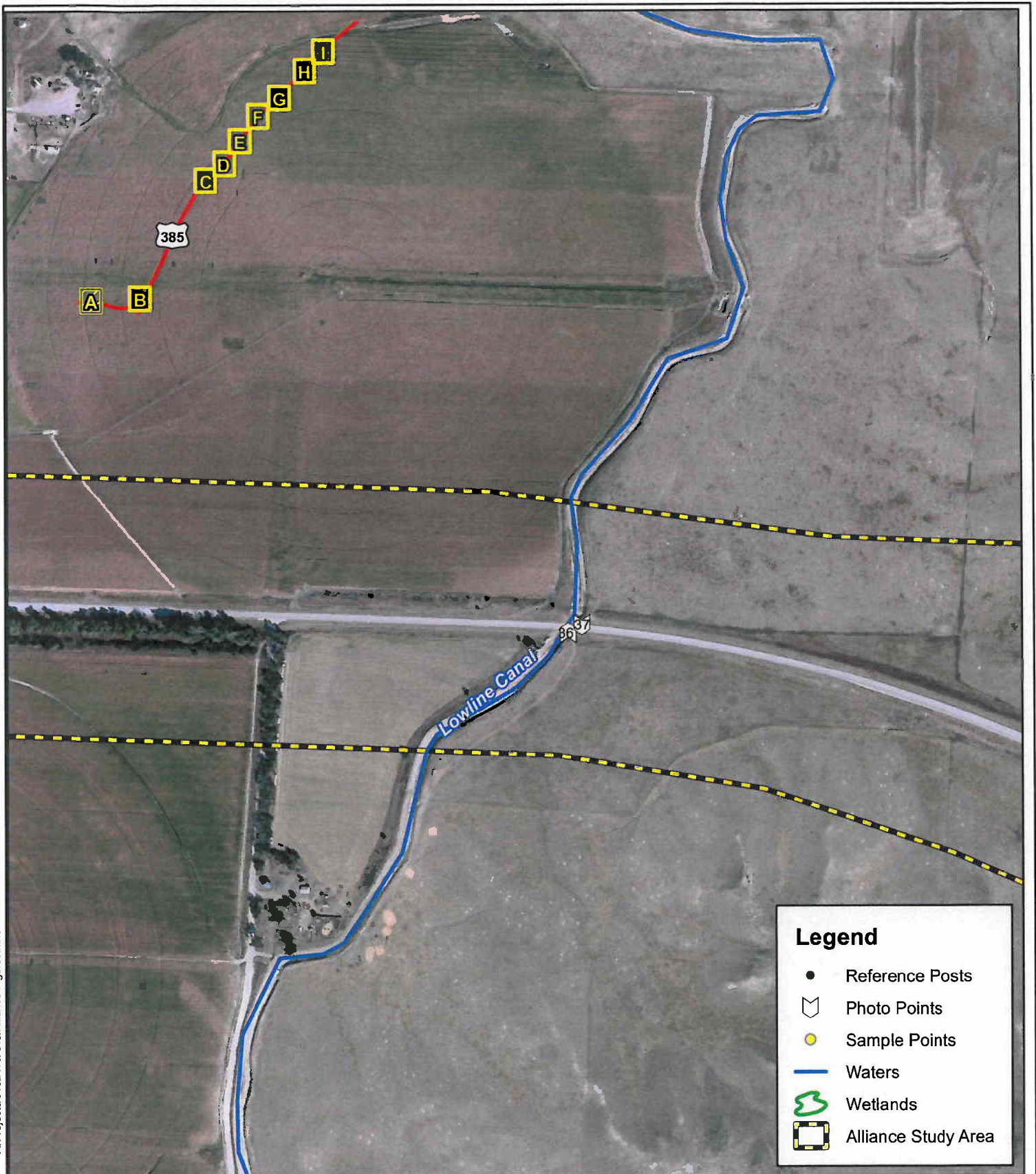
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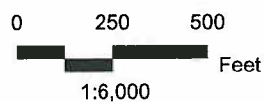
Jct. L62A/US 385  
NDOR Project No. NH-385-3(118)  
C.N. 51432  
Box Butte and Morrill Counties, Nebraska  
Wetlands Index Map  
Figure 5



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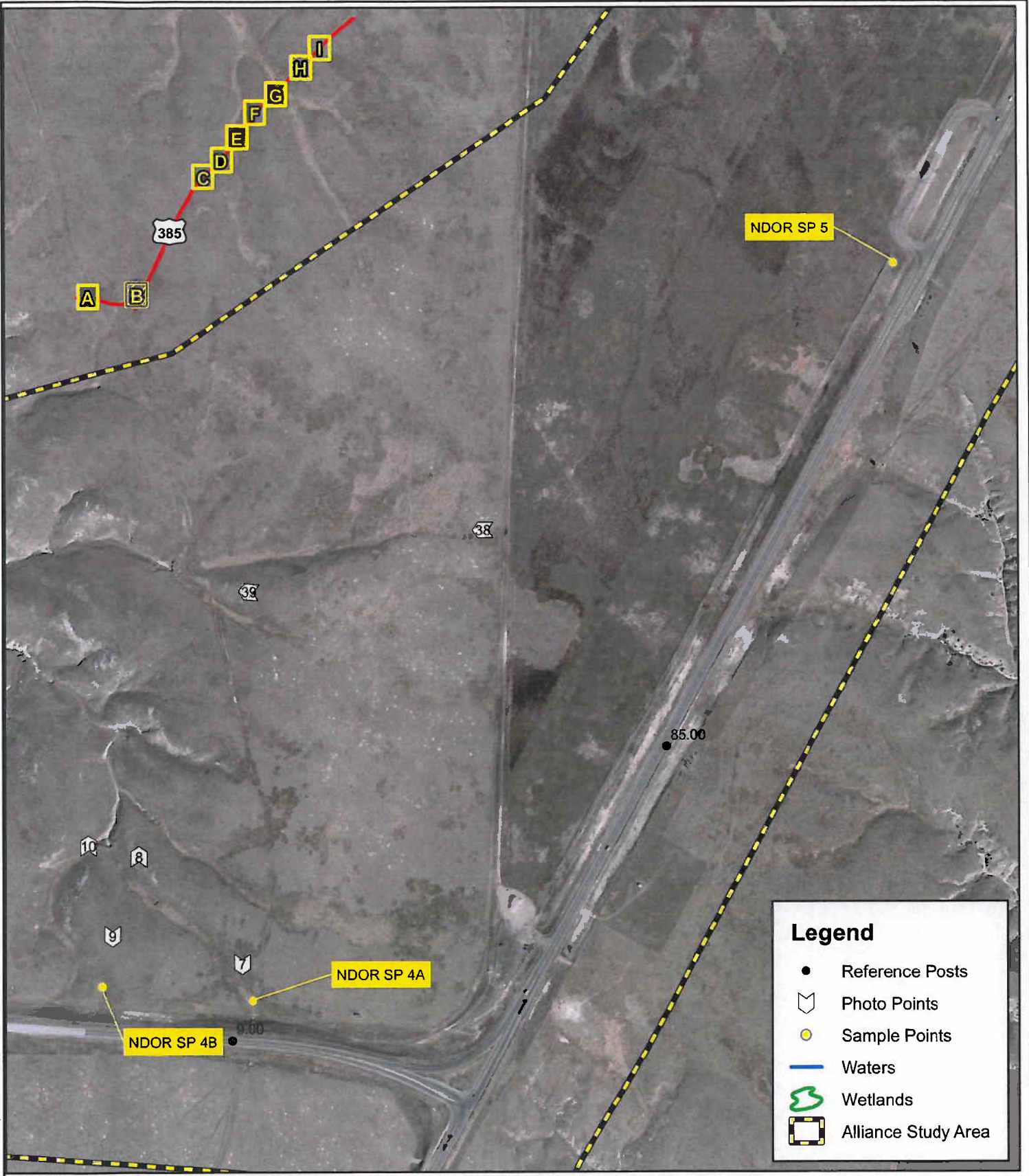
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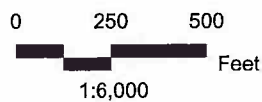
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 NDOR Project No. NH-385-3(118)  
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**Wetlands Map**  
 Figure 5A



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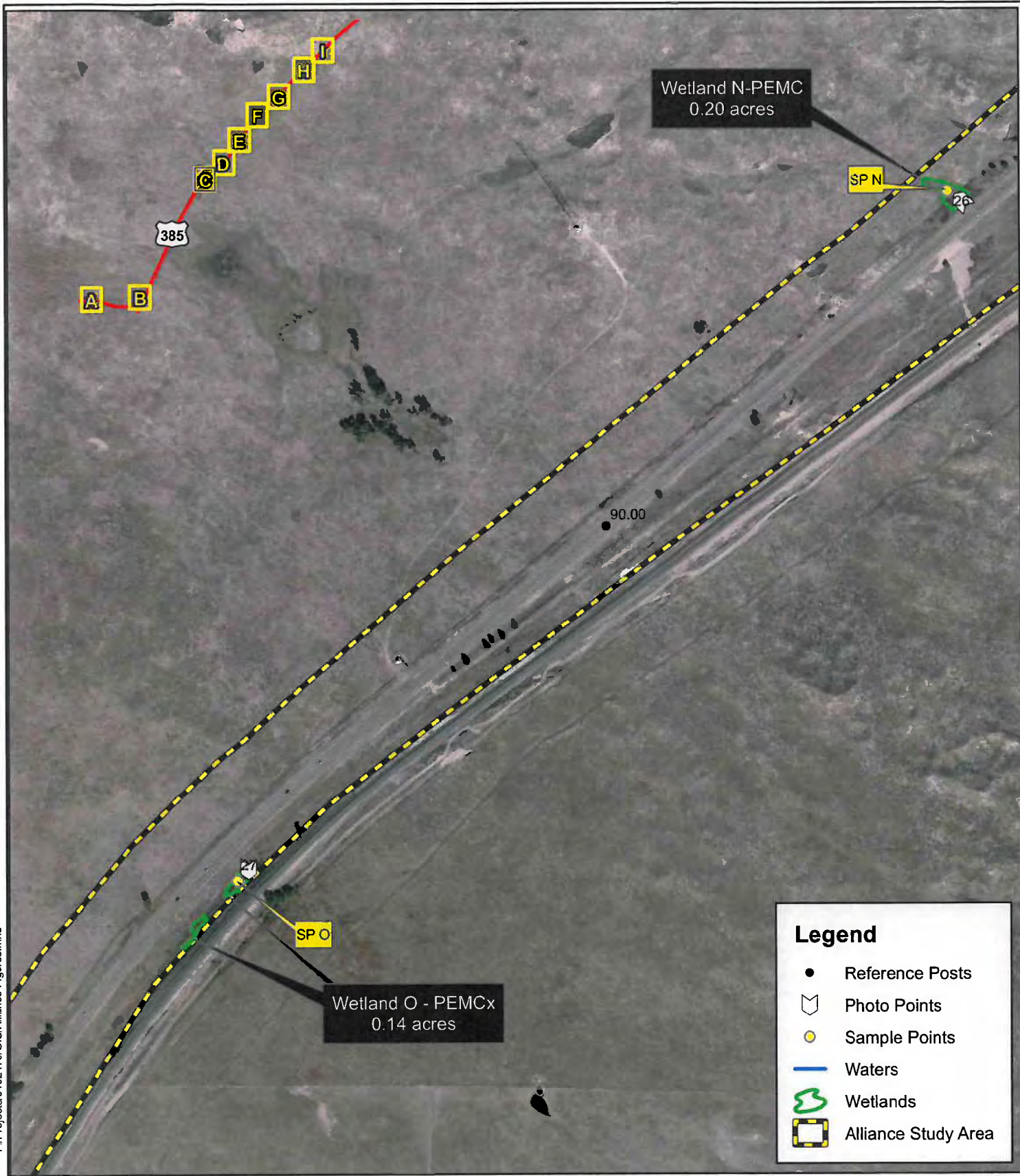
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**Wetlands Map**  
 Figure 5B



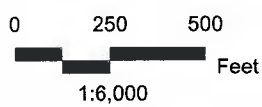
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**Legend**

- Reference Posts
- ⬮ Photo Points
- Sample Points
- Waters
- 🌿 Wetlands
- ☐ Alliance Study Area

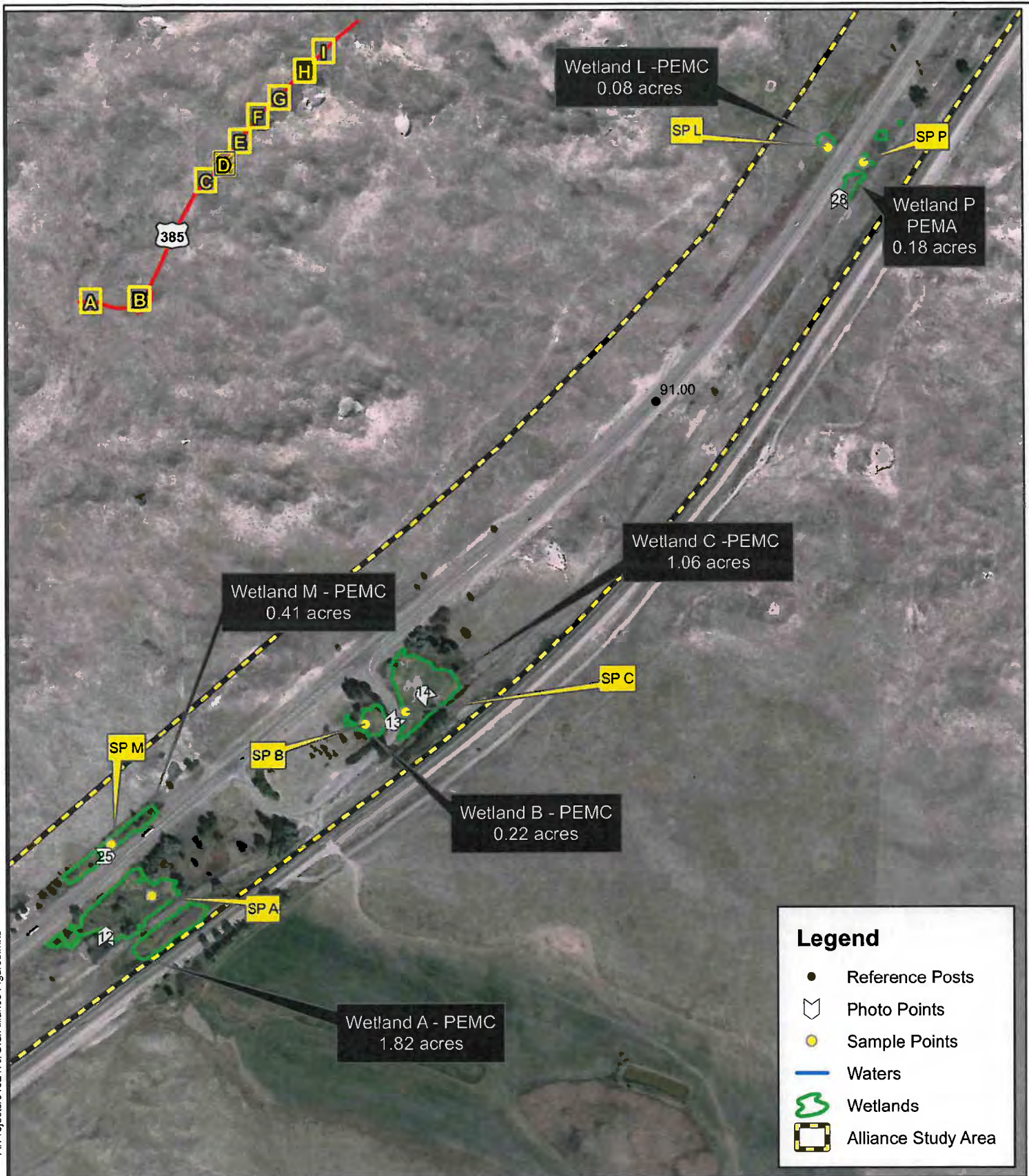
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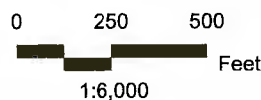
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 Box Butte, Morrill Counties, Nebraska  
 Wetlands Map  
 Figure 5C



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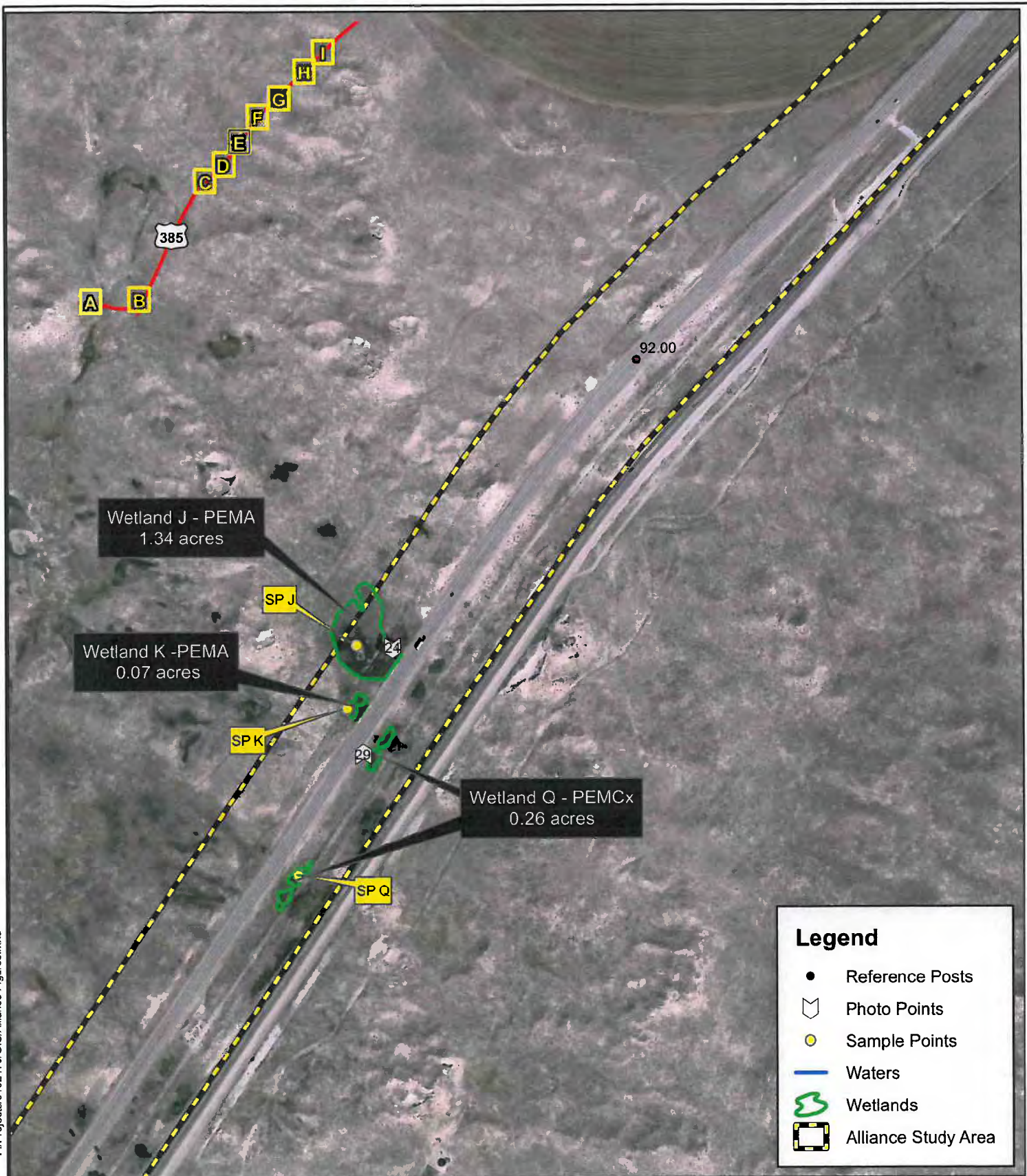
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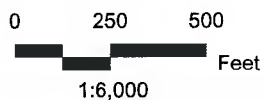
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 C.N. 51432  
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**Wetlands Map**  
 Figure 5D



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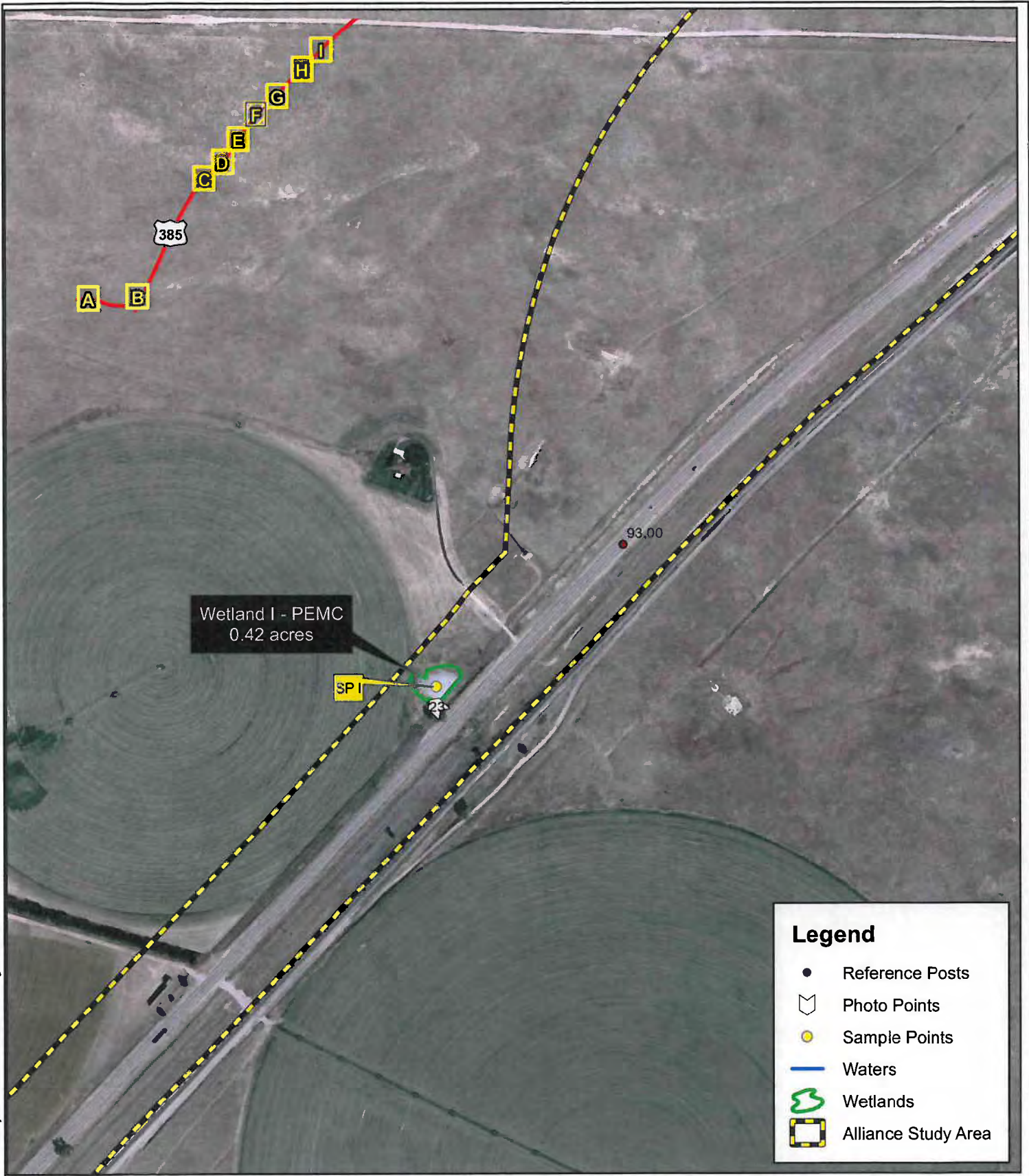
Data Source: 2011 Bing Aerial, ESRI Online Data



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**Wetlands Map**  
 Figure 5E



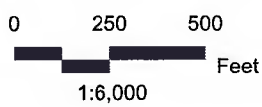
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**Legend**

- Reference Posts
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- Wetlands
- Alliance Study Area

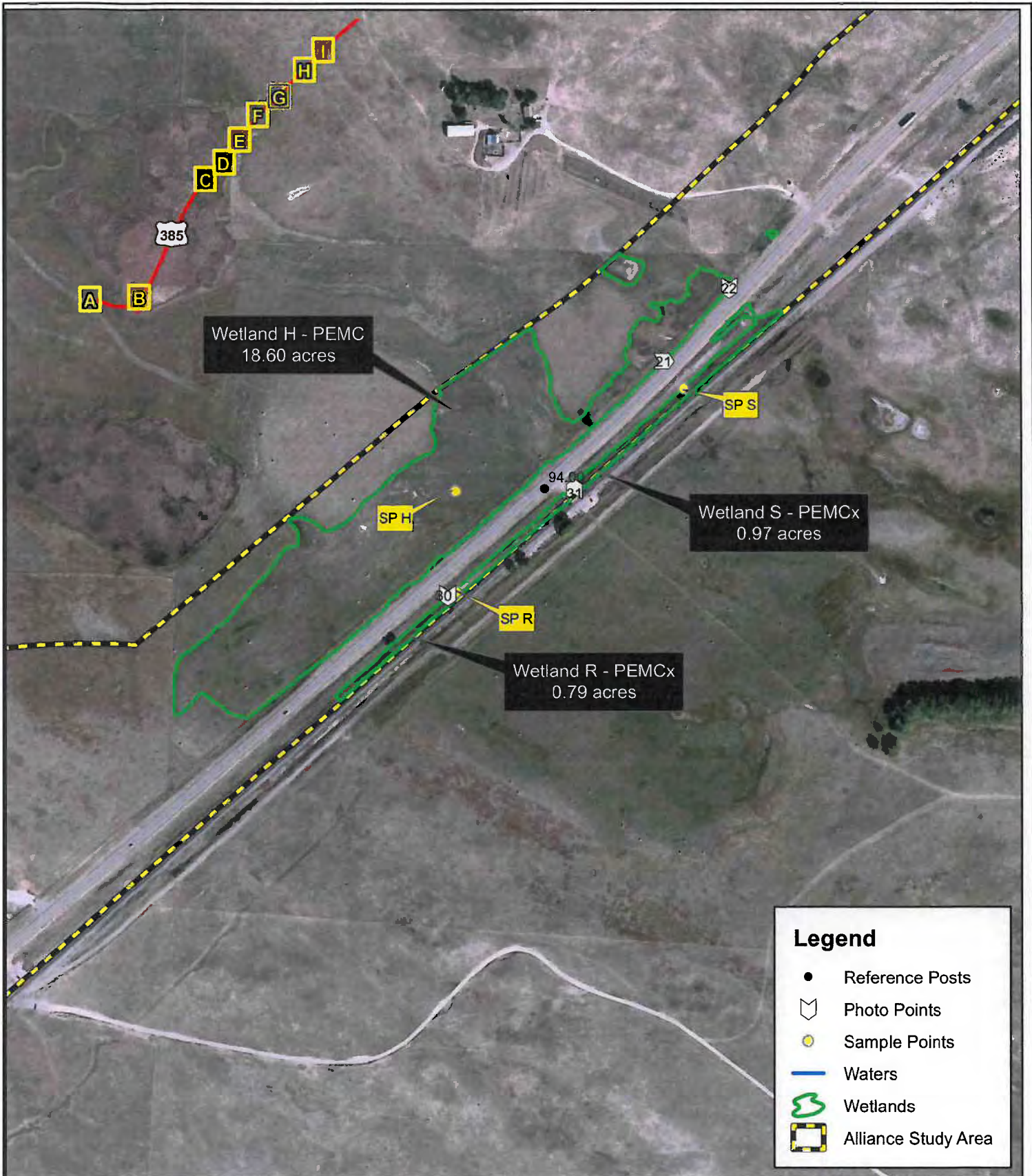
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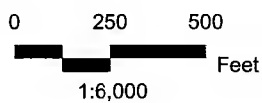
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**Wetlands Map**  
 Figure 5F



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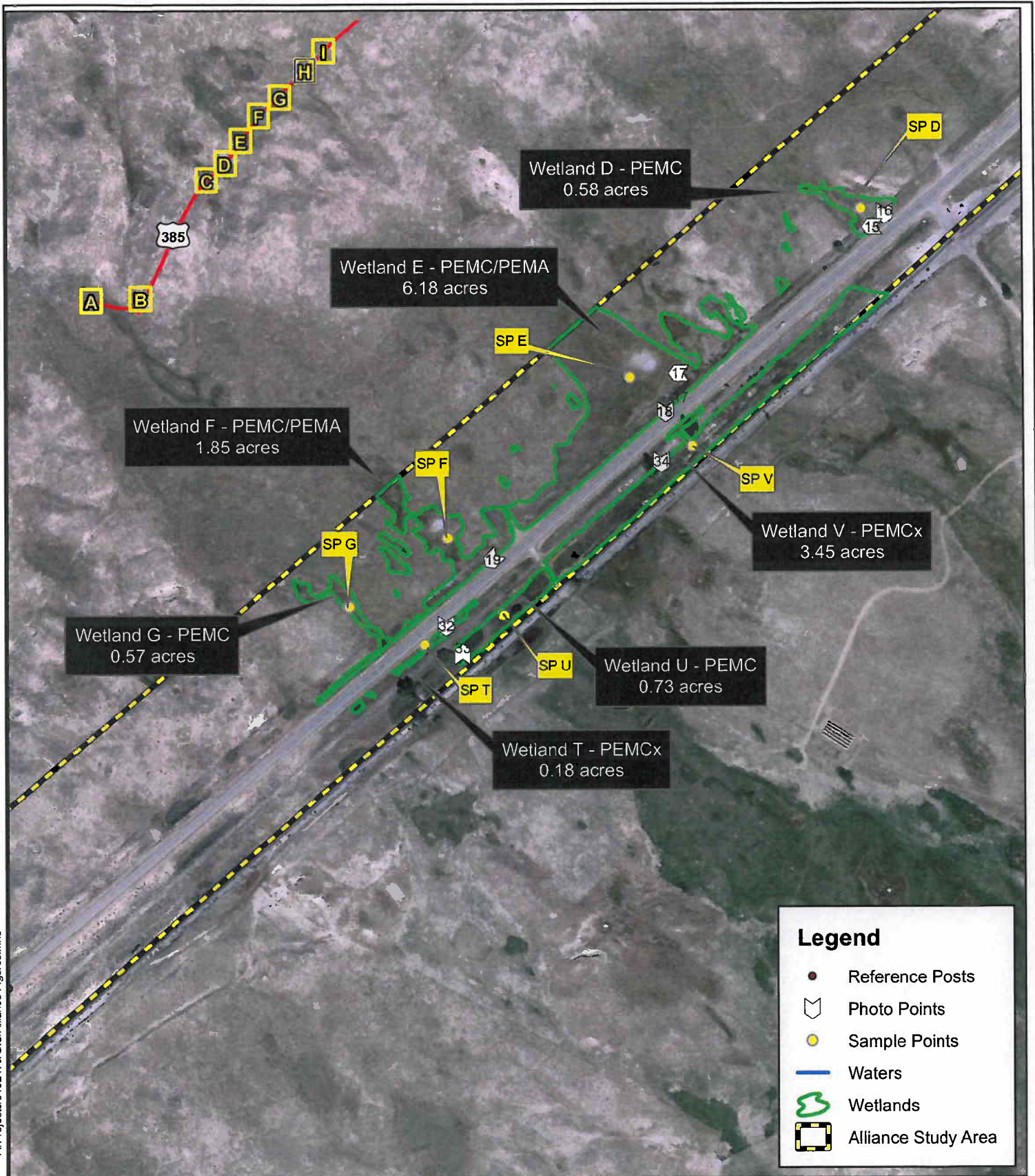
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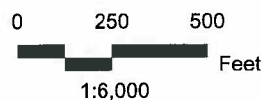
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 NDOR Project No. NH-385-3(118)  
 C.N. 51432  
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**Wetlands Map**  
 Figure 5G



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Data Source: 2011 Bing Aerial, ESRI Online Data

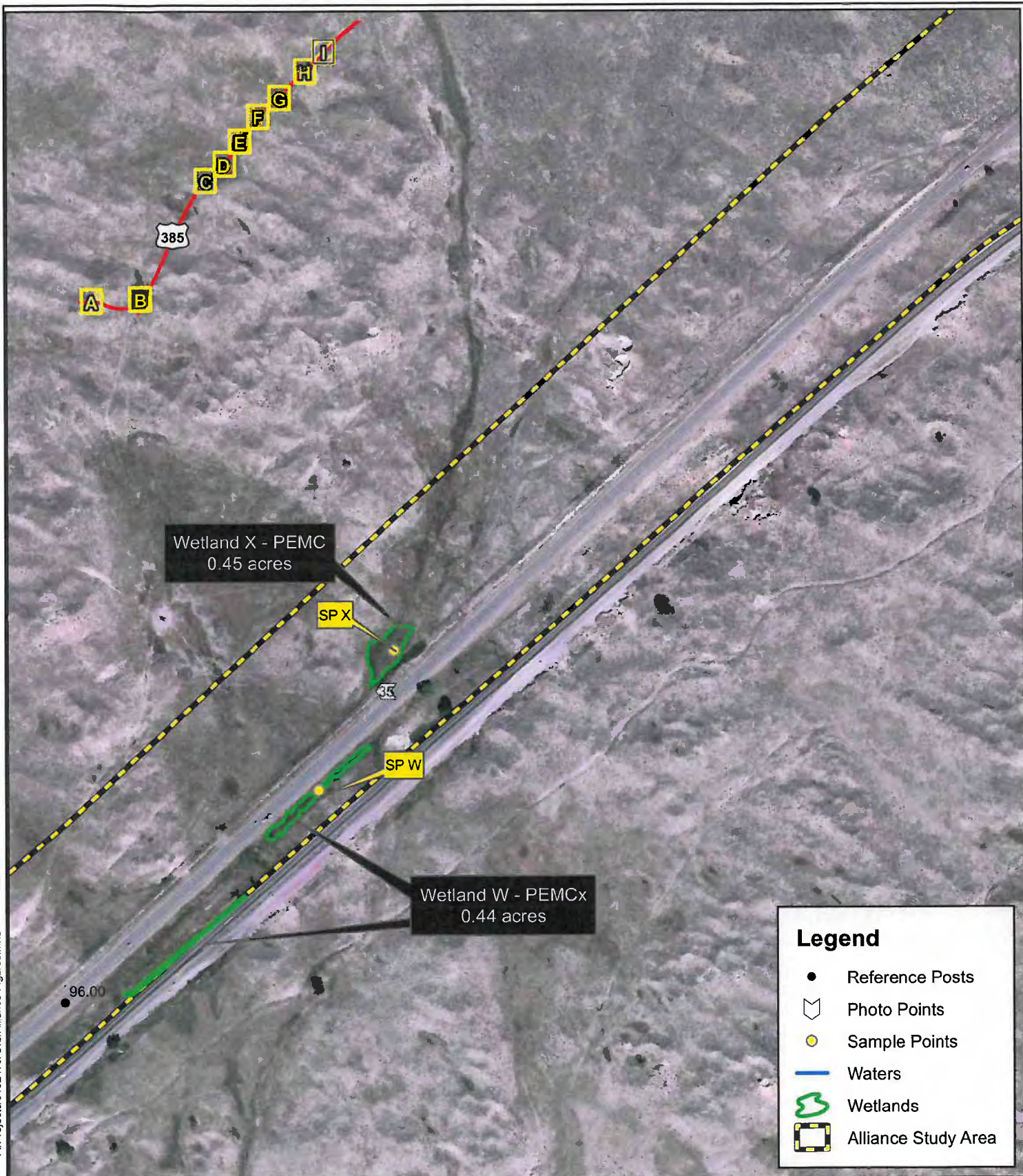


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Wetlands Map  
 Figure 5H



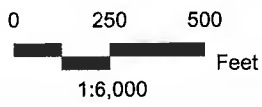
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**Legend**

- Reference Posts
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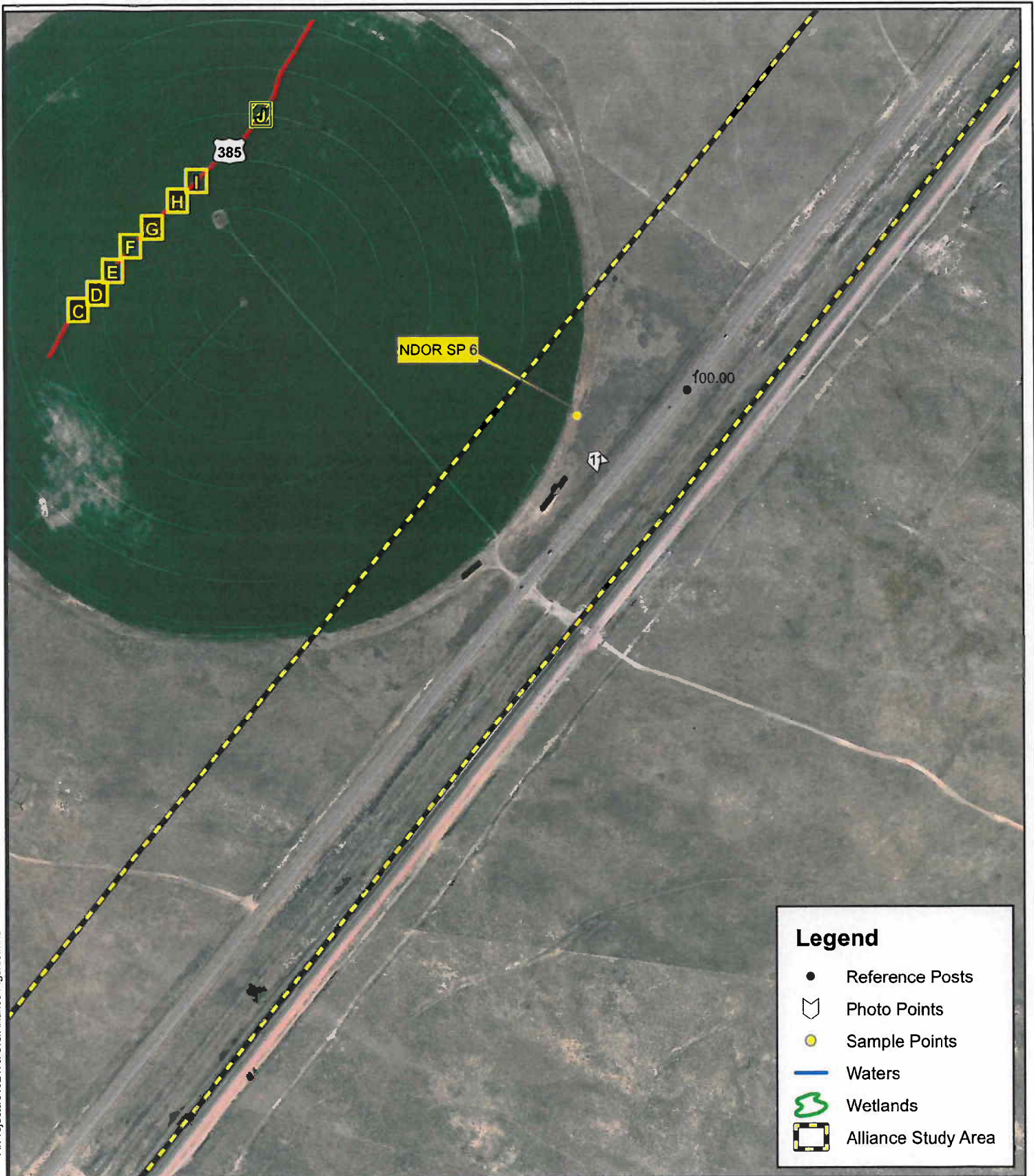
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**Wetlands Map**  
 Figure 5I



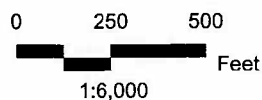
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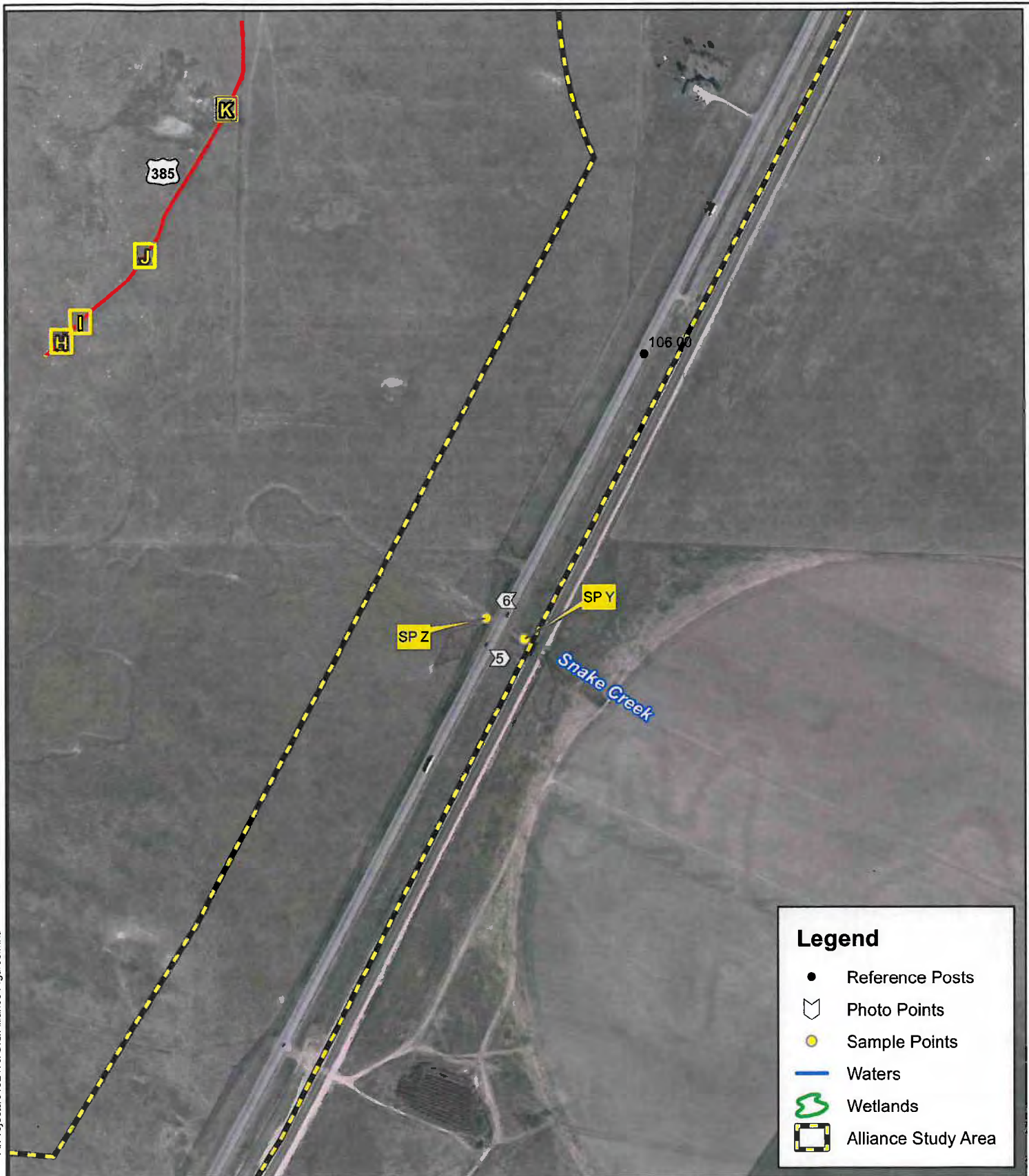
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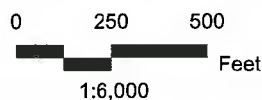
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 Figure 5J



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Data Source: 2011 Bing Aerial, ESRI Online Data



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 Figure 5K