APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): January 11, 2023

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Sacramento District, Wasatch Residential, **SPK-2022-00300**

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: **Utah** County/parish/borough: **Davis County** City: **Farmington**
Center coordinates of site (lat/long in degree decimal format): Lat. **40.992507**°, Long. **-111.918831**°
Universal Transverse Mercator: **12 422715.69 4538331.78**
Name of nearest waterbody: **Spring Creek**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Great Salt Lake**
Name of watershed or Hydrologic Unit Code (HUC): **Lower Weber, 16020102**
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form:

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: **January 11, 2023**
☒ Field Determination. Date(s): **August 24, 2021**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **are and are not** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☒ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: **2,580.6** linear feet and **0.61** acres.
      Wetlands: **6.2** acres.

   c. **Limits (boundaries) of jurisdiction** based on: **OHWM and 1987 Delineation Manual**
      Elevation of established OHWM (if known):

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: Approximately 1.01 acre of Aquatic Resources were identified as isolated, including 0.35 acres of wetlands and 0.66 acres of other waters. The site visit done on 24 August 2021 by Corps staff confirmed

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

that wetlands identified as WM-02 (0.18 acres), WM-04 (0.13 acres), WM-05 (0.04 acres), and impoundments of water identified as OW-03 (0.45 acres), OW-04 (0.16 acres), and OW-05 (0.05) are intrastate isolated aquatic resources with no apparent interstate or foreign commerce connection because they are part of closed, isolated depressions that do not connect to Spring Creek.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent":

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 1,260 **acres**
Drainage area: 1,260 **acres**
Average annual rainfall: 22 inches
Average annual snowfall: 50 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **1** tributaries before entering TNW.

Project waters are **2-5** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **2-5** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Project waters cross or serve as state boundaries. Explain: **N/A. The waters are wholly within the state of Utah.**

Identify flow route to TNW[5]:
Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural. **Explain: Spring Creek**
☐ Artificial (man-made). Explain:
☒ Manipulated (man-altered). Explain: **Ditch-01 is a man-made RPW that extends southward from the Spring Creek. Based on information provided by the applicant, diversion devices were placed along Spring Creek to convey waters into the southern sections of the study area where wetlands WM-06 and WM-07 are located. The landowner indicated that the water diversion was shut off in January 2022 since they are no longer needed. In December 2021, USACE discovered a non-compliance activity associated with a NWP 14 along the southern boundary of the study area in which a culvert under Burke Lane was removed during road expansion activities by Farmington City. This culvert connected Ditch-01 and associated wetlands with downstream waters of the U.S. Non-compliant activities or unauthorized activities cannot sever Section 404 CWA jurisdiction of upstream waters.**

Tributary properties with respect to top of bank (estimate):
Average width: **3-5** feet
Average depth: **2-3.5** feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

☒ Silts	☐ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☒ Vegetation.	
☐ Other. Explain:		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: **Spring Creek: Meandering; Ditch-01: Relatively Straight**
Tributary gradient (approximate average slope): **<1%**

(c) Flow:
Tributary provides for: **Spring Creek: Perennial; Ditch-01: Seasonal Flow**
Estimate average number of flow events in review area/year: **1**
Describe flow regime: **Spring Creek maintains above-surface baseflow throughout the year with punctuated high water levels in response to storm events and artificial irrigation. Ditch-01 maintains seasonal flooding during certain times of the year when water is diverted from Spring Creek.**
Other information on duration and volume:

Surface flow is: **Discrete and confined**. Characteristics: **Mostly confined to channels.**

Subsurface flow: **Unknown**. Explain findings: **Not Observed.**
☐ Dye (or other) test performed:

Tributary has (check all that apply):
☐ Bed and banks
☒ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
☒ changes in the character of soil	☒ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☒ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events

[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

☐ water staining
☐ other (list):
☒ abrupt change in plant community
☐ Discontinuous OHWM.[7] Explain:

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: **Water is clear during normal flow.**

Identify specific pollutants, if known: **Likely to be high in nutrients due to agriculture practices and adjacent residential developments.**

(iv) Biological Characteristics. Channel supports (check all that apply):

☐ Riparian corridor. Characteristics (type, average width):
☒ Wetland fringe. Characteristics: **Wetlands WM-01, WM-03a, WM-03b, EM-01a, EM-01b, WM-06, and WM-07 are fringe wetlands that directly abut Spring creek or Ditch-01.**
☒ Habitat for:
- ☐ Federally Listed species. Explain findings:
- ☐ Fish/spawn areas. Explain findings:
- ☐ Other environmentally-sensitive species. Explain findings:
- ☒ Aquatic/wildlife diversity. Explain findings: **Habitat for macroinvertebrates and wildlife.**

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: **6.2** acres

Wetland type. Explain: **Emergent Marsh/Persistent Emergent Wetland (PEM1) and Wet Meadow/Nonpersistent Emergent Wetland (PEM2).**

Wetland quality. Explain: **Wetlands are medium quality due to impairments including invasive species, water quality impacts from adjacent agriculture fields, and residential developments. These wetlands are directly abutting Spring Creek and Ditch-01 and in close proximity to Haight Creek and Shepard Creek and their wildlife habitat potential.**

Project wetlands cross or serve as state boundaries. Explain: **The waters are wholly within the state of Utah.**

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain: **Wetlands on the site appear to have hydrology through most of the year.**

Surface flow is**: Overland sheetflow**

Characteristics: **Hydrologic movement through the wetlands appears to be mainly through sheet flow and shallow subsurface flow.**

Subsurface flow: **Unknown**. Explain findings:
- ☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting **Wetlands WM-01, WM-03a, WM-03b, EM-01a, and EM-01b are directly butting Spring Creek. WM-06 and WM-07 are directly abutting Ditch-01.**

☐ Not directly abutting
- ☐ Discrete wetland hydrologic connection. Explain:
- ☐ Ecological connection. Explain:
- ☐ Separated by berm/barrier. Explain:

[7] Ibid.

(d) Proximity (Relationship) to TNW
Project wetlands are **1-2** river miles from TNW.
Project waters are **1-2** aerial (straight) miles from TNW.
Flow is from: **Wetland to navigable waters.**
Estimate approximate location of wetland as within the **2 - 5-year** floodplain.

(ii) Chemical Characteristics:
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **Water color is clear, water quality is likely high in nutrients from agricultural practices.**

Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):
☒ Riparian buffer. Characteristics (type, average width): **25 feet.**
☒ Vegetation type/percent cover. Explain: **60-80%**
☒ Habitat for: **Habitat for invertebrates, small mammals, birds, etc.**
☐ Federally Listed species. Explain findings:
☐ Fish/spawn areas. Explain findings:
☐ Other environmentally-sensitive species. Explain findings:
☒ Aquatic/wildlife diversity. Explain findings: **Habitat for invertebrates, small mammals, birds, etc.**

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: **7**
Approximately **6.2** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
WM-01 (Y)	0.02	EM-01b (Y)	0.3
WM-03a (Y)	0.18	WM-06 (Y)	3.65
WM-03b (Y)	0.15	WM-07 (Y)	1.5
EM-01a (Y)	0.4		

Summarize overall biological, chemical and physical functions being performed: **The wetlands are providing habitat for wildlife and invertebrates as well as flood attenuation during high water events along the Spring Creek. Additional functions include nutrient uptake, removal of sediments, and improvement of water quality.**

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   ☐ TNWs: linear feet, wide, Or acres.
   ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: **Spring Creek and Ditch-01 carry above-surface base flow throughout most of the year.**
   ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   ☐ Tributary waters: linear feet wide.
   ☐ Other non-wetland waters: acres.
   Identify type(s) of waters:

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   ☐ Tributary waters: linear feet, wide.
   ☐ Other non-wetland waters: acres.
   Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☒ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   ☒ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: **Wetlands WM-01, WM-03a, WM-03b, EM-01a, and EM-01b are directly abutting Spring Creek. WM-06 and WM-07 are directly abutting Ditch-01.**

   ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

   Provide acreage estimates for jurisdictional wetlands in the review area: **6.2** acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

[8]See Footnote # 3.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain:
☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet, wide.
☐ Other non-wetland waters: acres.
Identify type(s) of waters:
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce. **Investigation and analysis performed by Kagel Environmental, LLC and Horrocks Engineers and verified in the field by Corps staff demonstrated that WM-02 (0.18 acres), WM-04 (0.13 acres), WM-05 (0.04 acres), OW-03 (0.45 acres), OW-04 (0.16 acres), and OW-05 (0.05) are located in depressed areas surrounded by uplands isolating them from jurisdictional waters with no potential for downstream connection except in above average precipitation events.**
   ☒ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
☐ Other: (explain, if not covered above):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, wide.
☐ Lakes/ponds: acres.
☒ Other non-wetland waters: **0.66** acres. List type of aquatic resource: **Impoundments of water.**
☒ Wetlands: **0.35** acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, wide.
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

SECTION IV: DATA SOURCES.

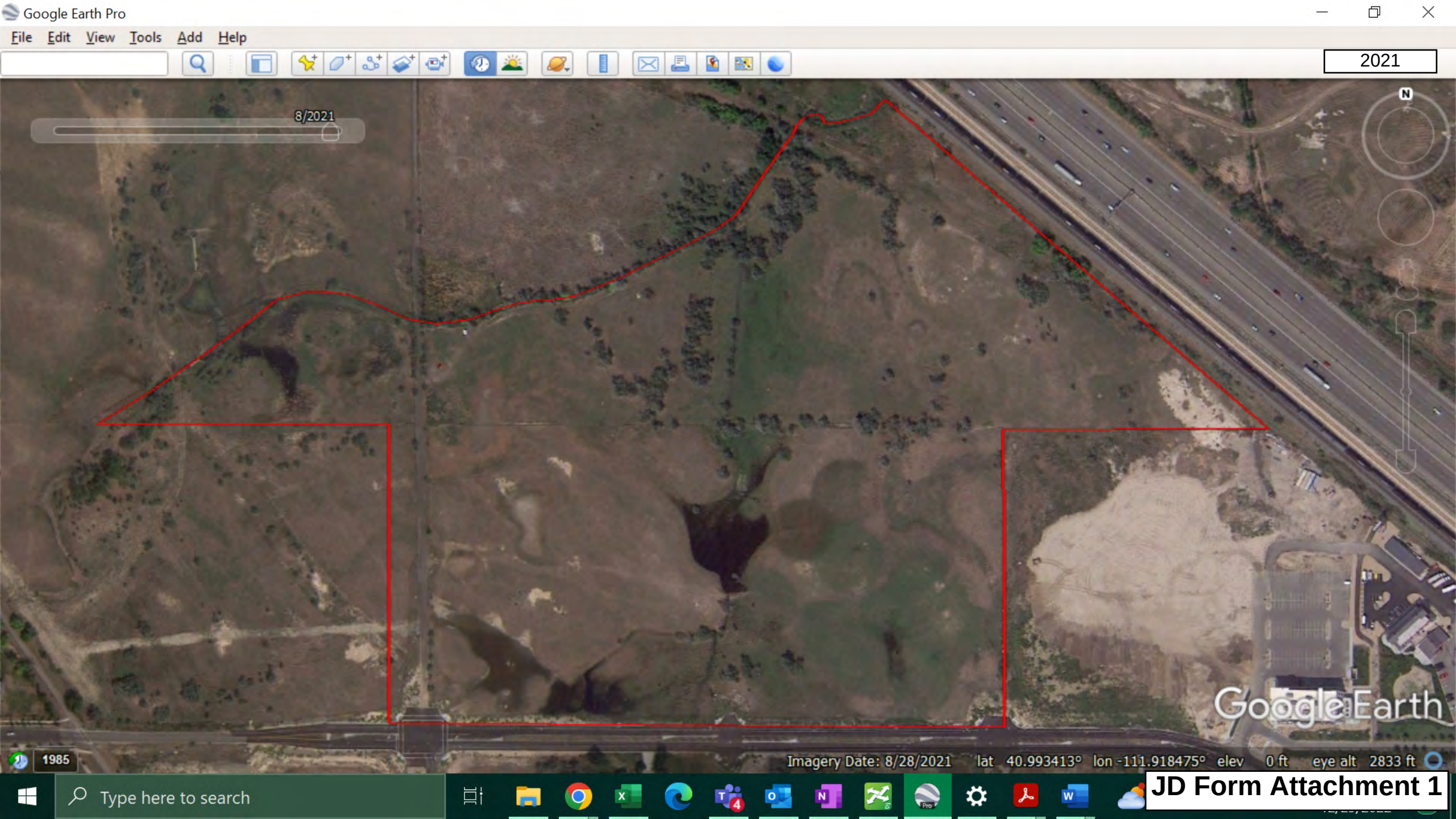
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: "**Waters of the United States Report Wasatch Residential" prepared by Horrocks Engineers in May 2022 and revised in August 2022.**
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - ☒ Office concurs with data sheets/delineation report.
  - ☐ Office does not concur with data sheets/delineation report.
- ☐ Data sheets prepared by the Corps:
- ☐ Corps navigable waters' study:
- ☐ U.S. Geological Survey Hydrologic Atlas:
  - ☒ USGS NHD data. **National Hydrography Dataset Flowlines – Large Scale from National Layers in the National Regulatory Viewer for the South Pacific Division. Retrieved January 9, 2023.**
  - ☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; Farmington**
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
  - ☒ **National wetlands inventory map(s). Cite name: US Fish and Wildlife Service Wetland Mapper – National Layer in the National Regulatory Viewer for the South Pacific Division. Retrieved January 9, 2023.**
- ☐ State/Local wetland inventory map(s):
- ☐ FEMA/FIRM maps:
- ☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **GoogleEarth 7.3.3.7692. (Historic Aerial Imagery). Davis County, Utah. Latitude: 40.993139; Longitude: -111.918875. Retrieved January 9, 2023, from http://www.earth.google.com.** or ☒ Other (Name & Date): **USACE site inspection done on August 24, 2021and photos included in the AR report by Kagel Environmental, LLC and Horrocks Engineers.**
- ☒ Previous determination(s). File no. and date of response letter: **SPK-2005-50472 Approved Jurisdictional Determination (AJD) verified on November 22, 2005, for a 15-acre size parcel within the subject project area. Approximately 0.42 acre of AR were determined to be jurisdictional waters of the U.S. The AJD form specifically mentions Ditch-01 as a jurisdictional feature. The determination was issued to Farmington Land Company, LLC c/o Steve Christensen.**
- ☐ Applicable/supporting case law:
- ☐ Applicable/supporting scientific literature:
- ☒ Other information (please specify): **Lidar data Layers in the National Regulatory Viewer for the South Pacific Division. Retrieved January 9, 2023.**

B. ADDITIONAL COMMENTS TO SUPPORT JD: The original request and aquatic resources report submitted by Kagel Environmental, LLC included the areas northwest of Spring Creek extending to Burke Lane. On December 22, 2021, the requestor was notified of non-compliance activities along Burke Lane immediately south of their property that affected downstream connectivity to jurisdictional waters of the U.S. On February 24, 2022, Kagel Environmental, LLC submitted an addendum letter and revised maps dividing the study area into two separate delineation requests with Spring Creek as the delineation study area boundary. The area located north and/or east of the Spring Creek centerline was evaluated under SPK-2021-00227 and verified on April 27, 2022. The subject AJD covers the area located south of the Spring Creek centerline and Burke Lane. The subject request was re-submitted by Horrocks Engineers on May 9, 2022.

The aquatic resources report prepared by Horrocks Engineers indicates that the site supports approximately 5.57 acres of aquatic resources within the study area. The Corps determined that the aquatic resources extend past the boundaries described in the aquatic resources report and depicted in the aquatic resources map. A revised aquatic resource map was prepared by Corps staff based on signatures and inundation documented on aerial records between 1983 and 2022 (AJD Attachment 1) and review of LiDAR data (AJD Attachment 2). The aquatic resources within the study area were revised to 7.82 acres comprised of 6.55 acres of wetlands and 1.01 acres (2,580.6 linear feet) of other waters of the U.S.

Based on a review of historical remote sensing information and other records, the Corps determined that the non-compliance activity along Burke Lane severed the hydrological connection from the site to downstream waters of the U.S. For this reason, Ditch-01 with abutting wetlands WM-6 and WM-7 were determined to be jurisdictional aquatic resources. The non-compliance issue is being addressed under a separate process not associated with the subject AJD verification.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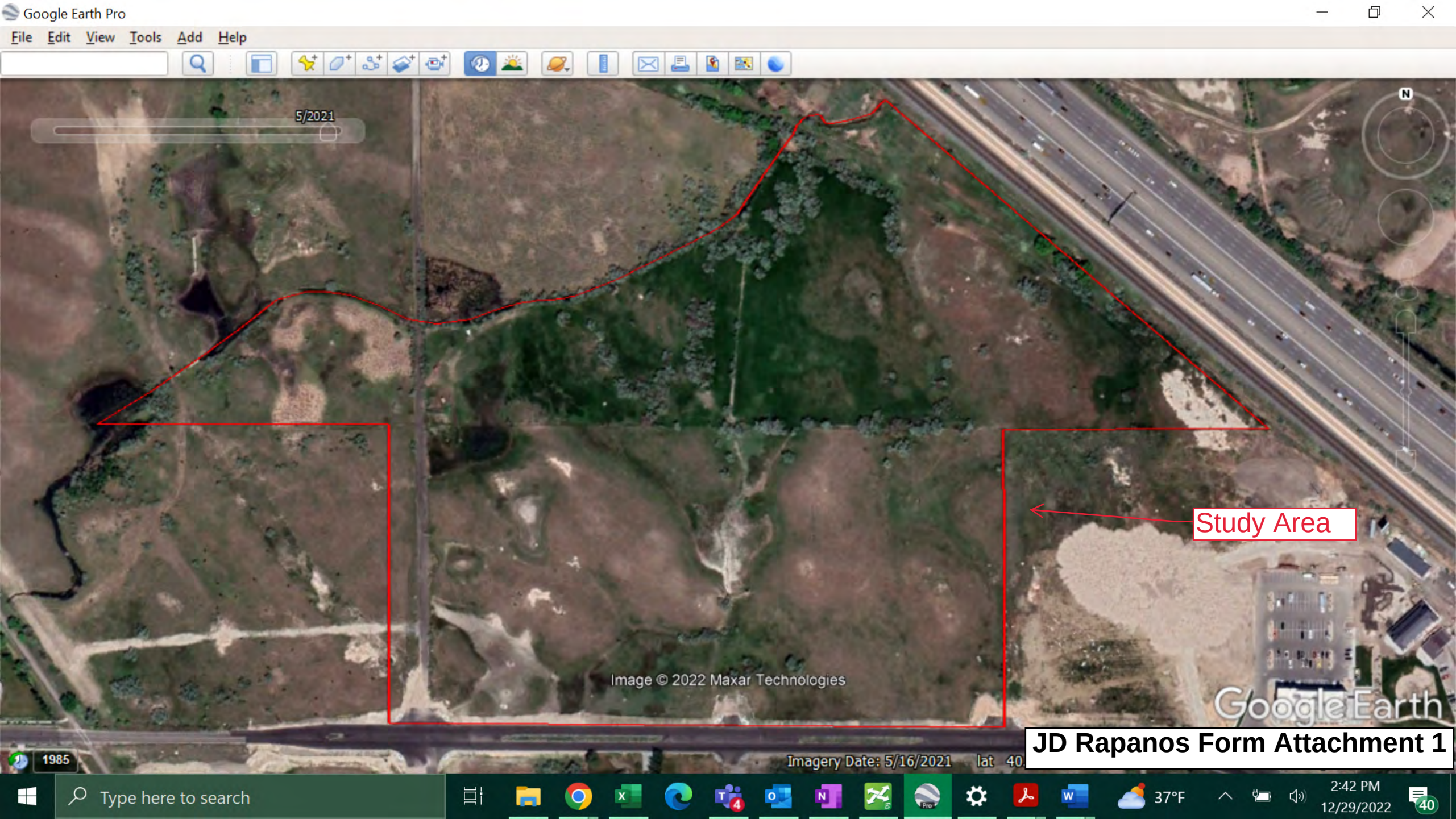
JD Form Attachment 1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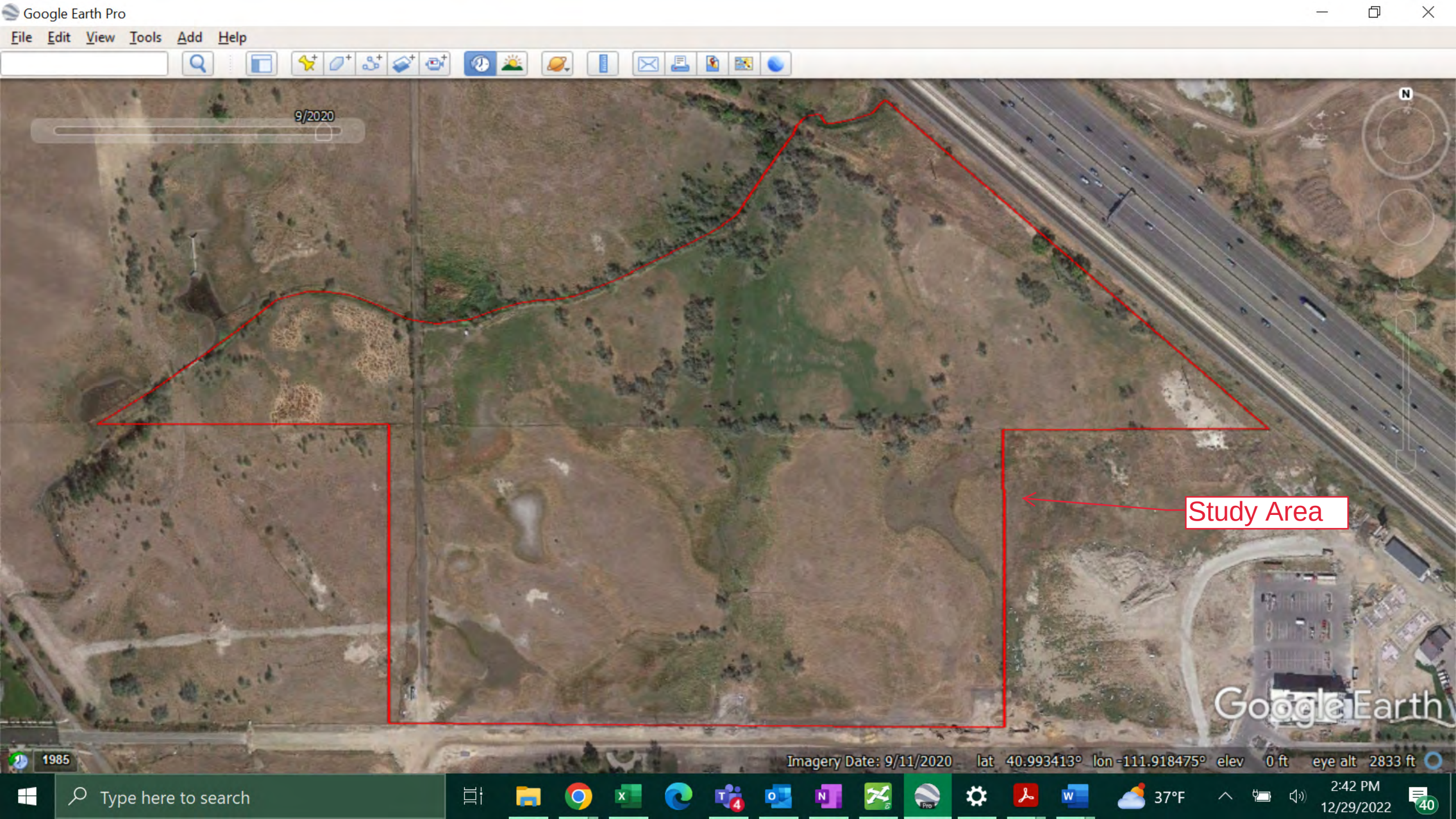
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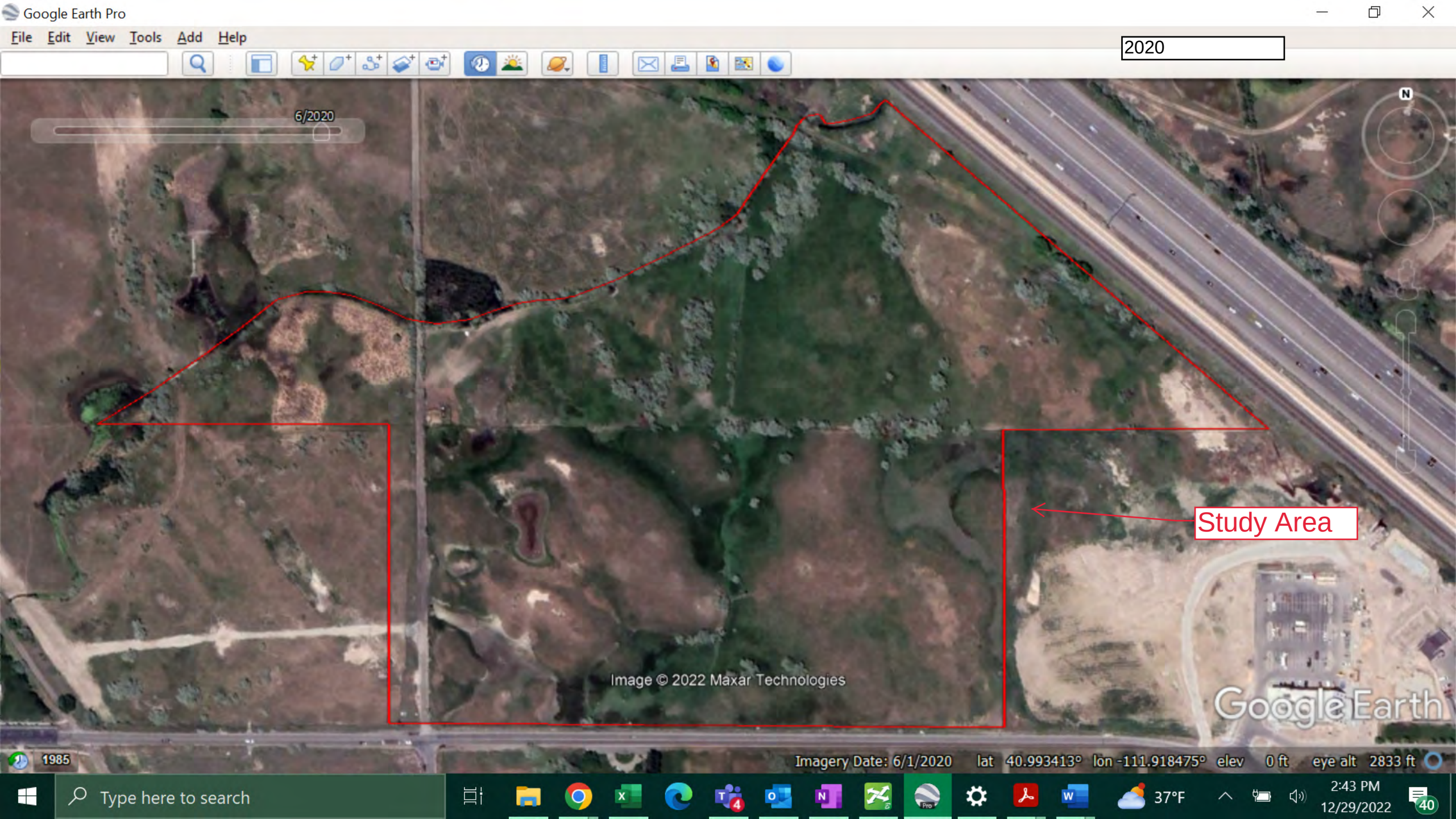
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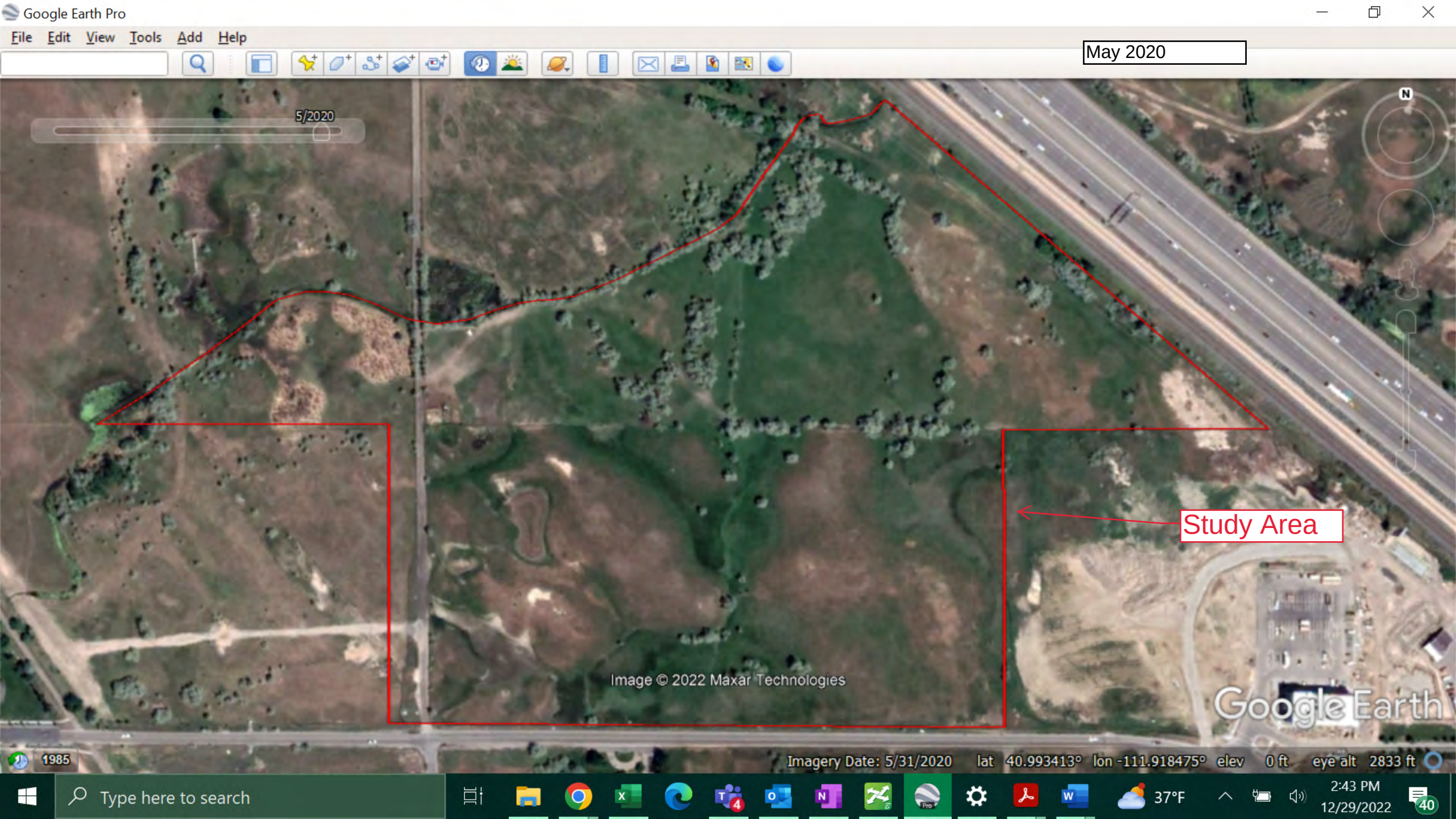
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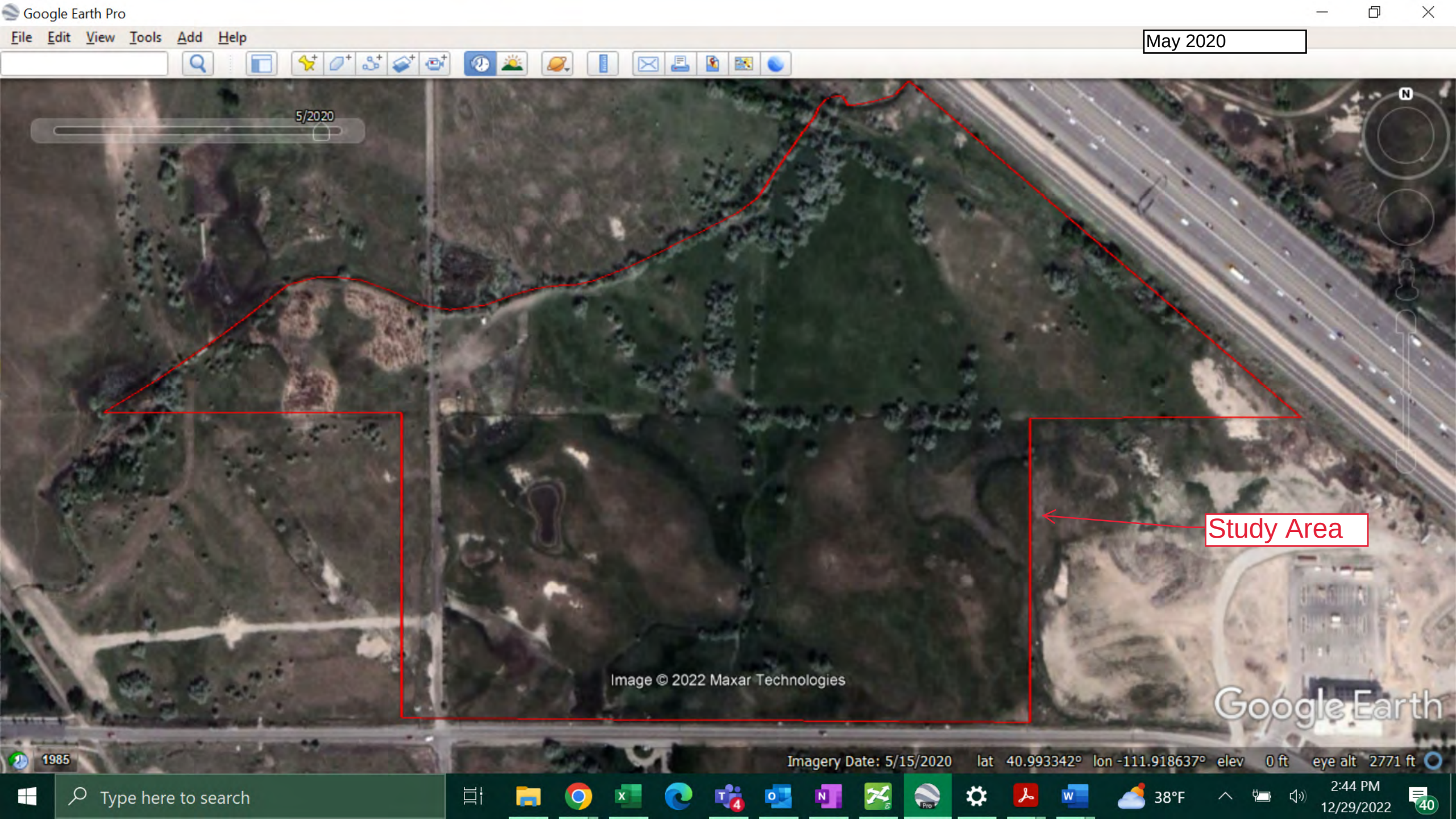
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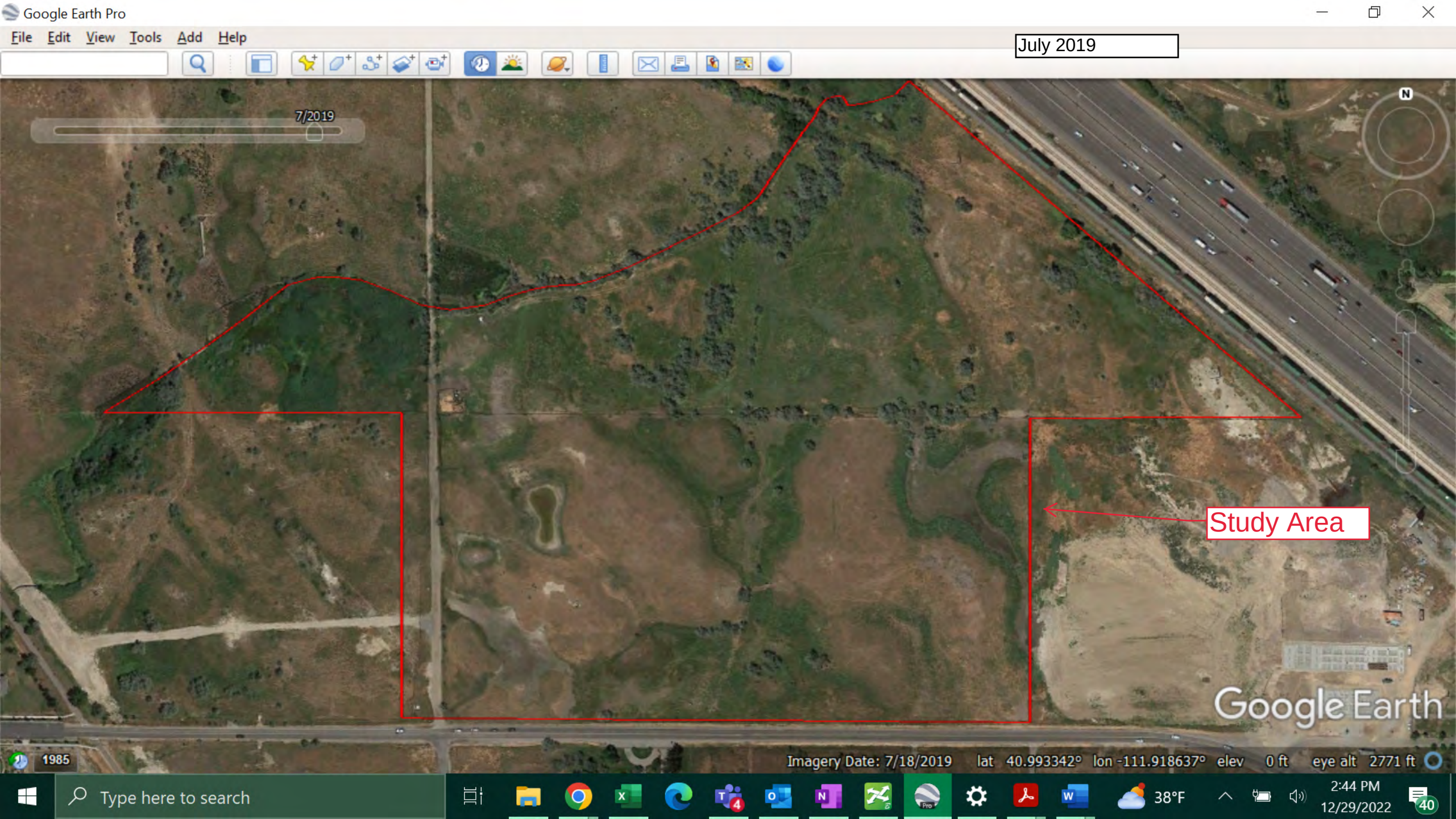
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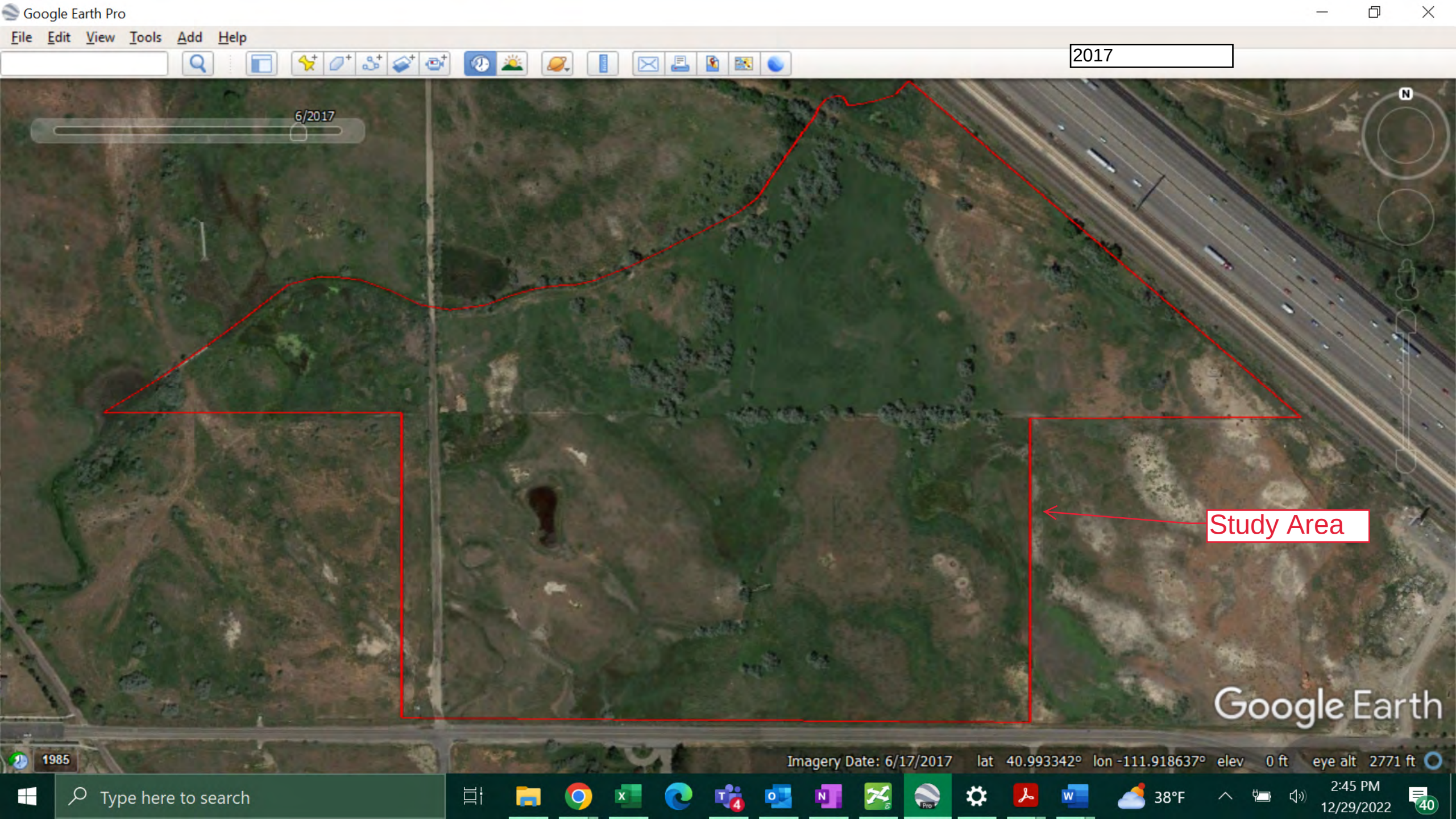
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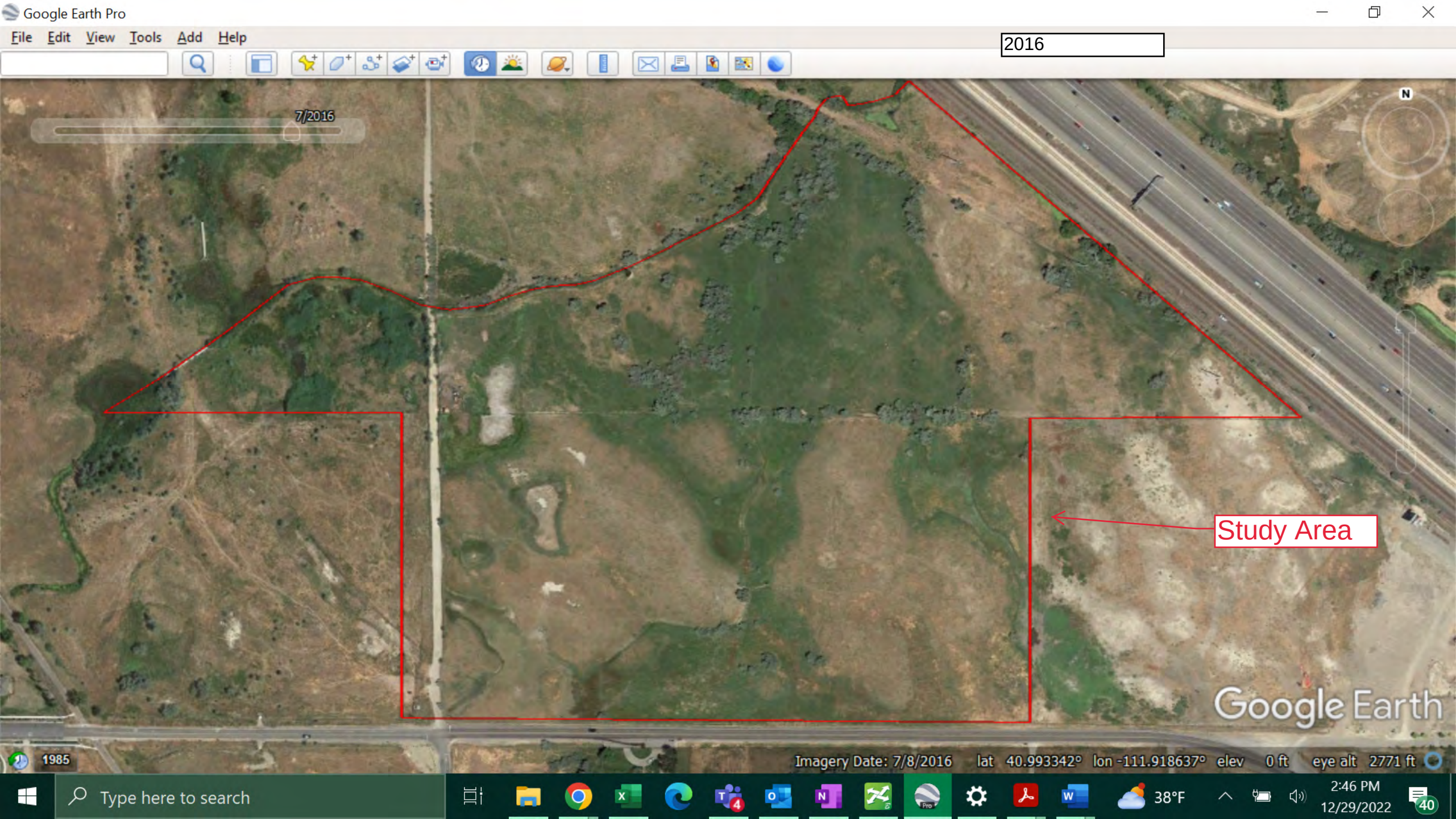
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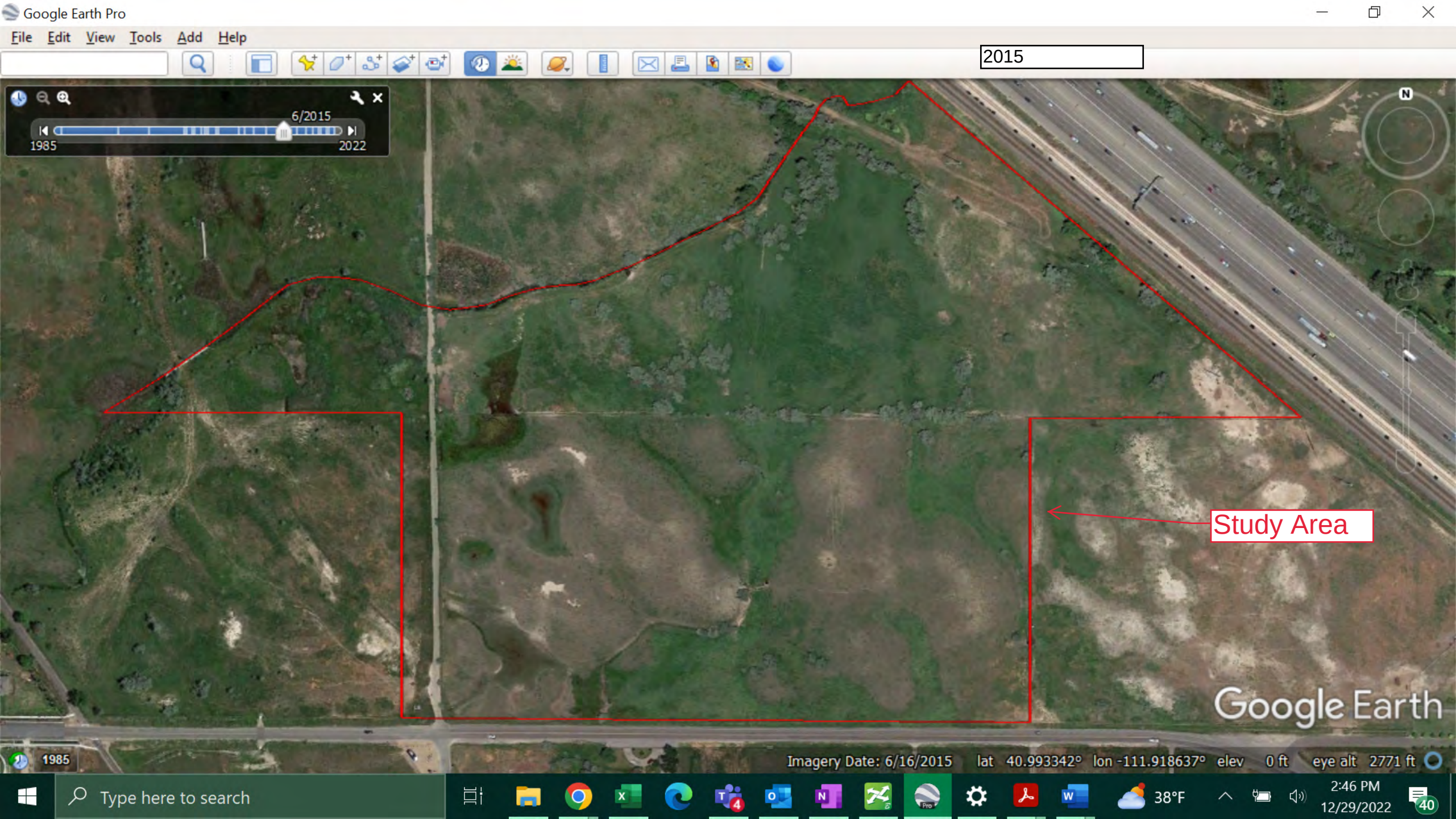
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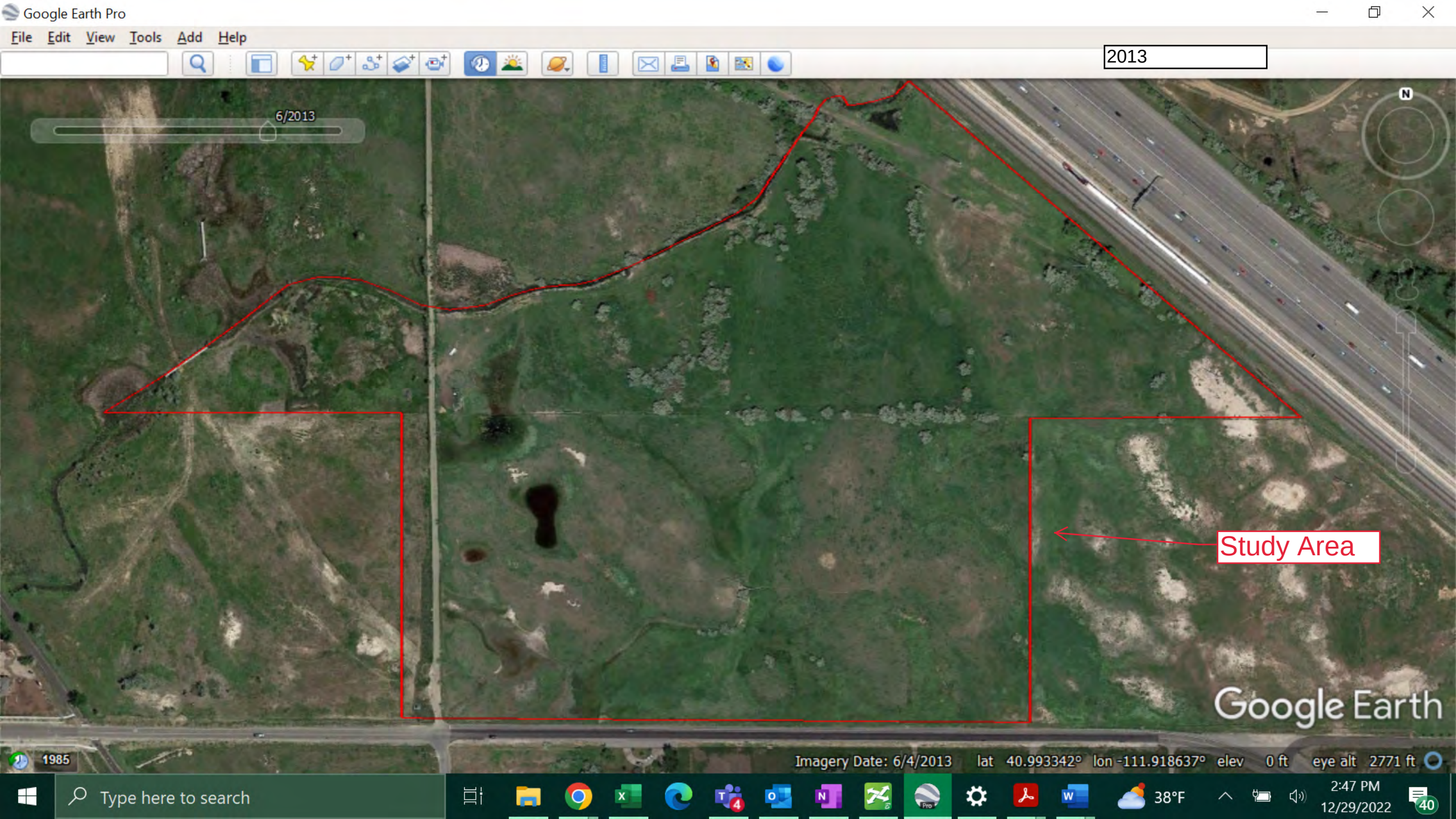
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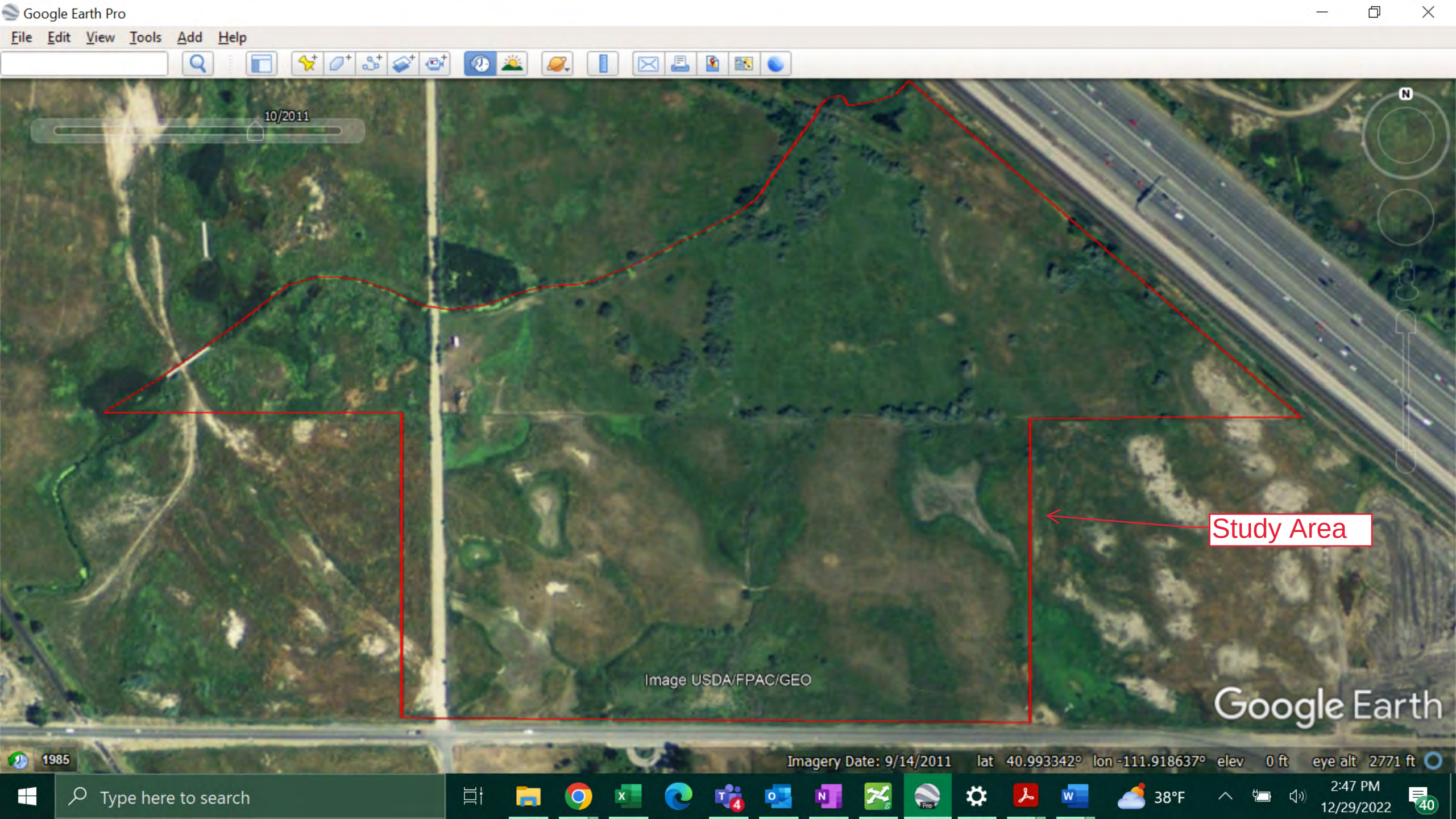
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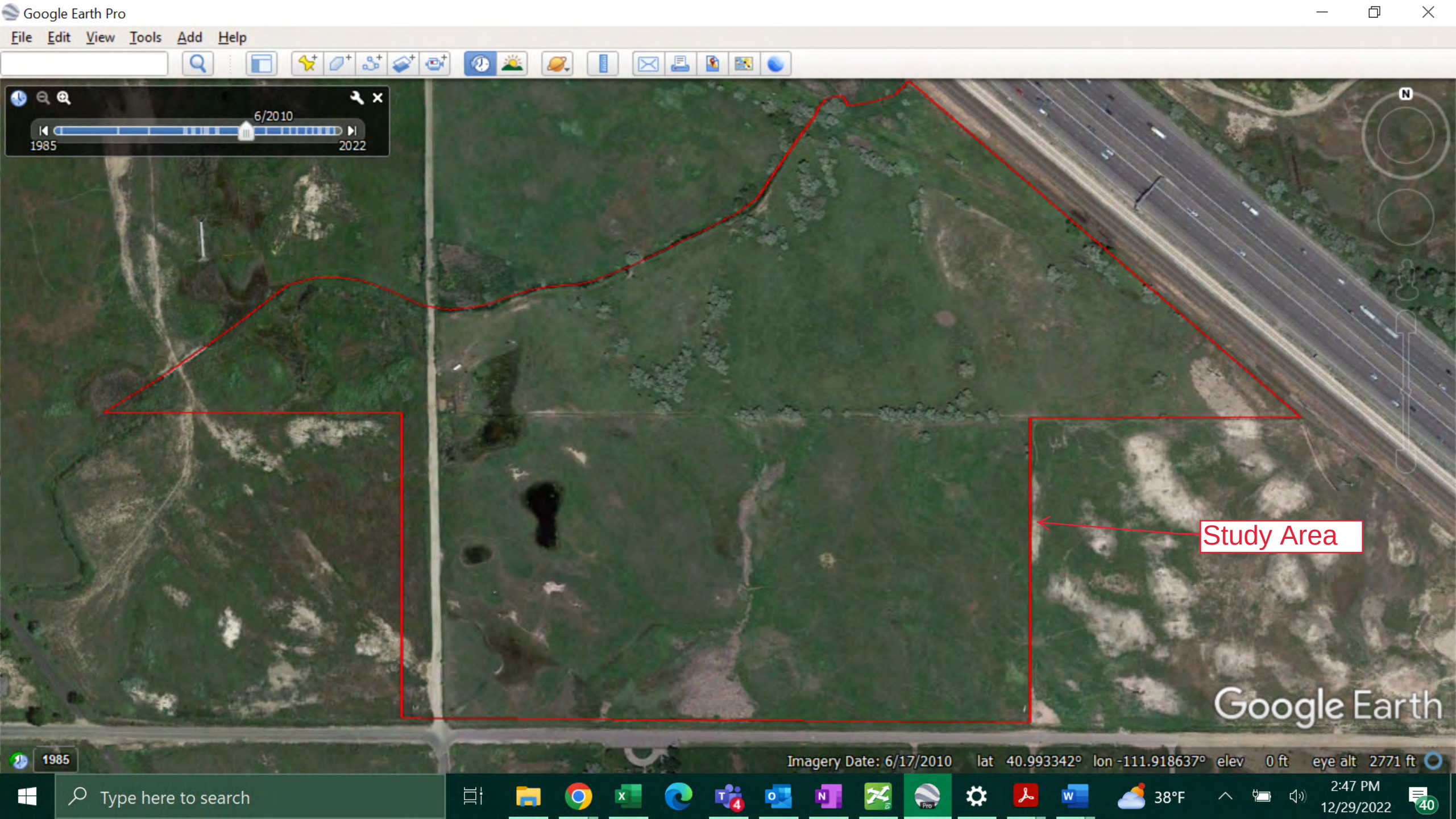
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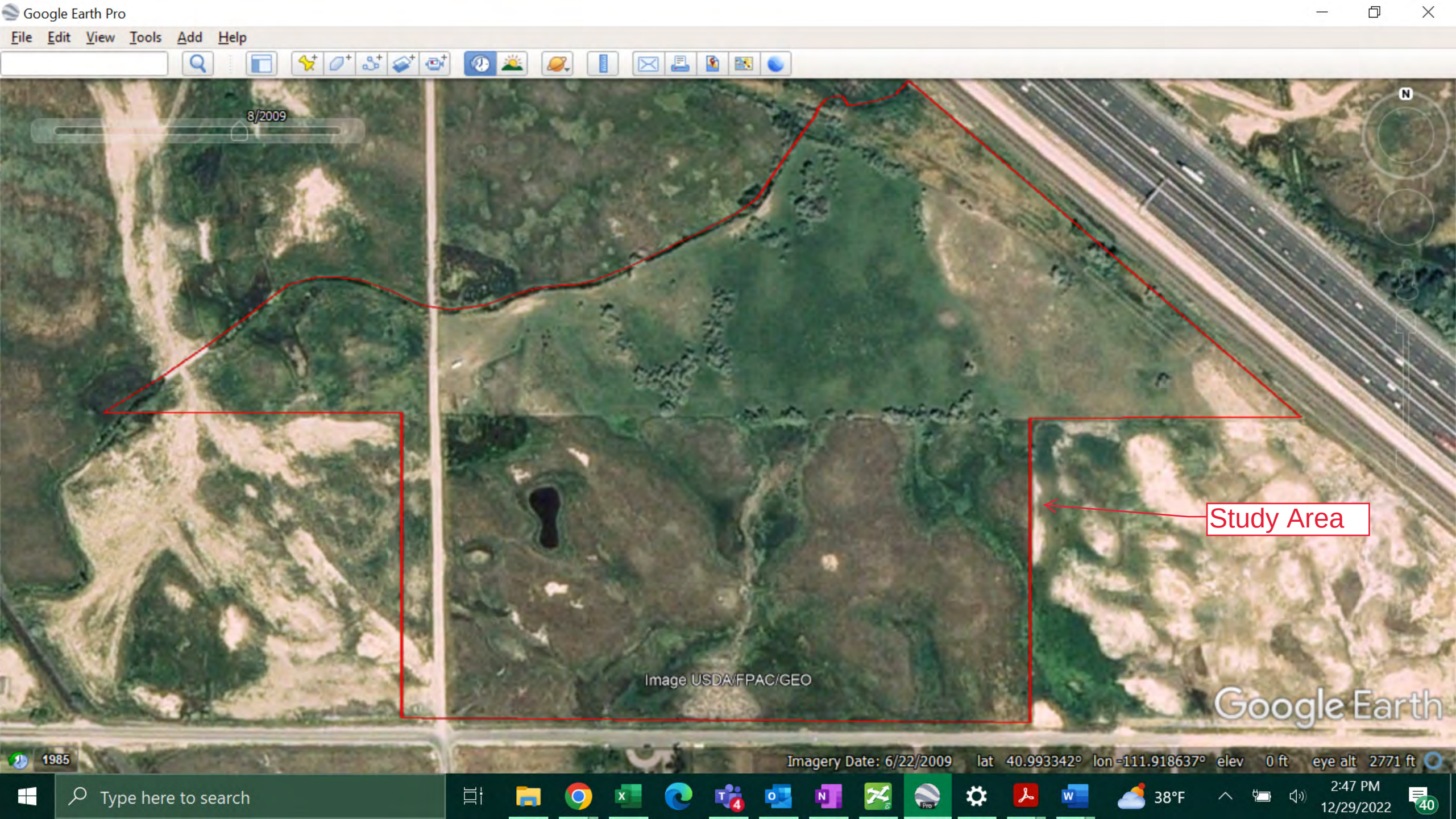
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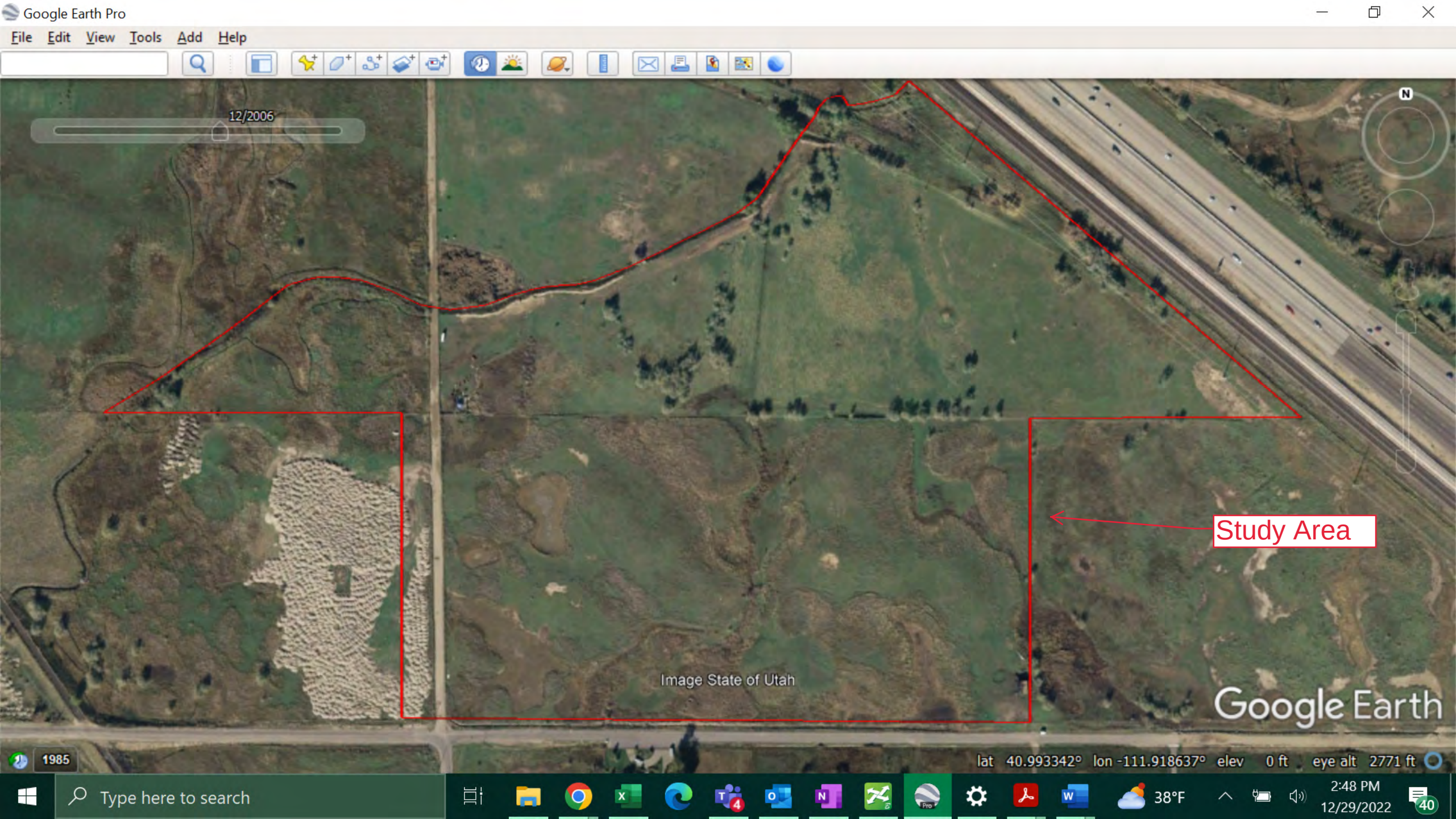
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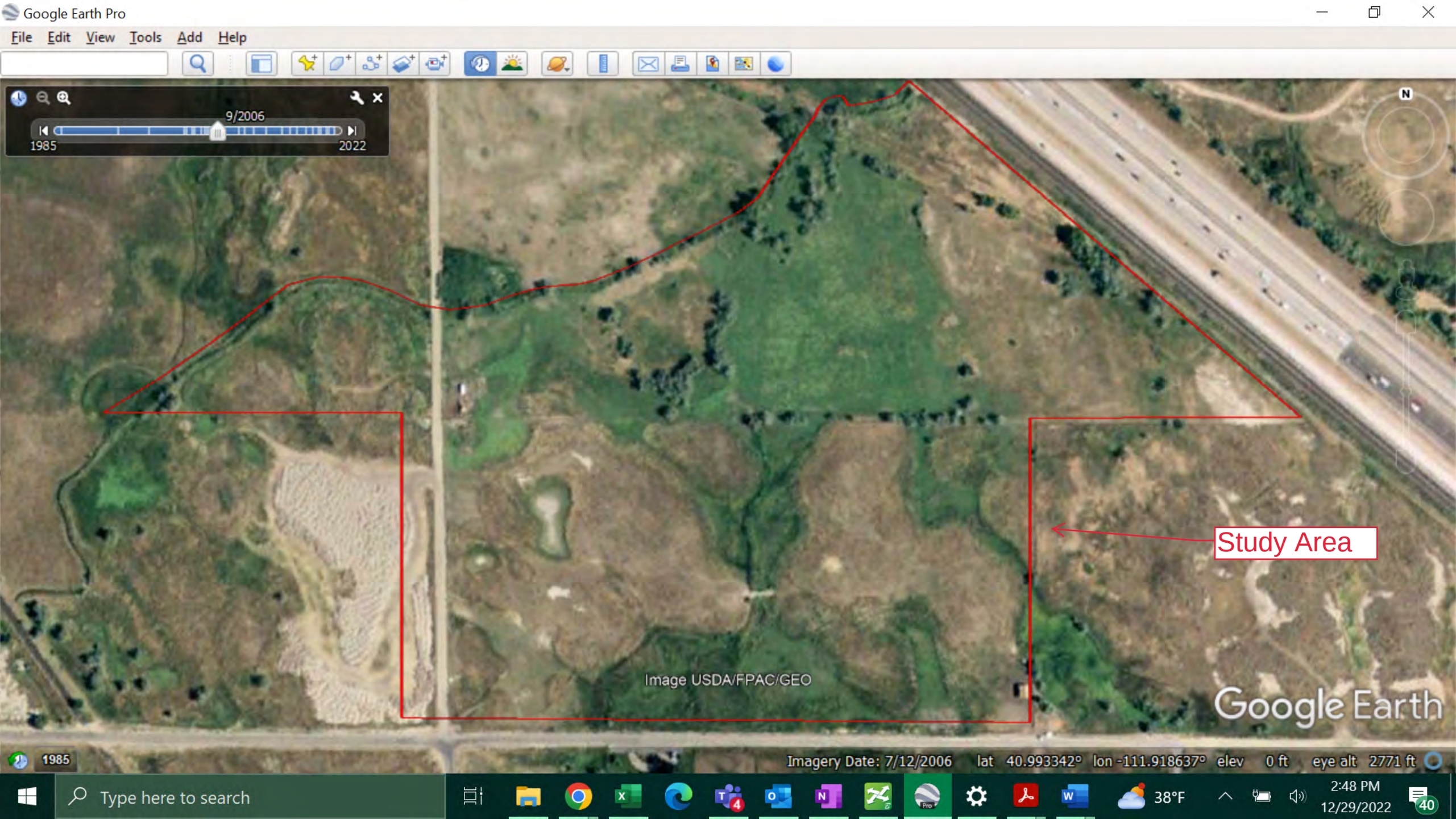
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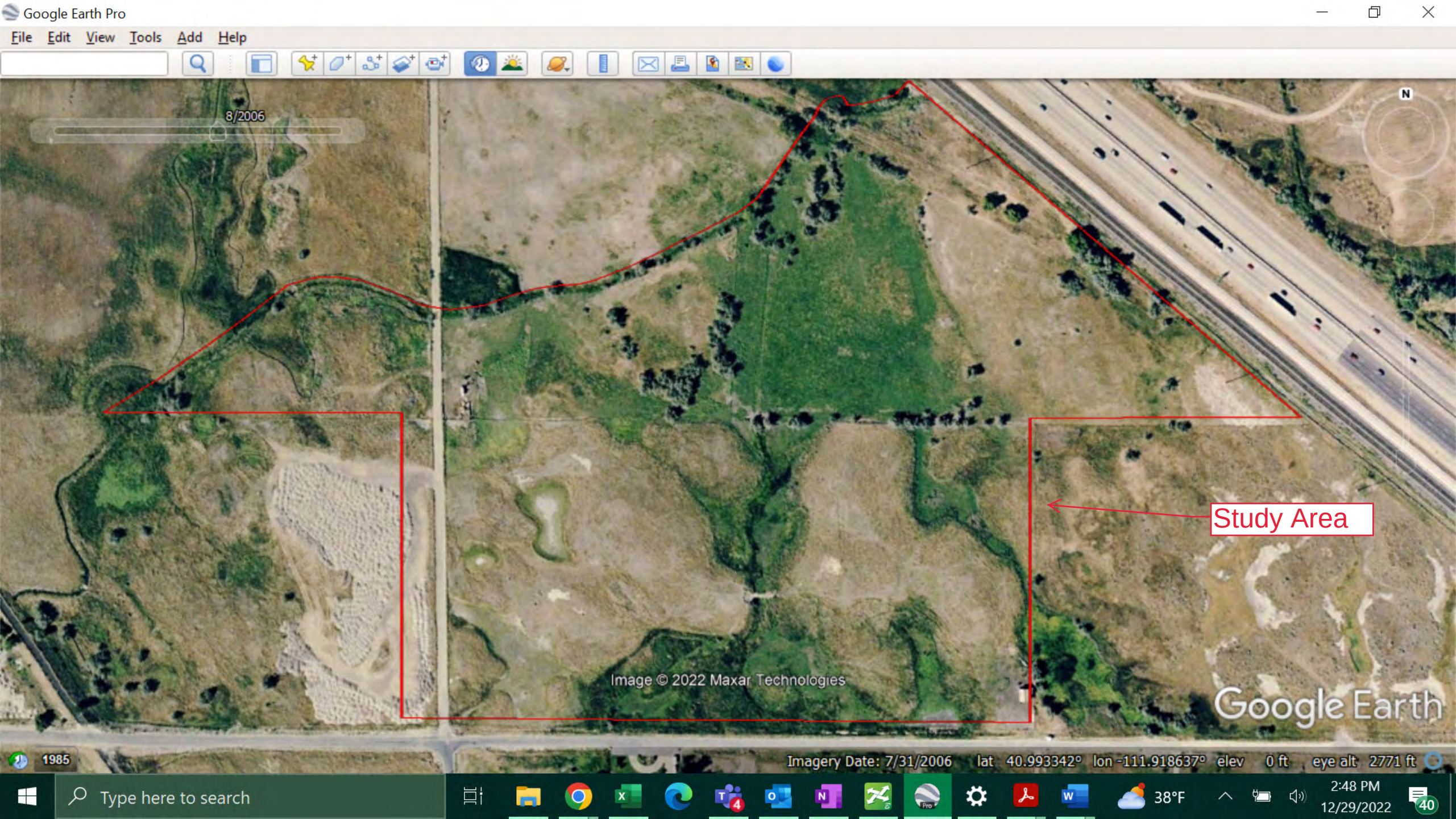
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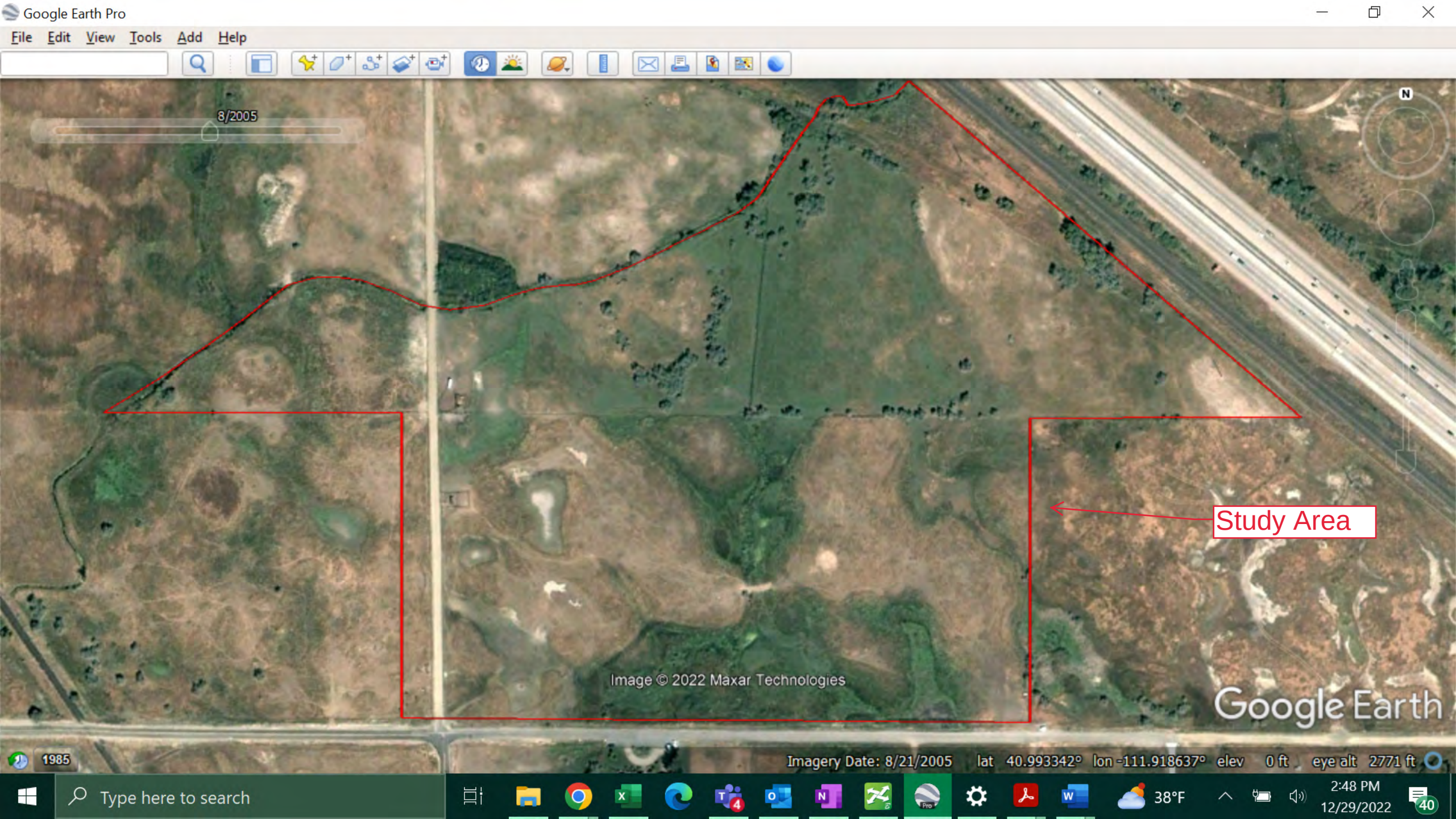
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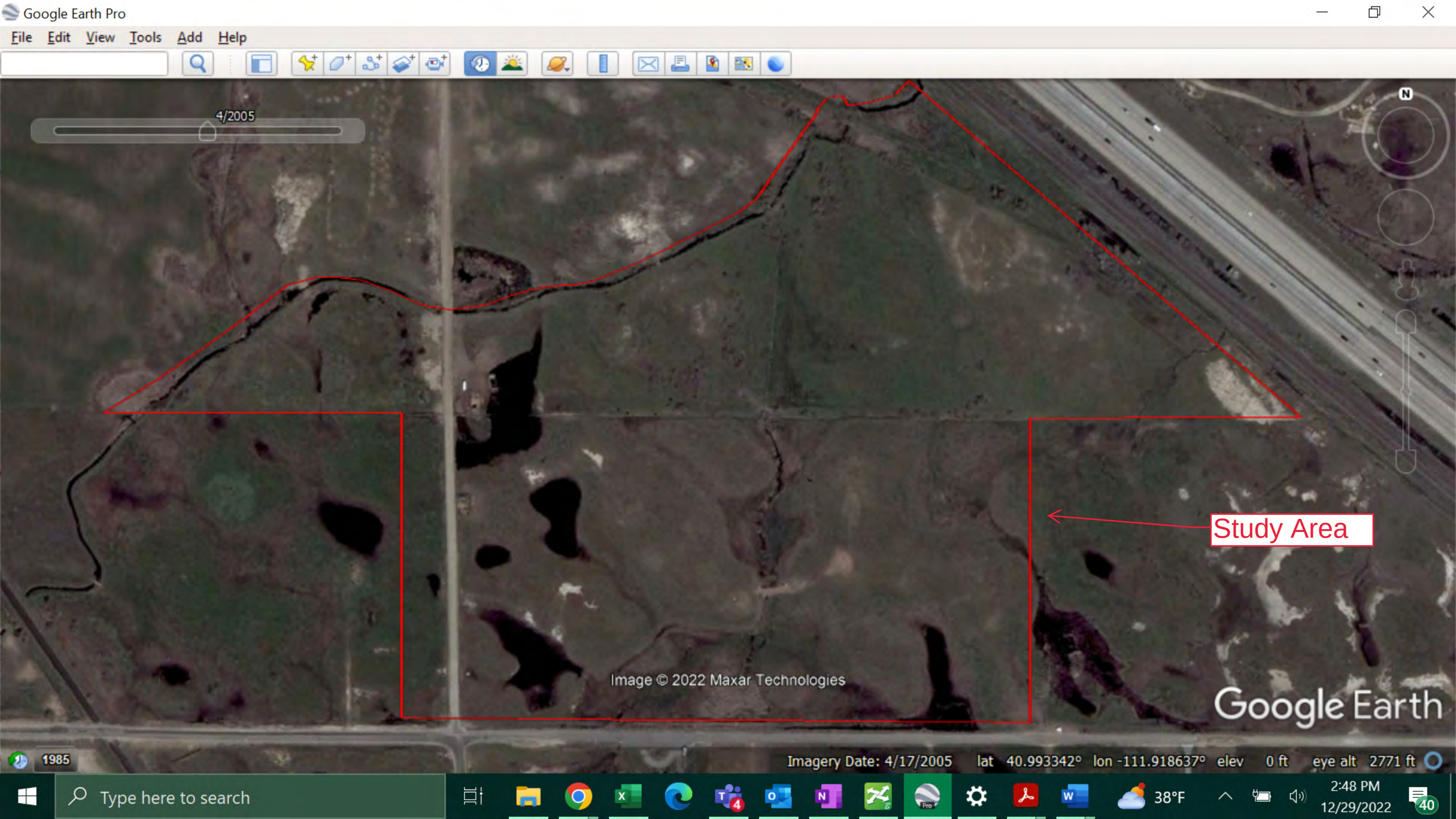
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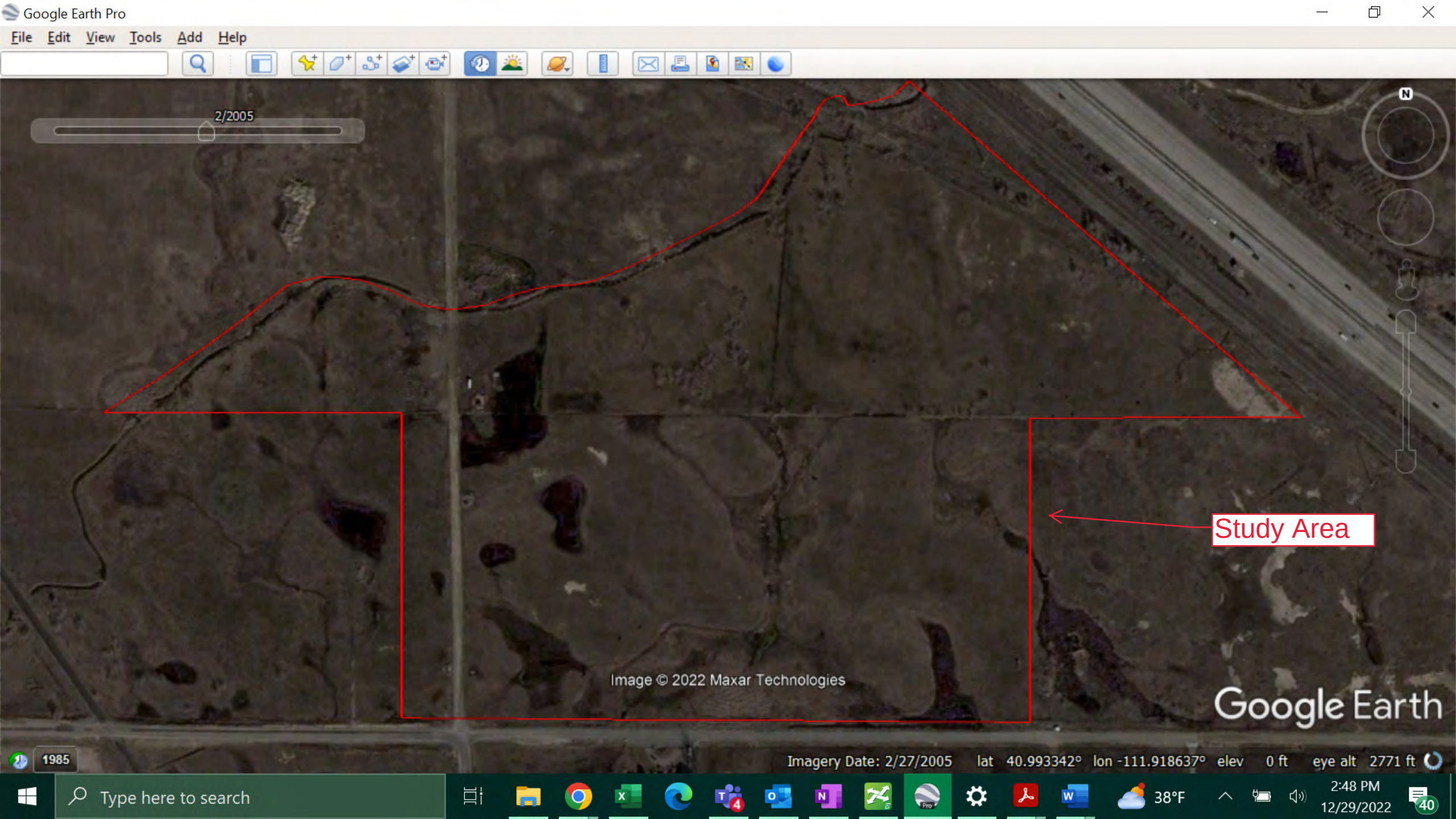
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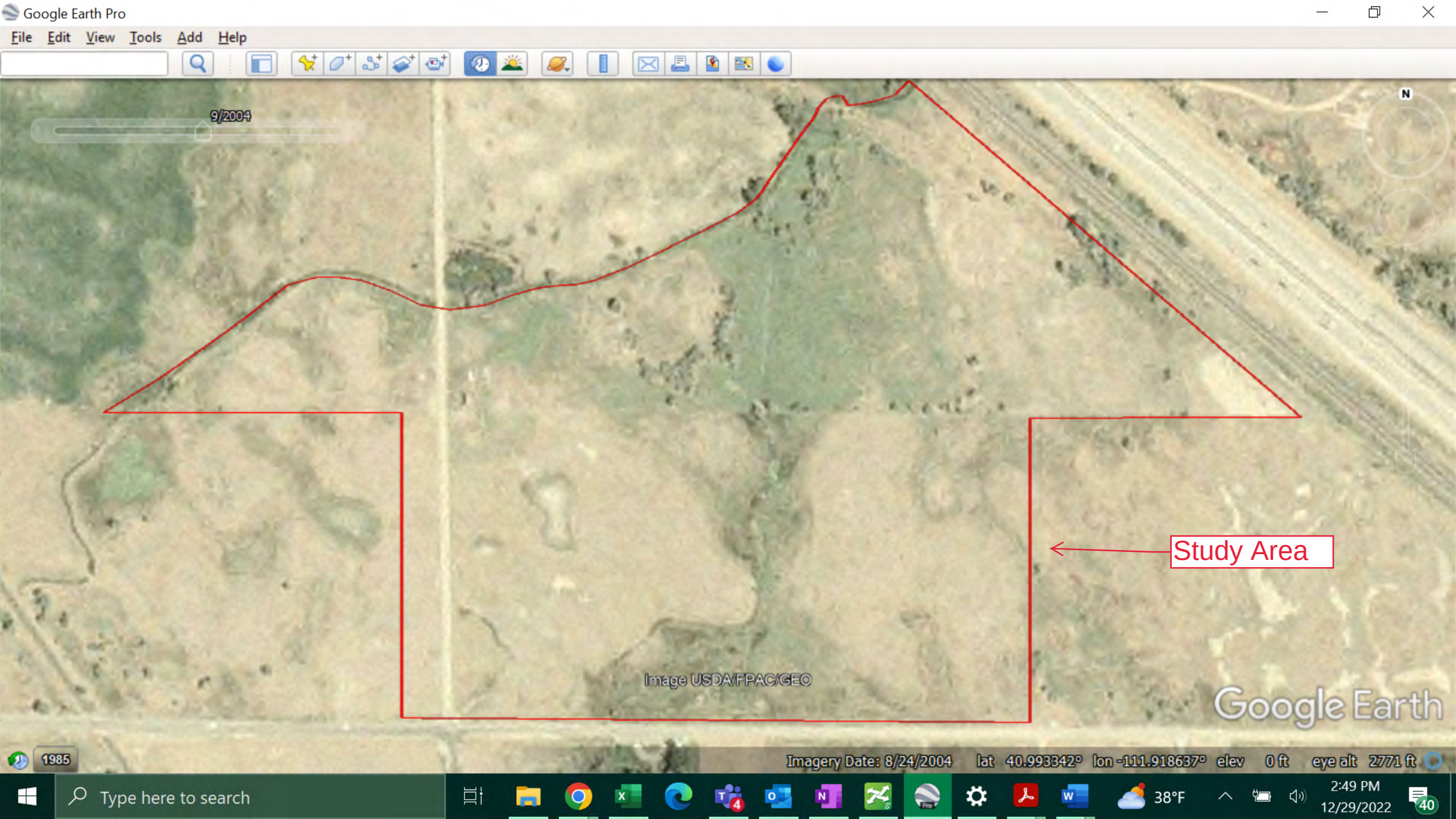
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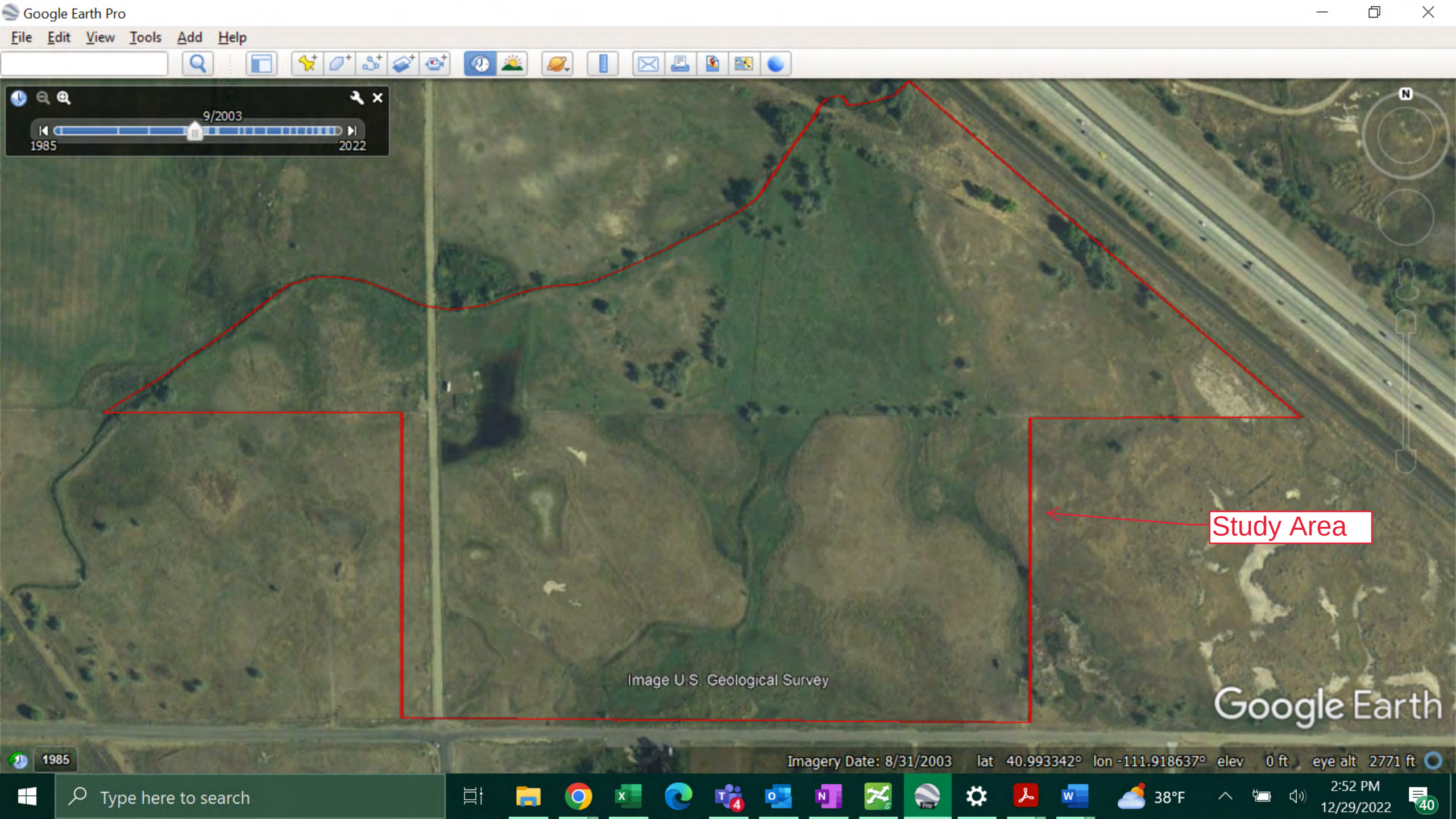
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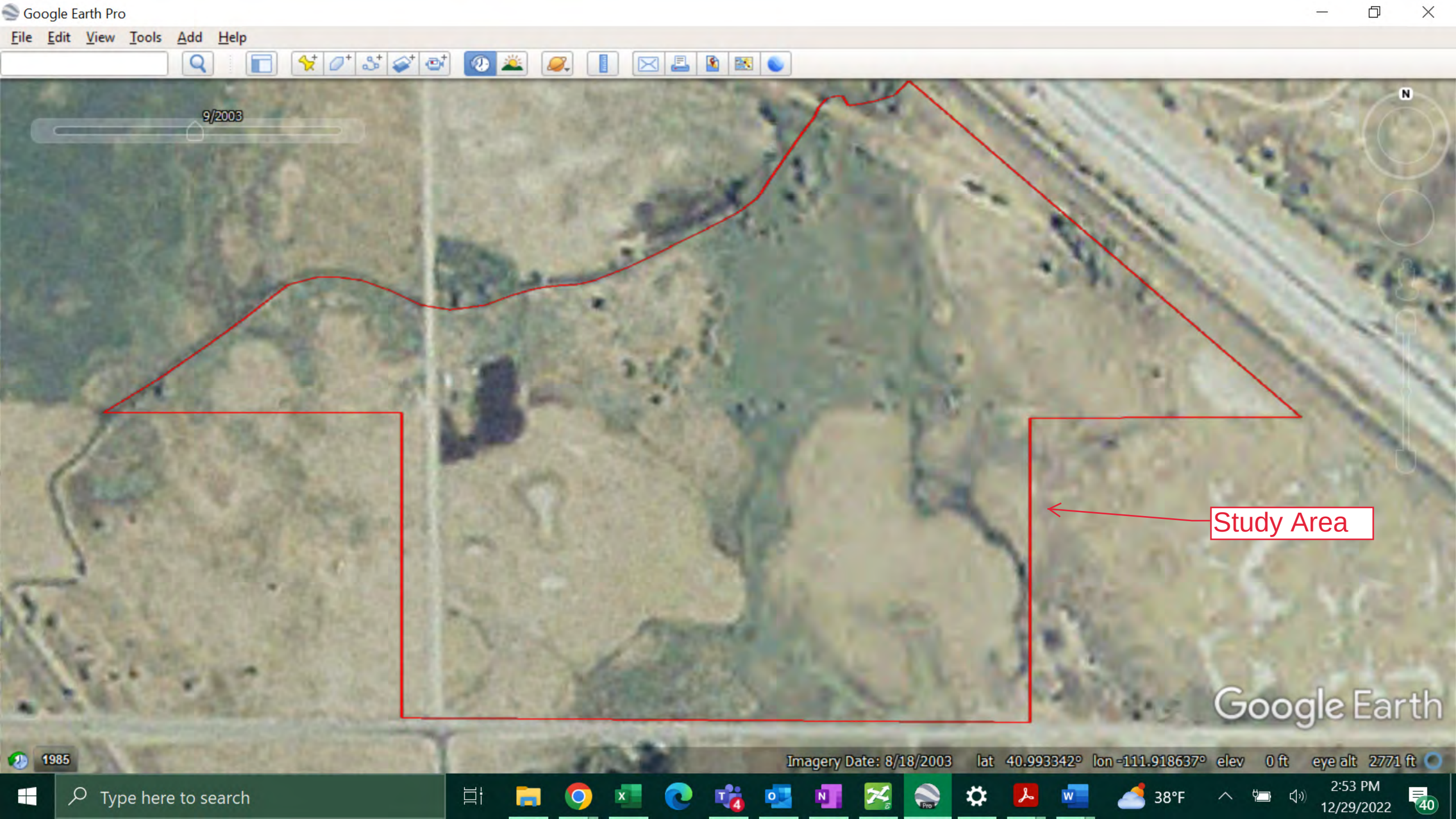
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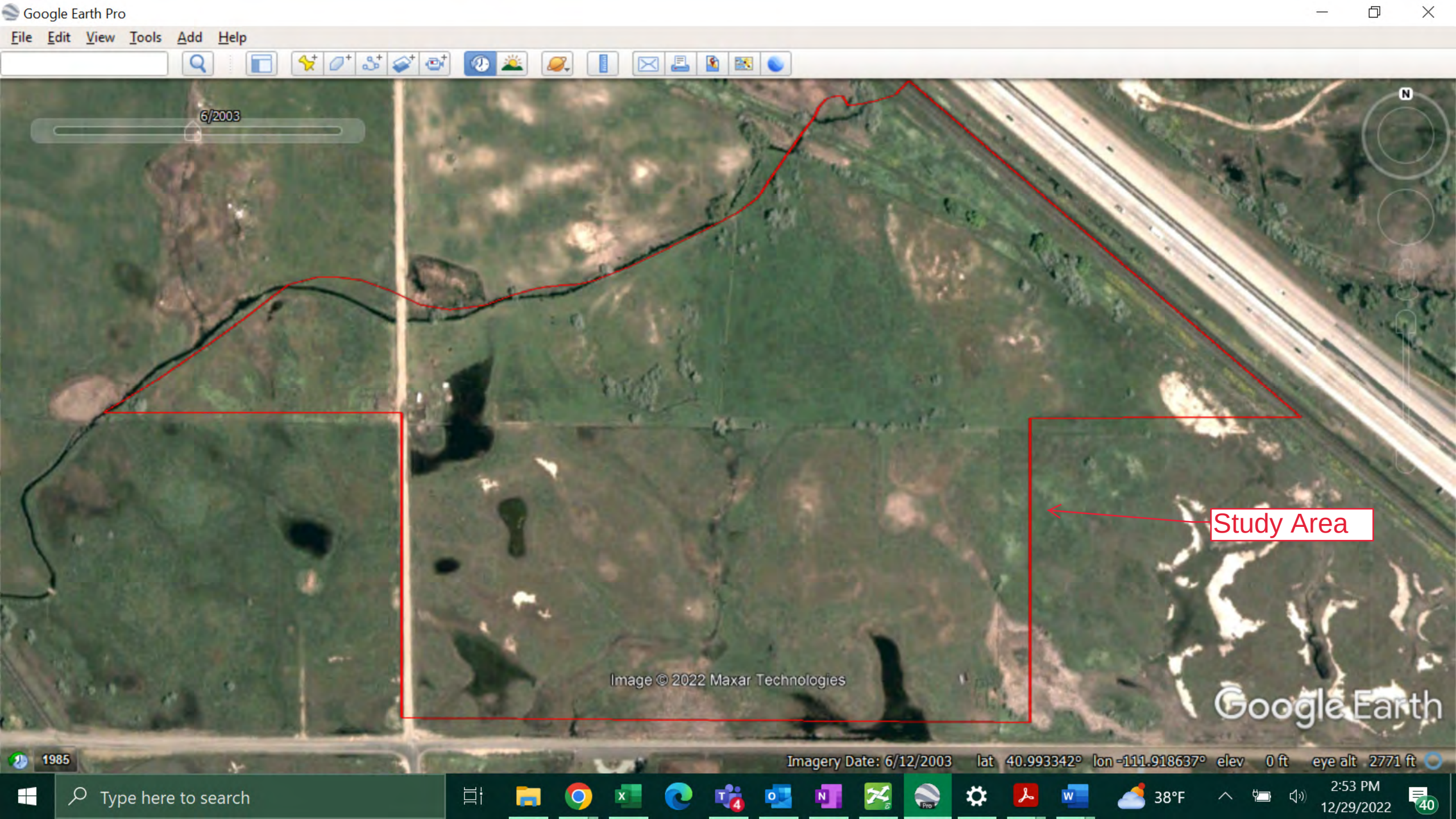
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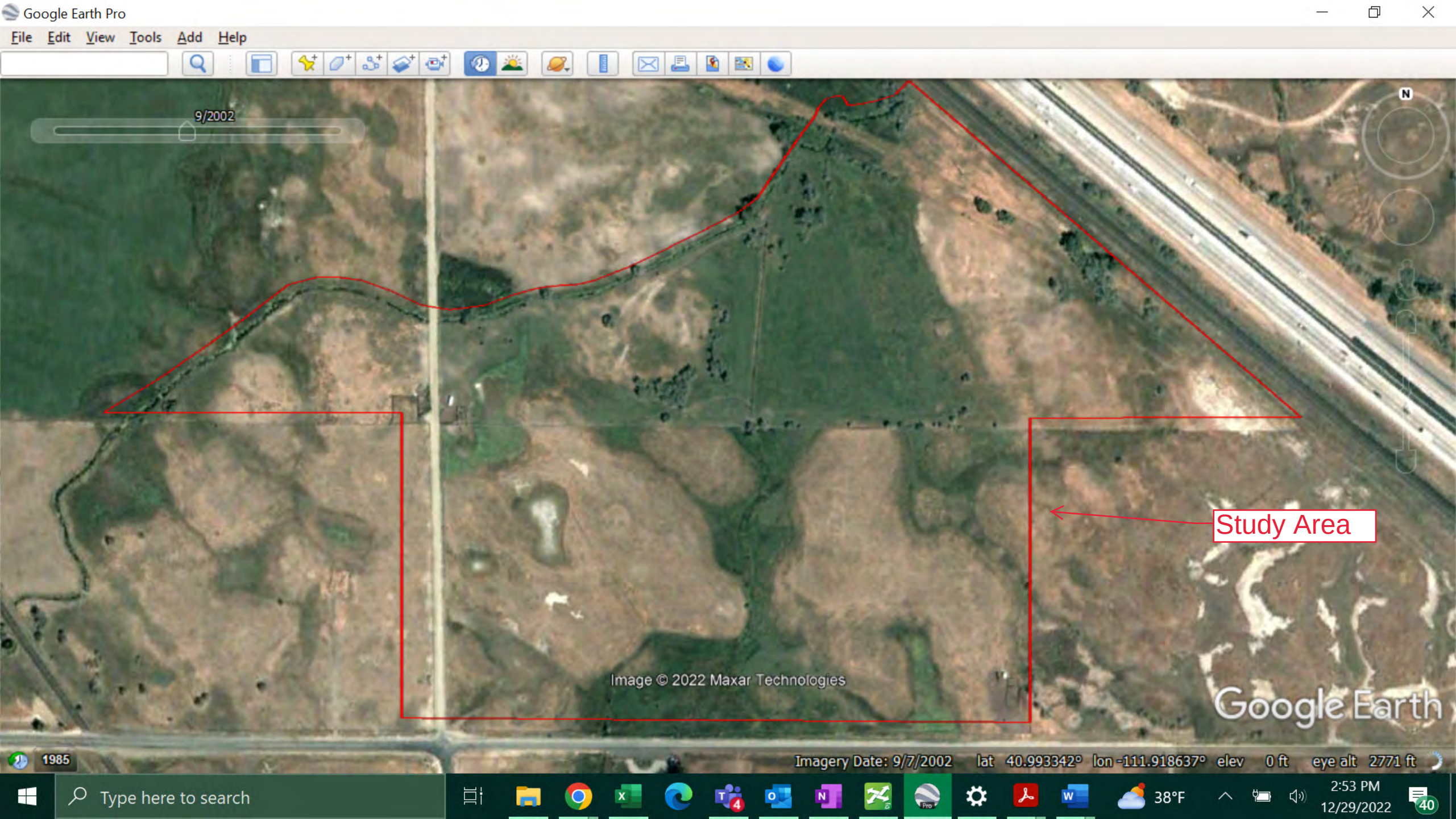
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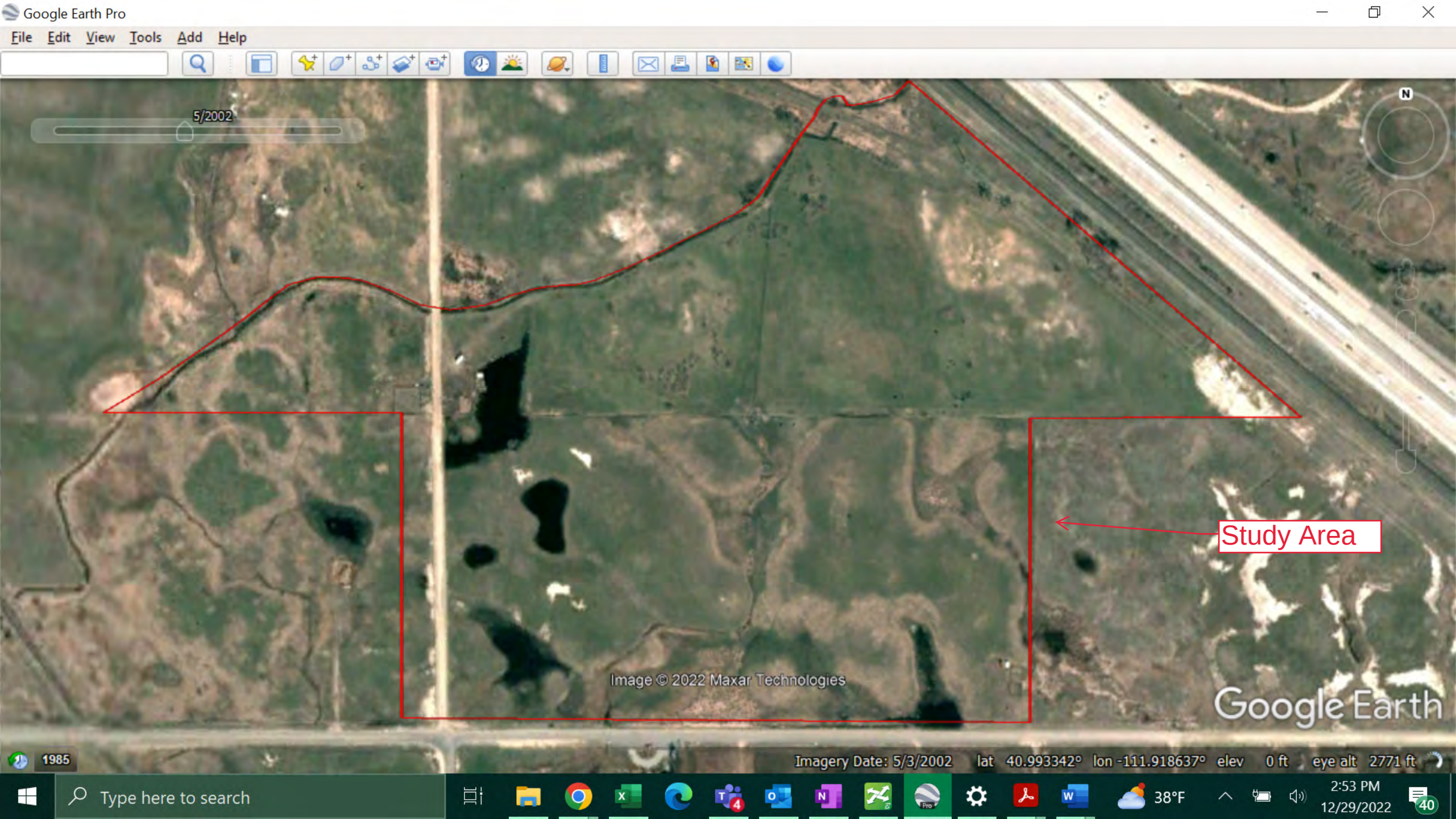
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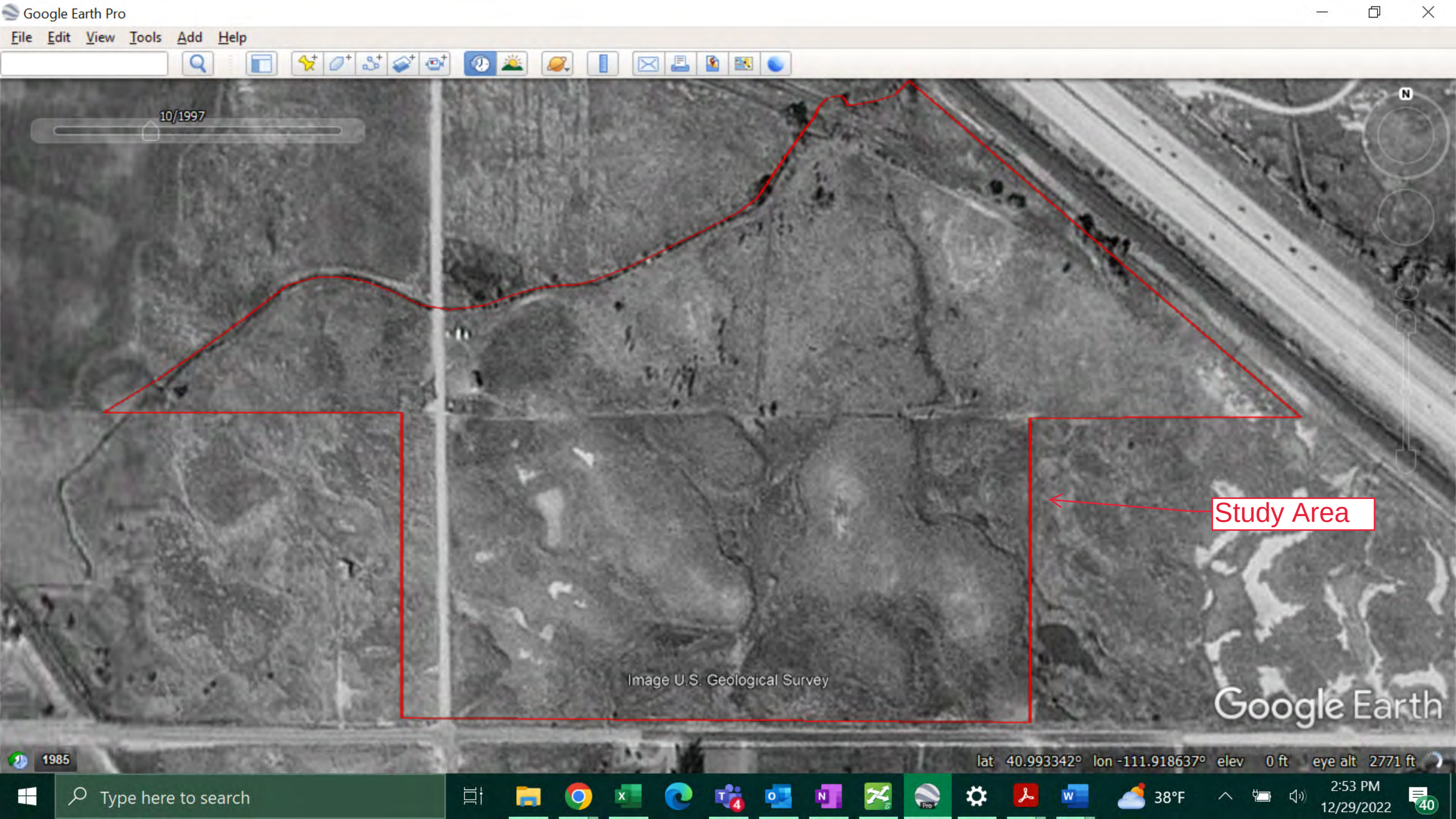
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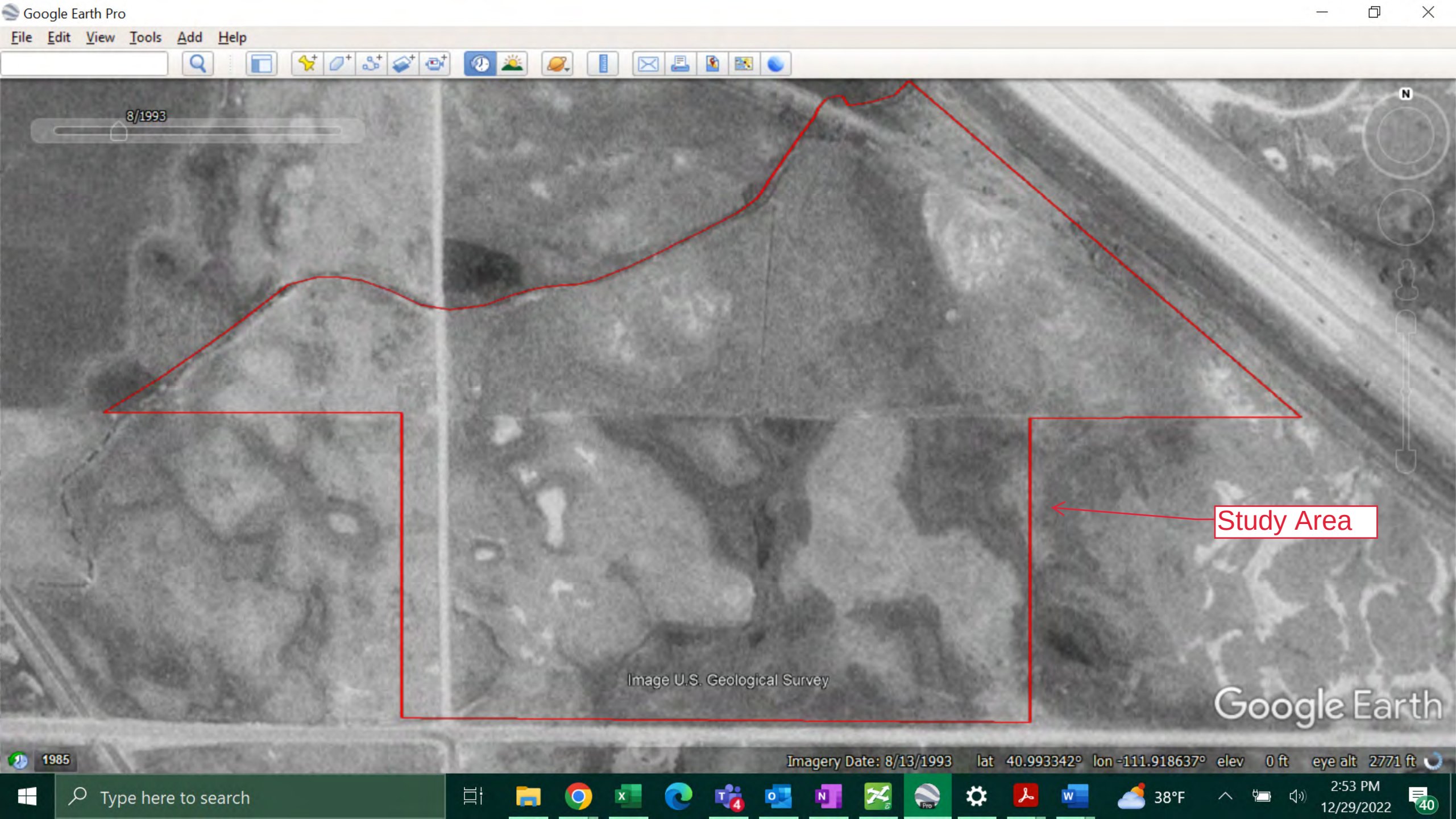
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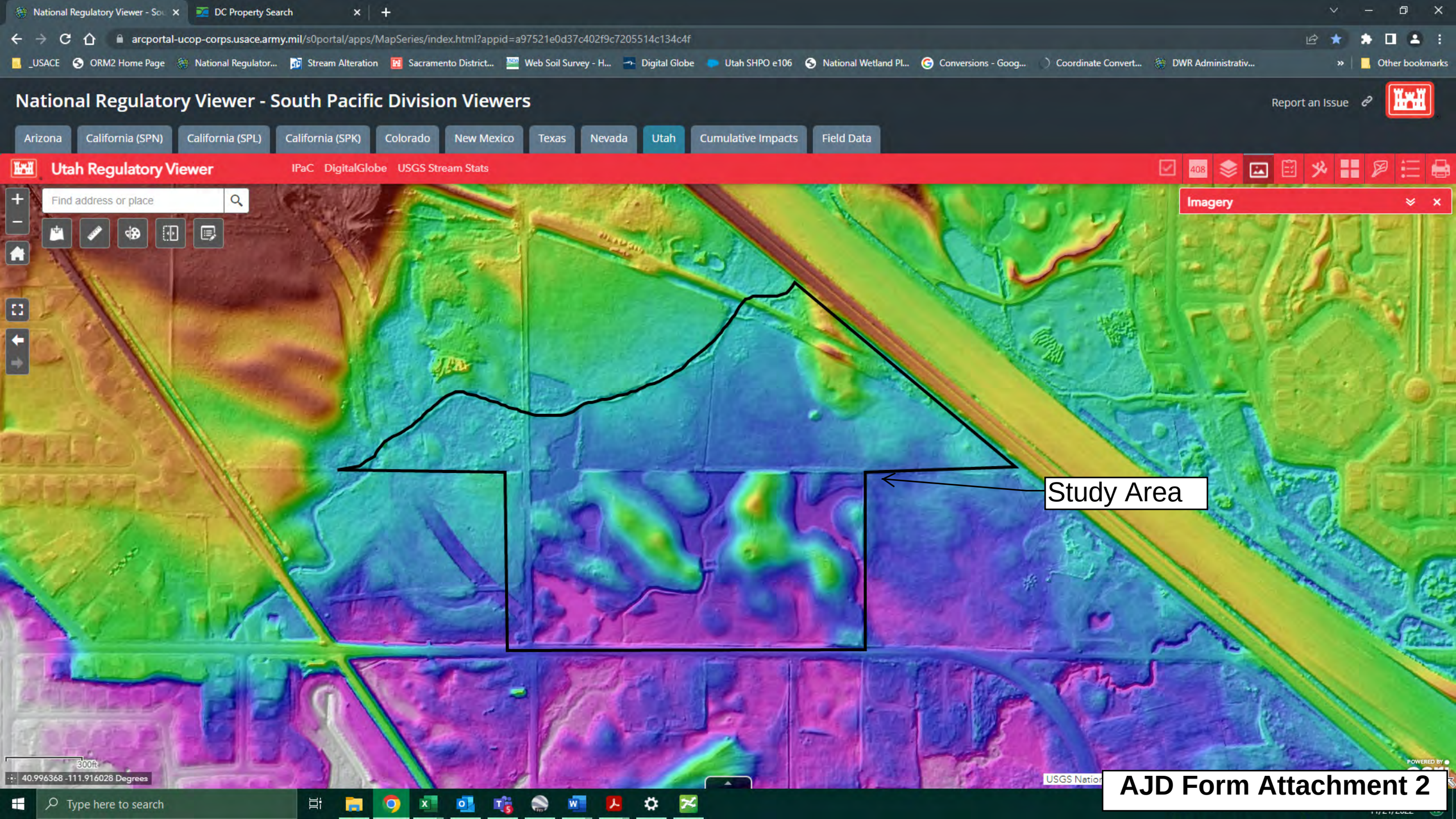
National Regulatory Viewer - South Pacific Division Viewers
Report an Issue
Arizona
California (SPN)
California (SPL)
California (SPK)
Colorado
New Mexico
Texas
Nevada
Utah
Cumulative Impacts
Field Data
Utah Regulatory Viewer
IPaC
DigitalGlobe
USGS Stream Stats
Find address or place
Imagery
Study Area
300ft
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AJD Form Attachment 2