CERTIFICATE OF SERVICE

A COPY of the **DIRECT TESTIMONY OF SHANNON WRIGHT, LIST OF EXHIBITS FOR TESTIMONY OF SHANNON WRIGHT, EXHIBITS A through I,** and **WITNESS LIST OF PONCA TRIBE OF NEBRASKA** were served by electronic mail this 7th day of June, 2017 to the following:

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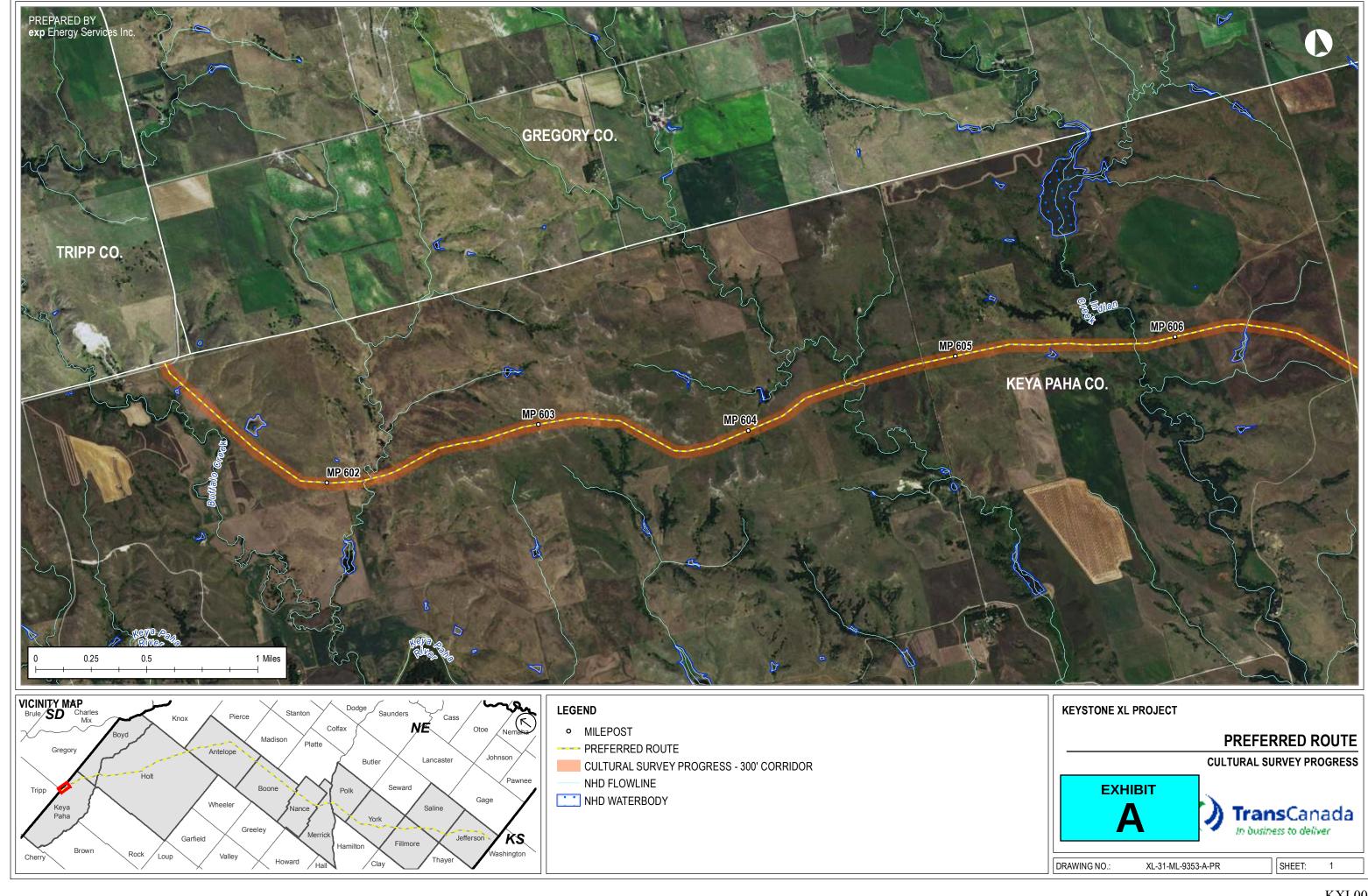
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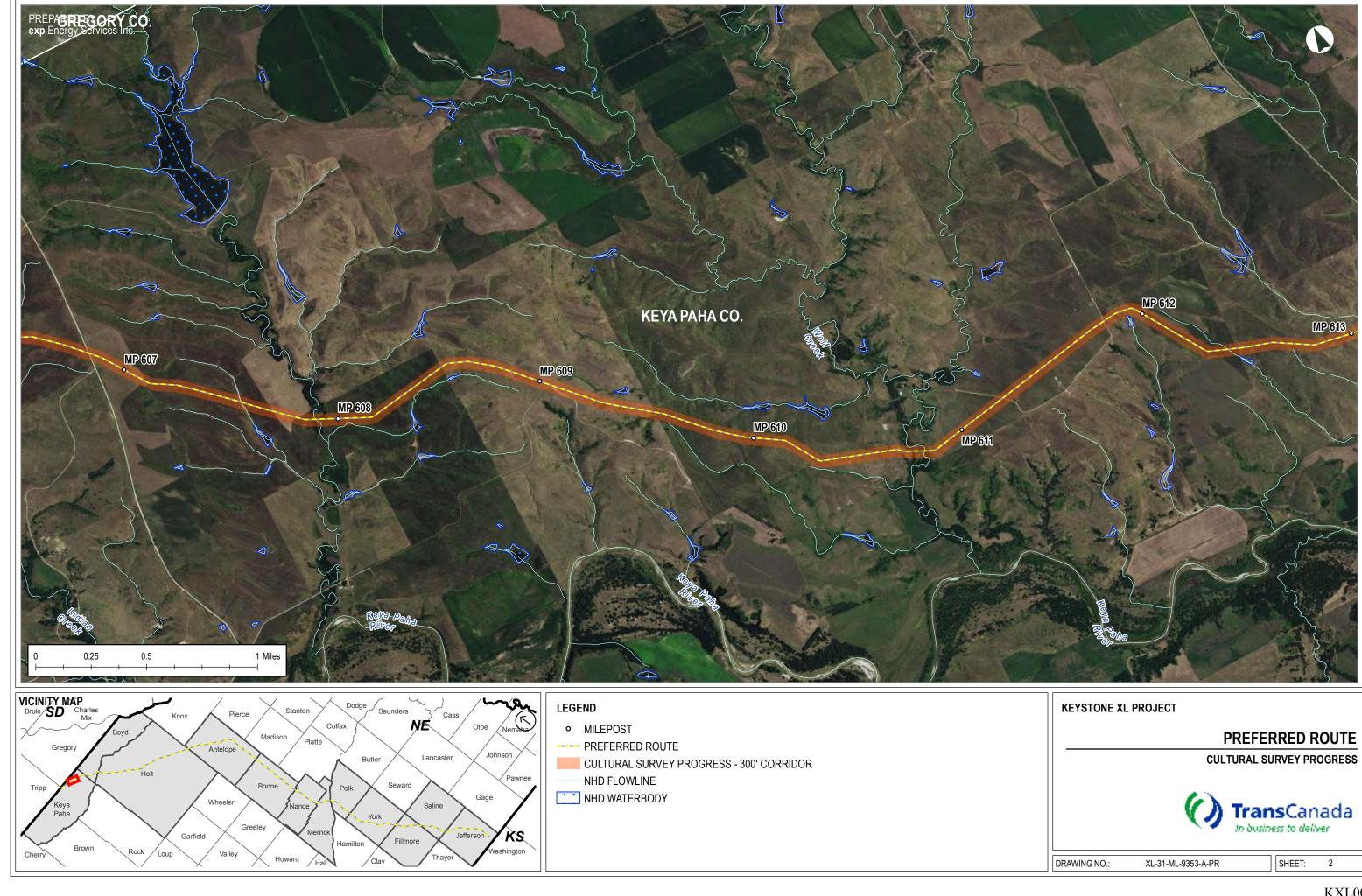
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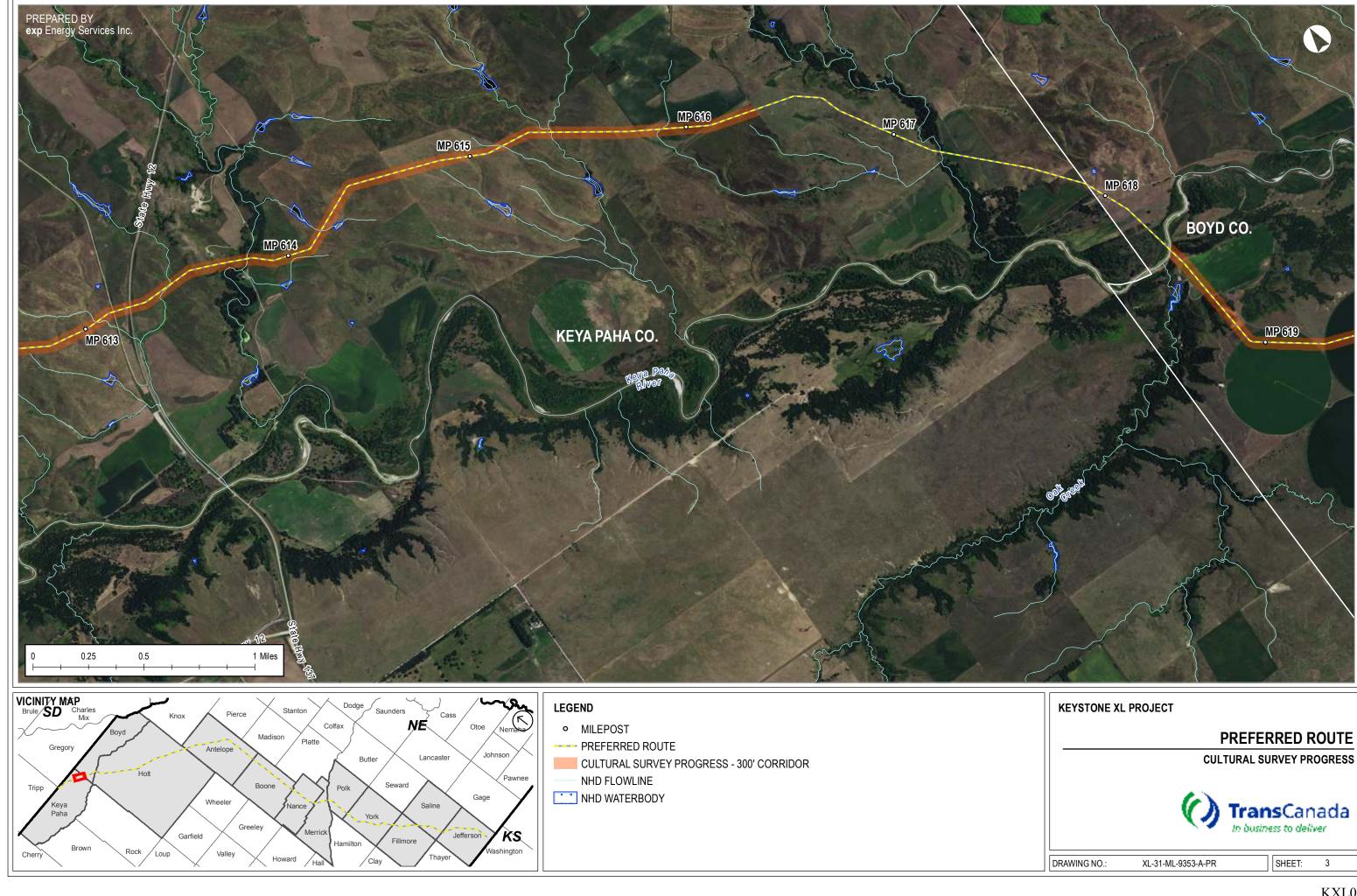
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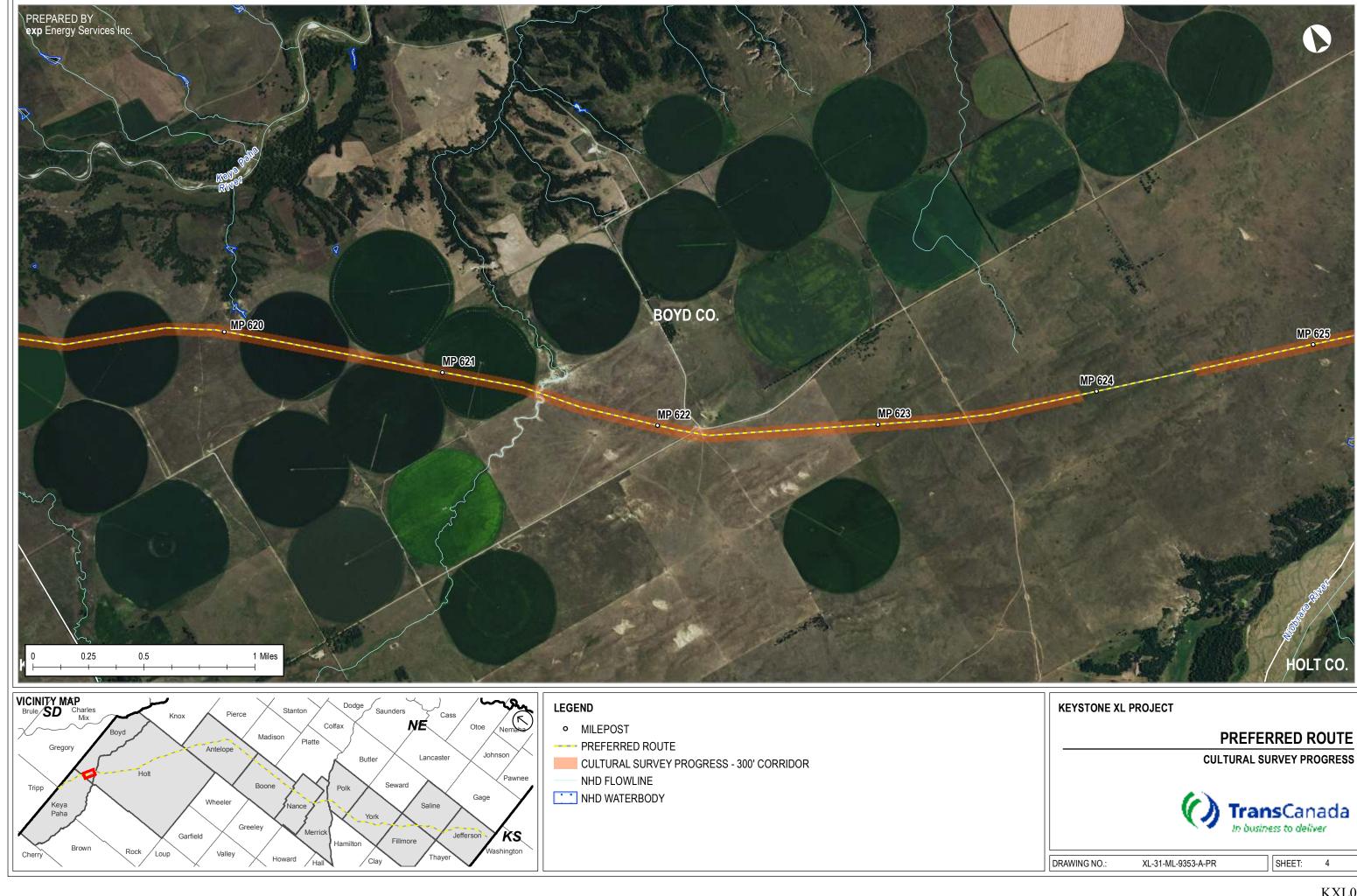
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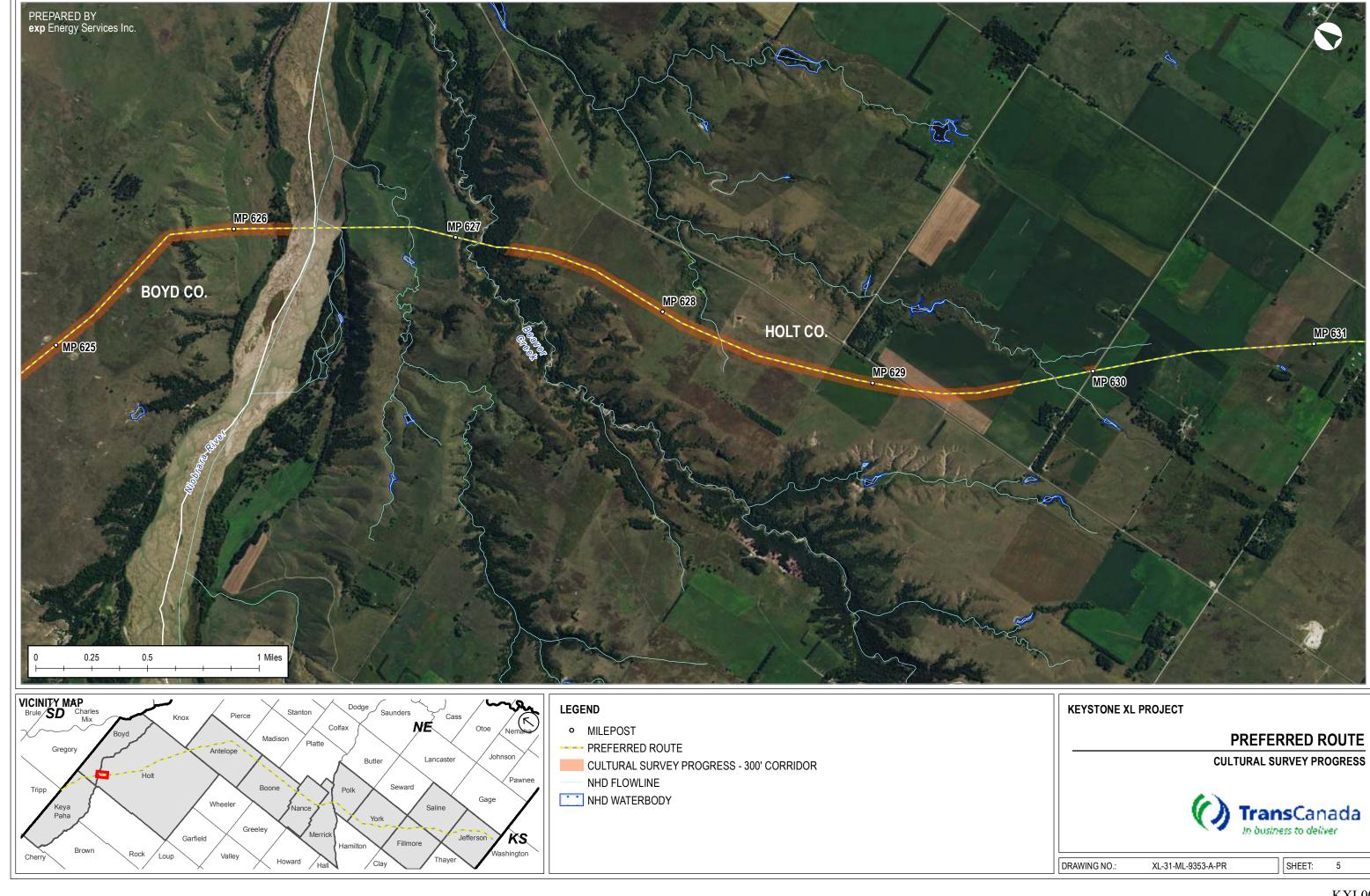
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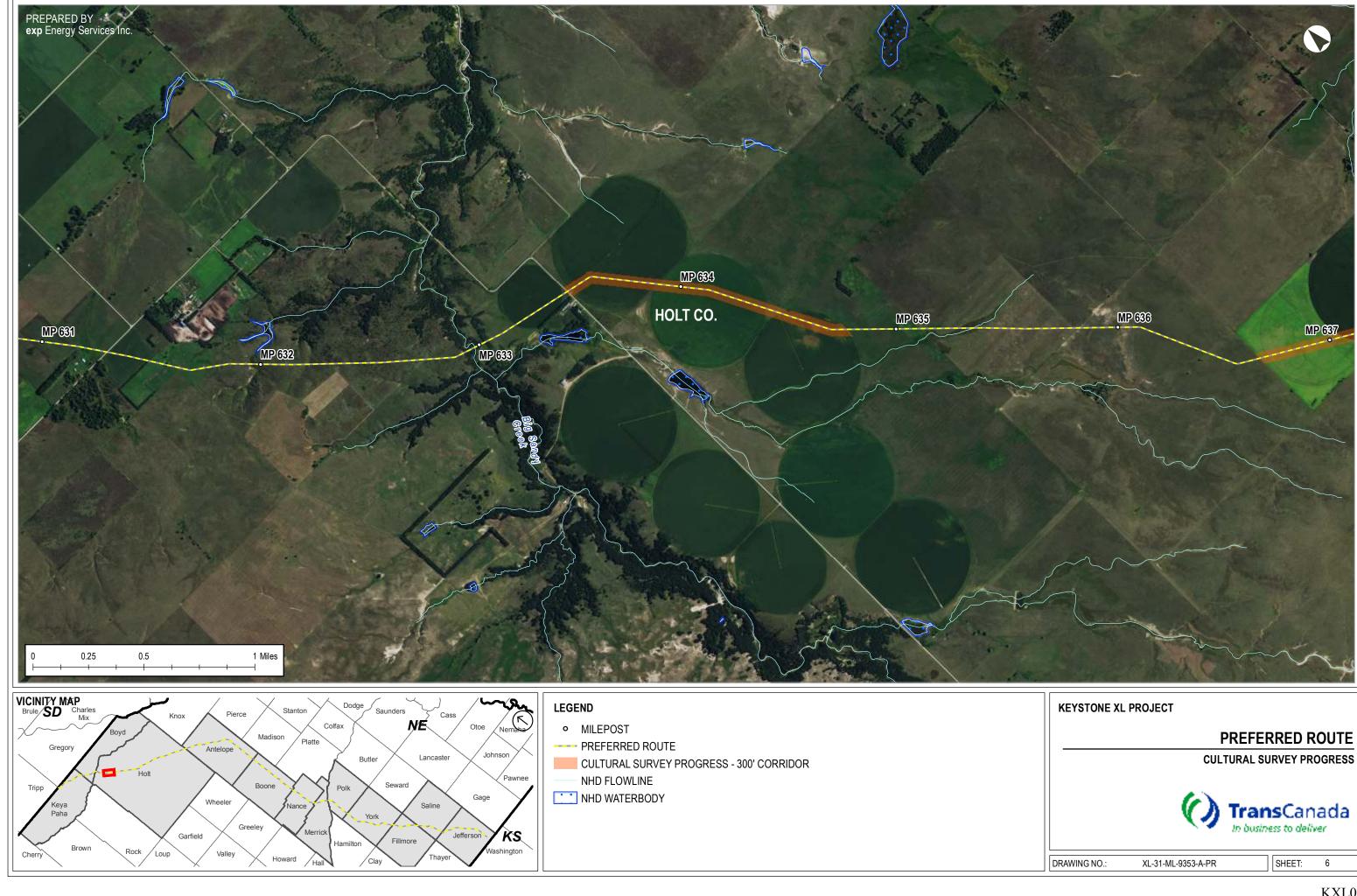


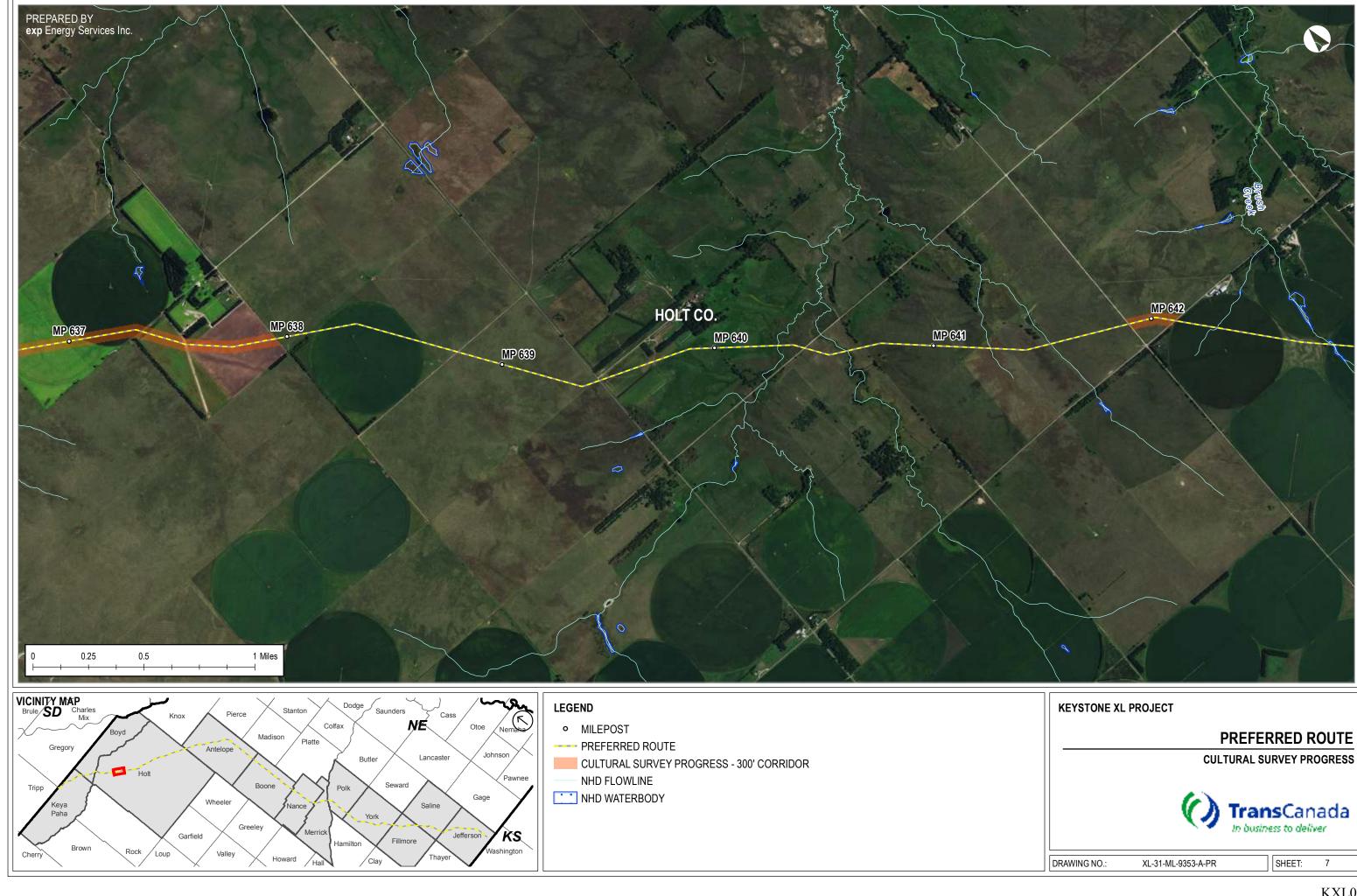




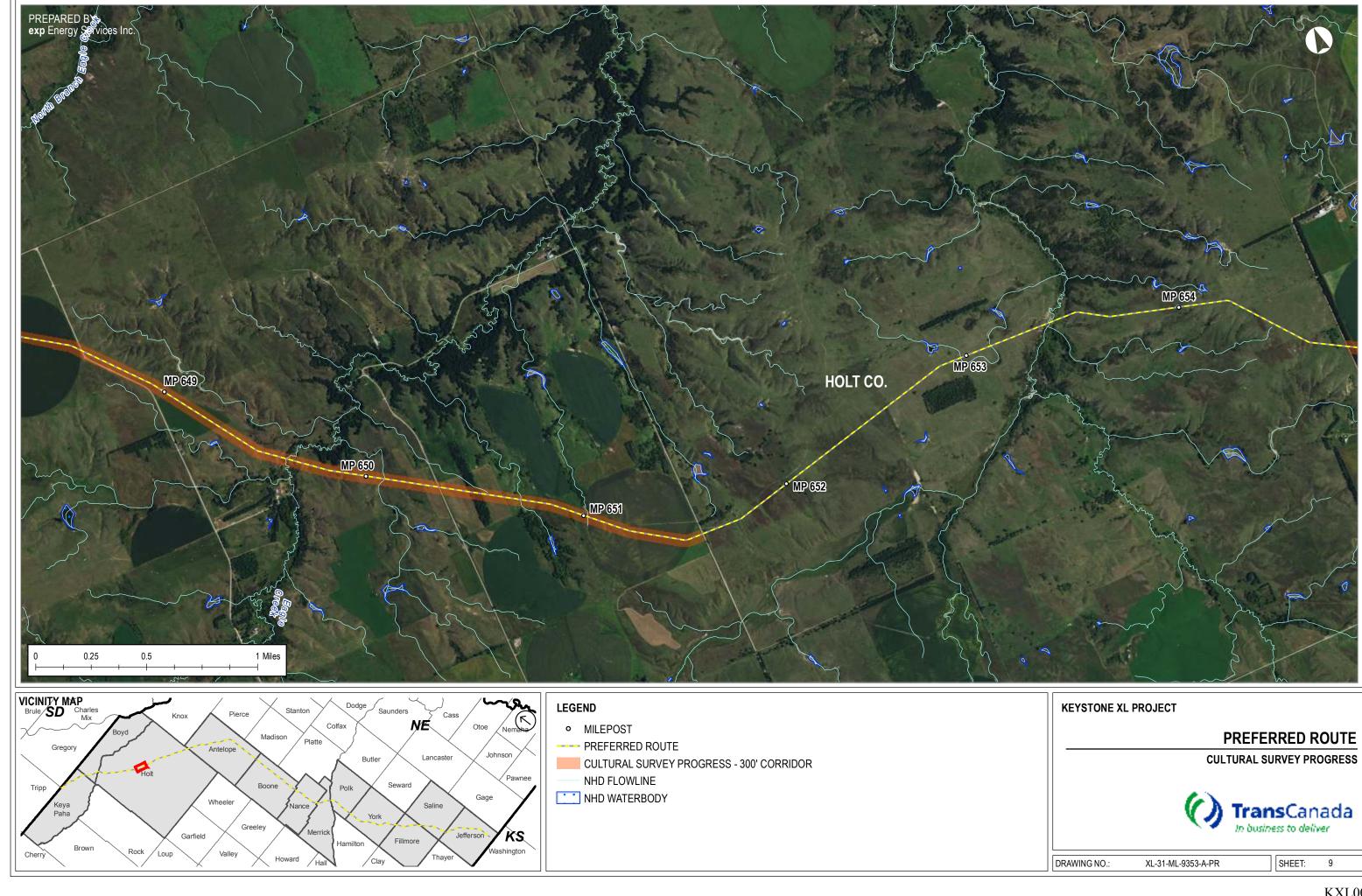


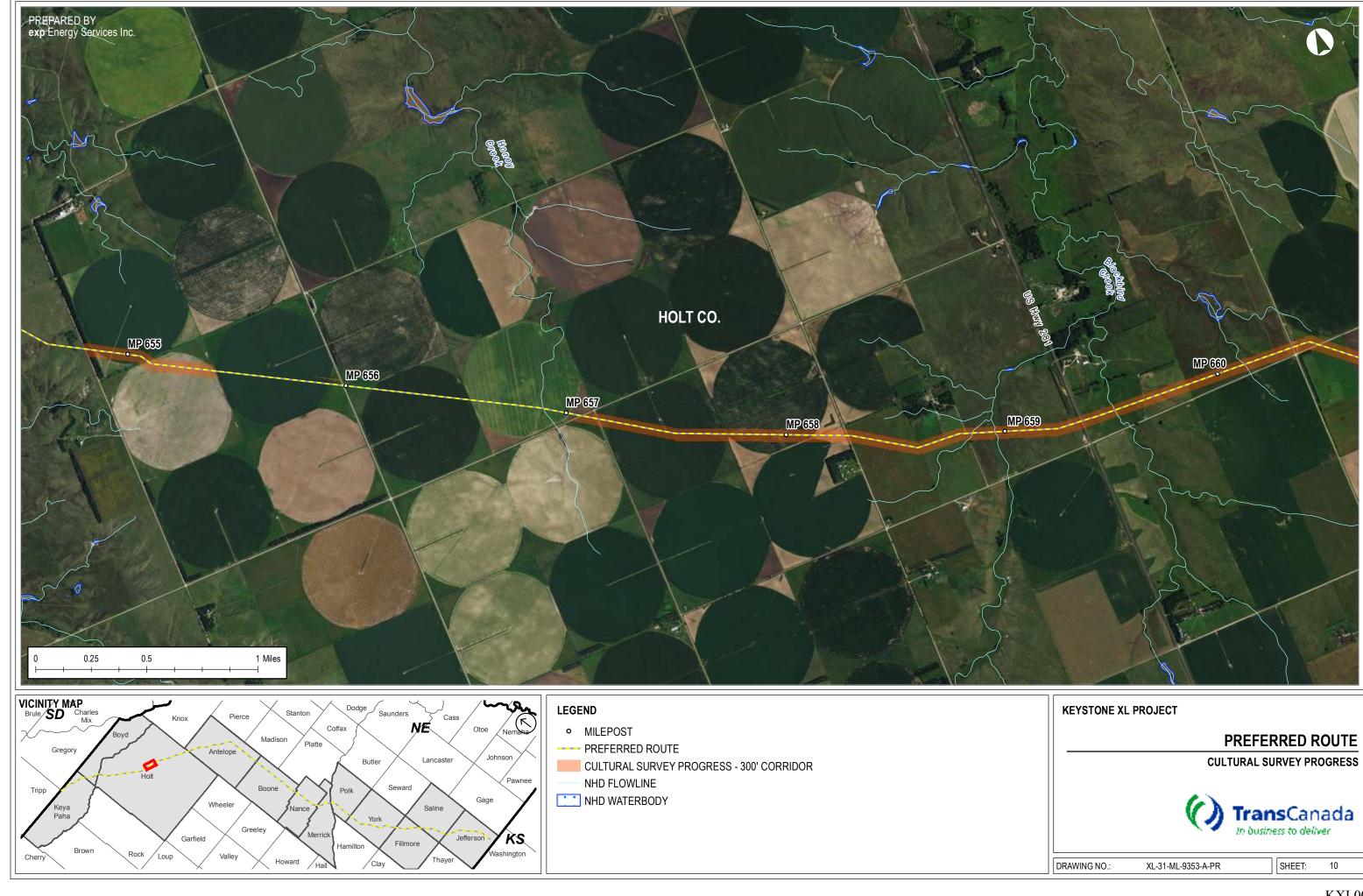


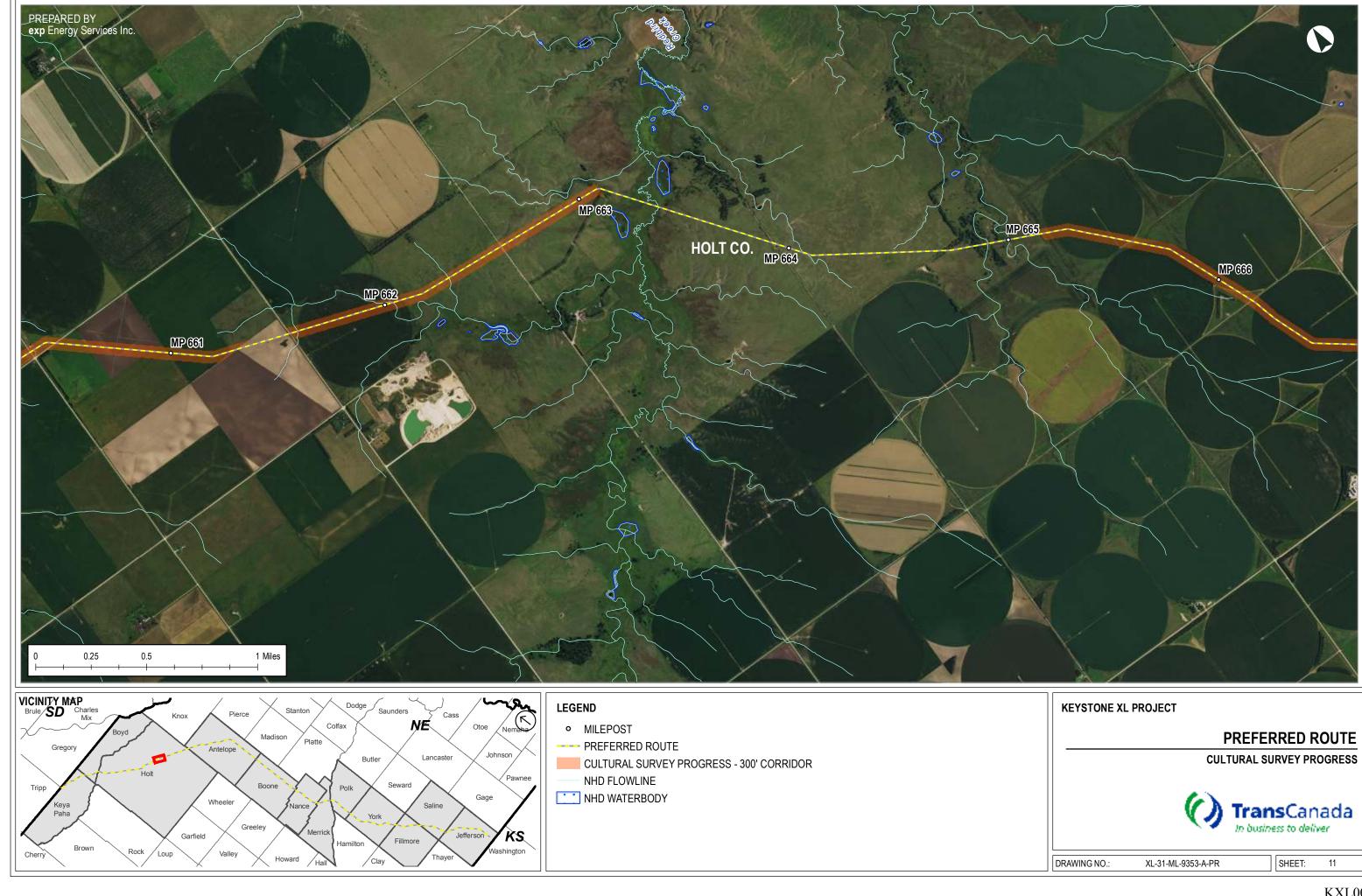






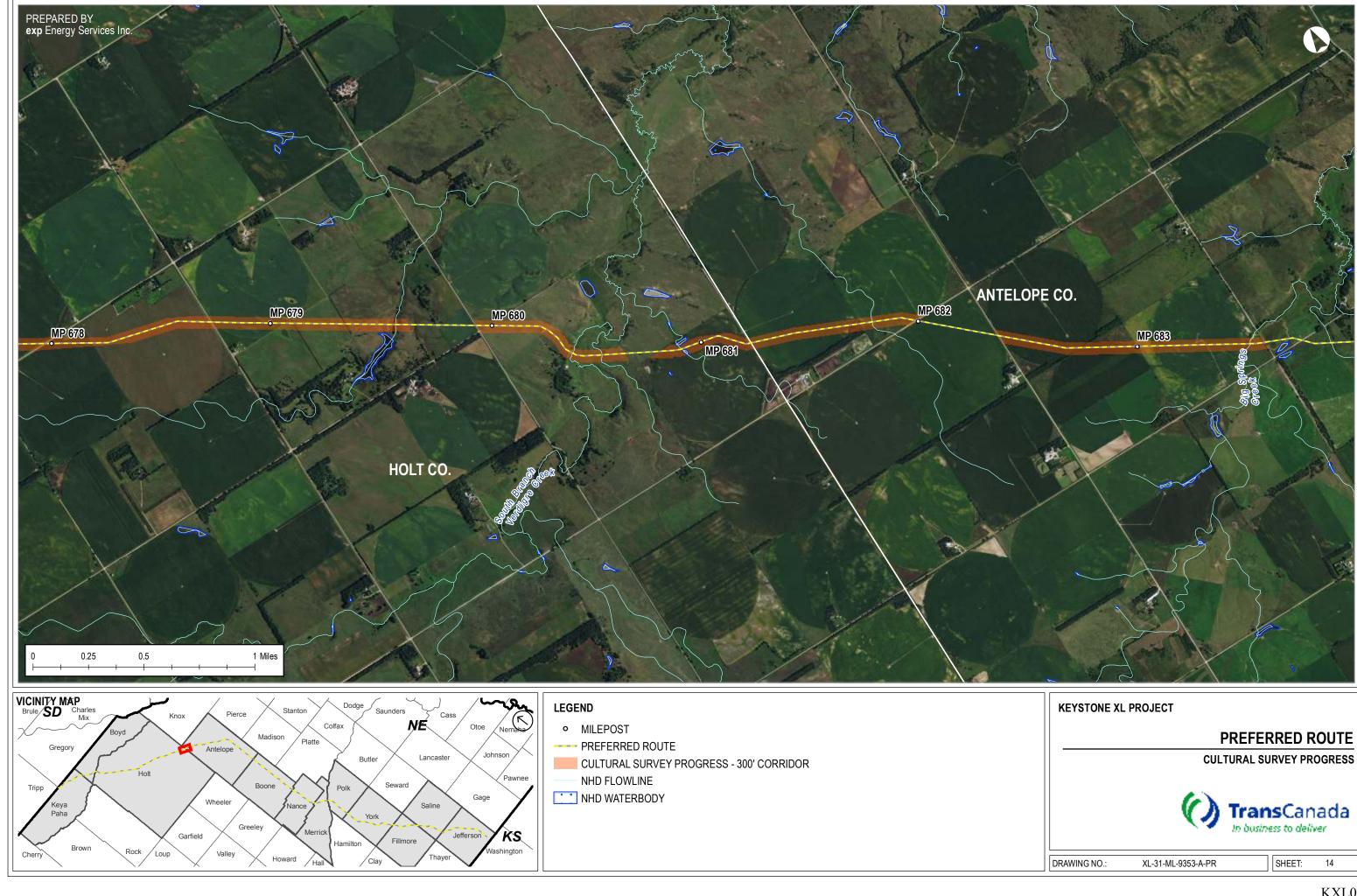


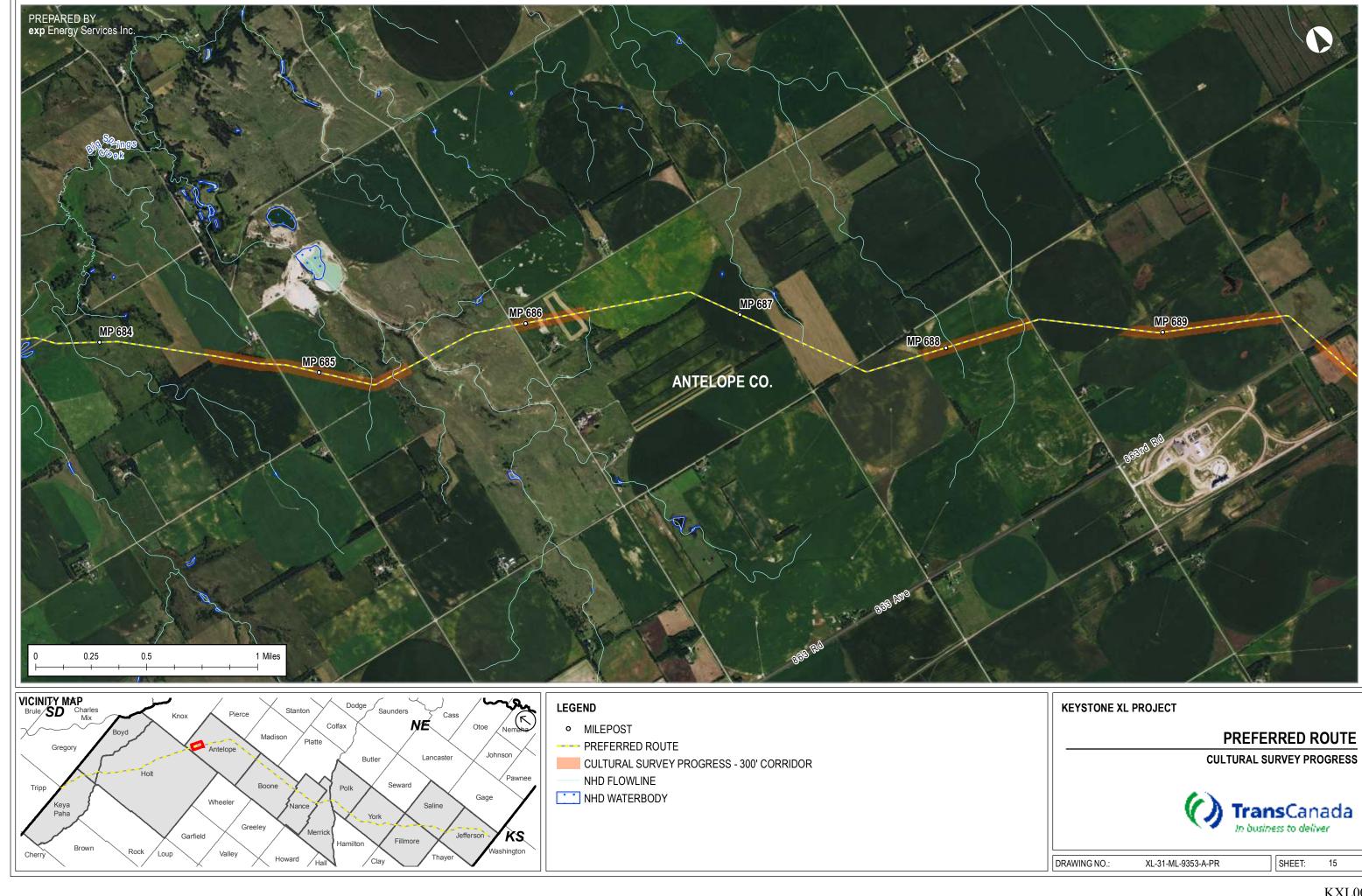








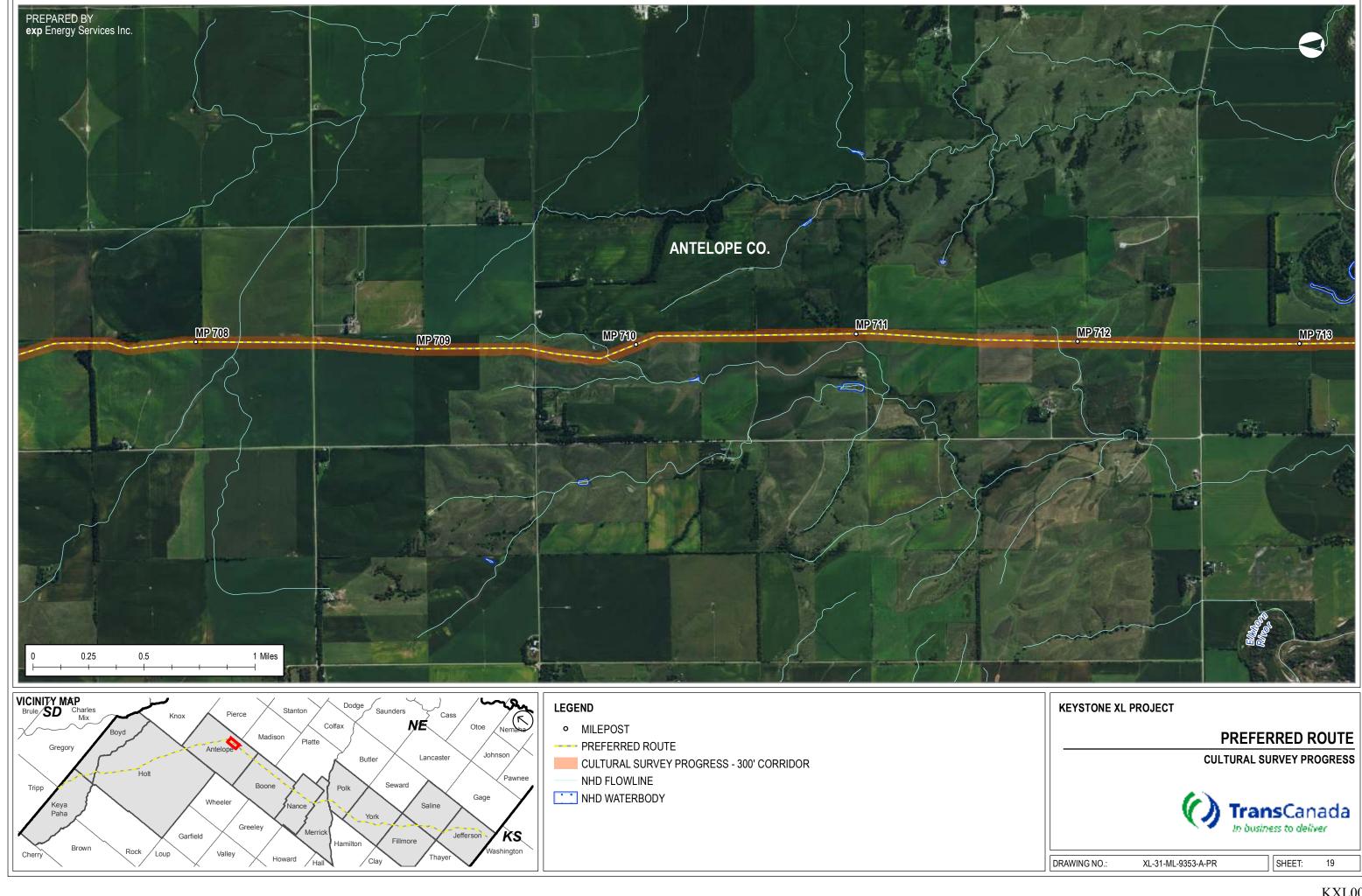


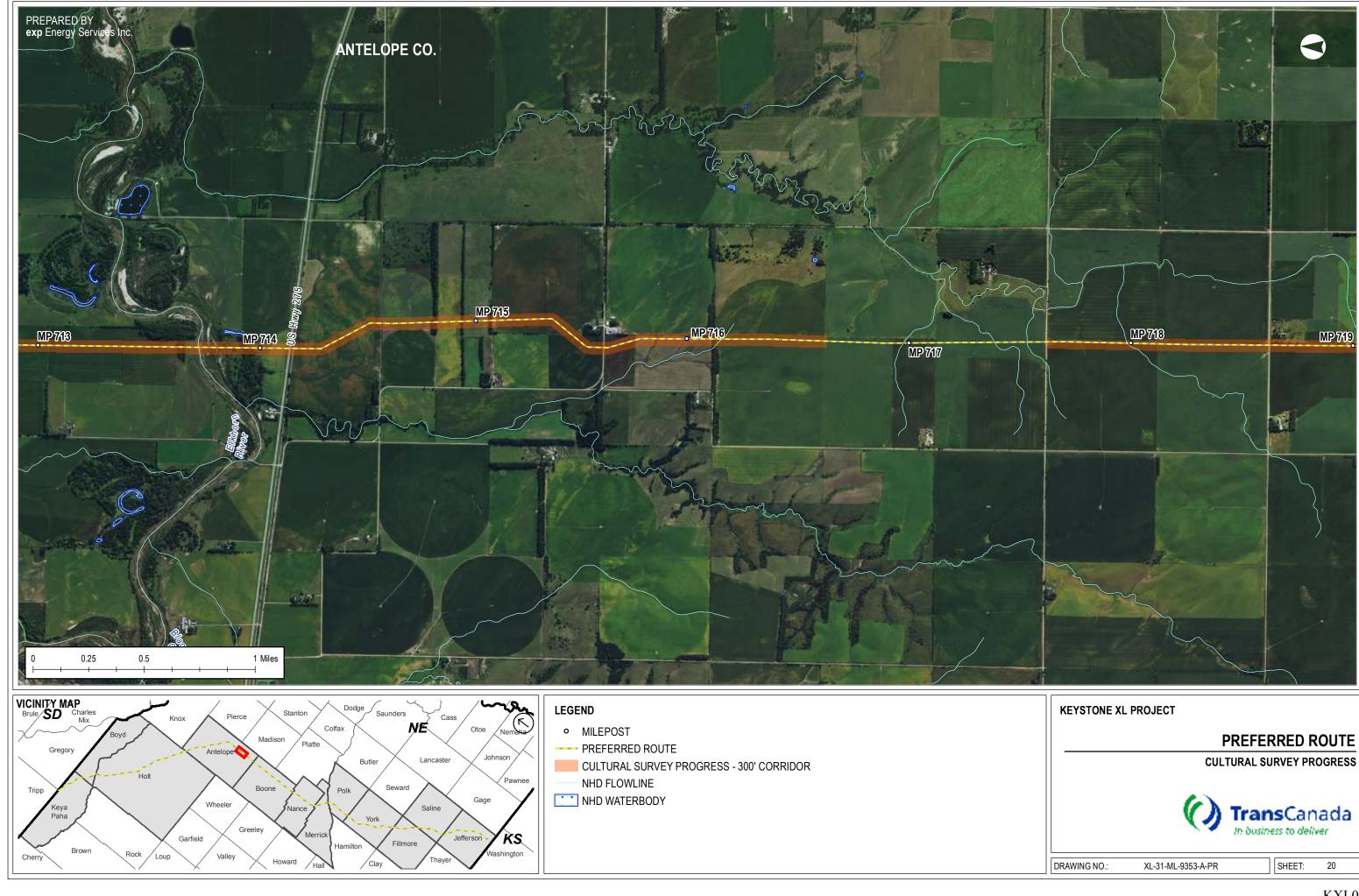






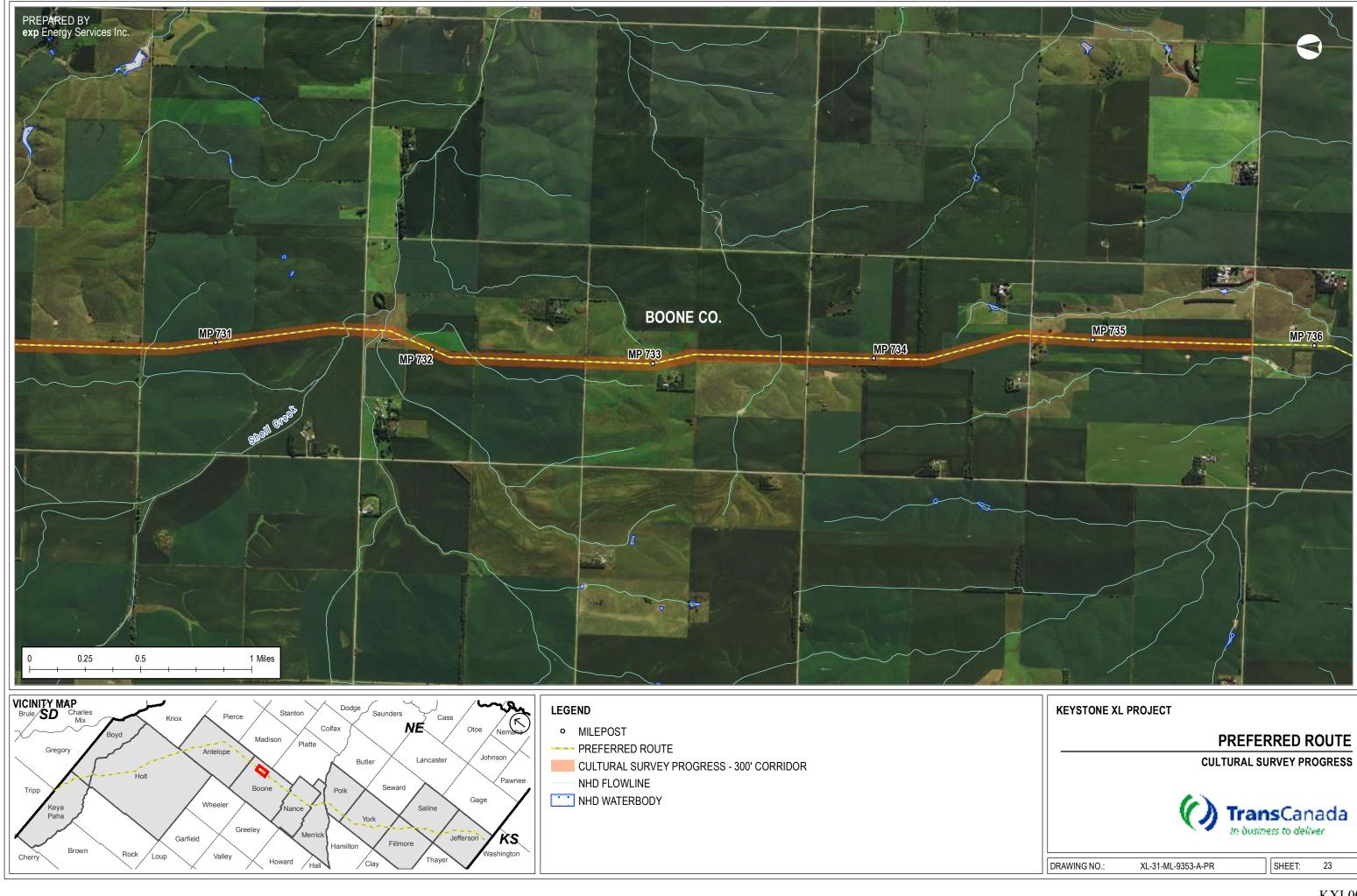


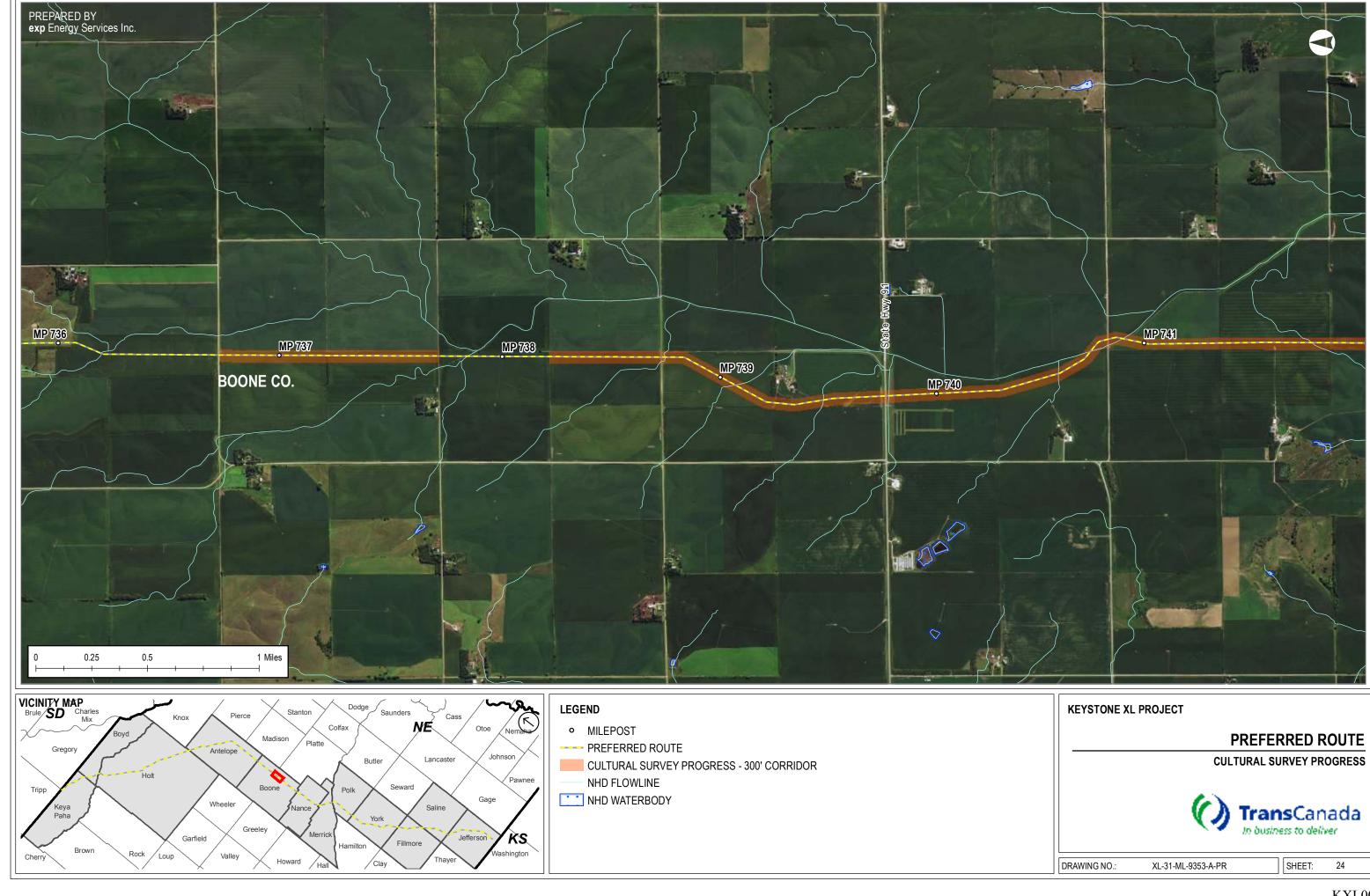


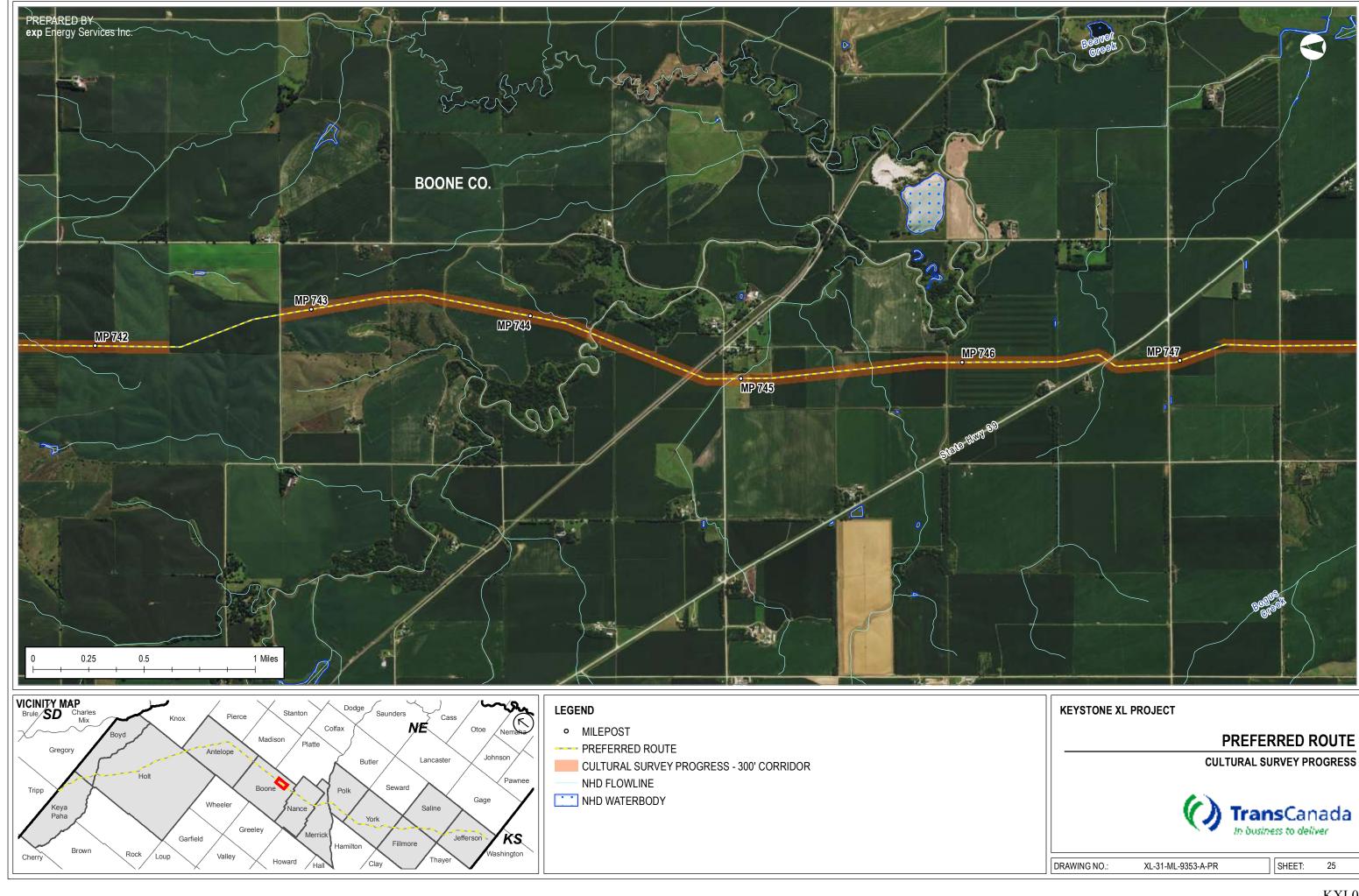


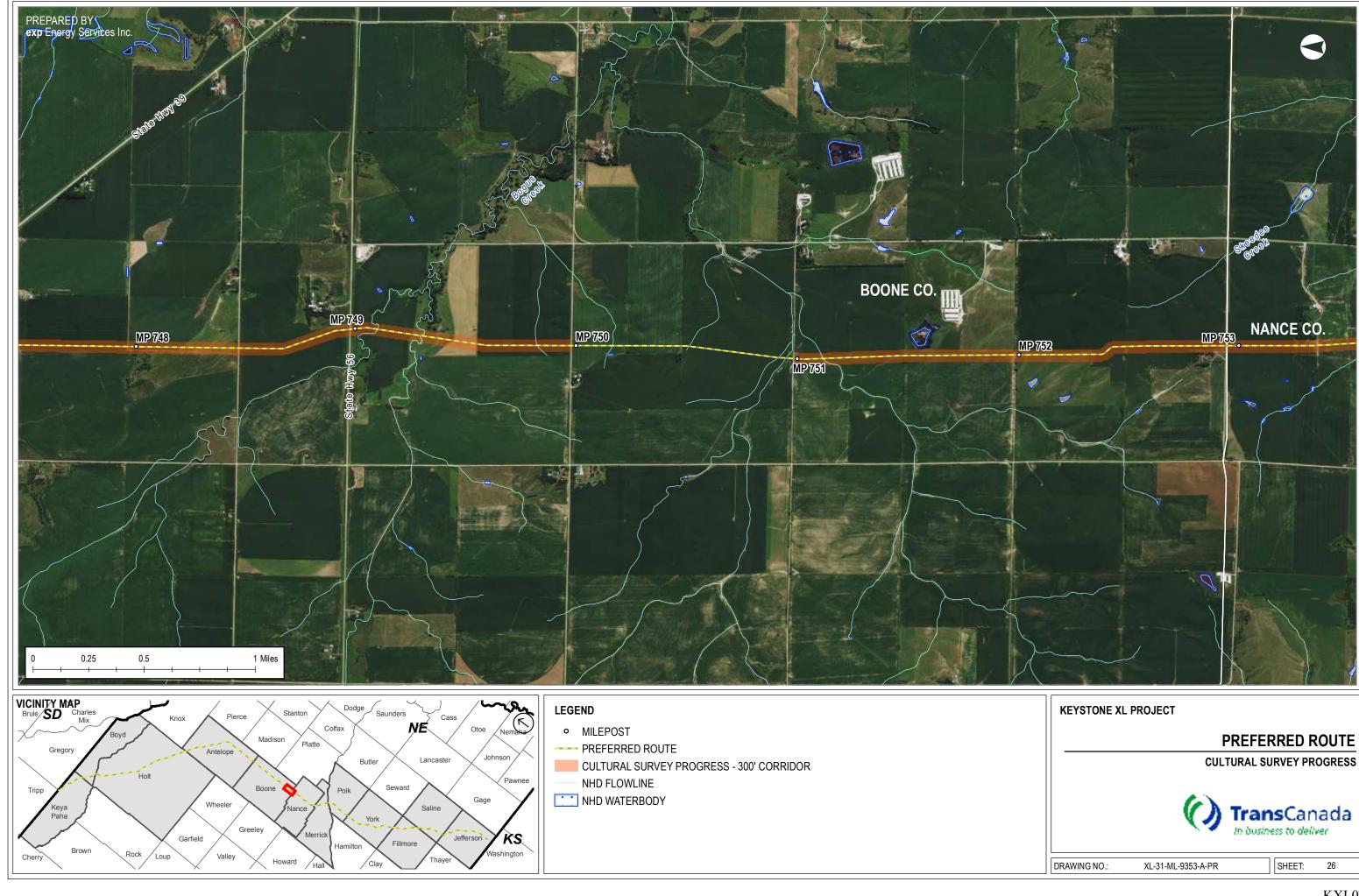


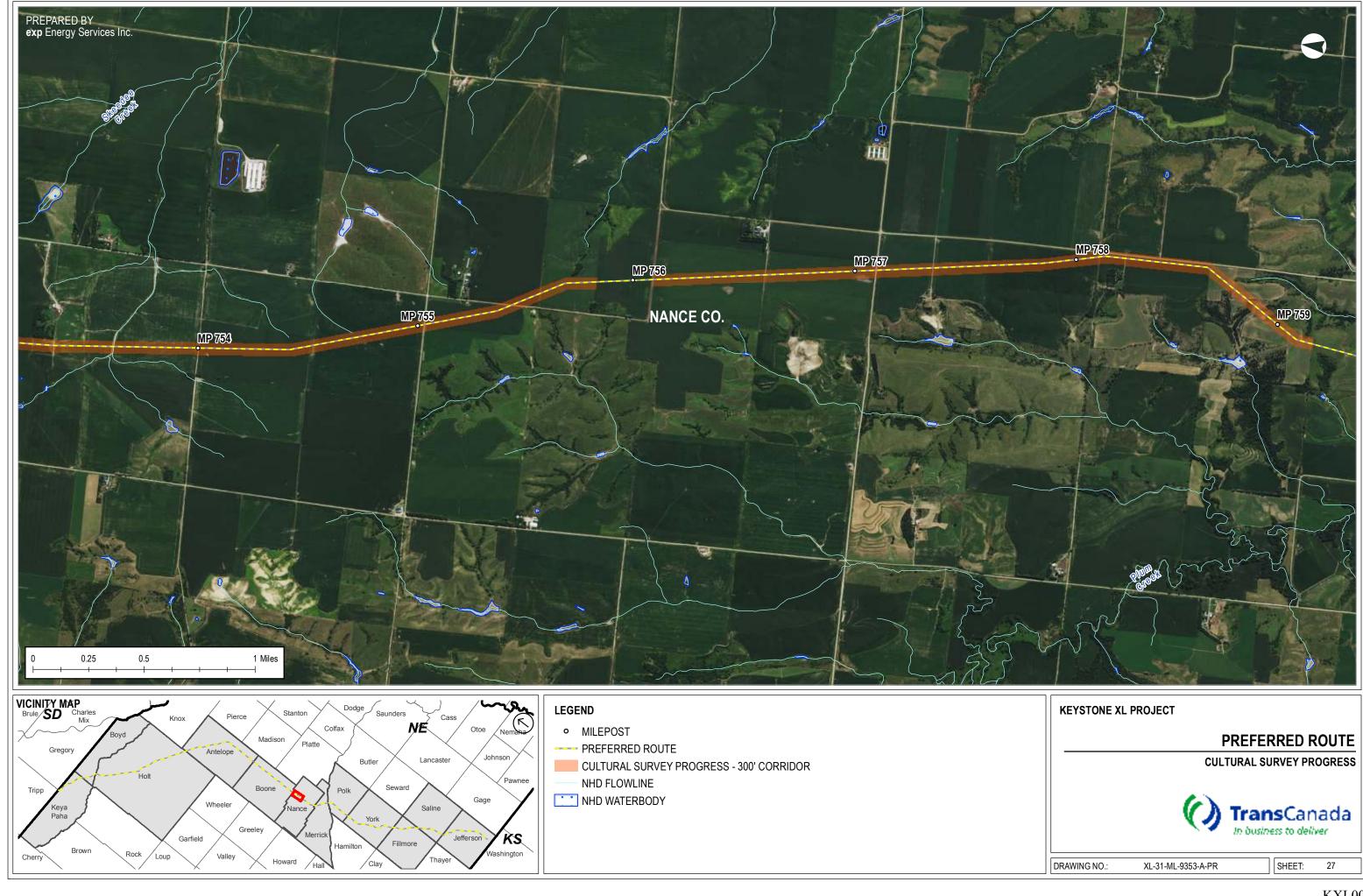


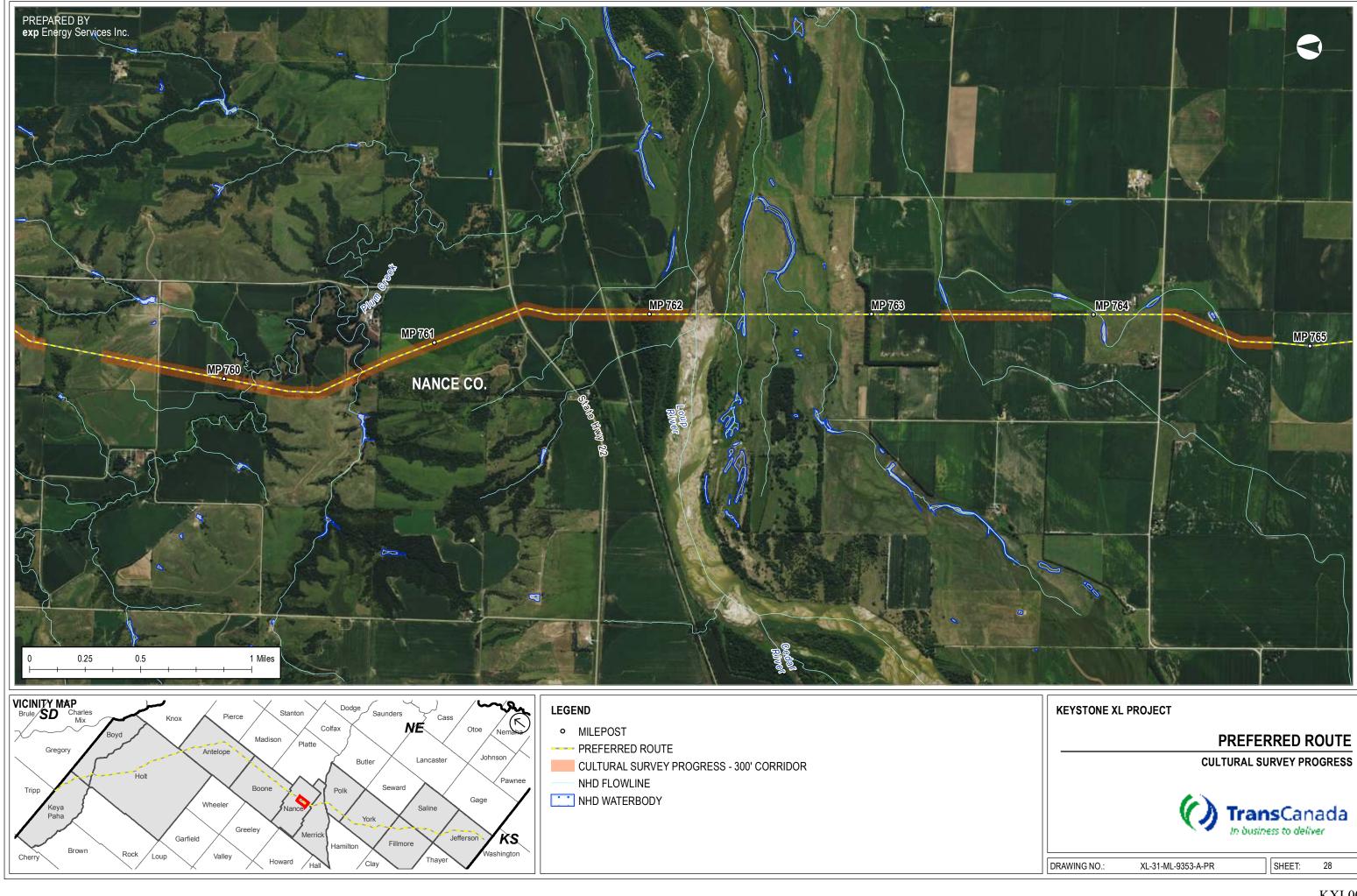


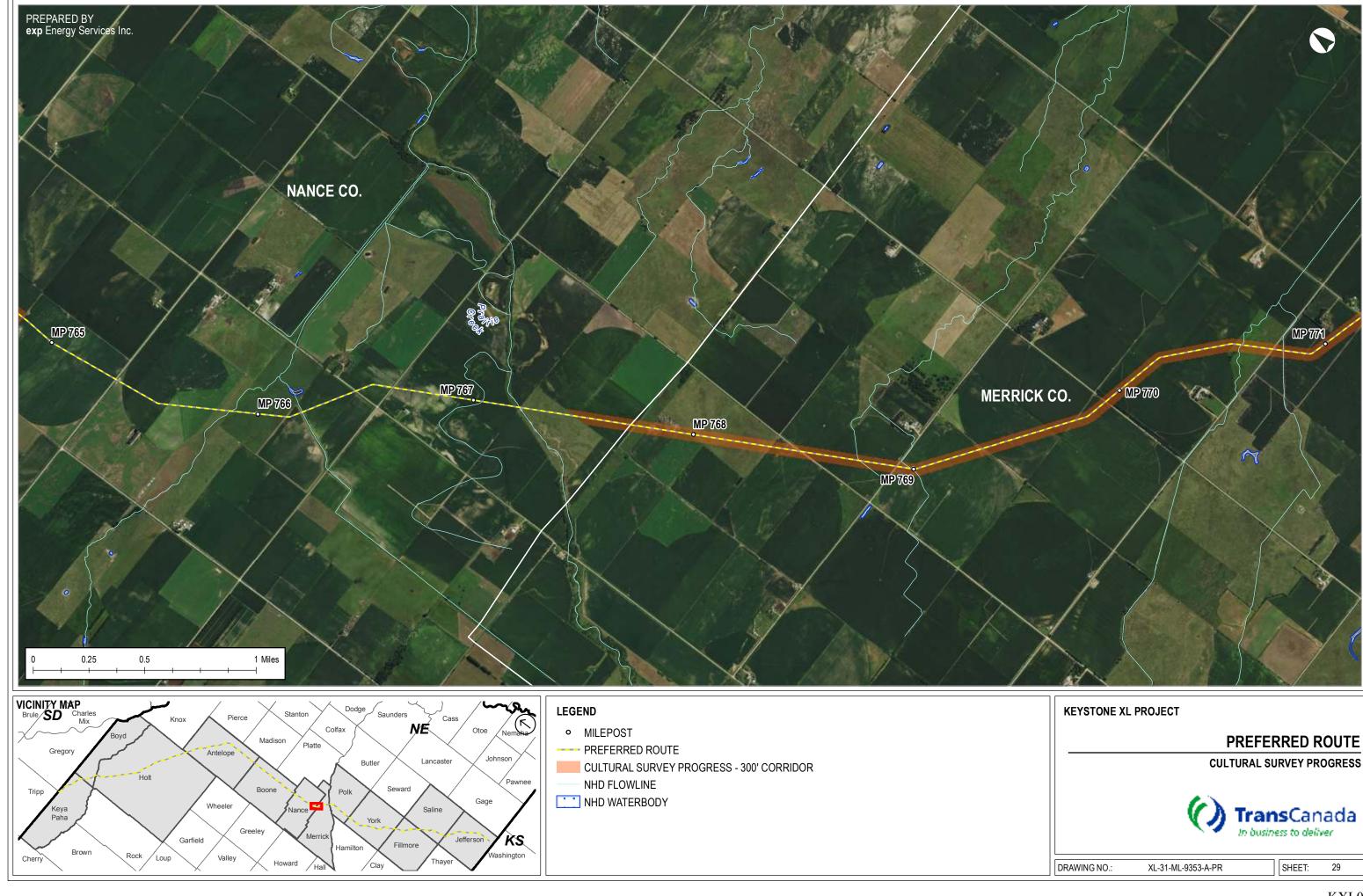


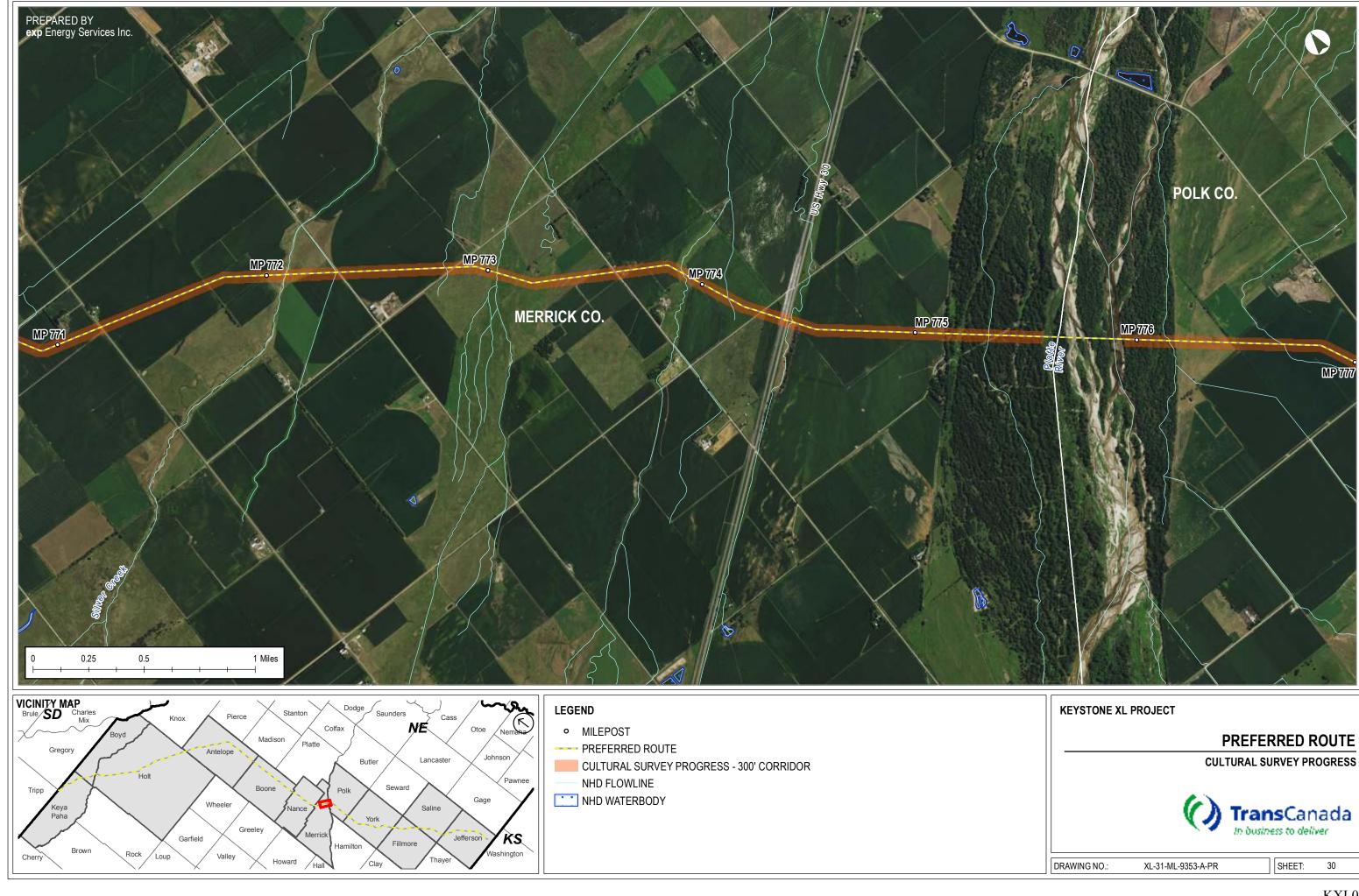


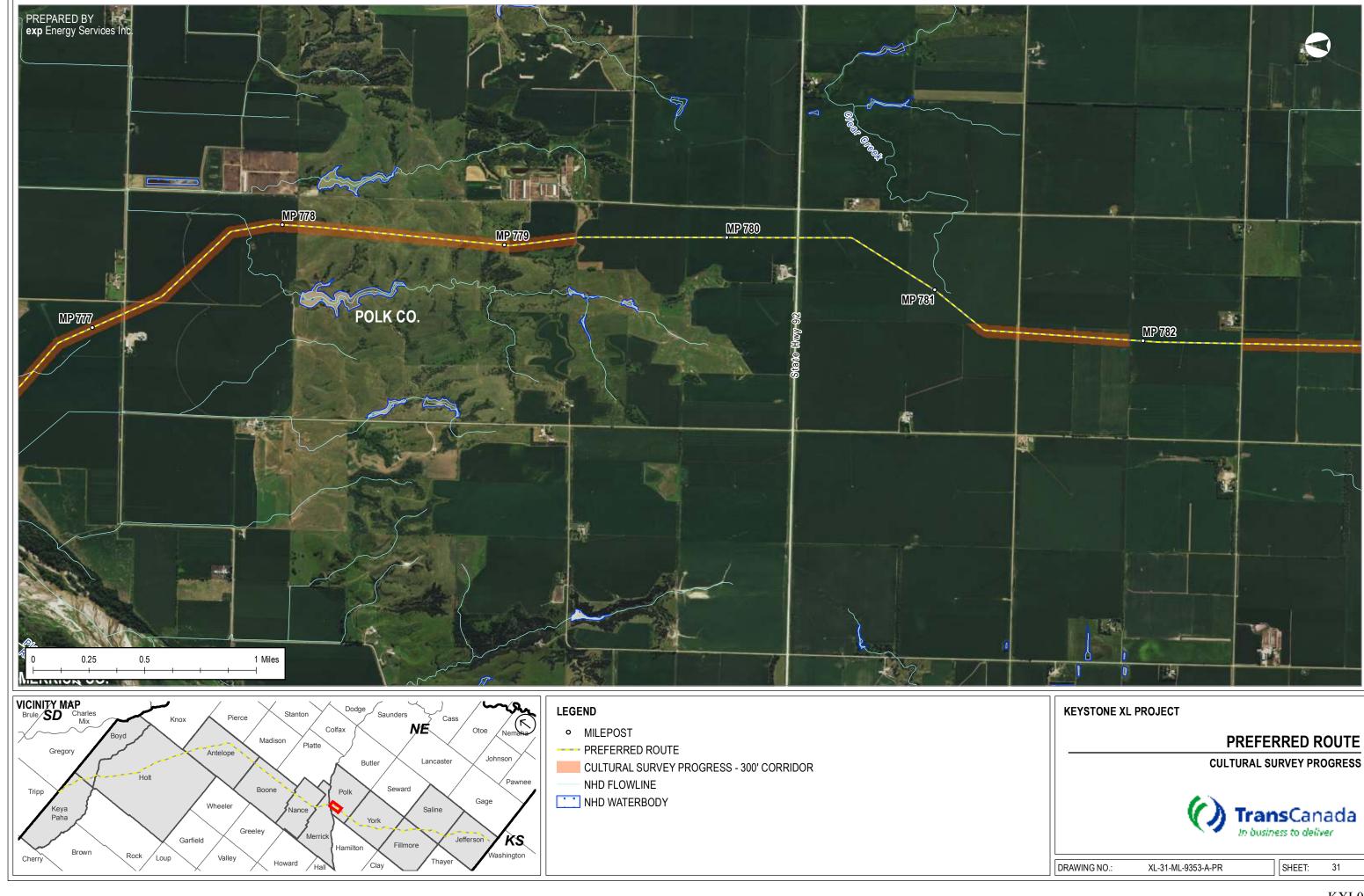


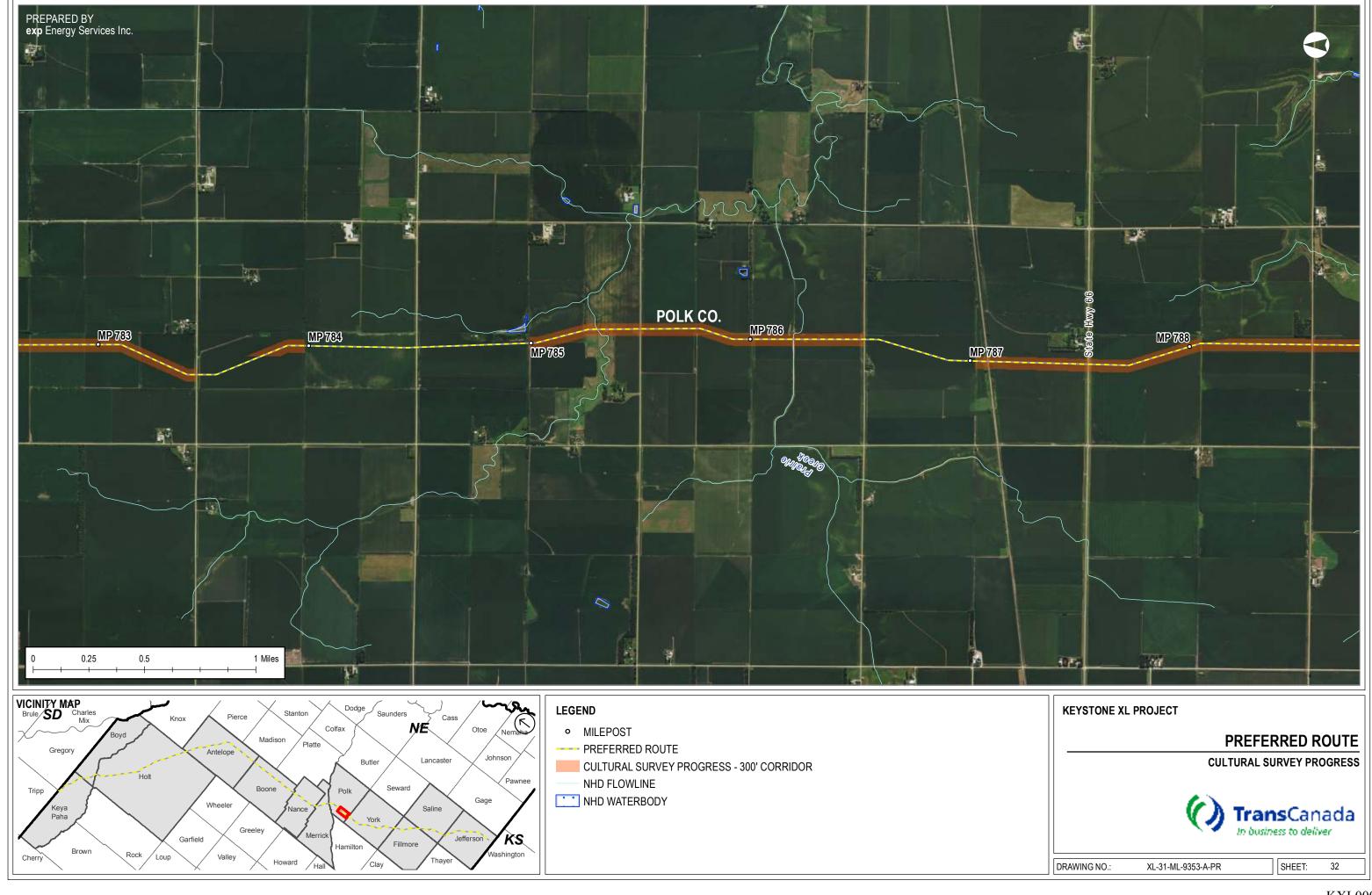


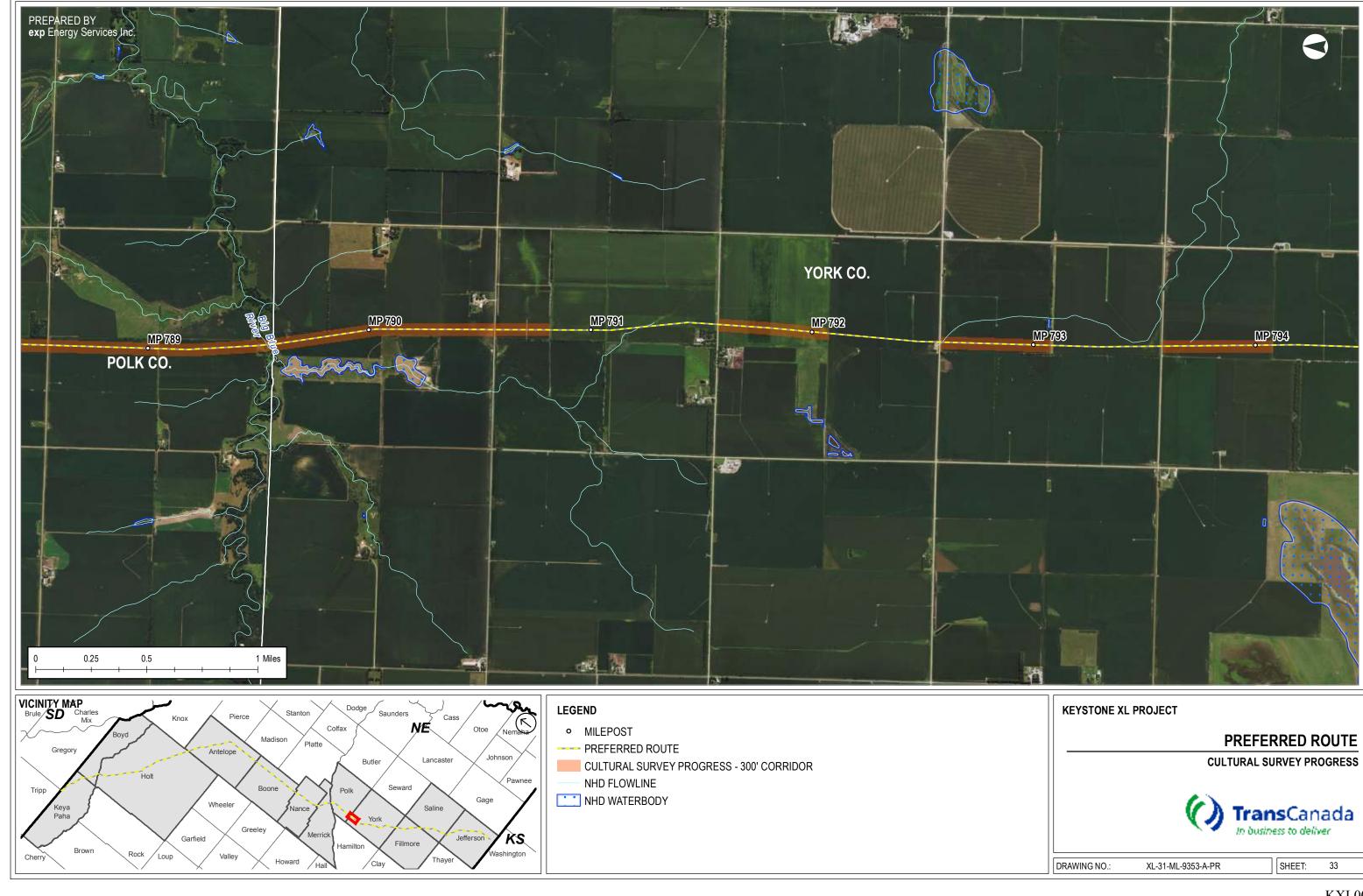


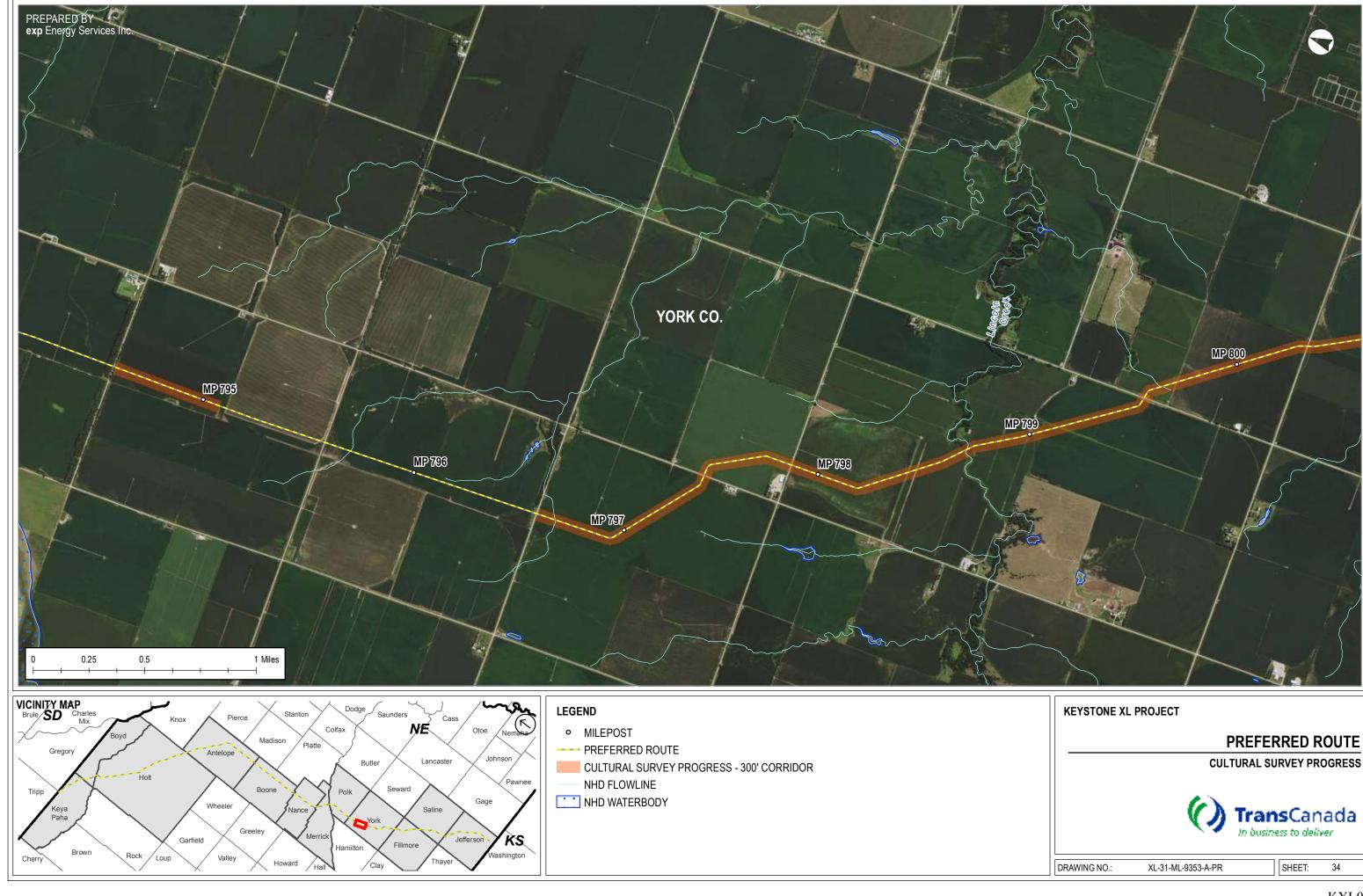


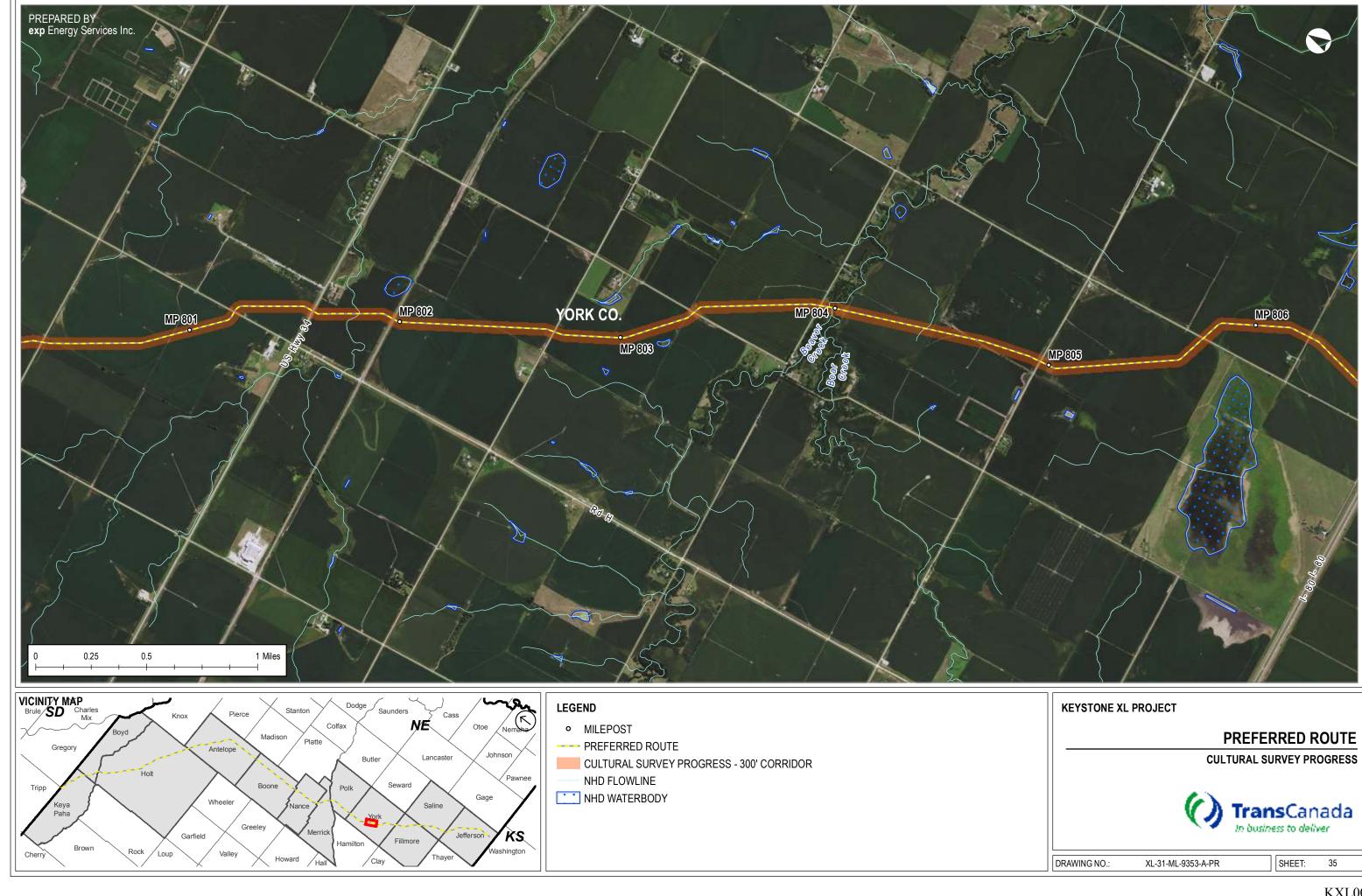


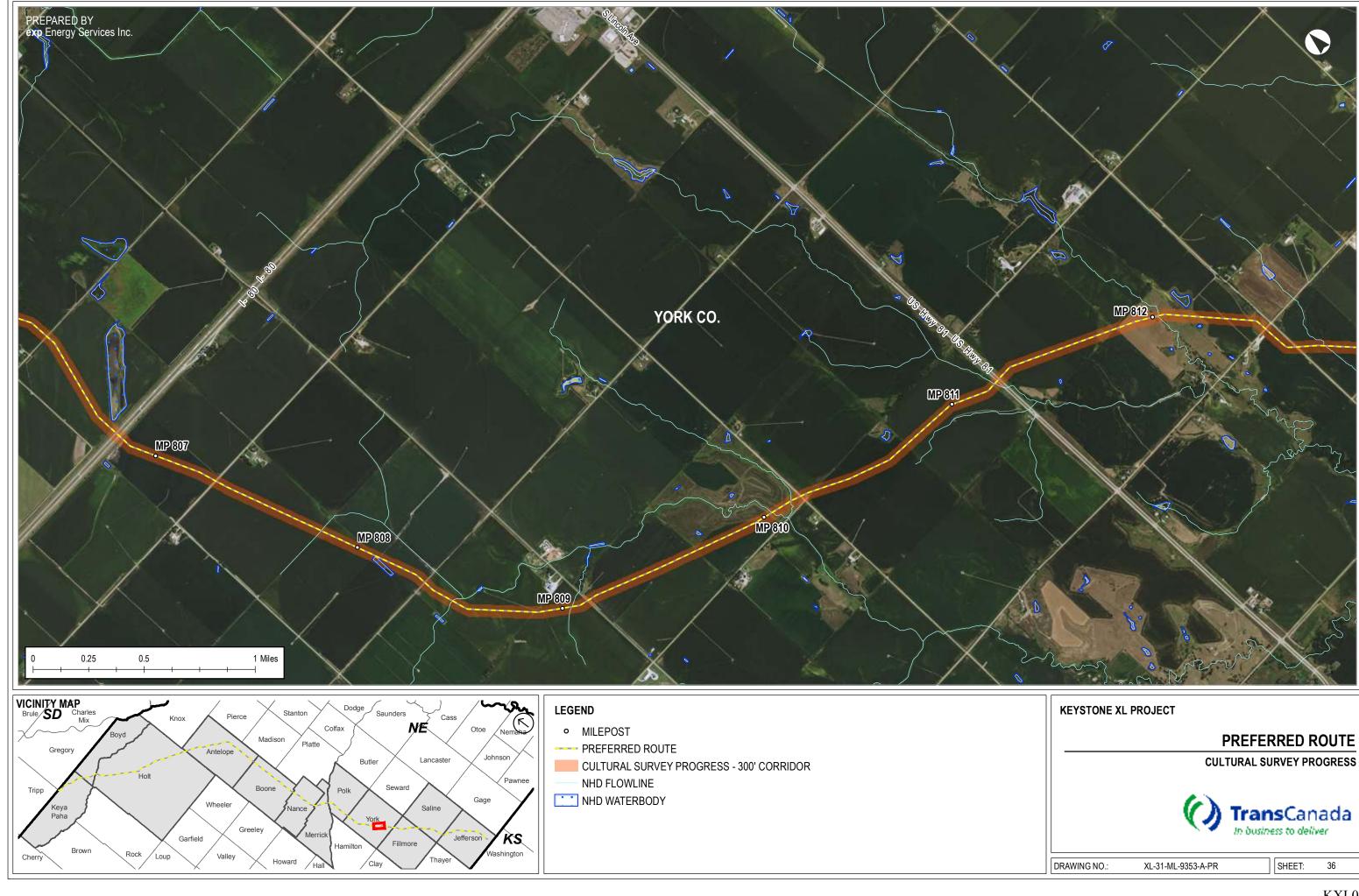


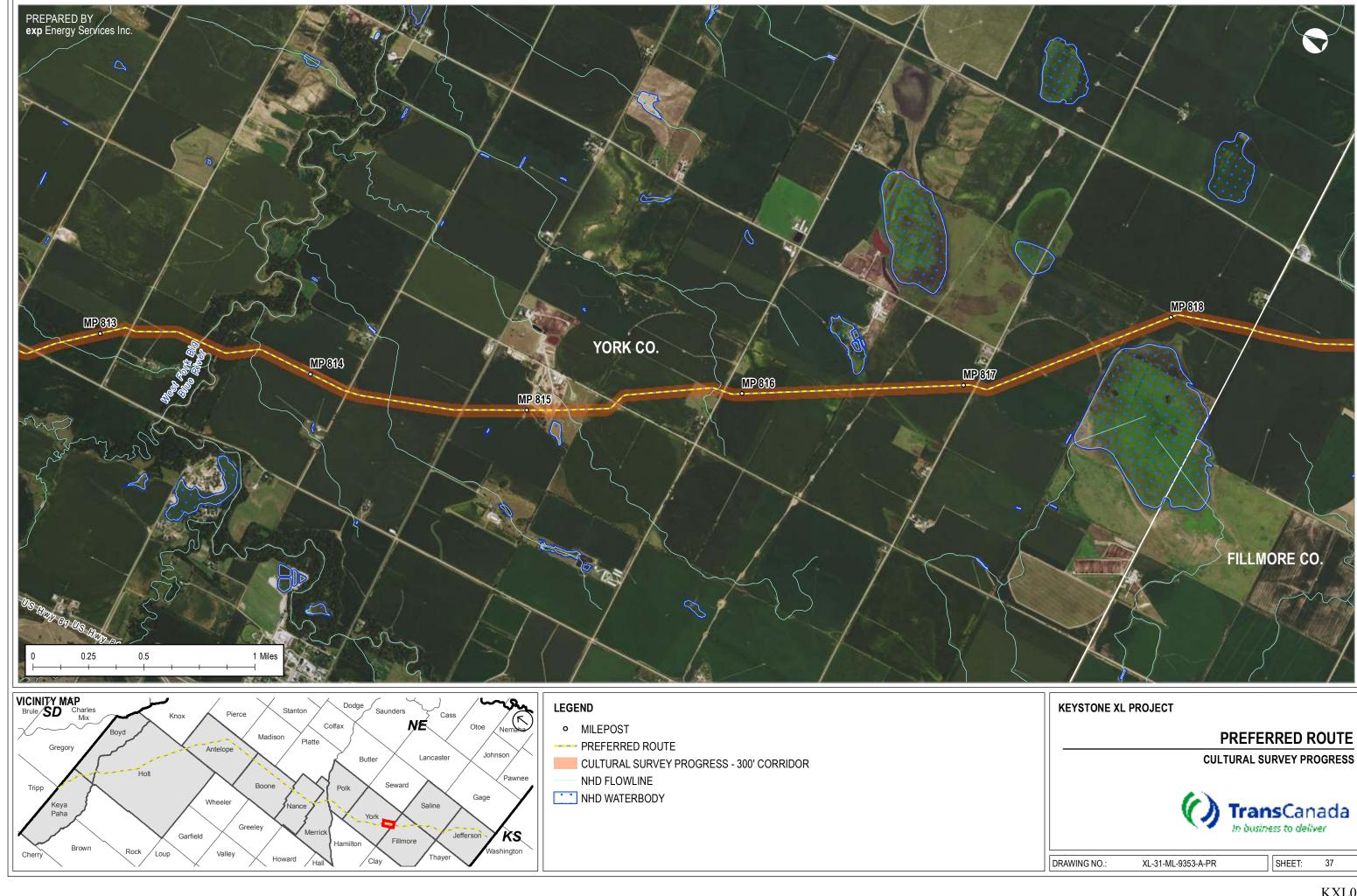


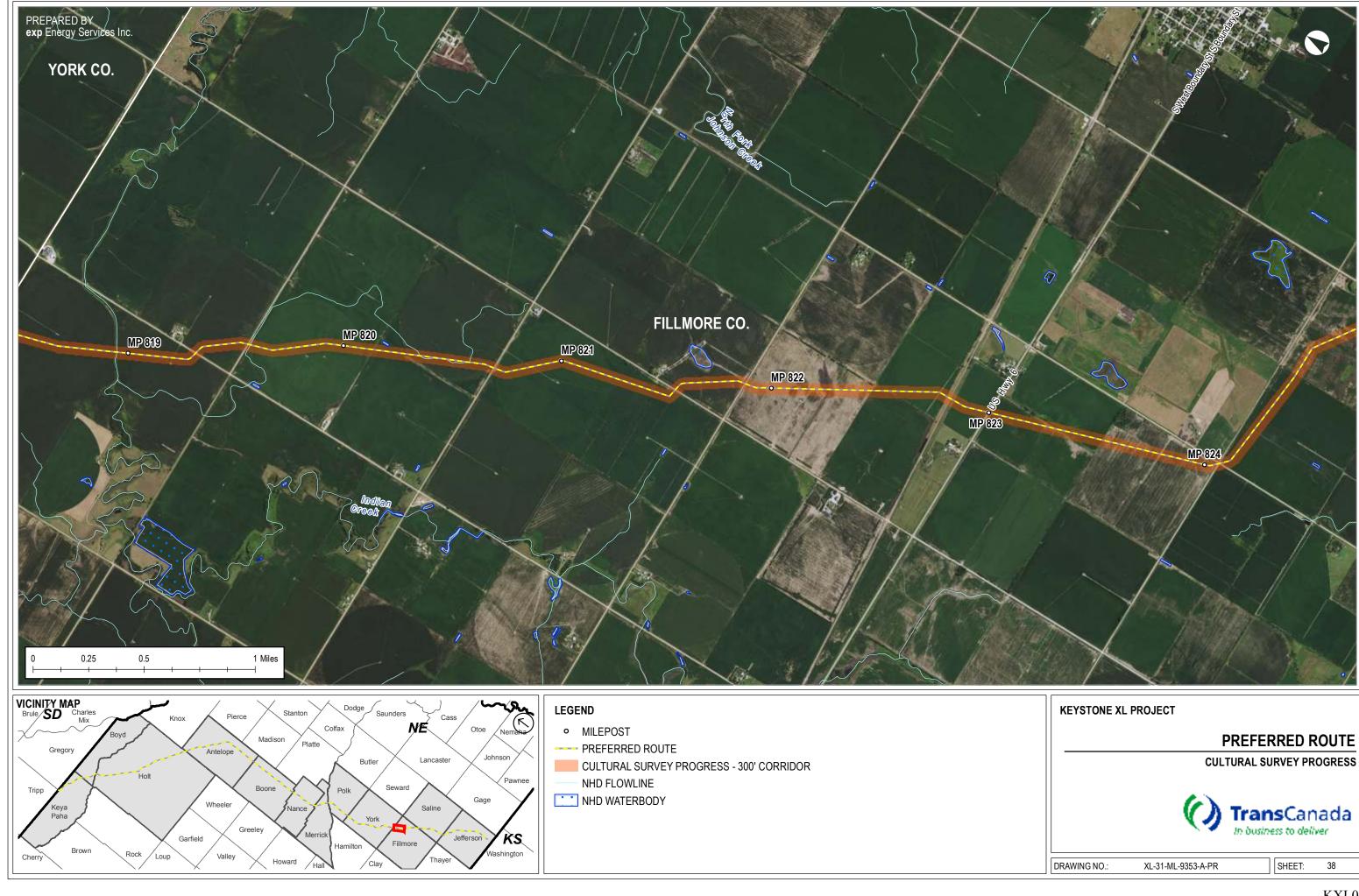


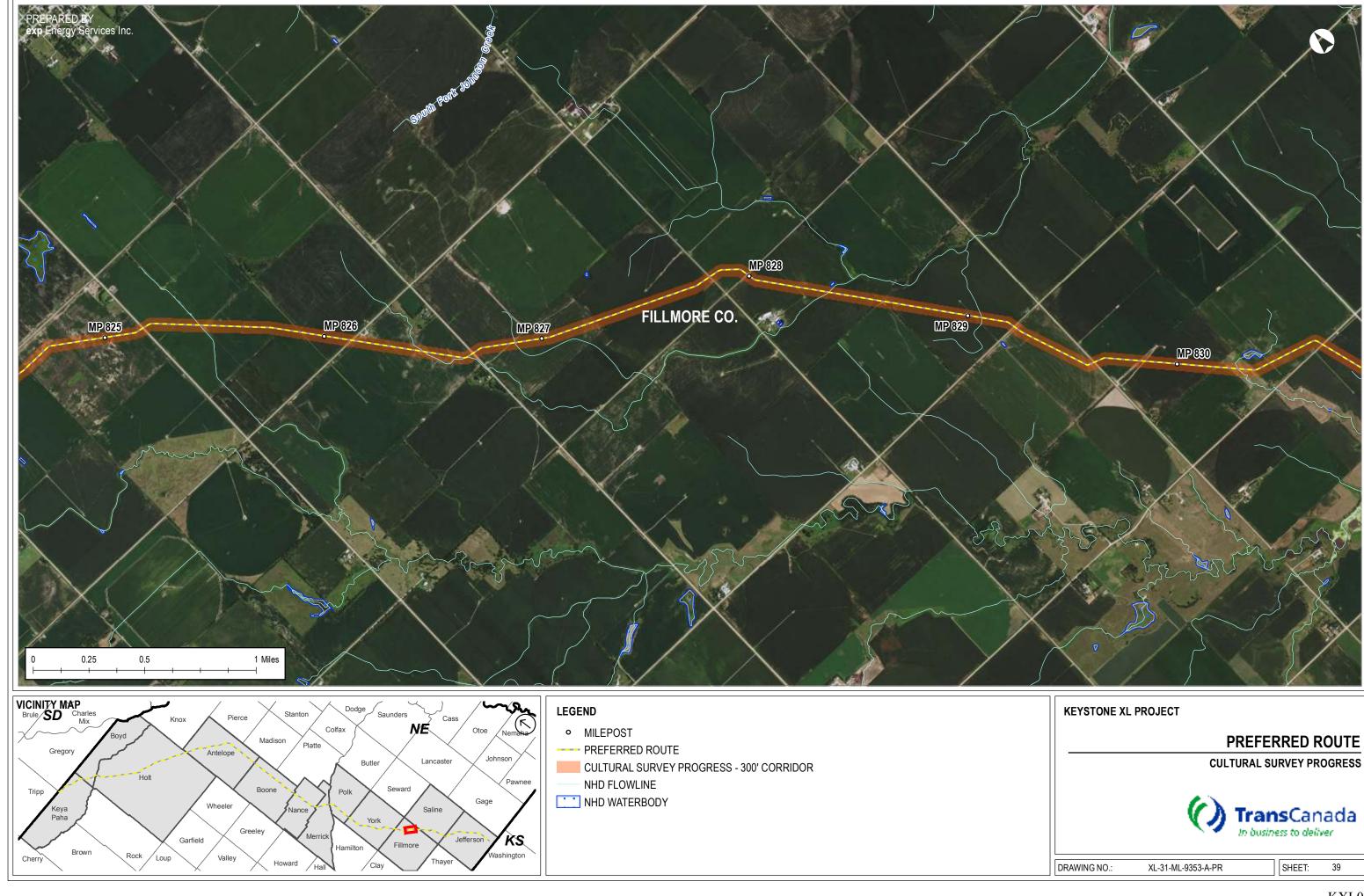


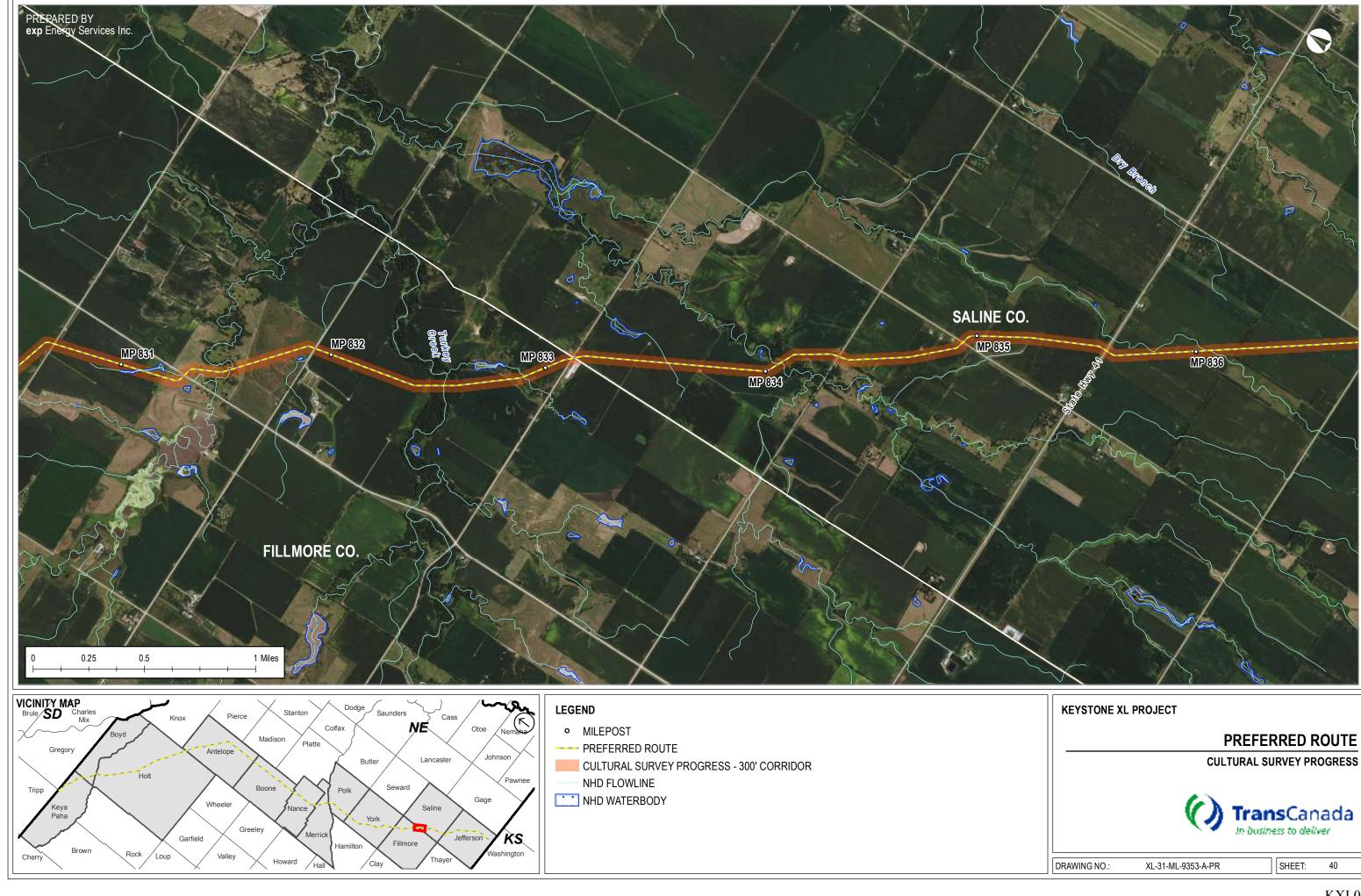


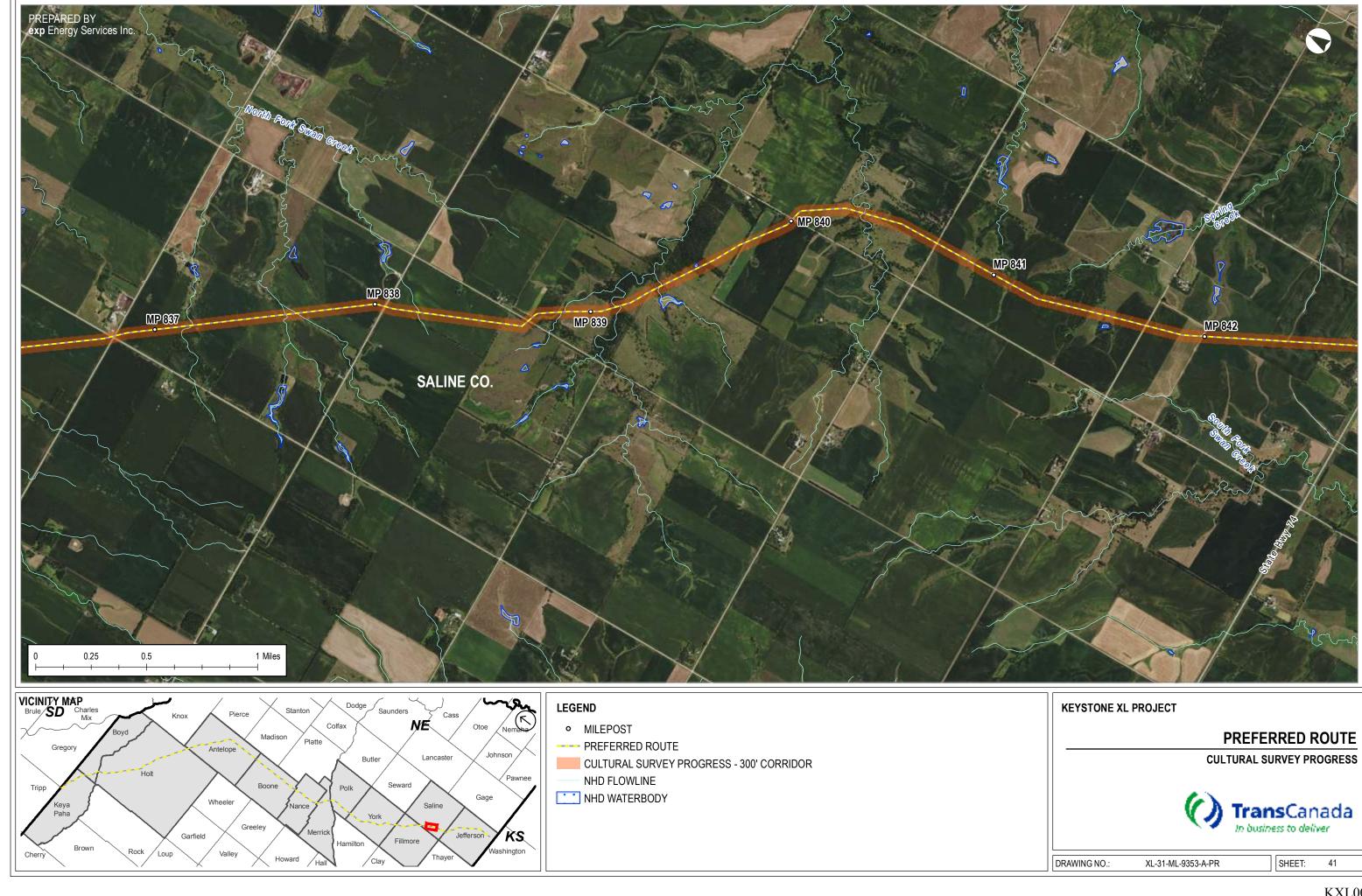


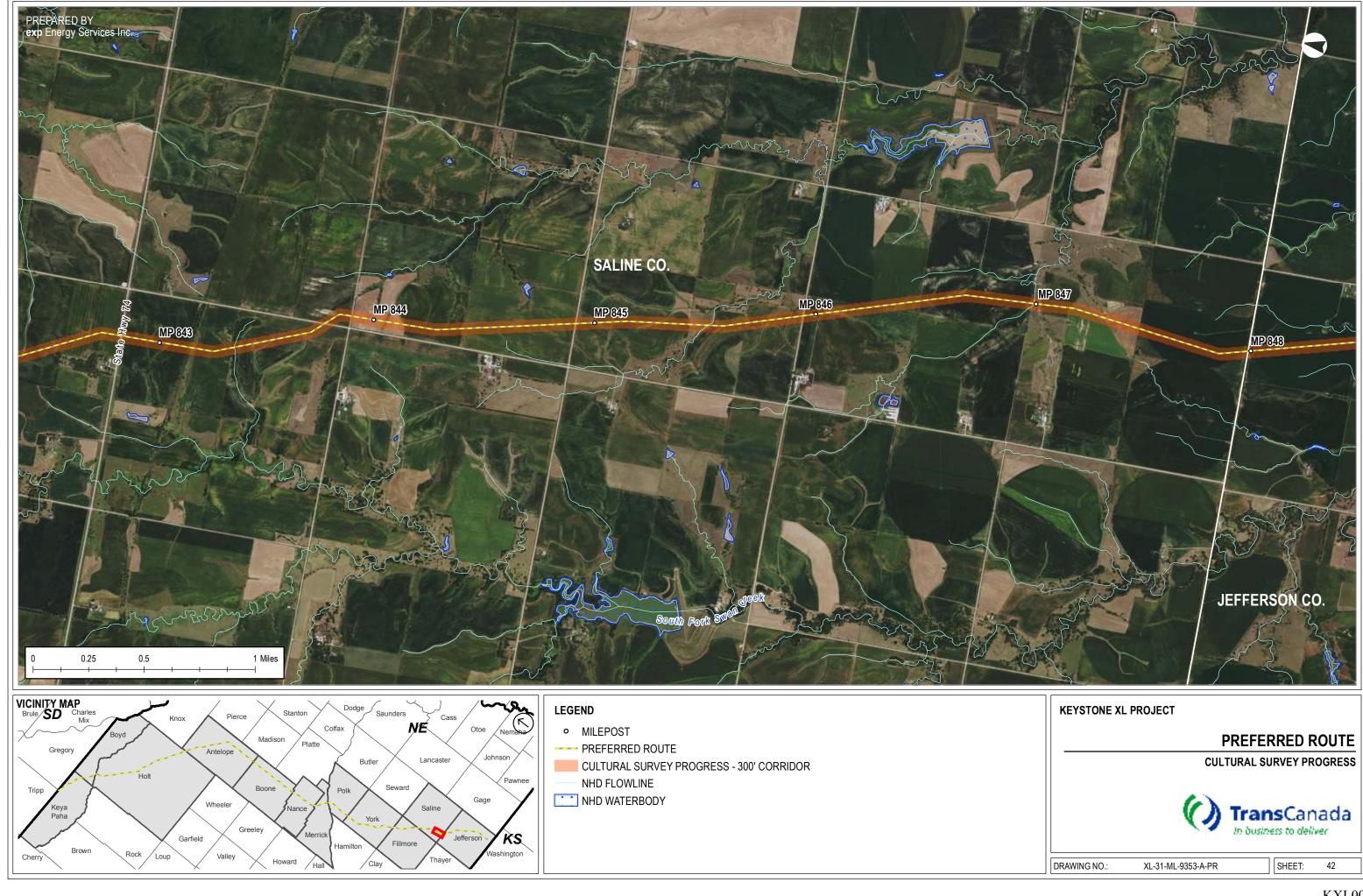


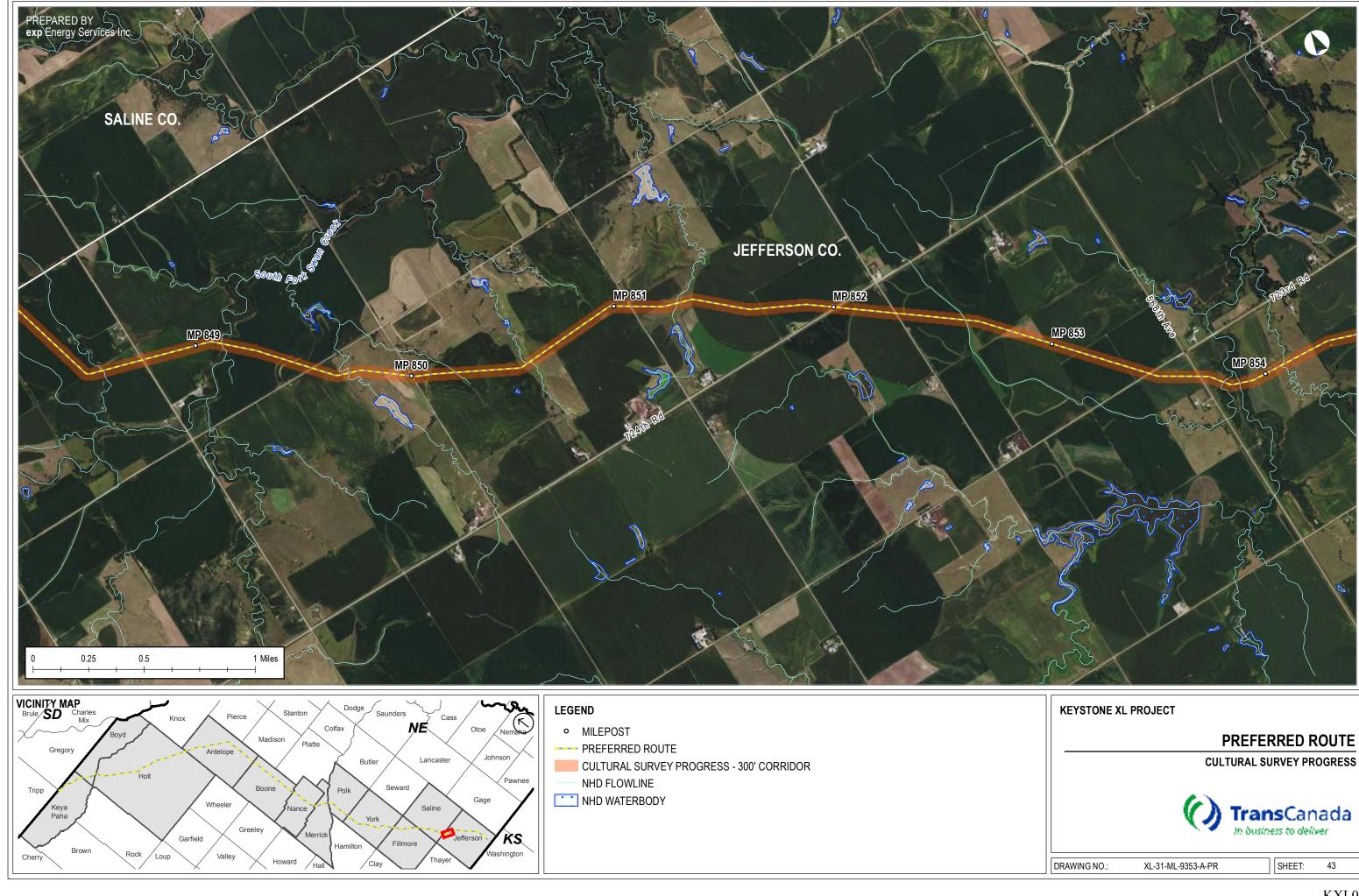


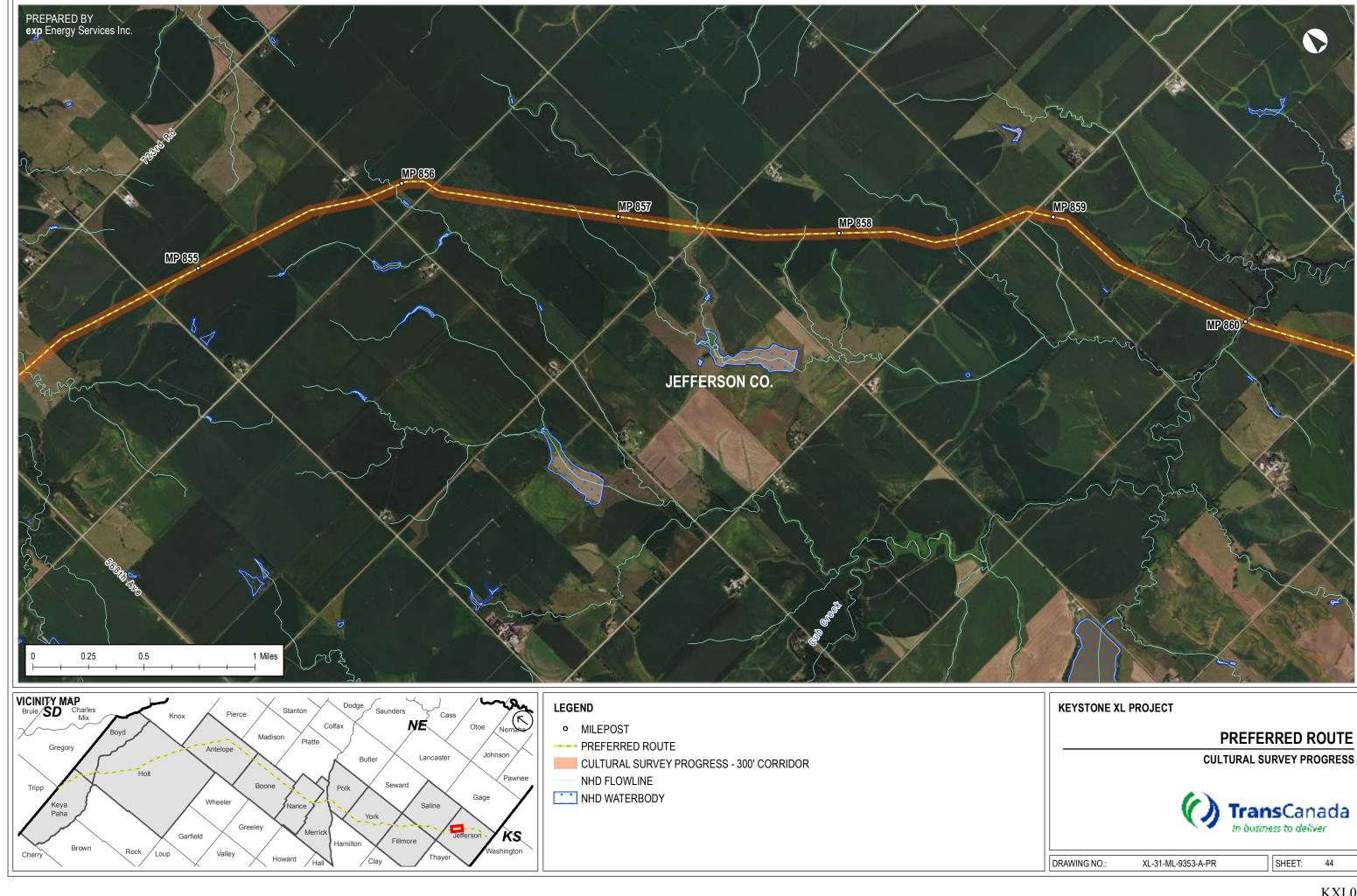


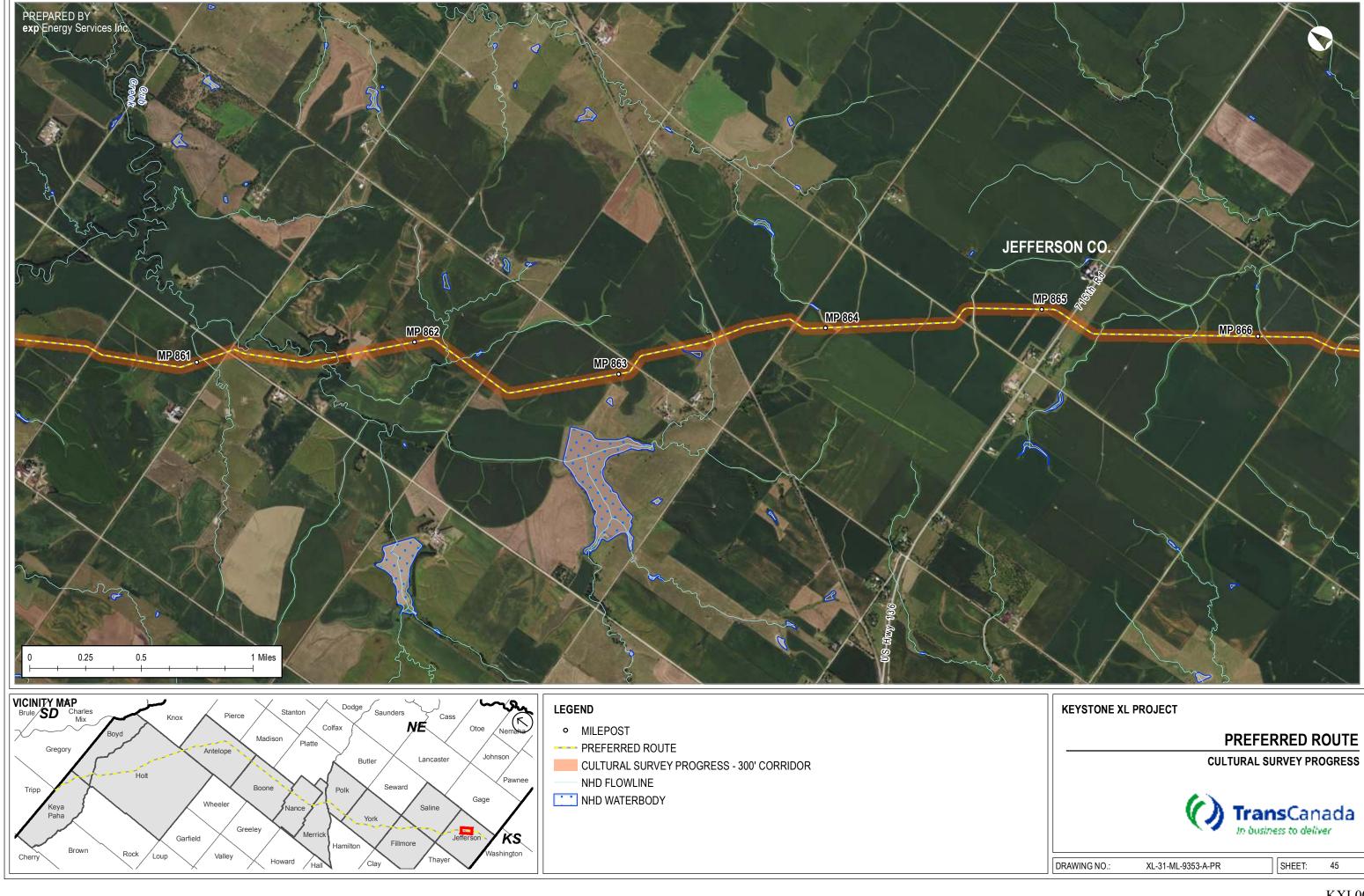


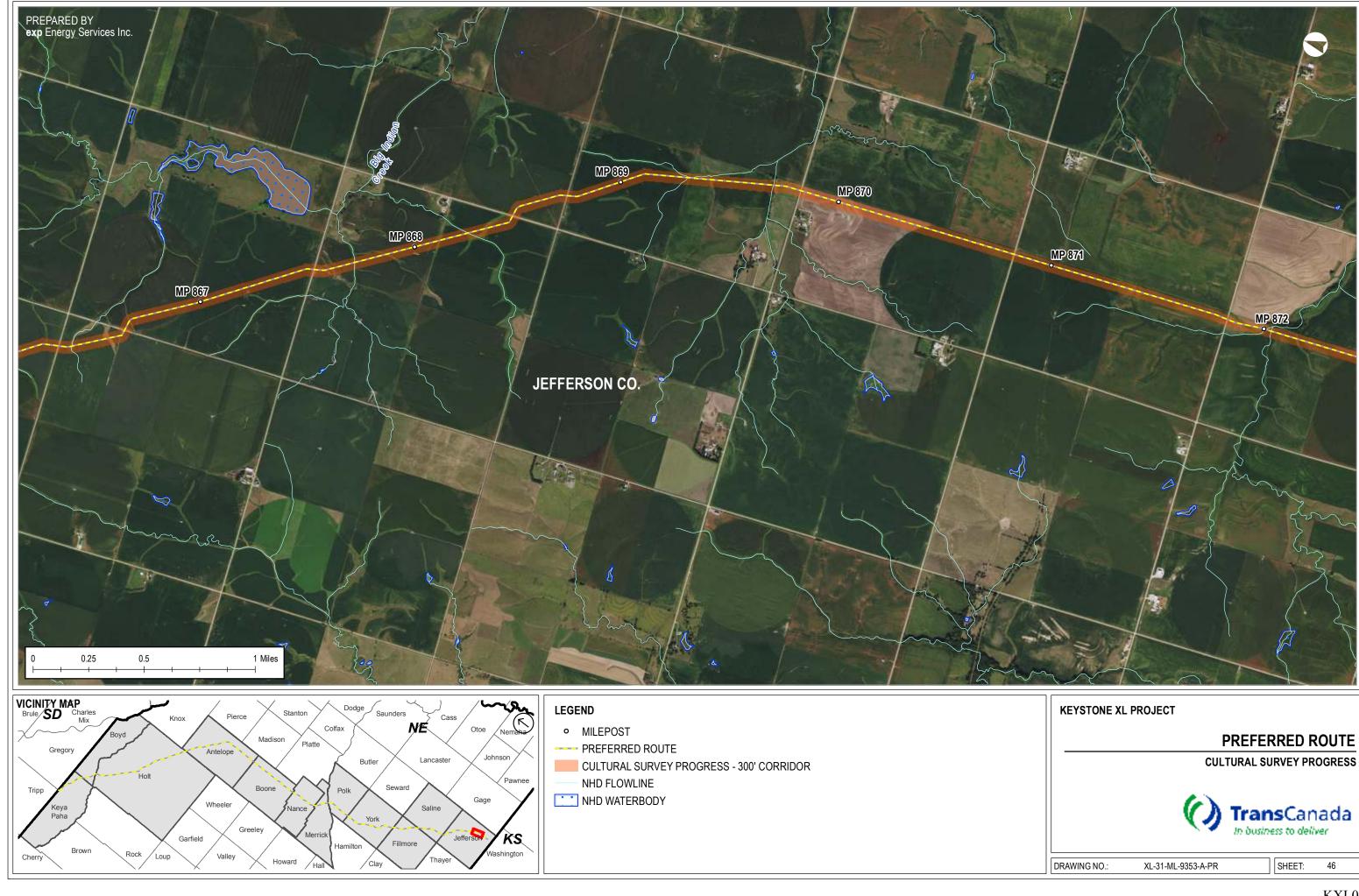


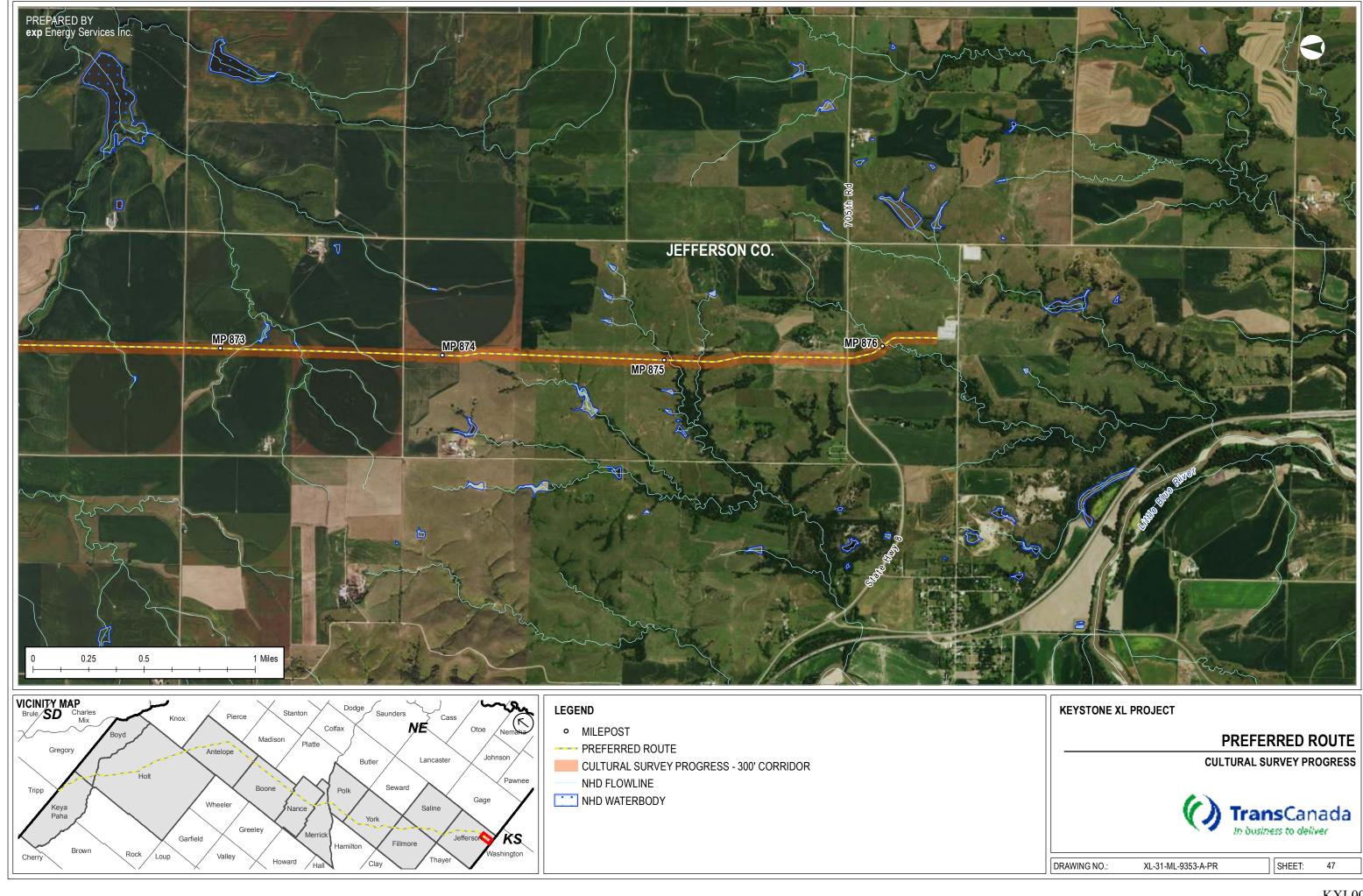


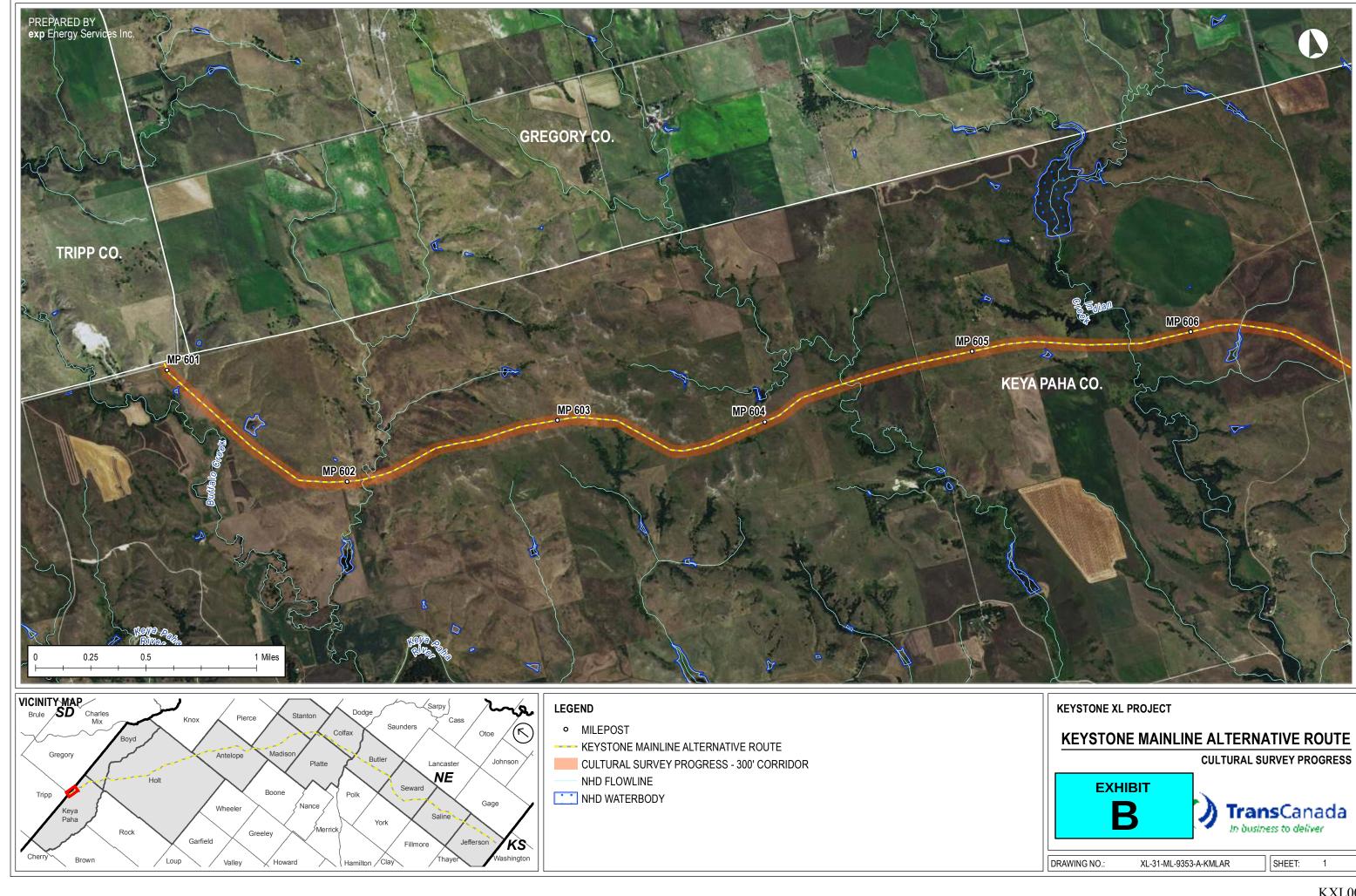


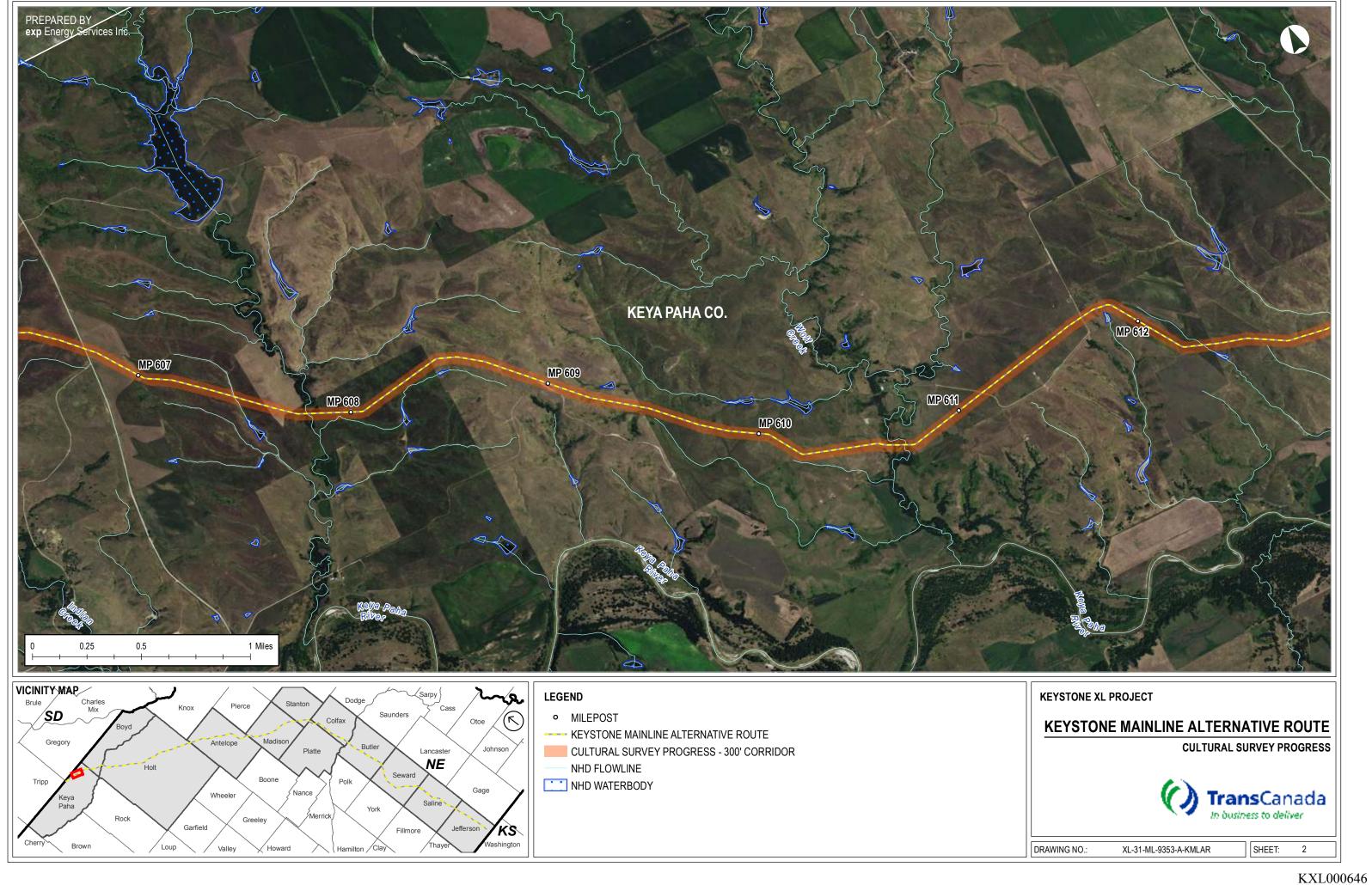


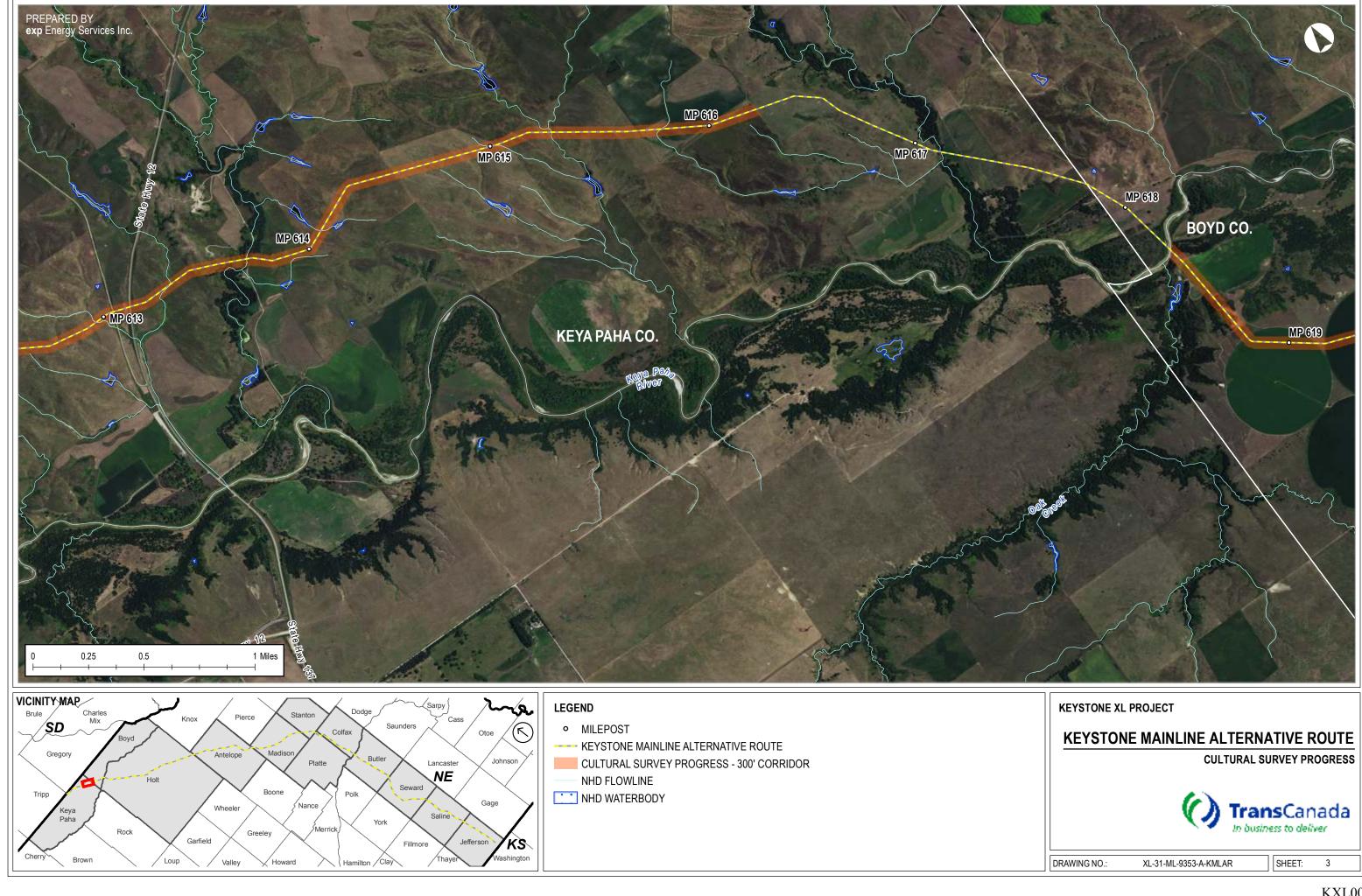


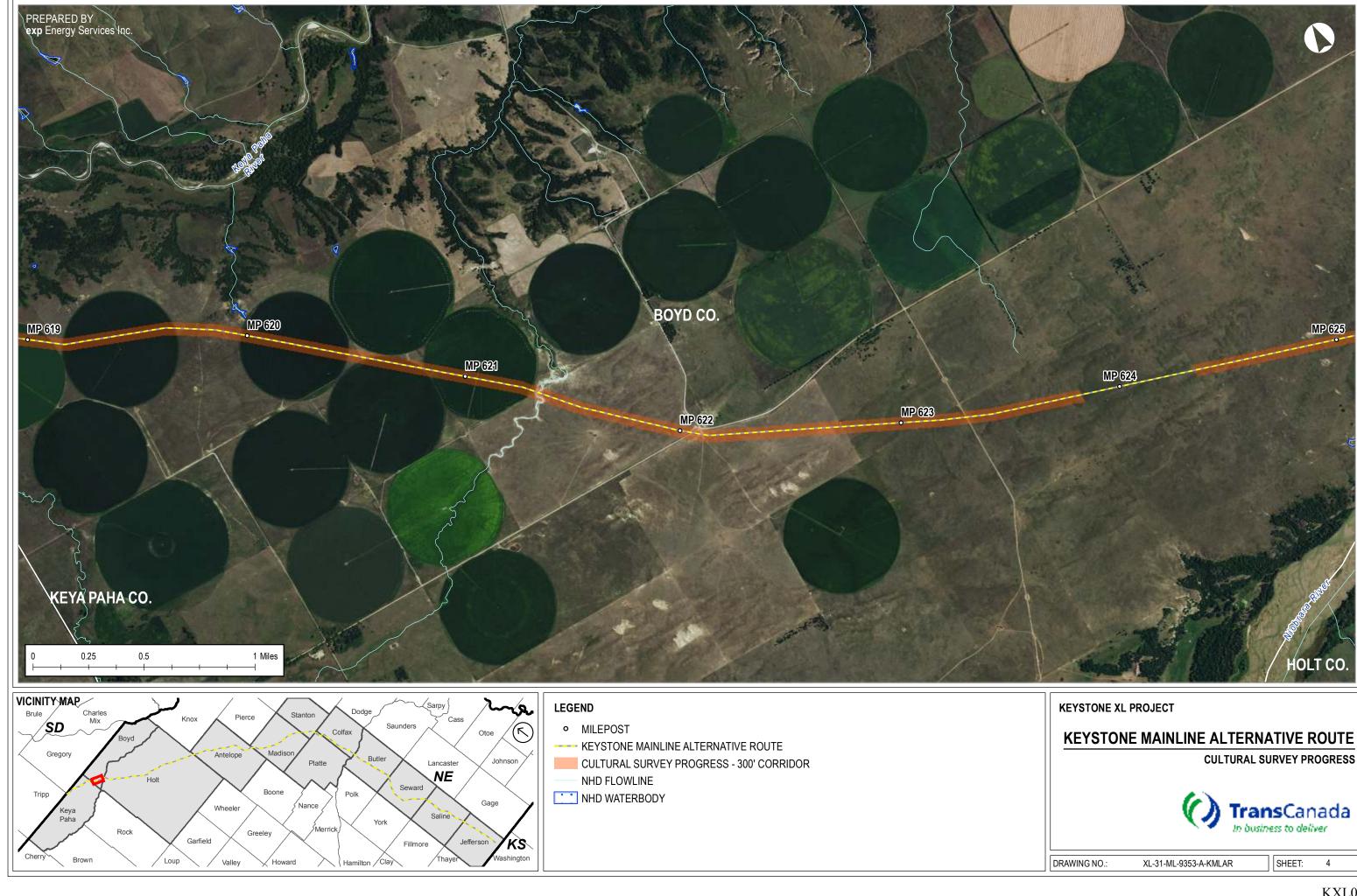


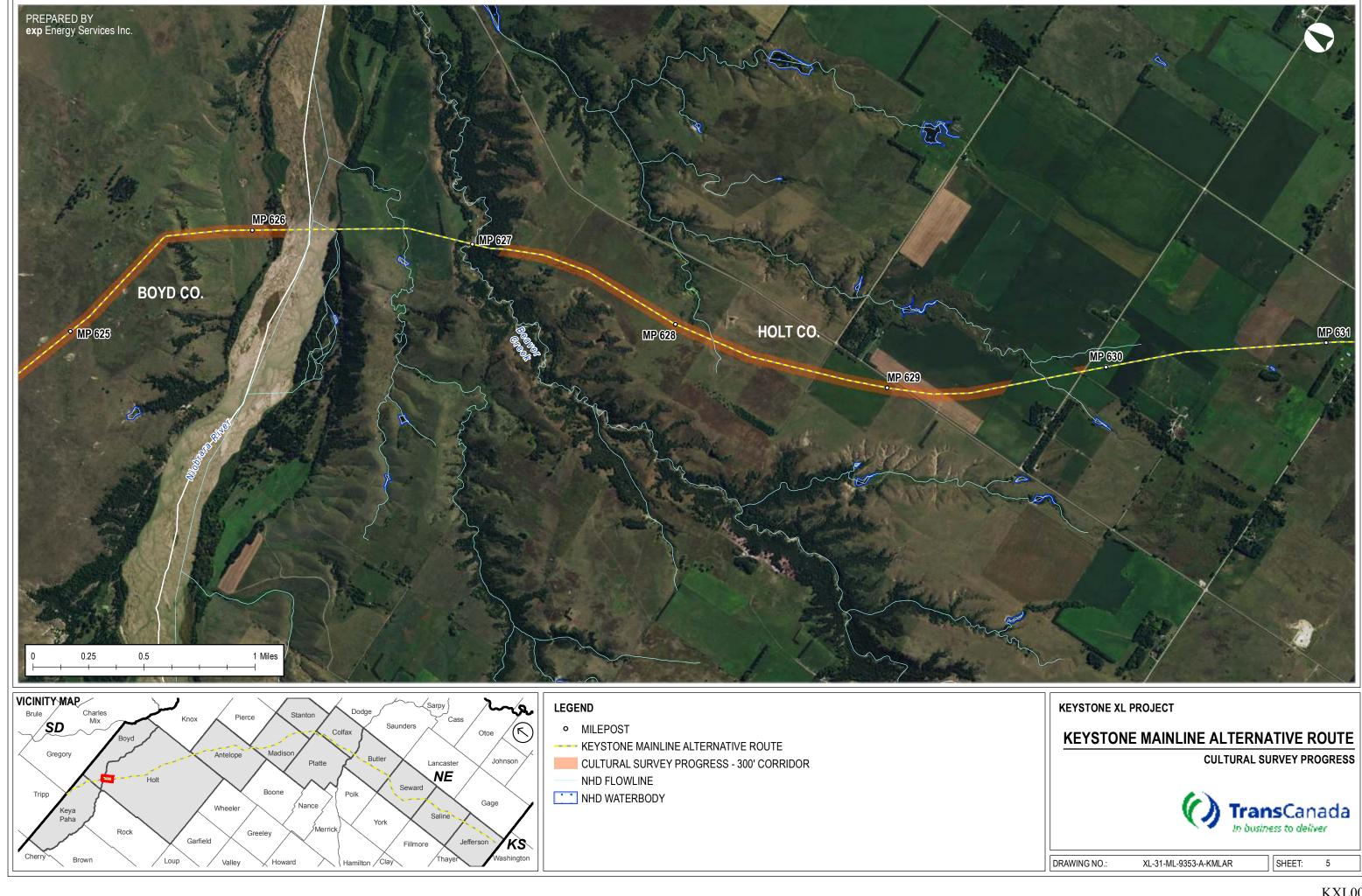


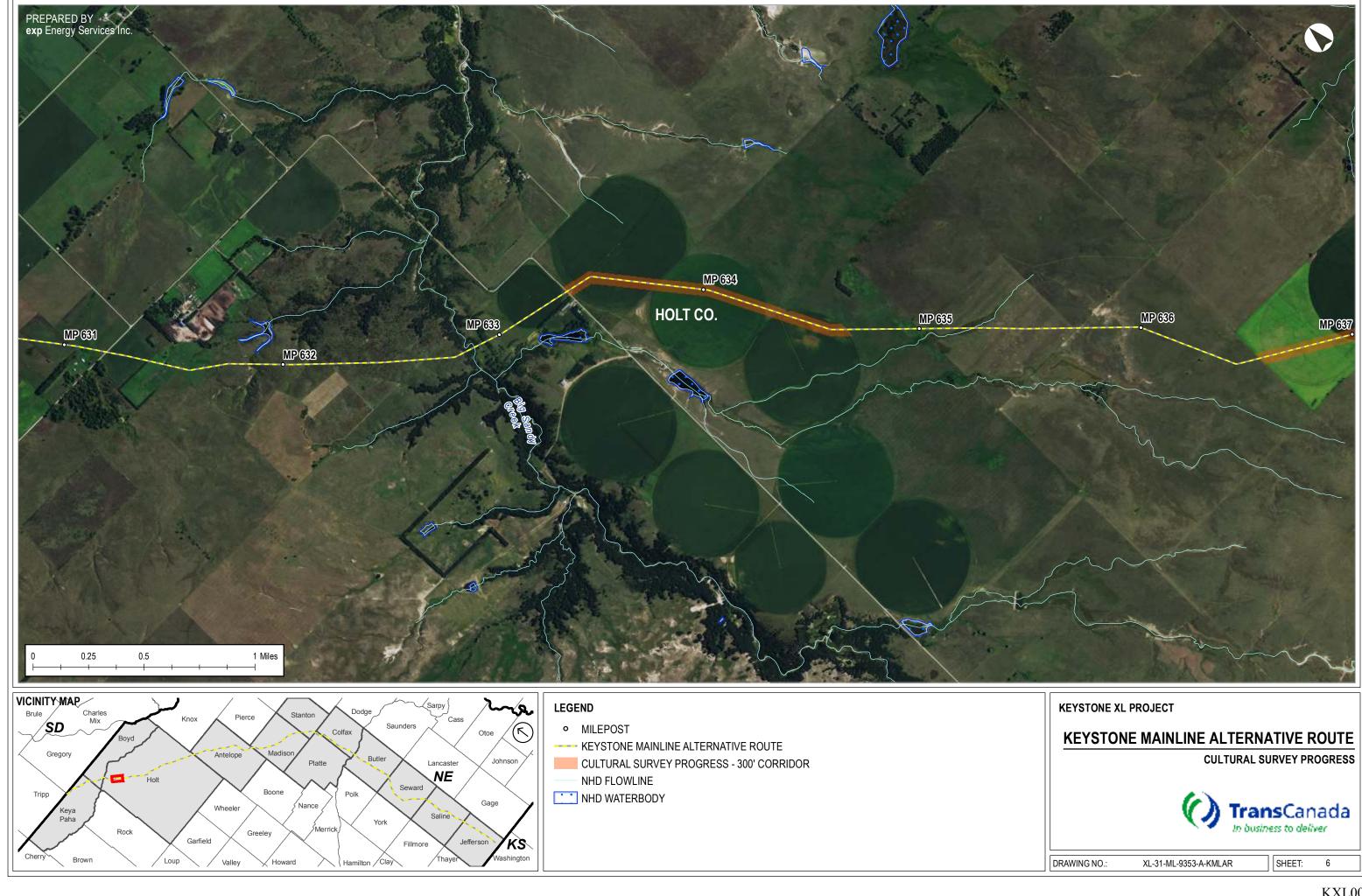


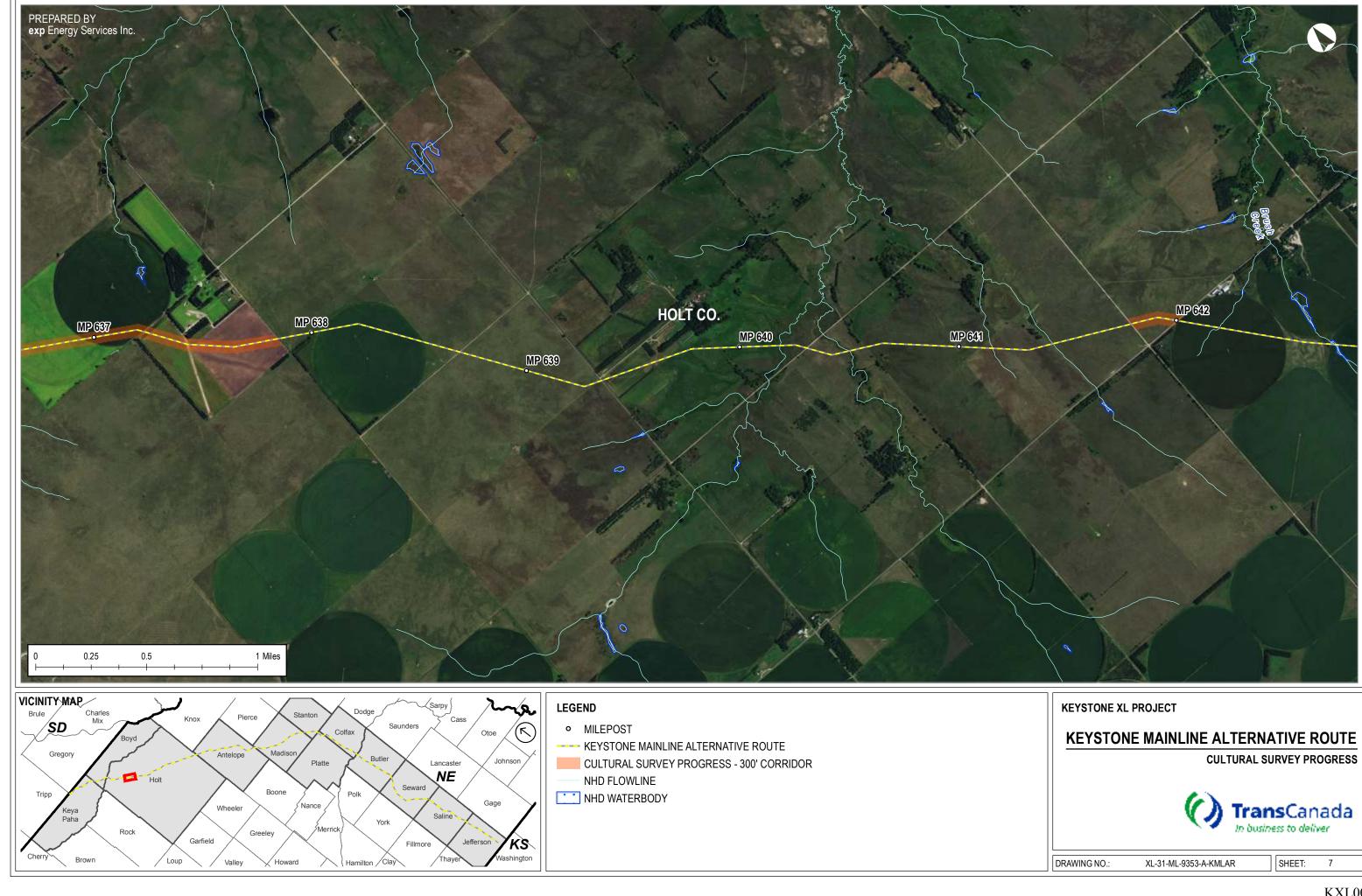


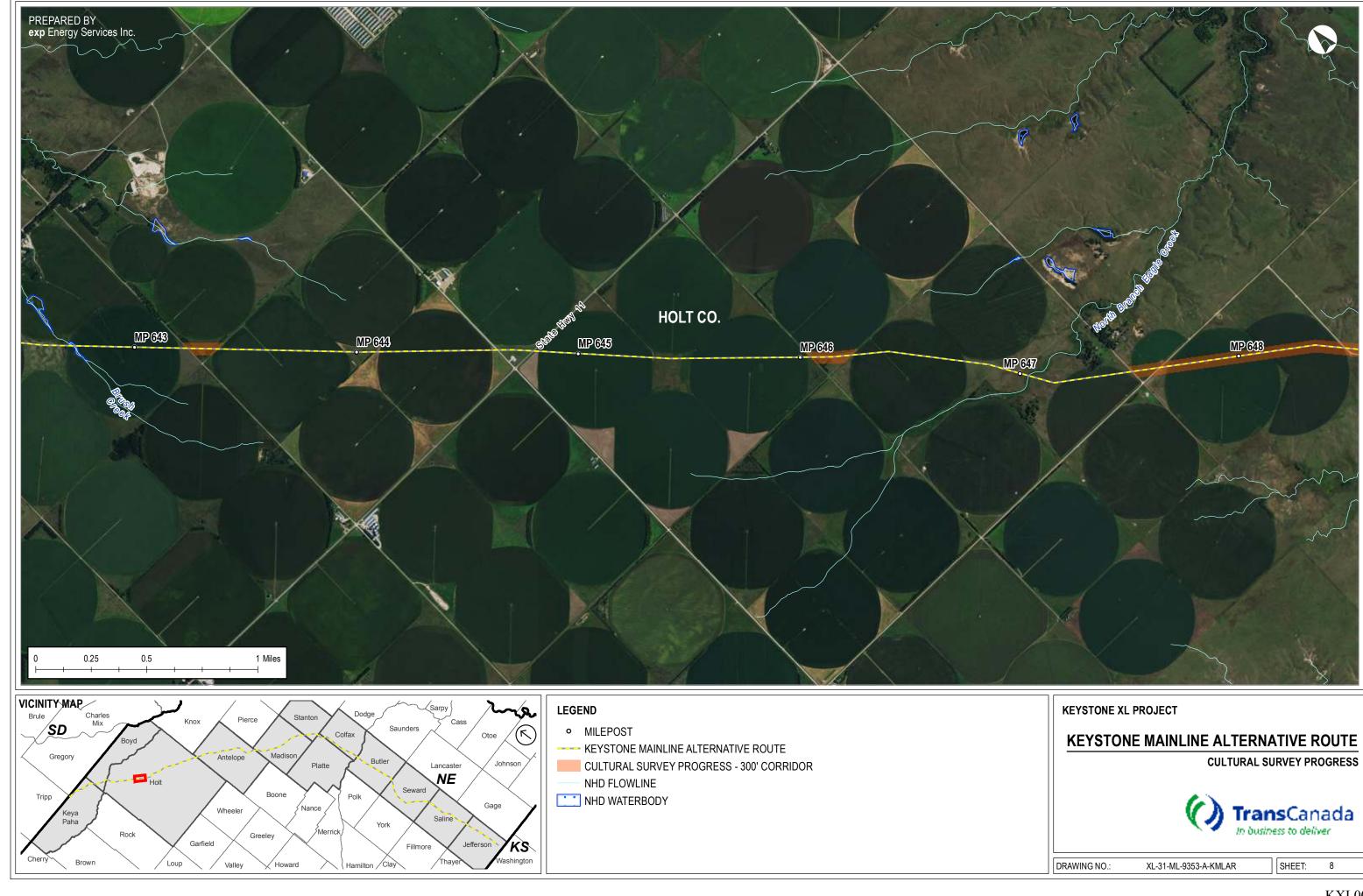


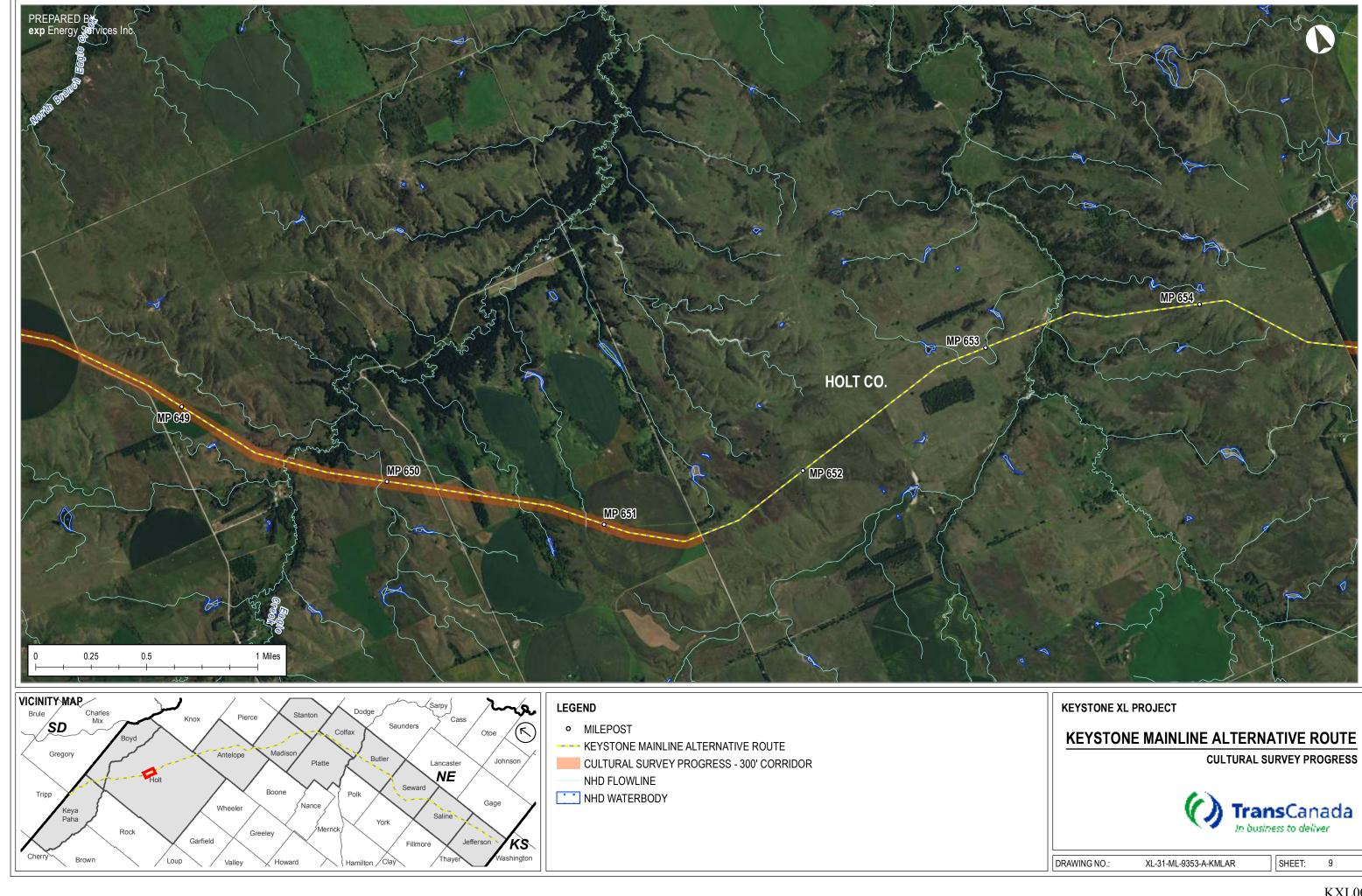


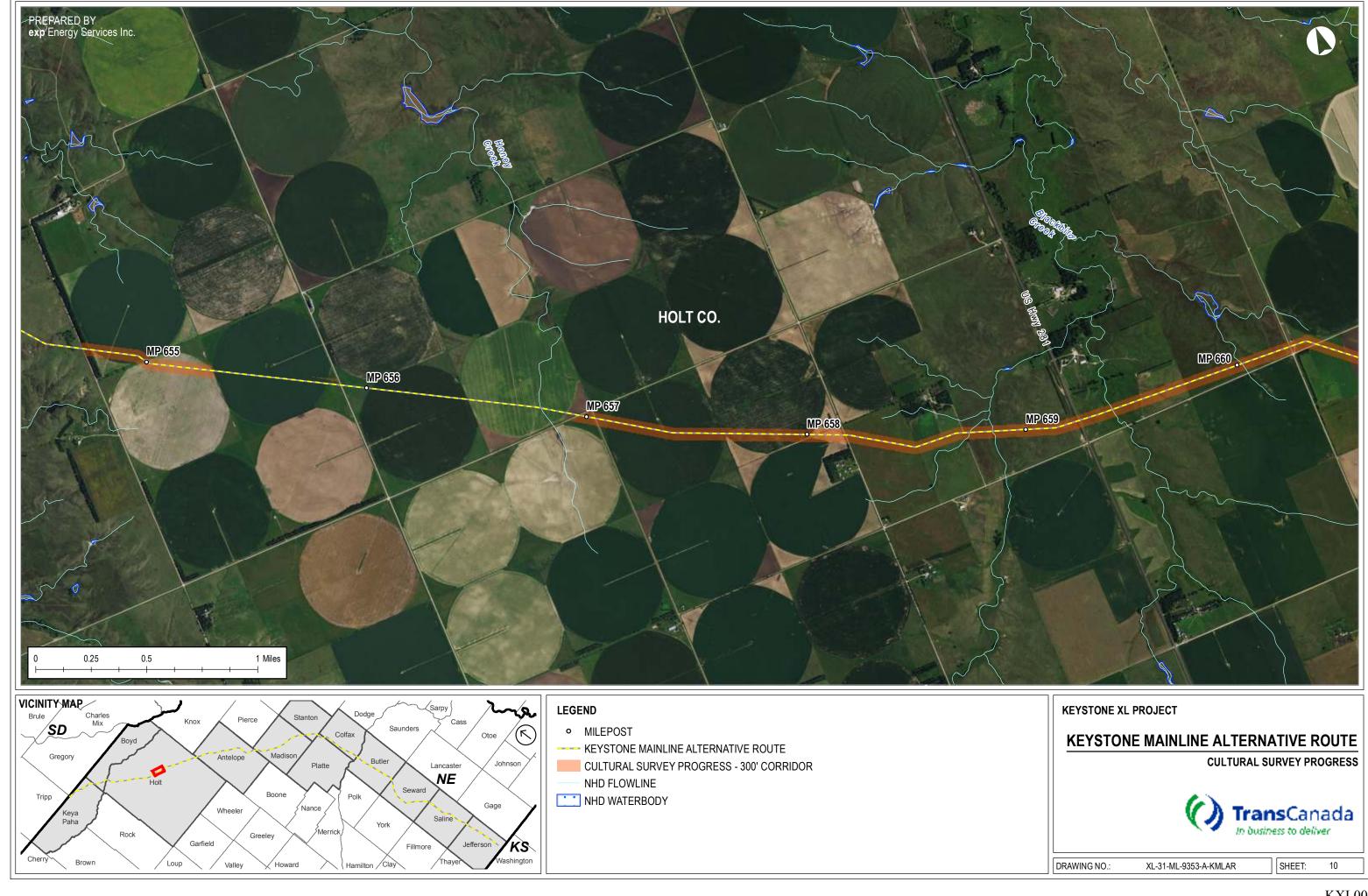


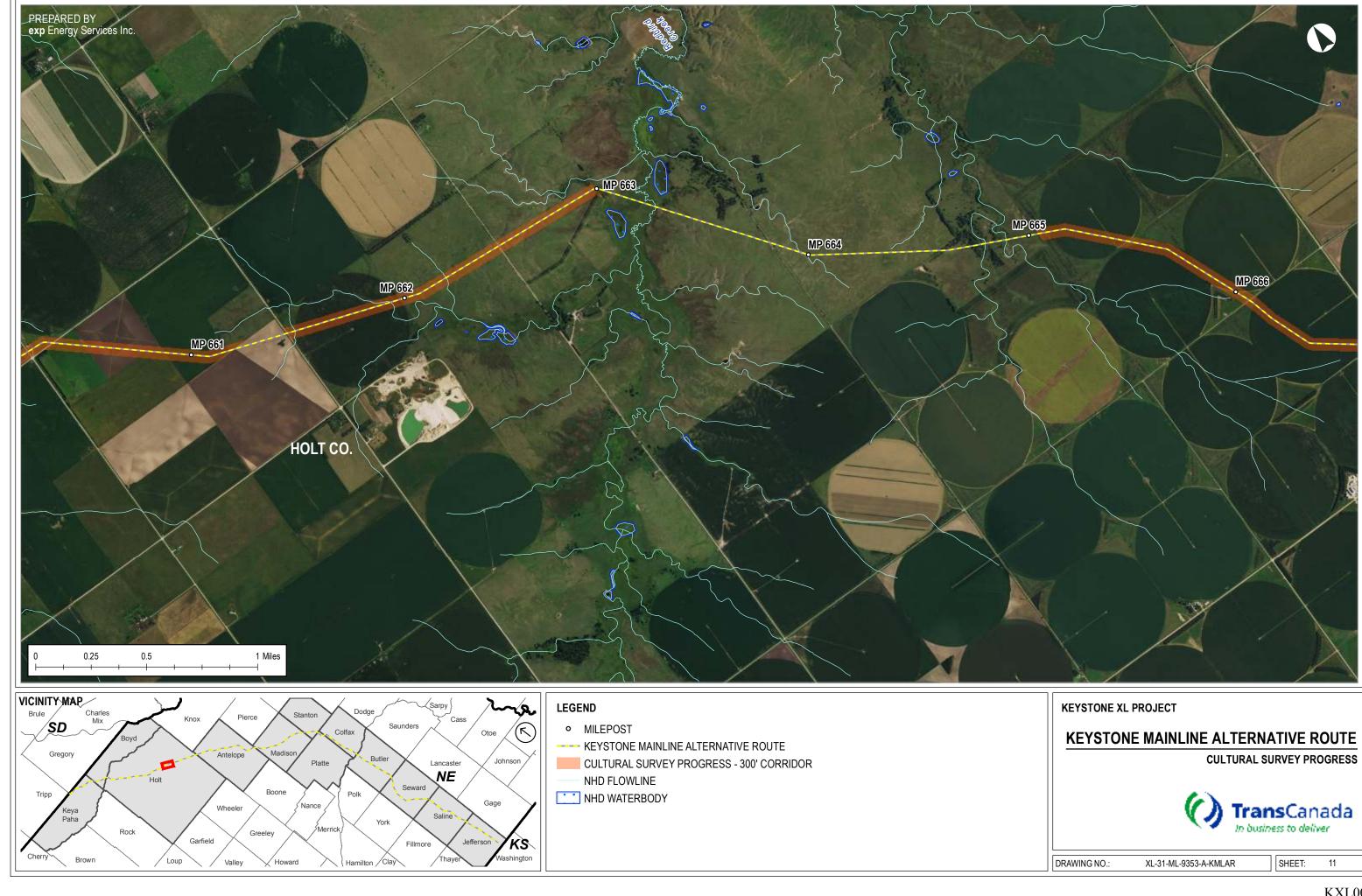


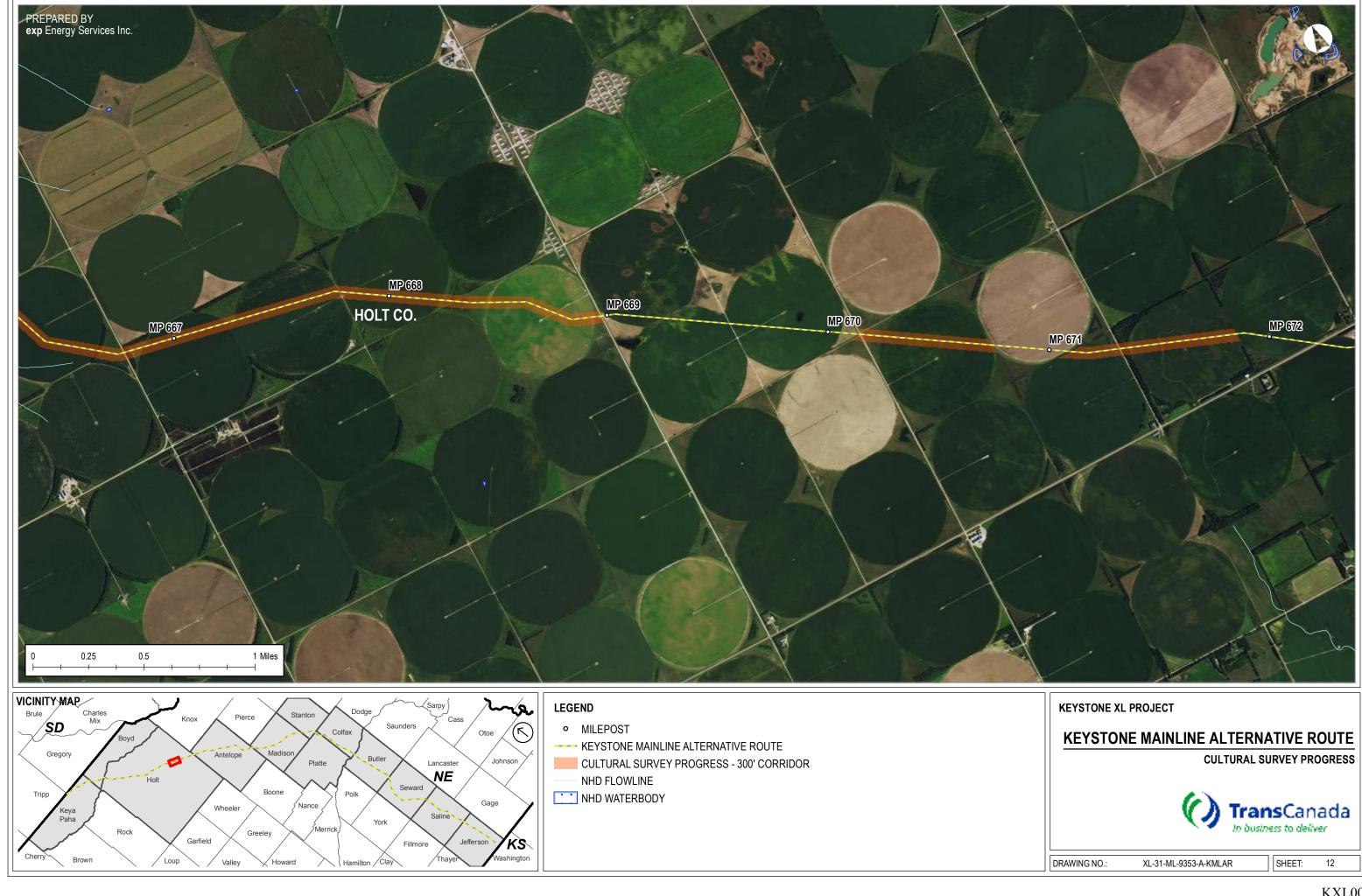


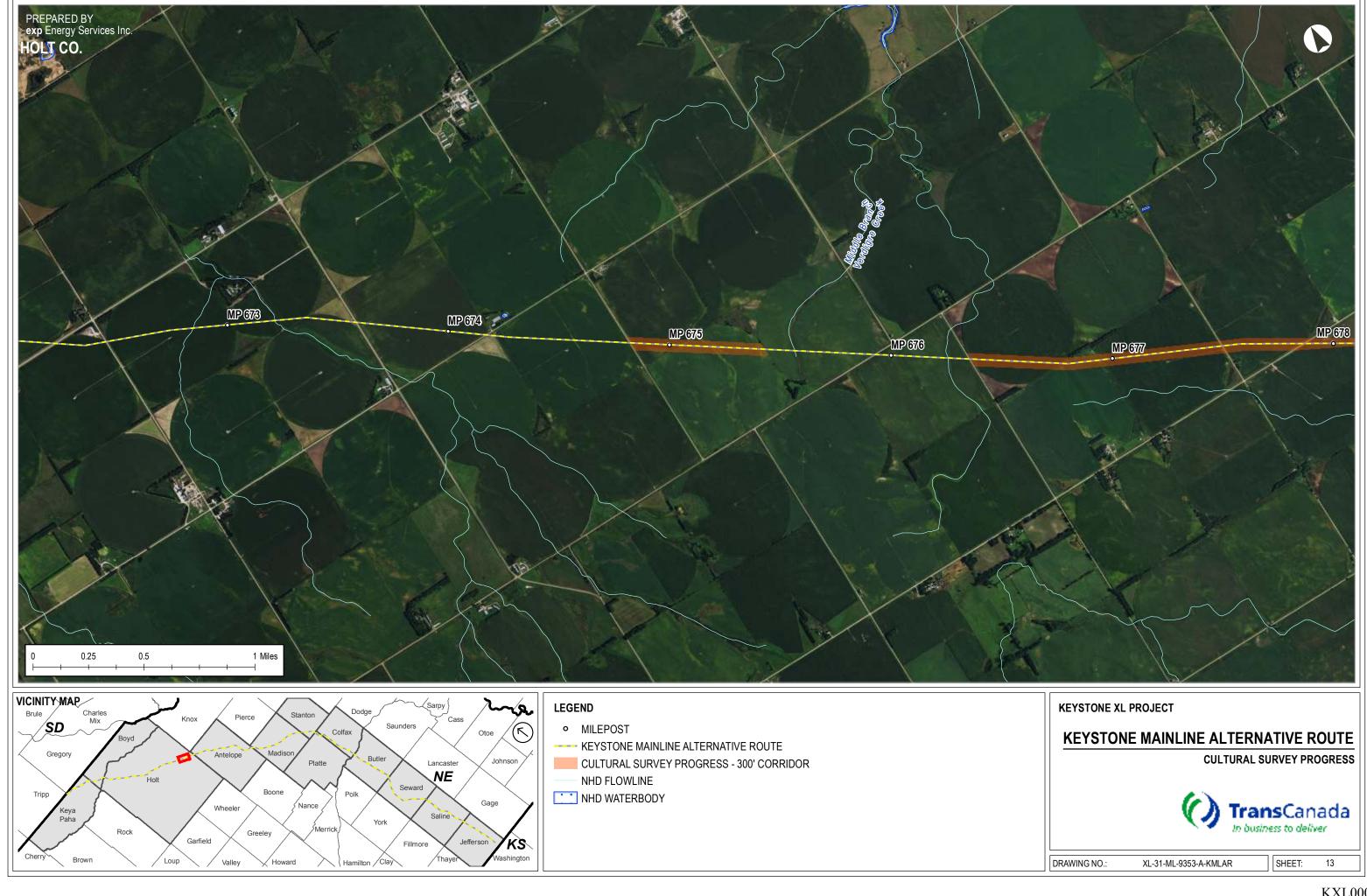


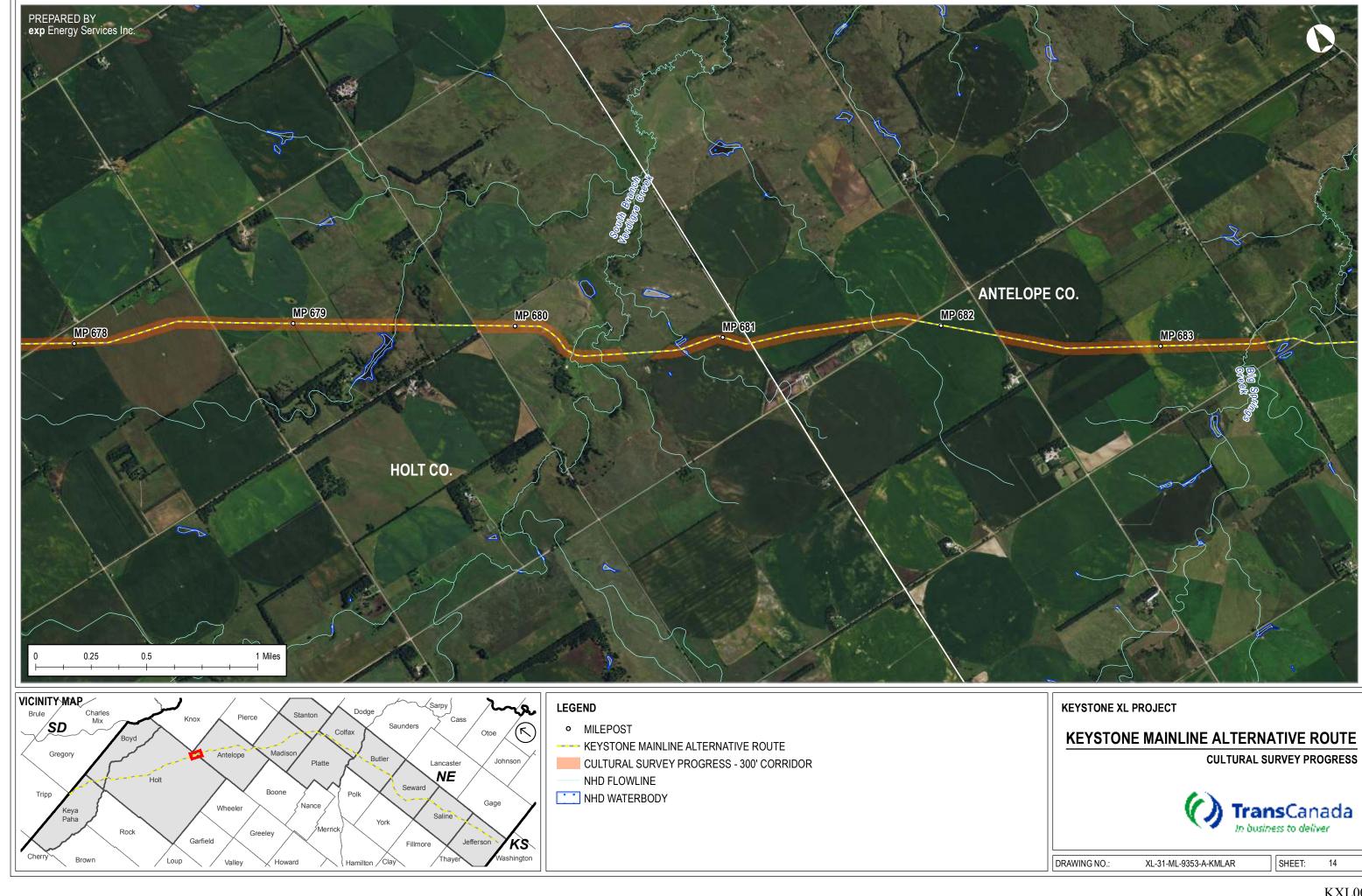


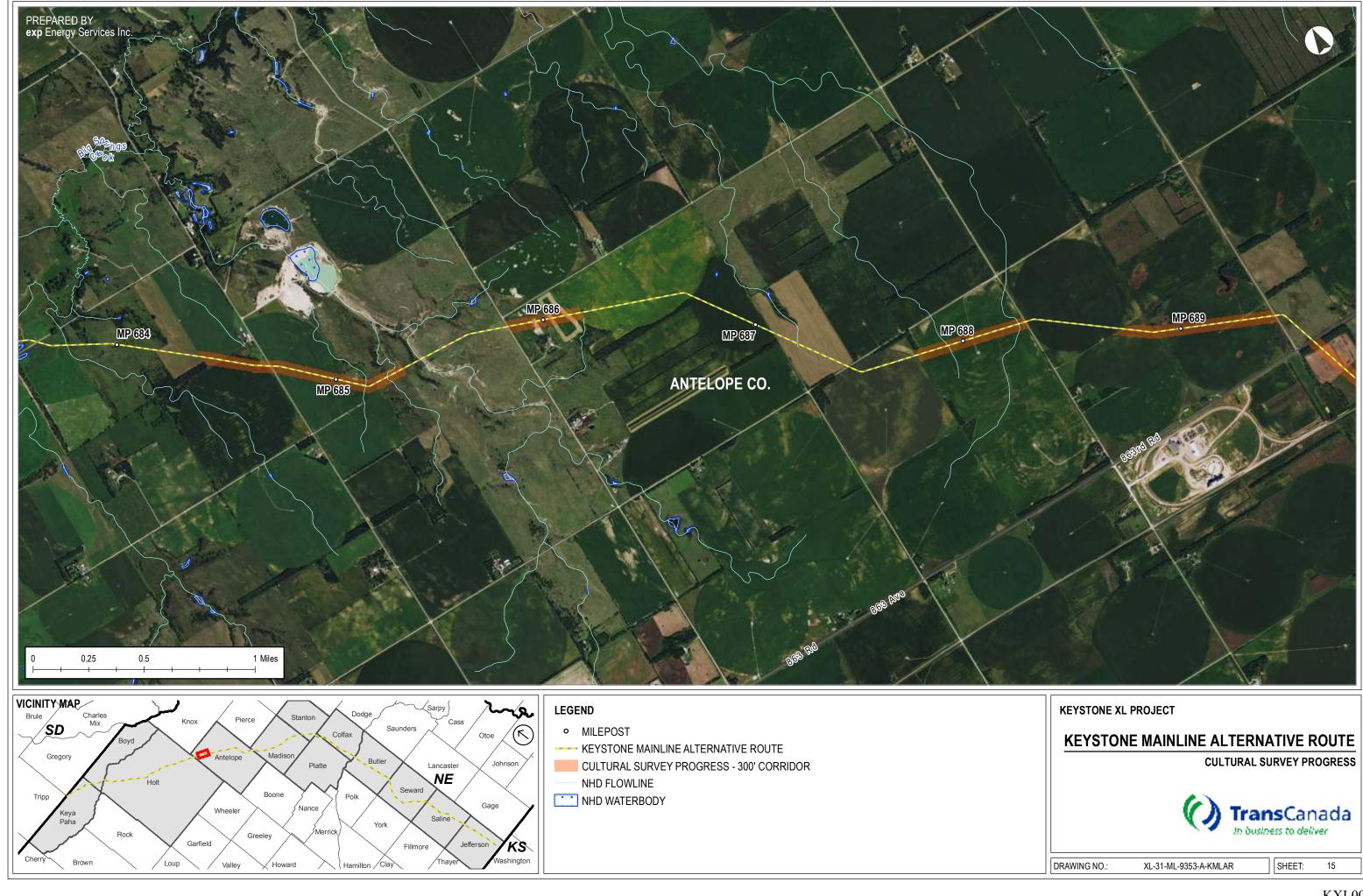


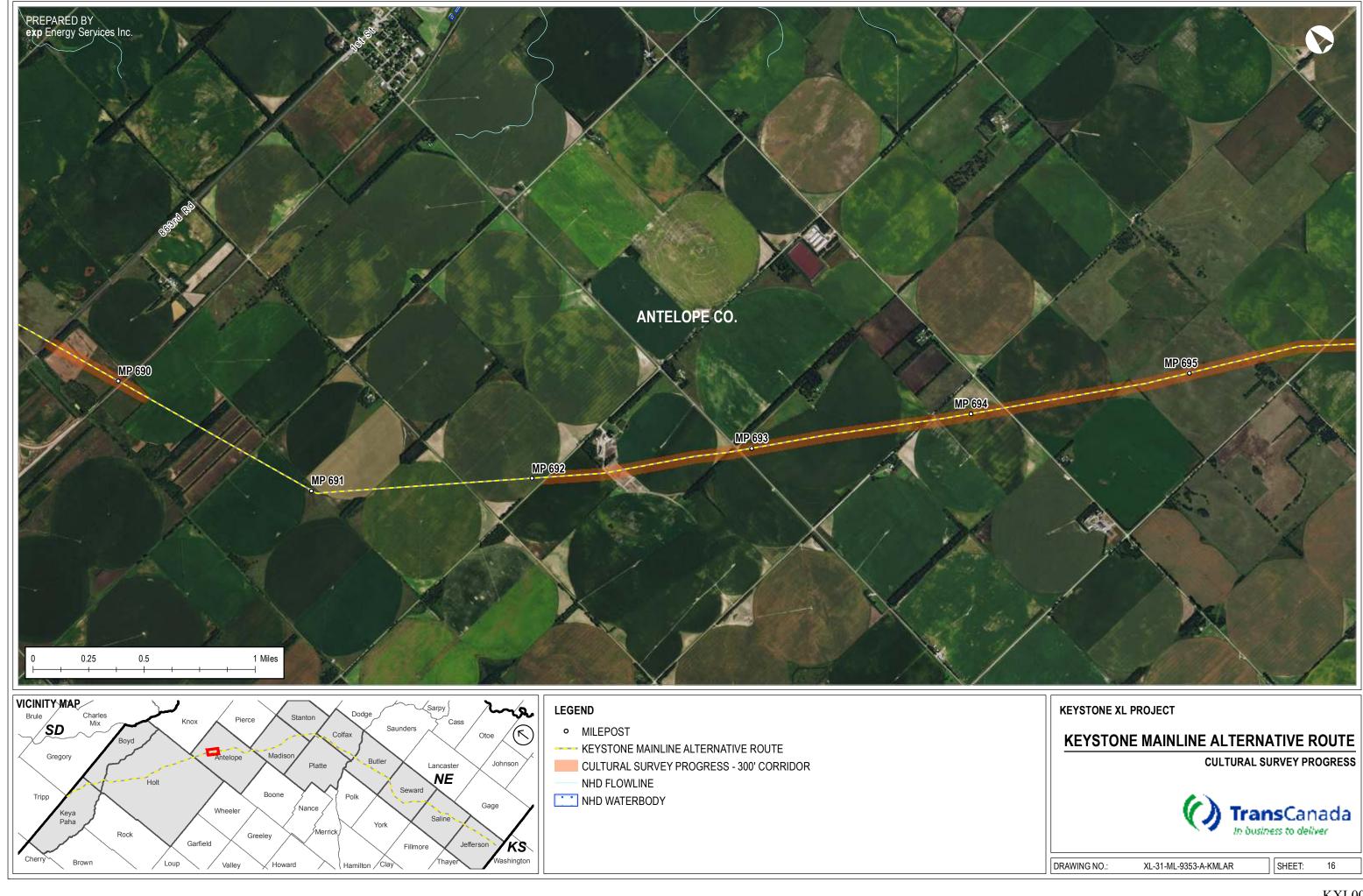


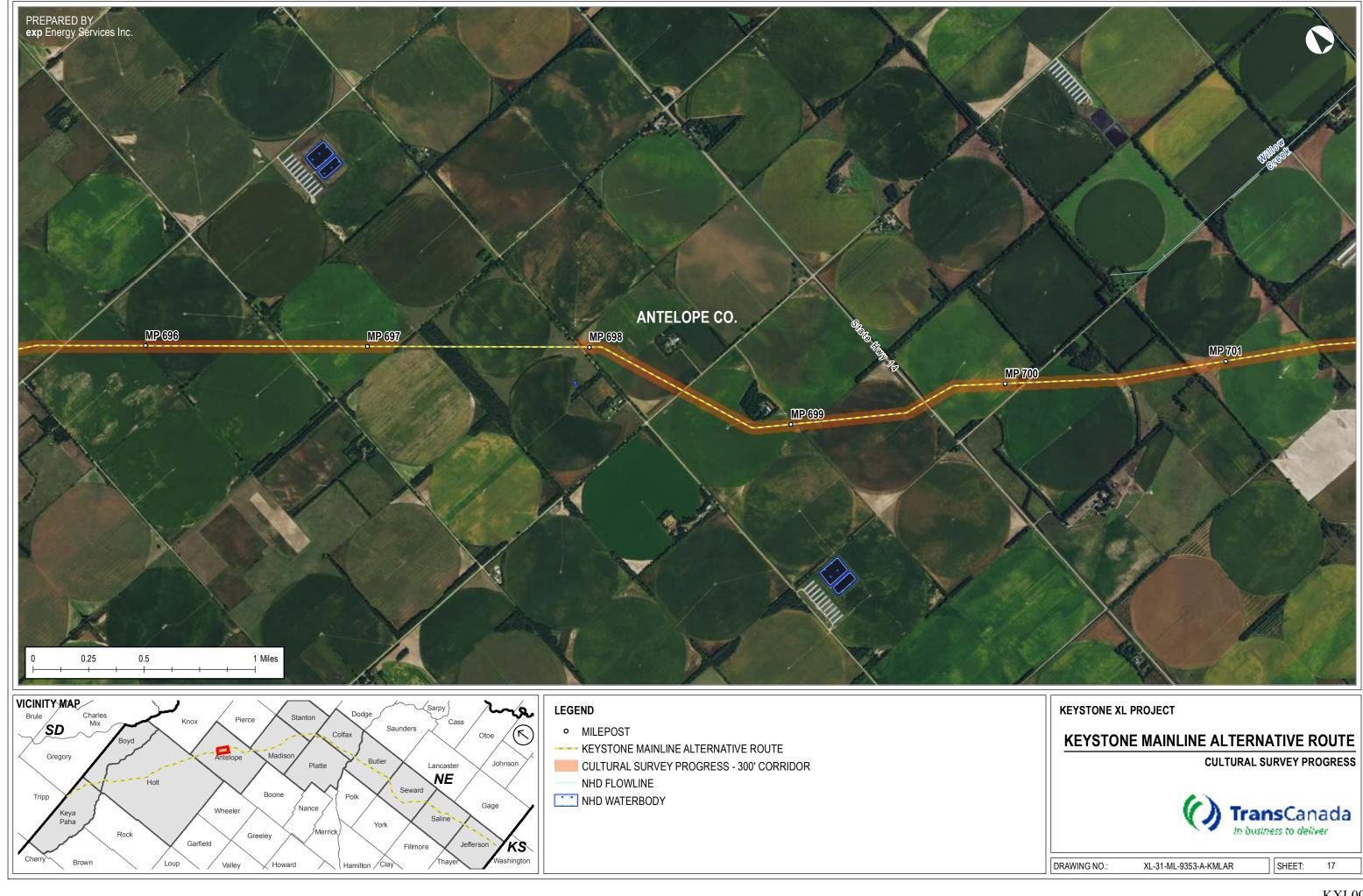




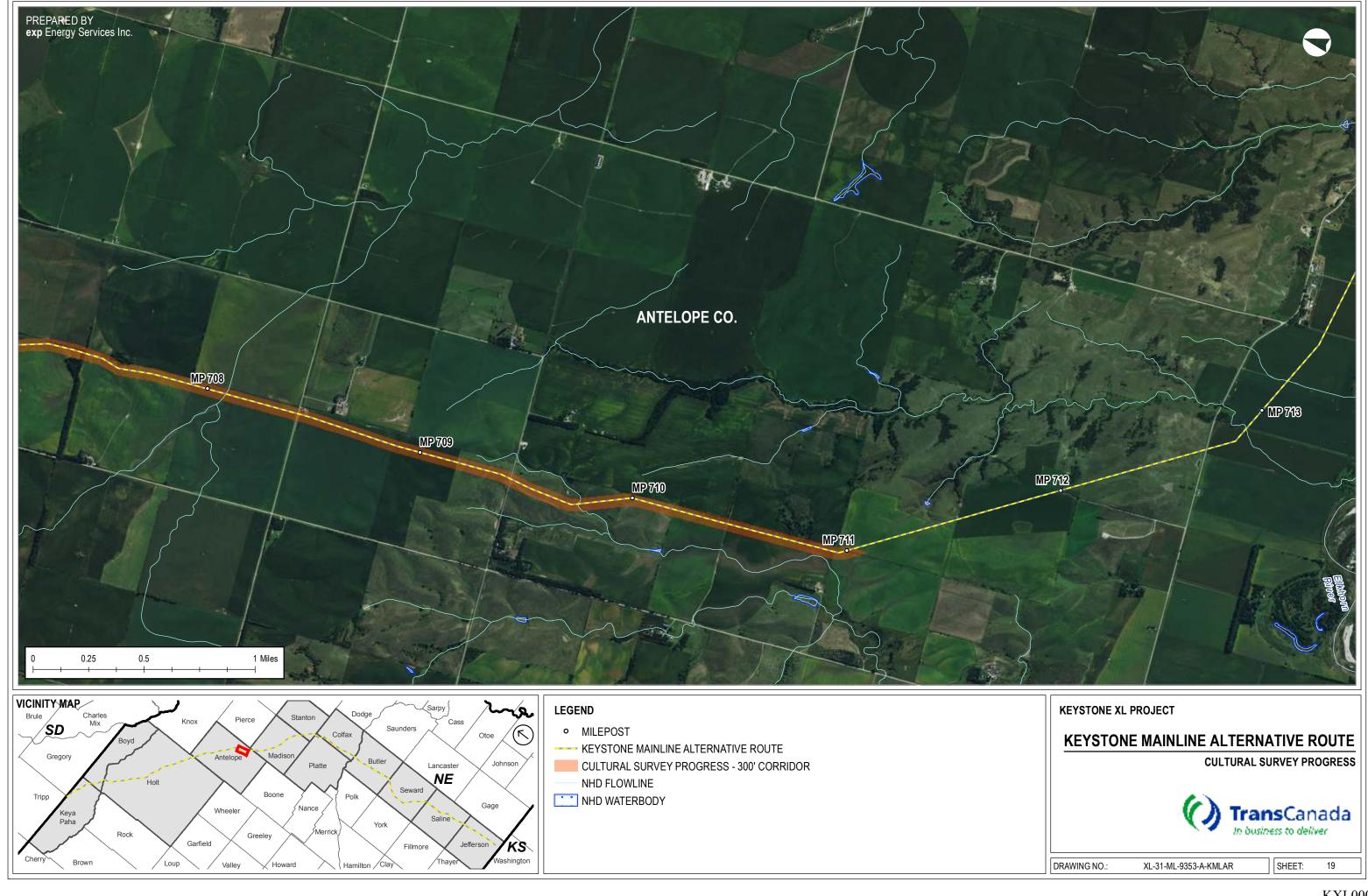


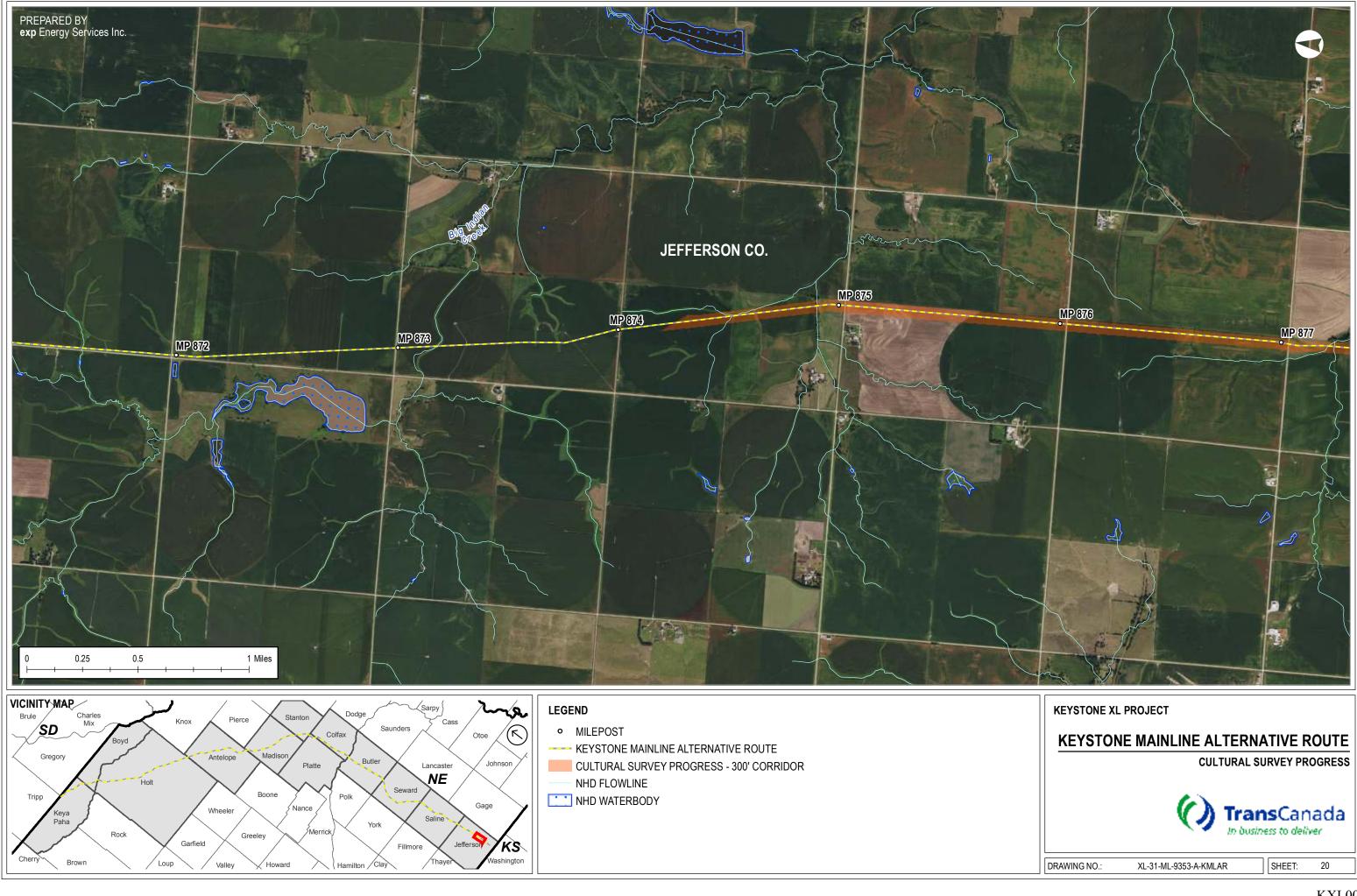


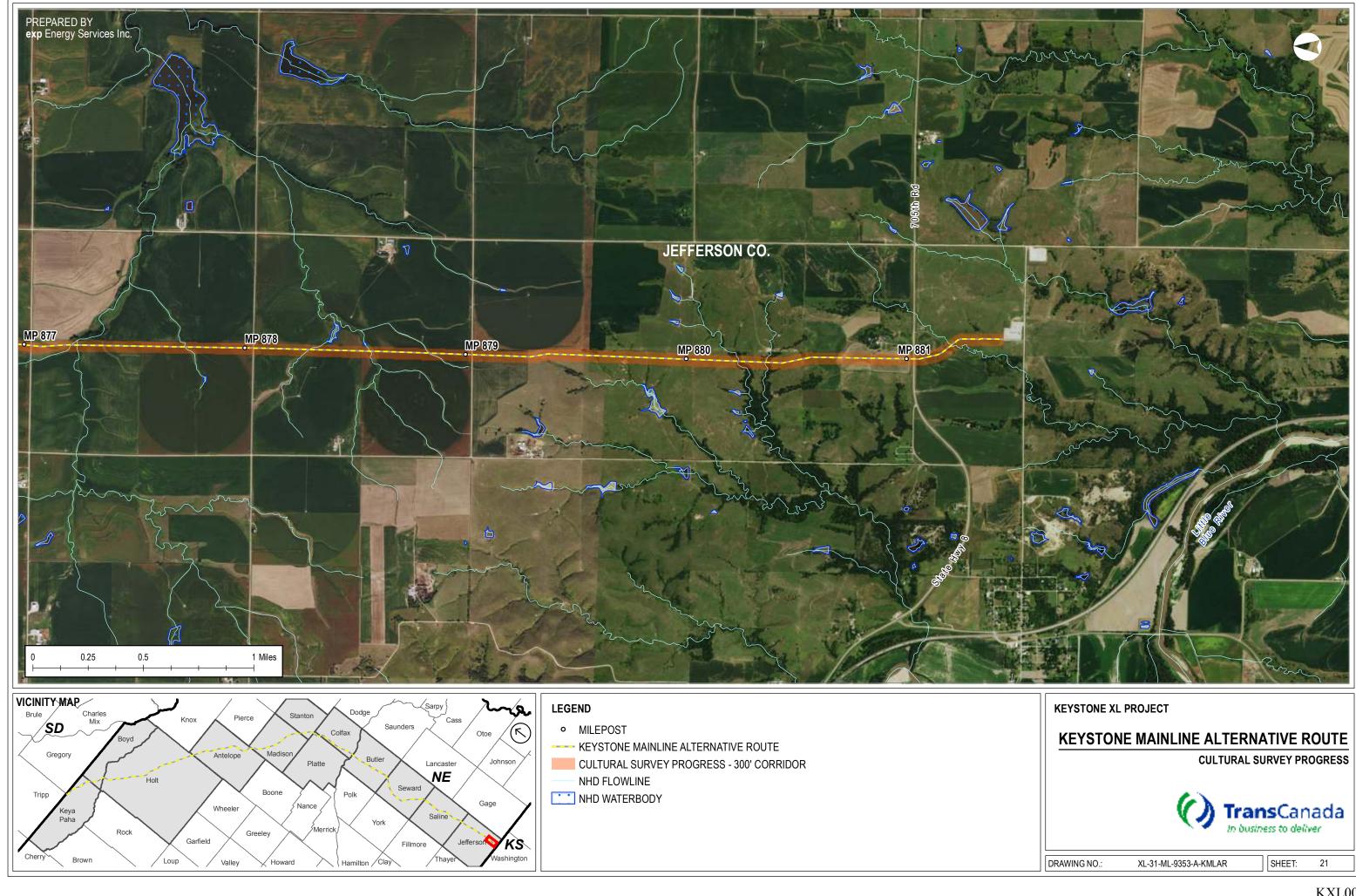


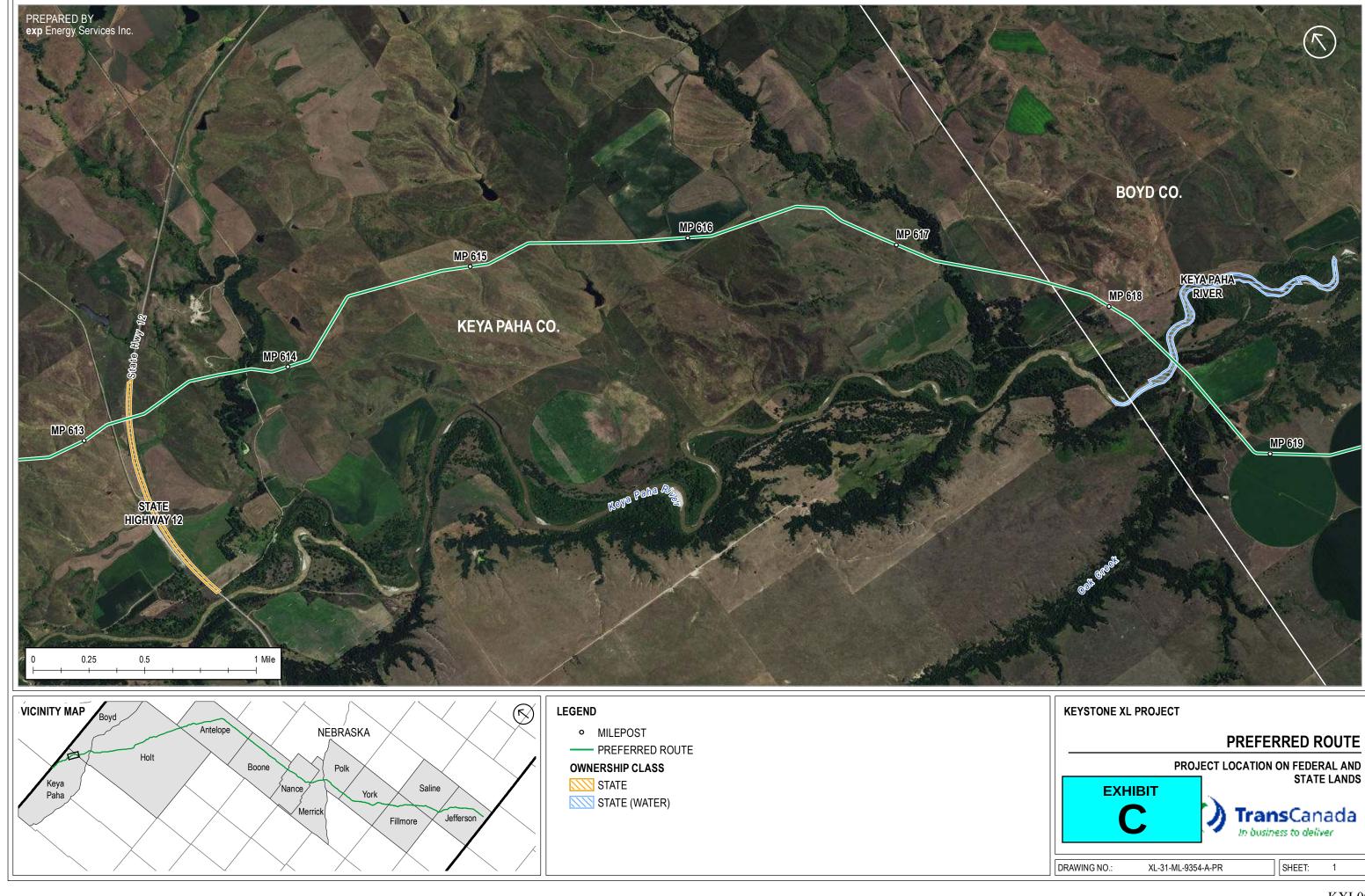


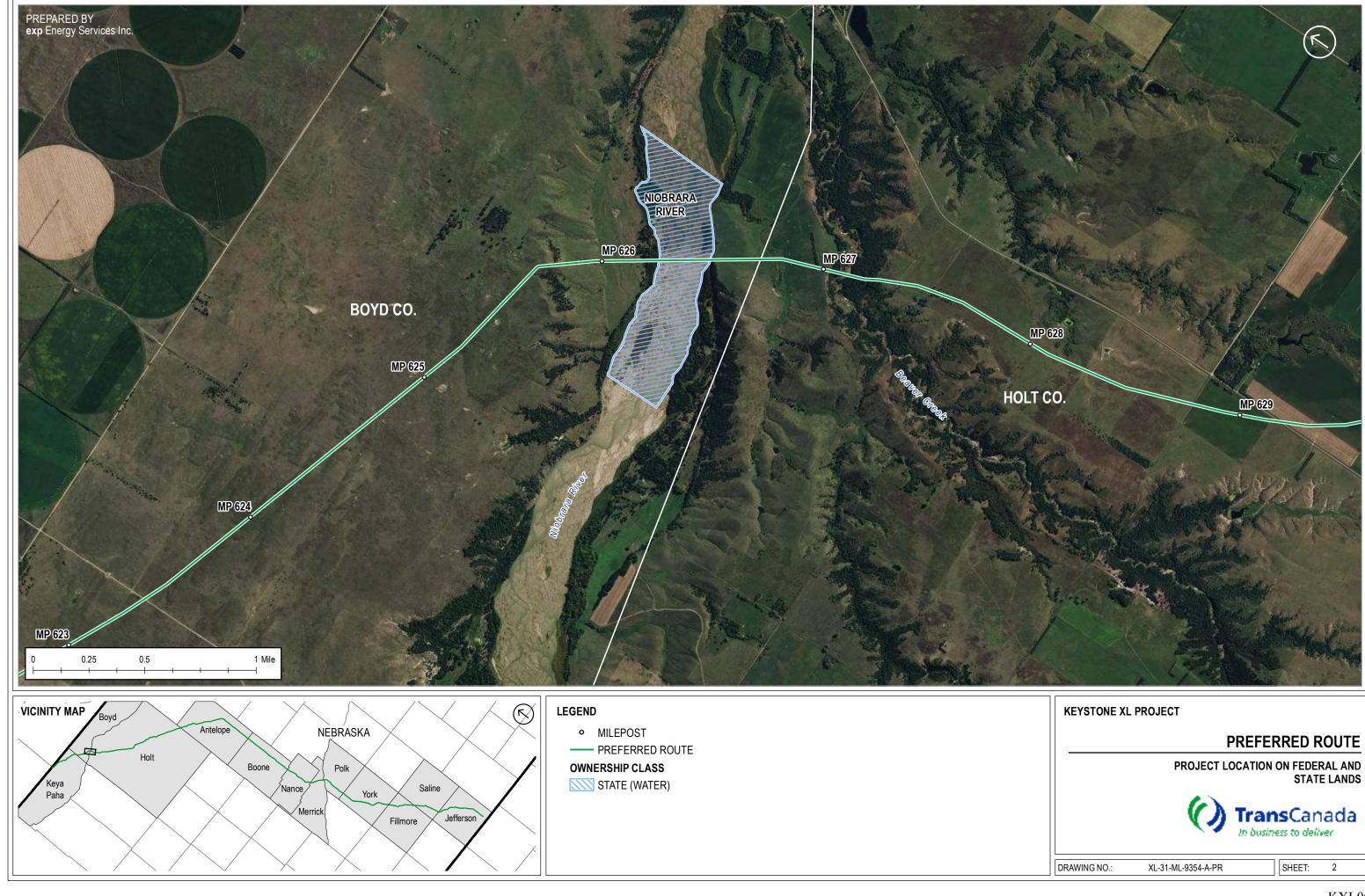




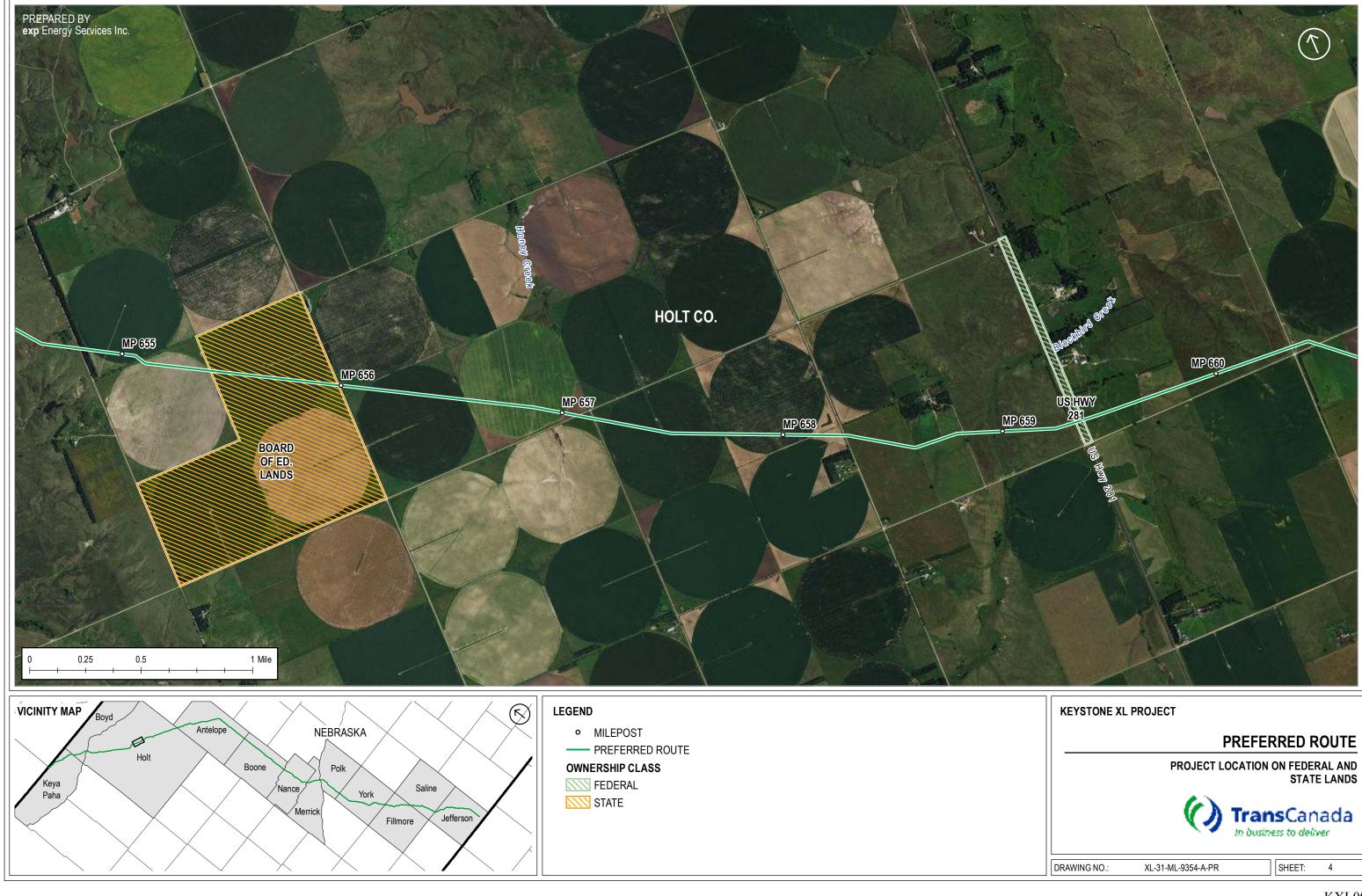




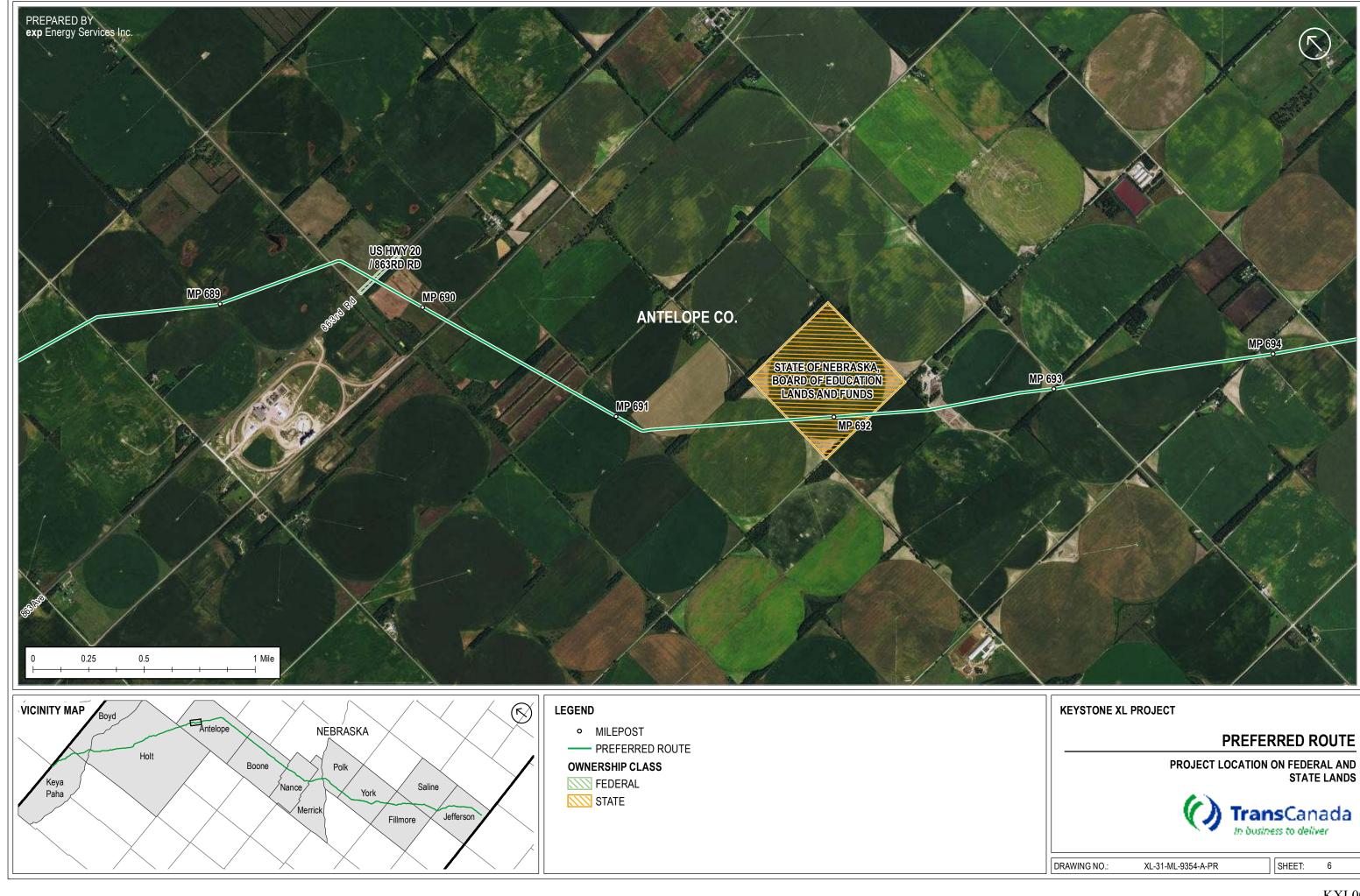


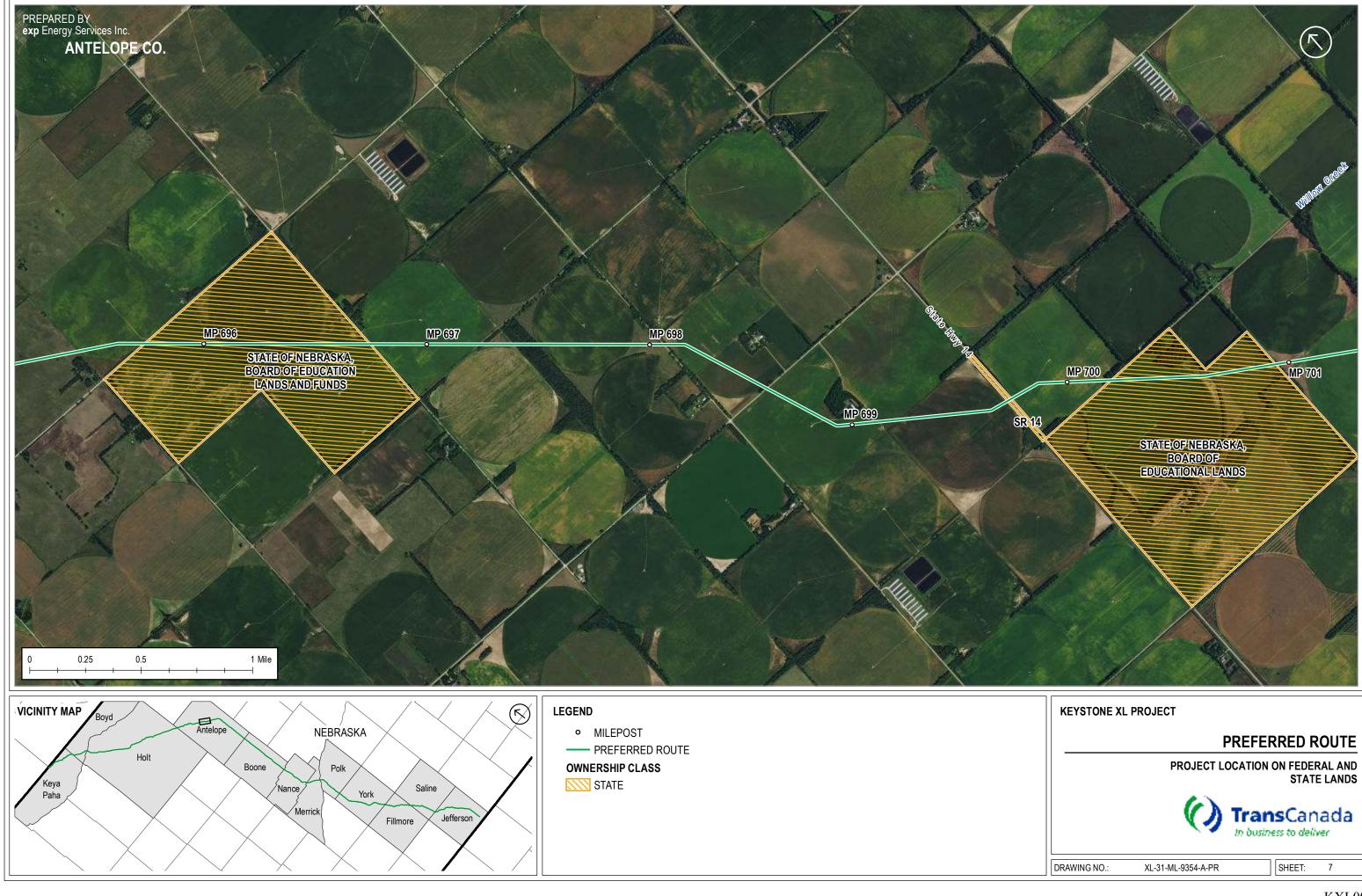


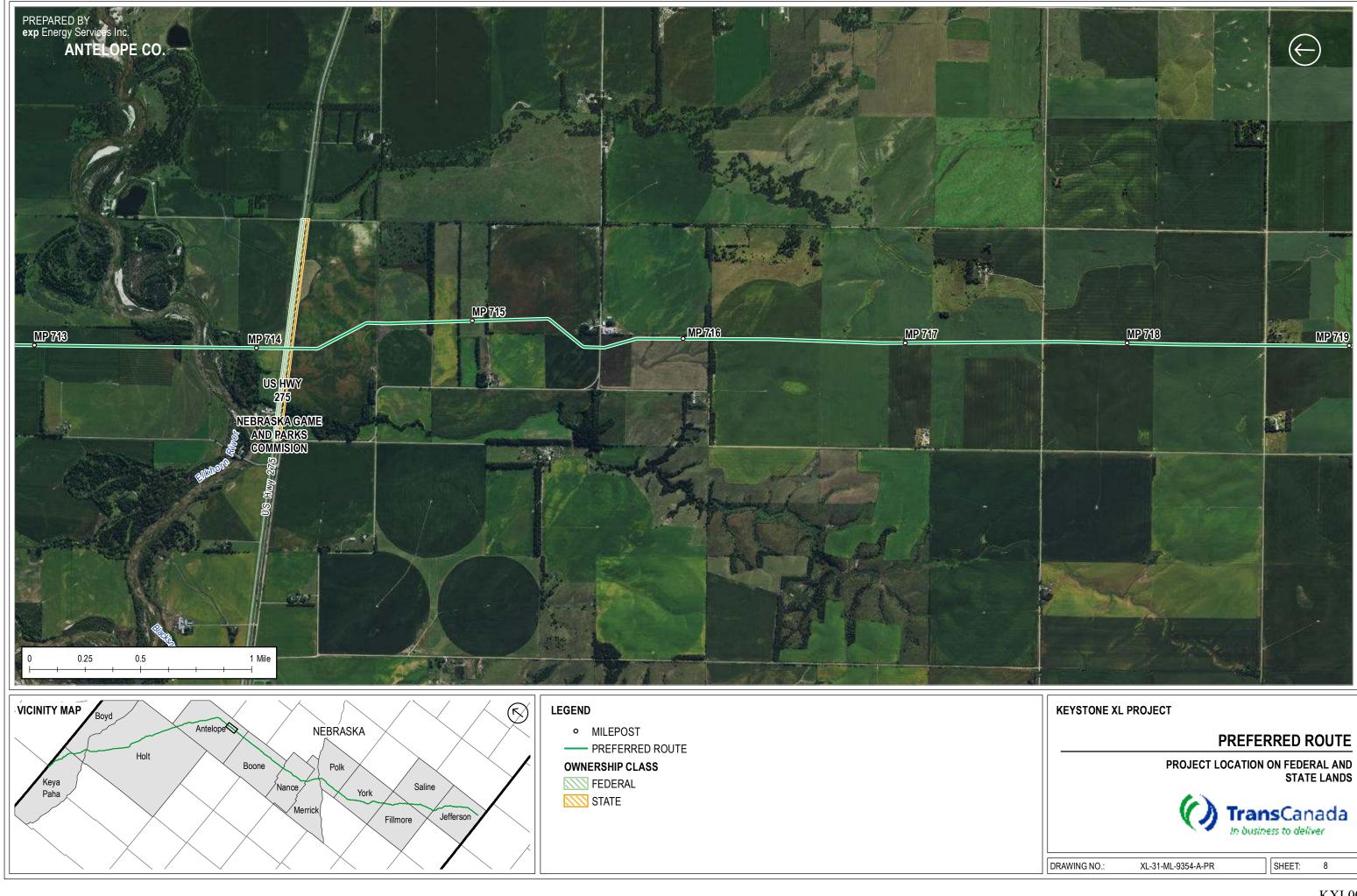






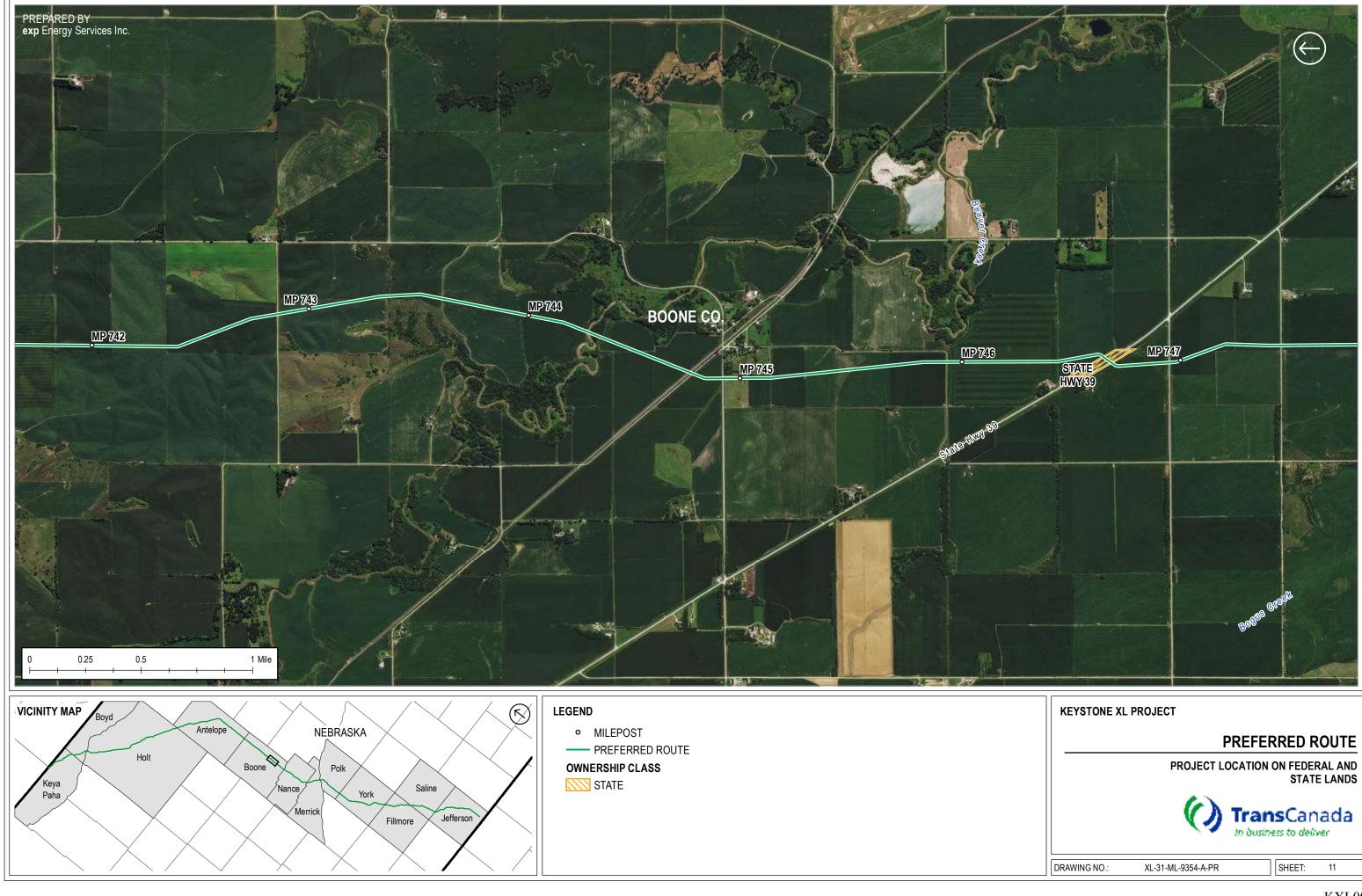


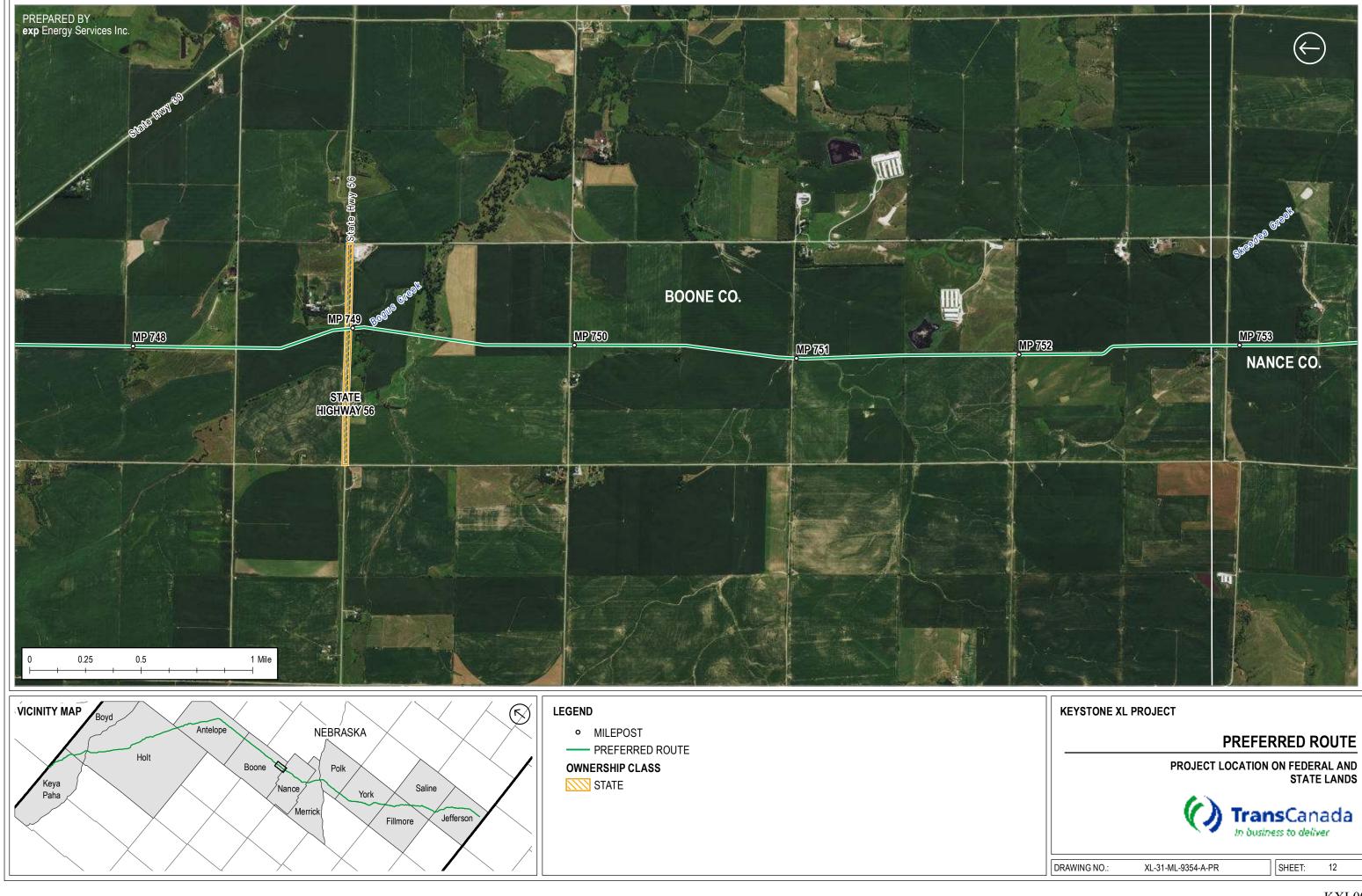


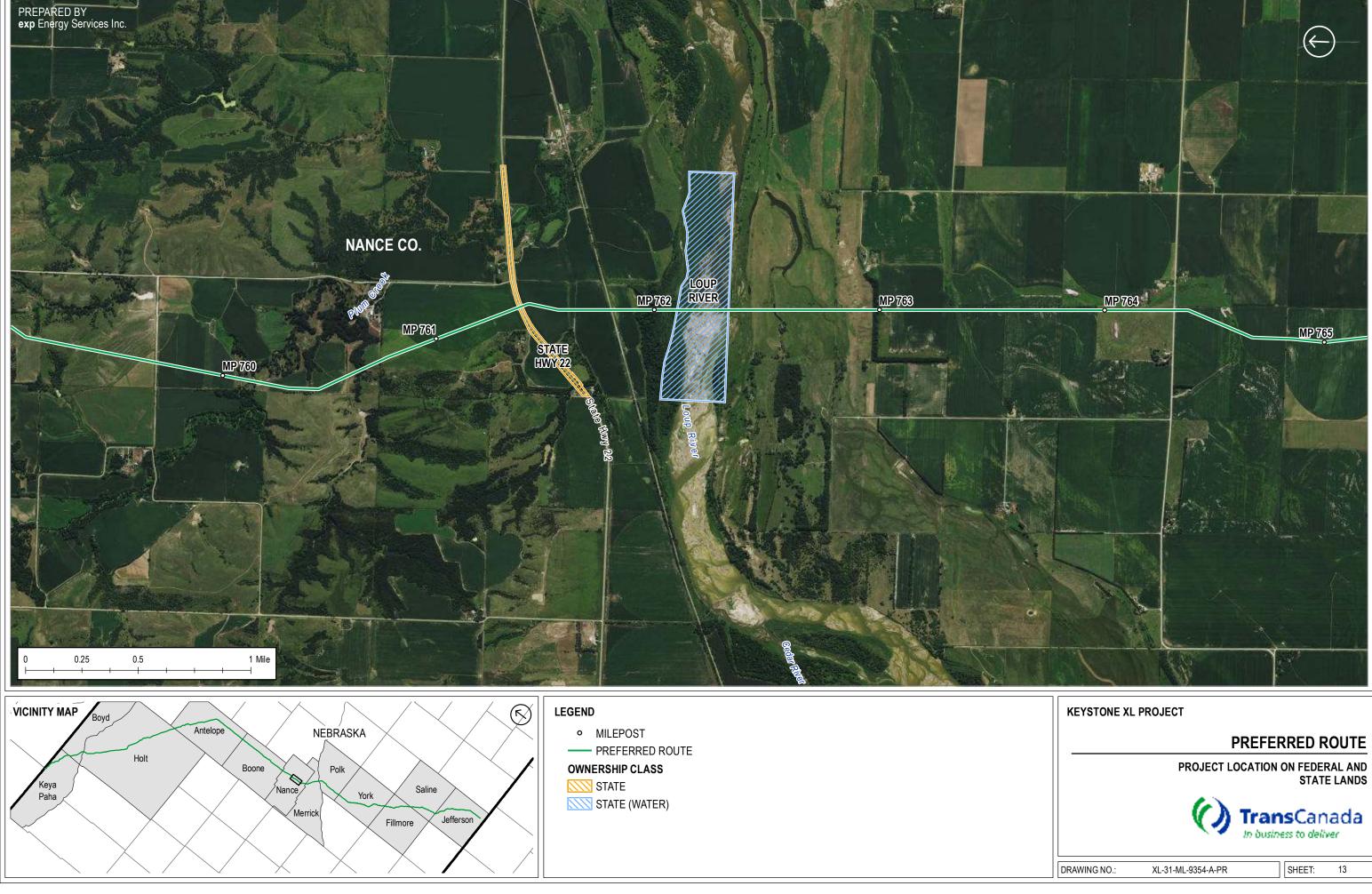


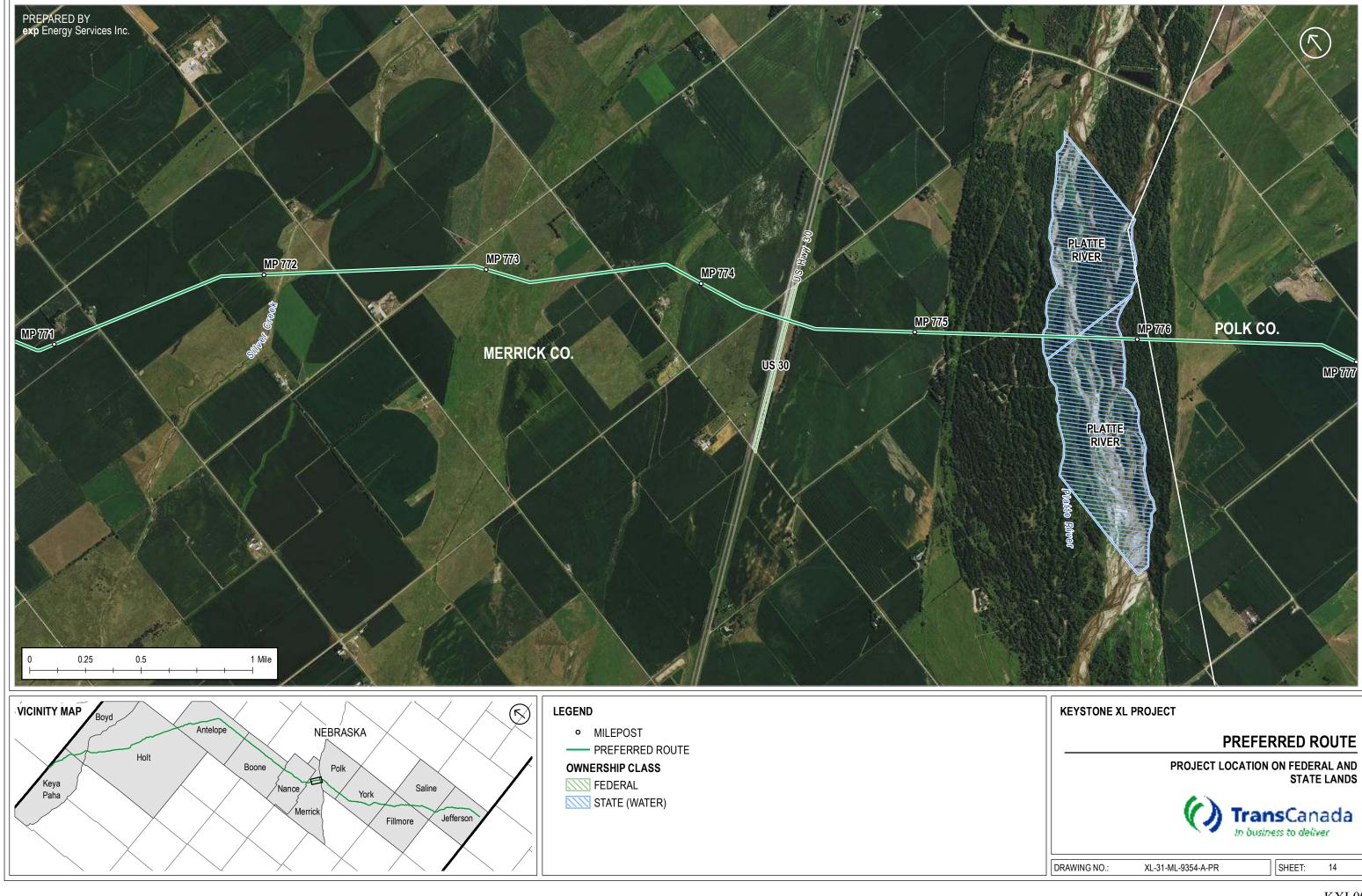


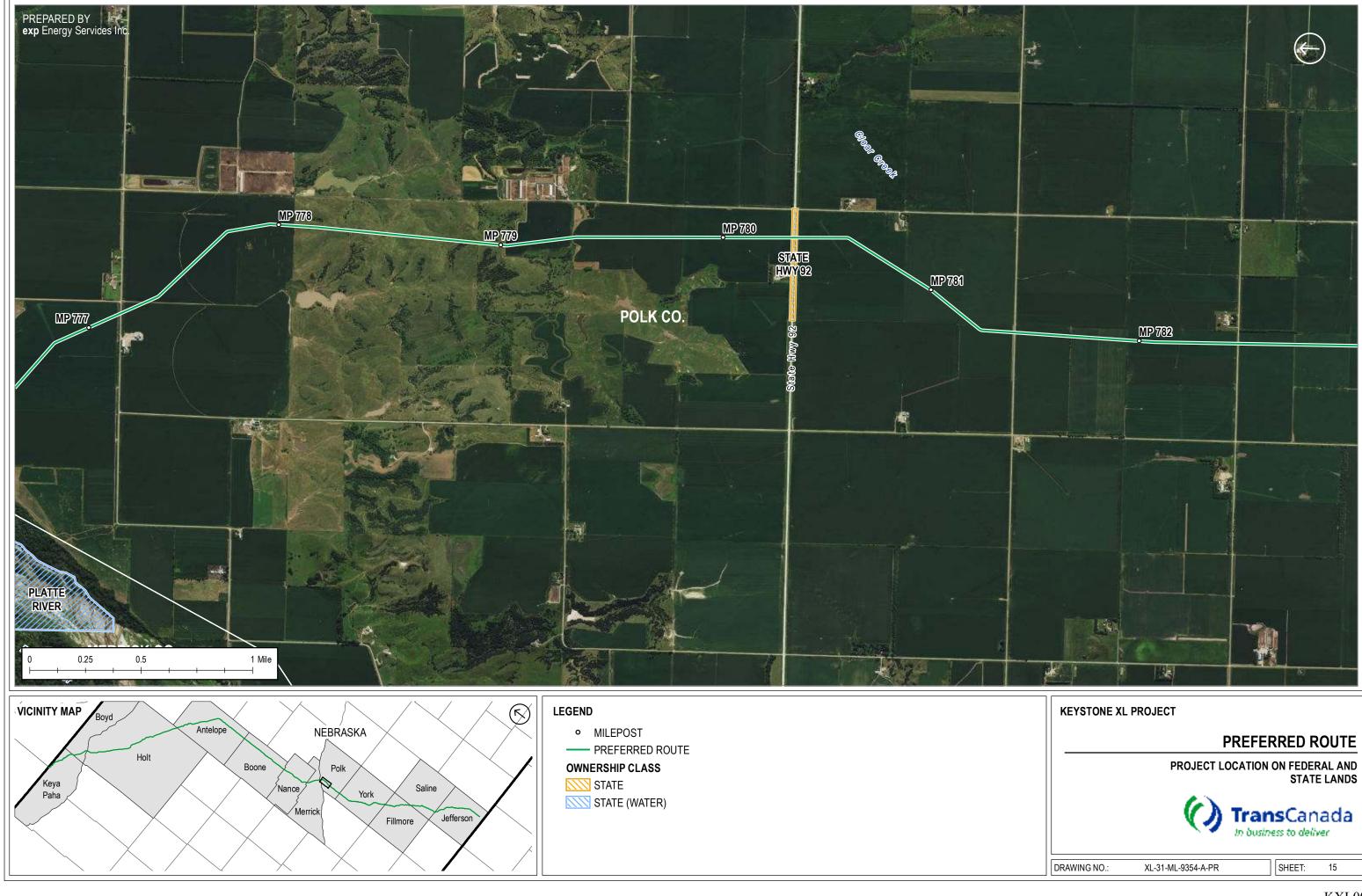




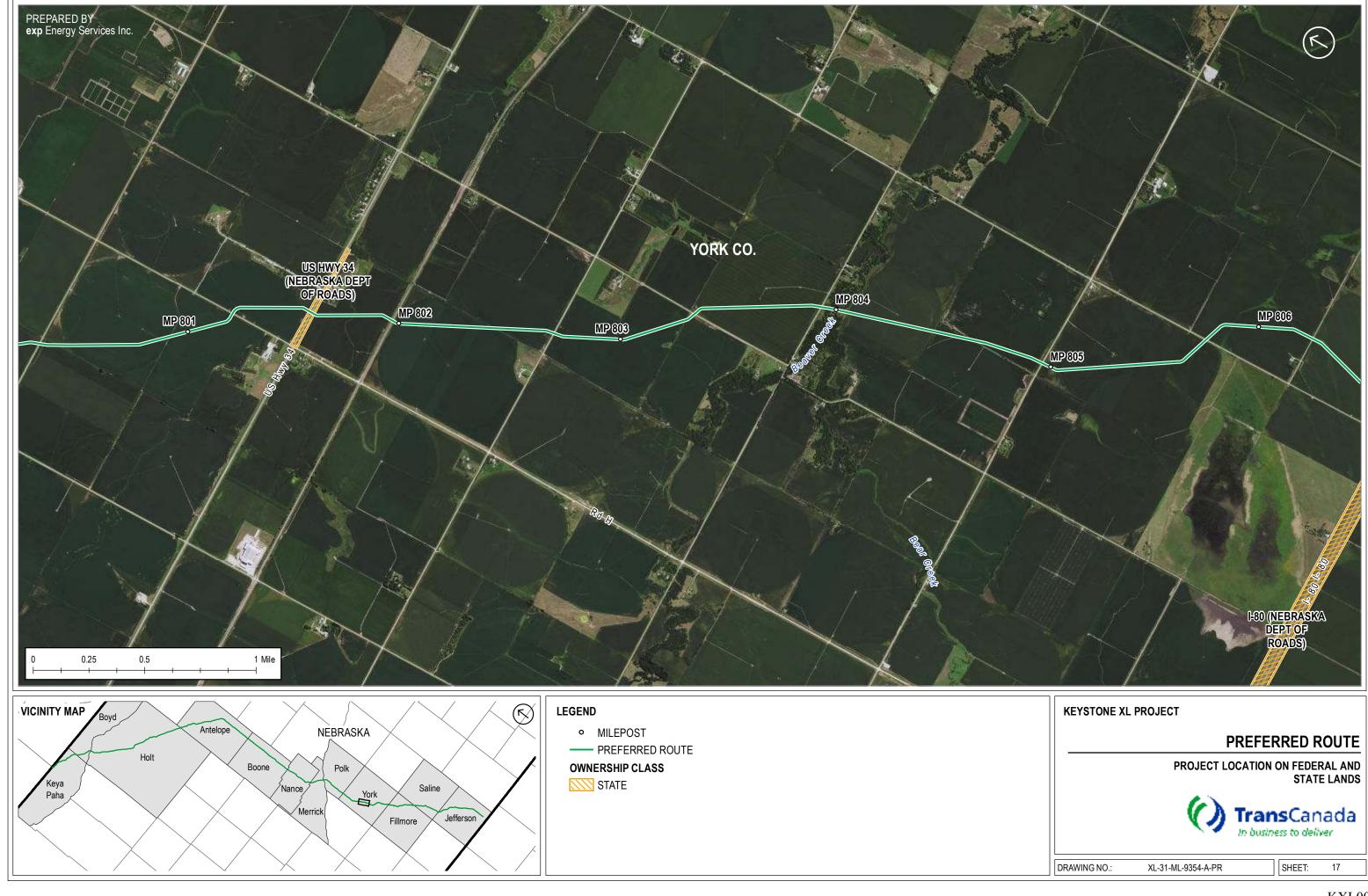






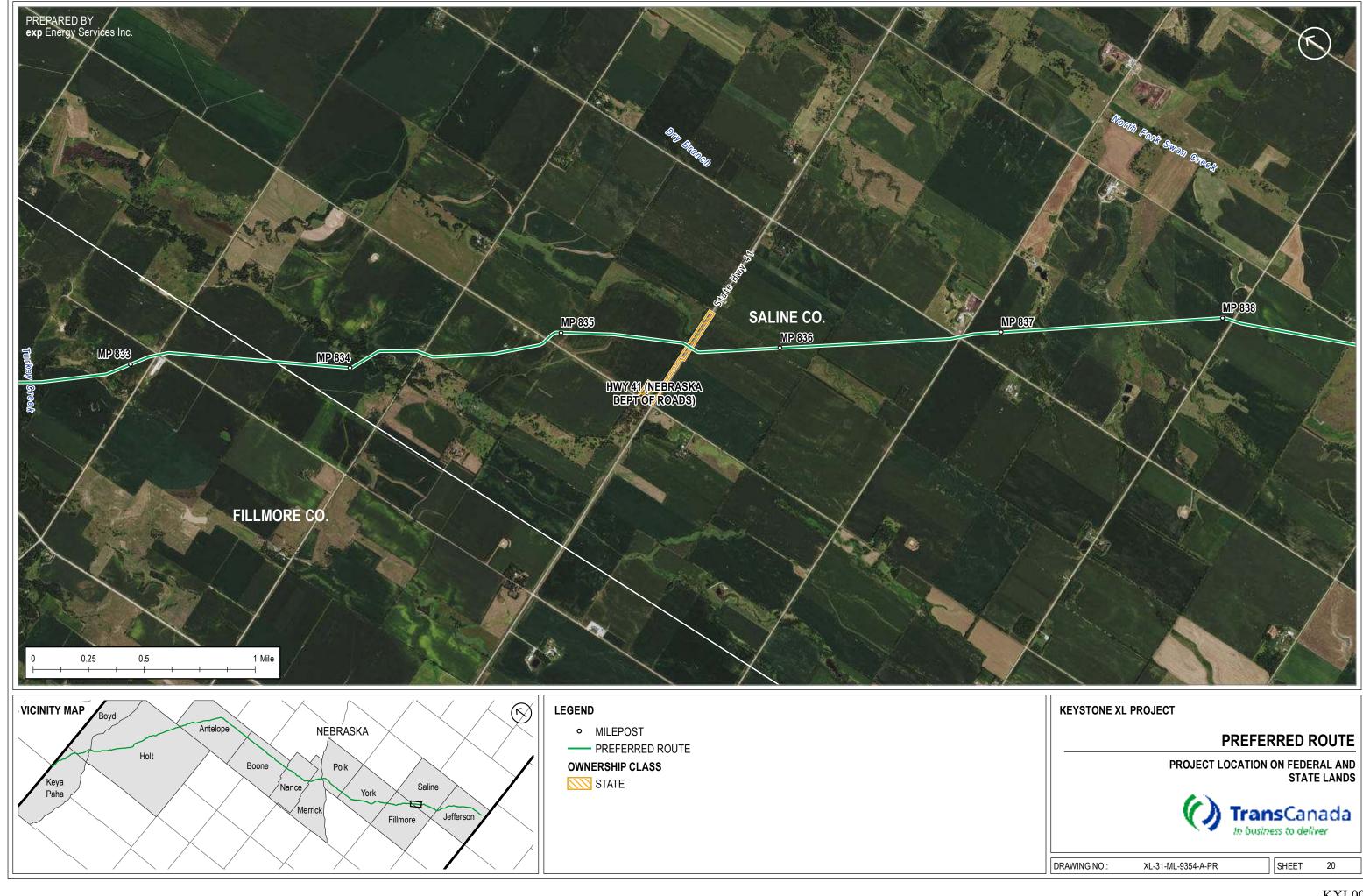


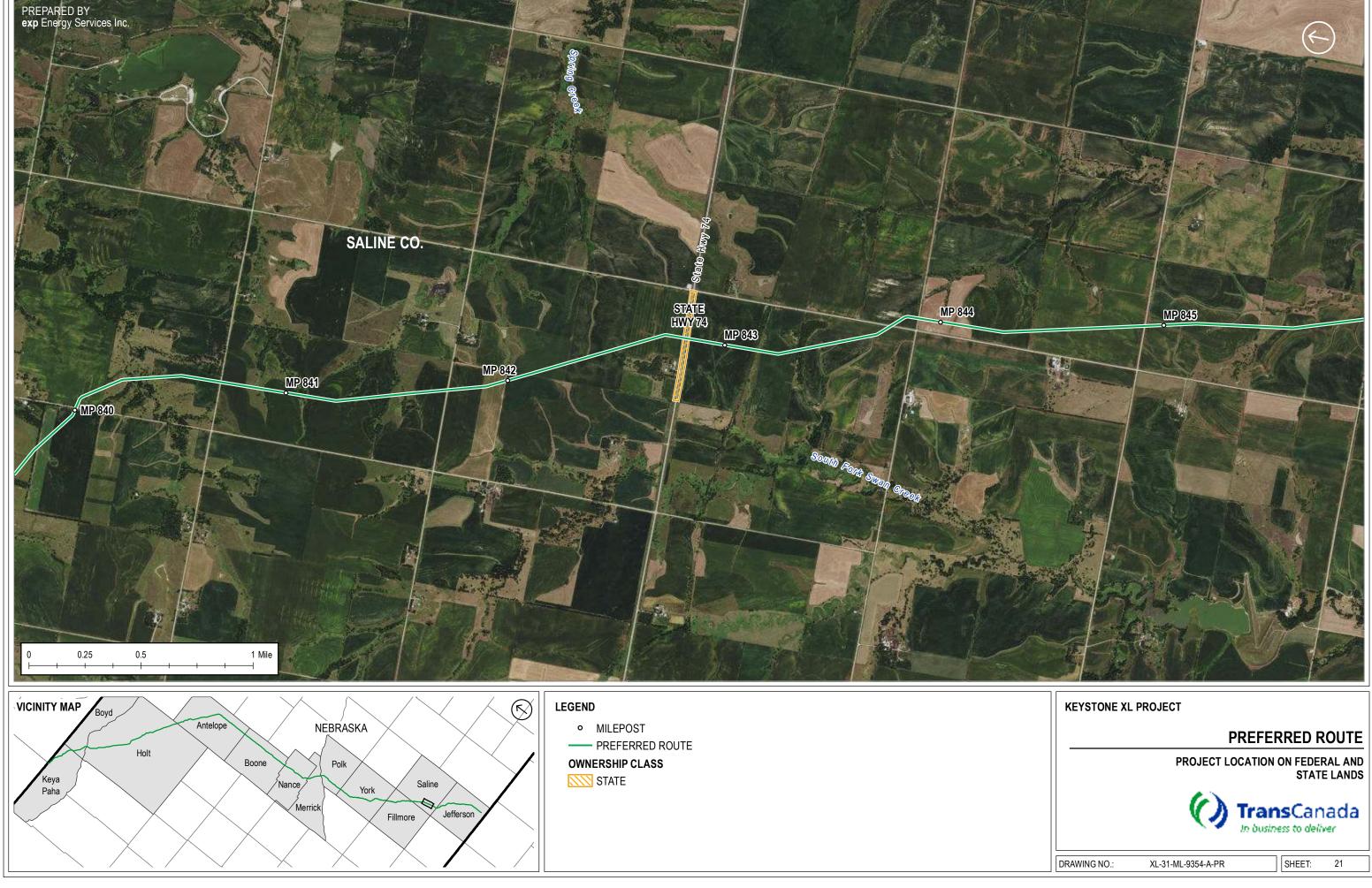




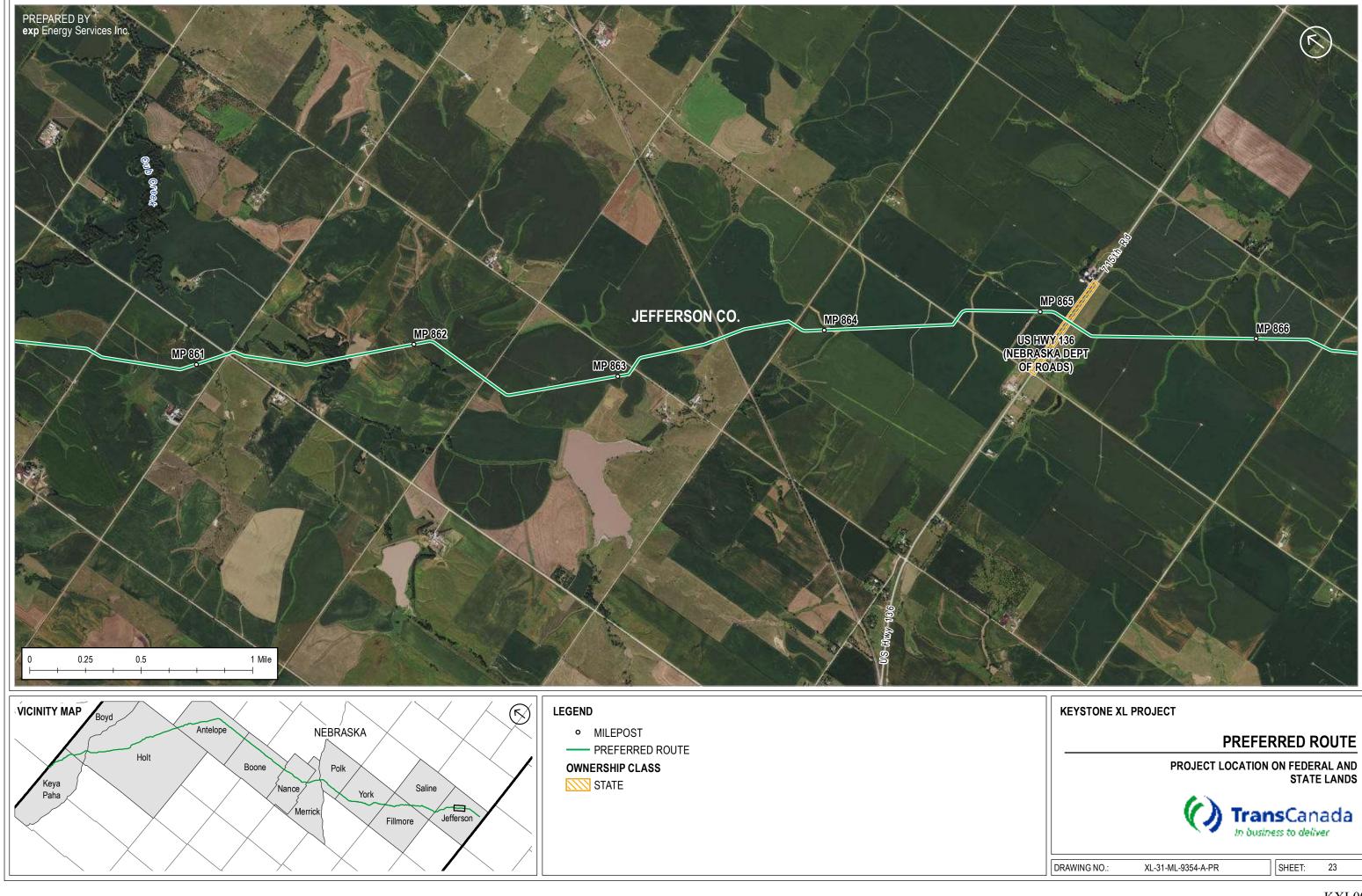


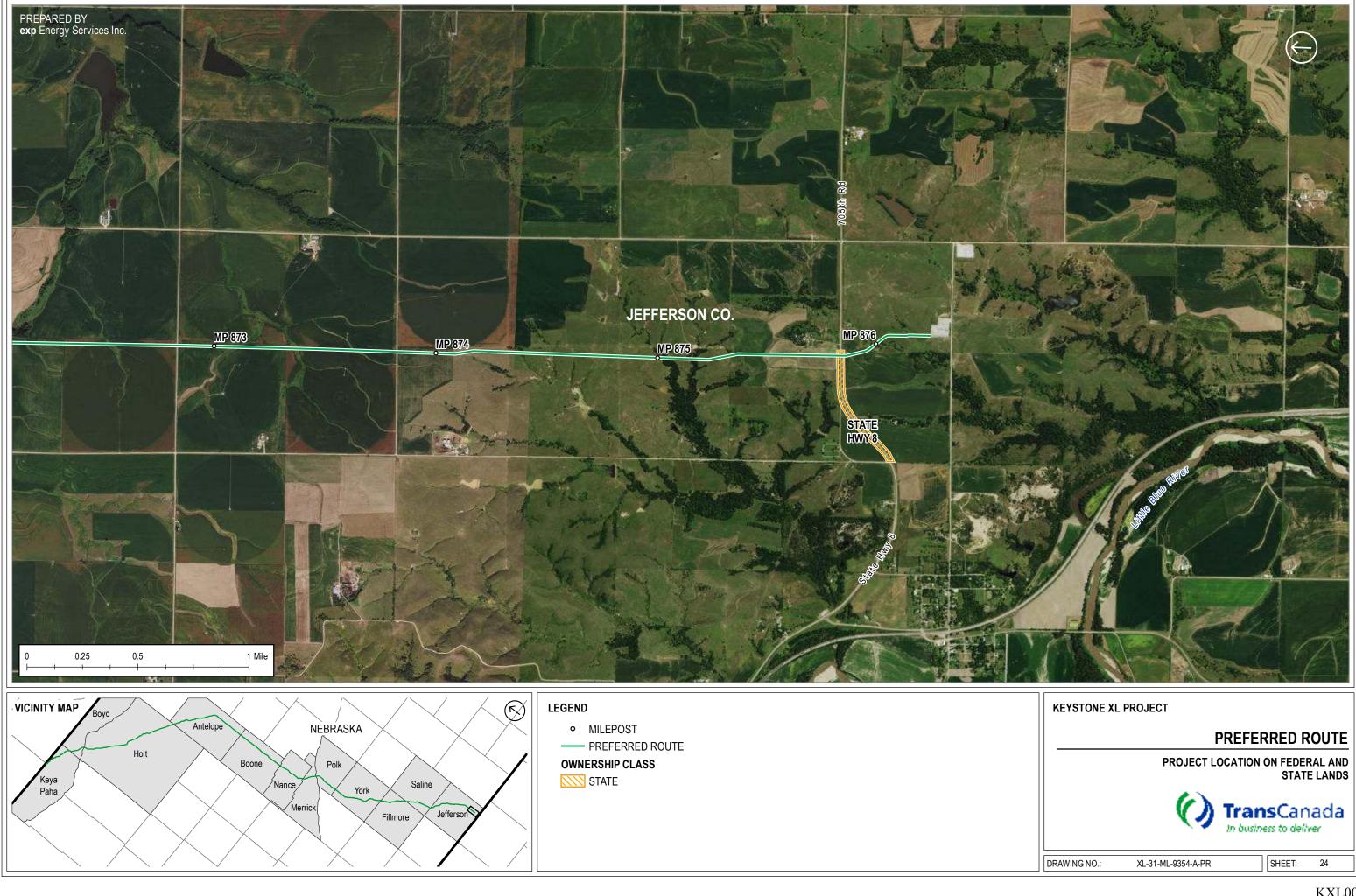


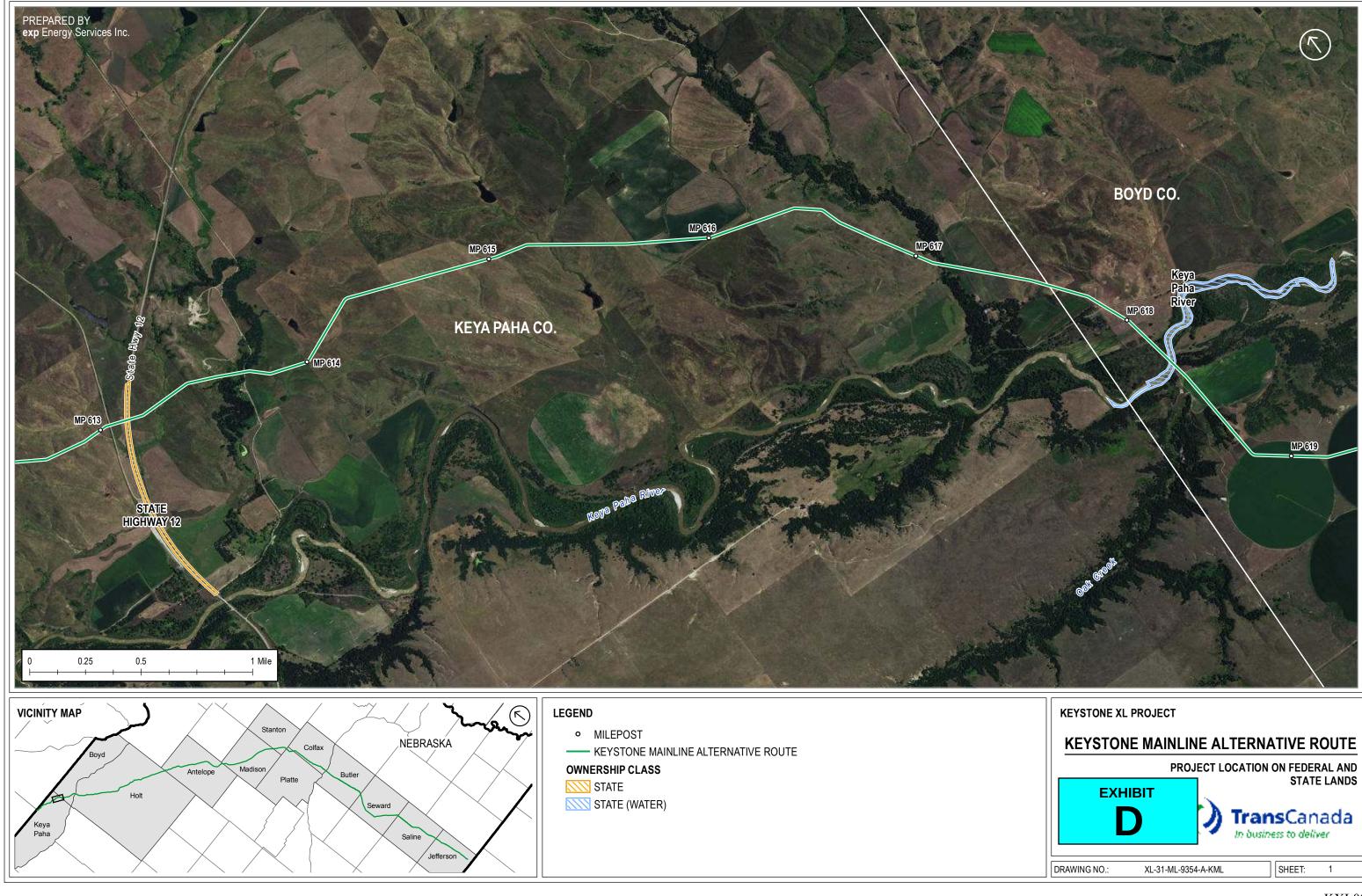


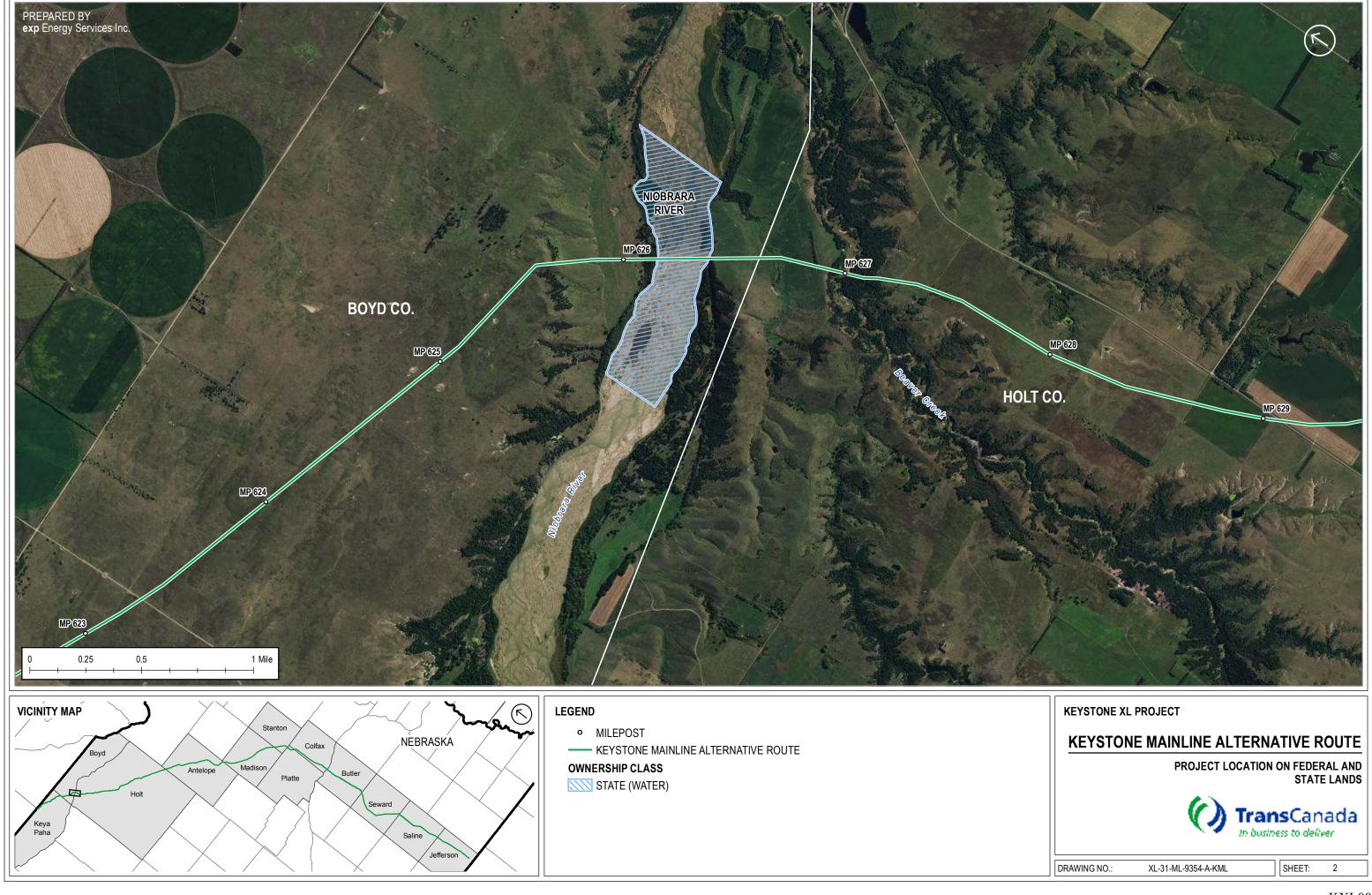




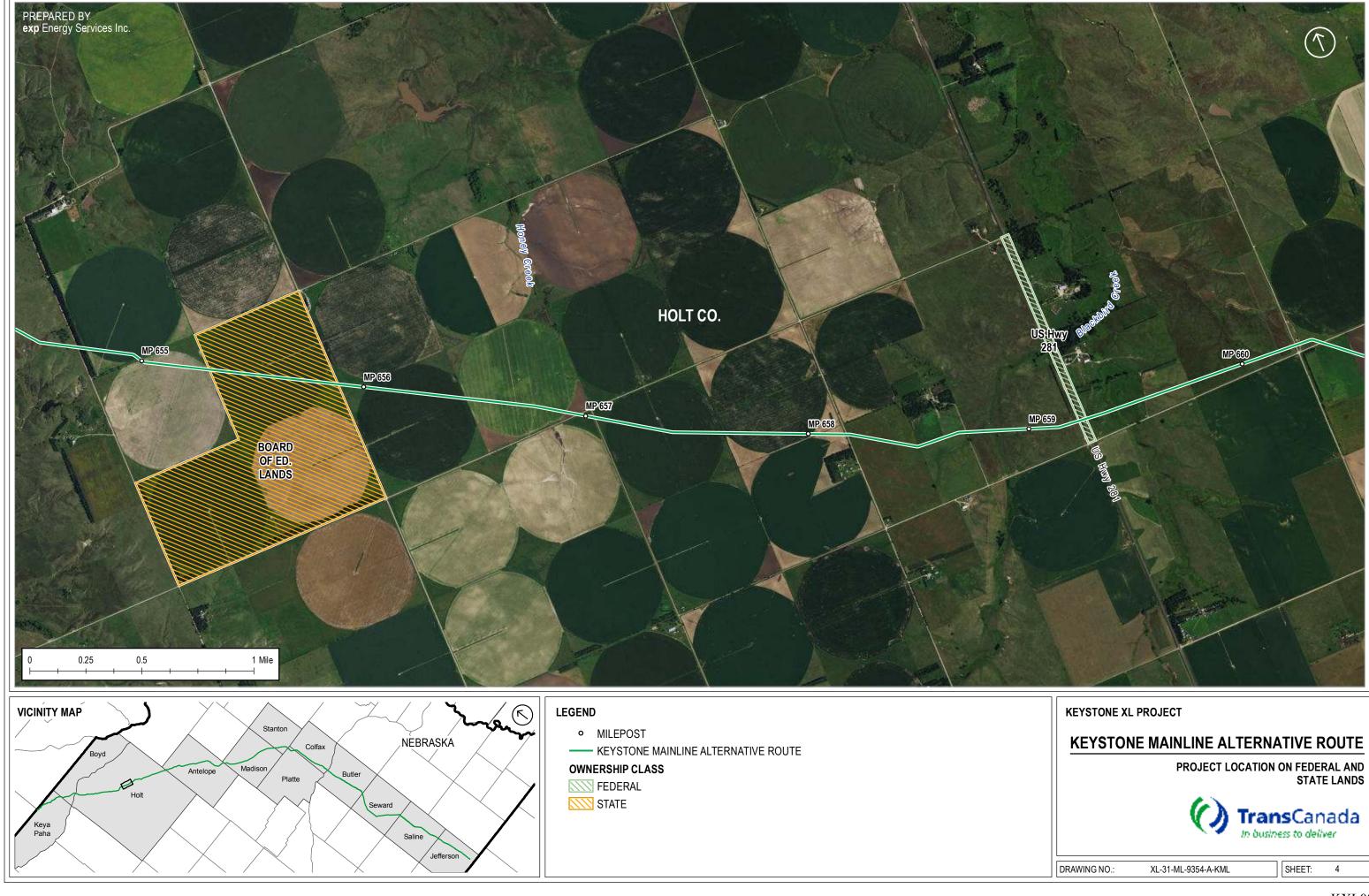




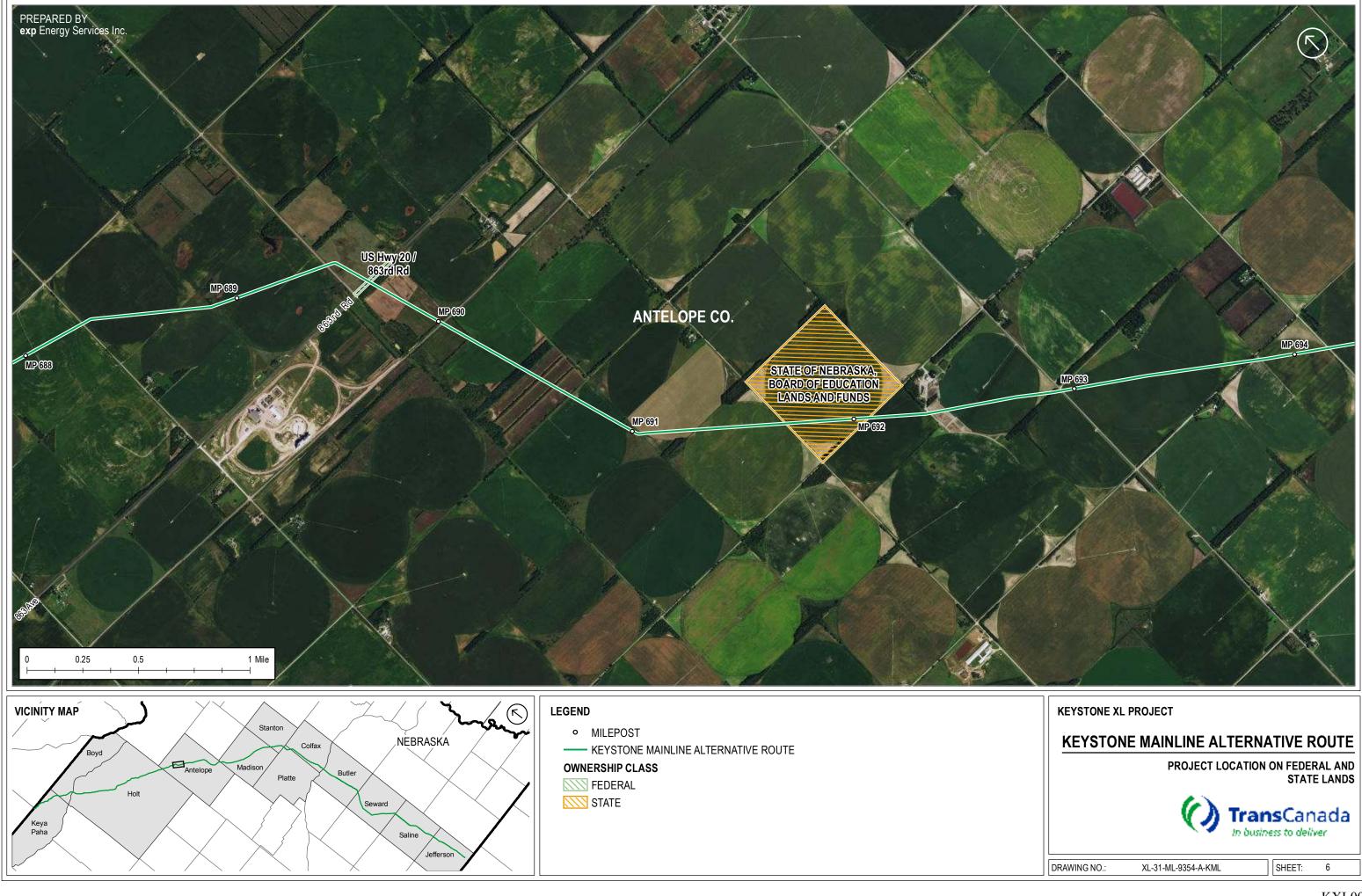


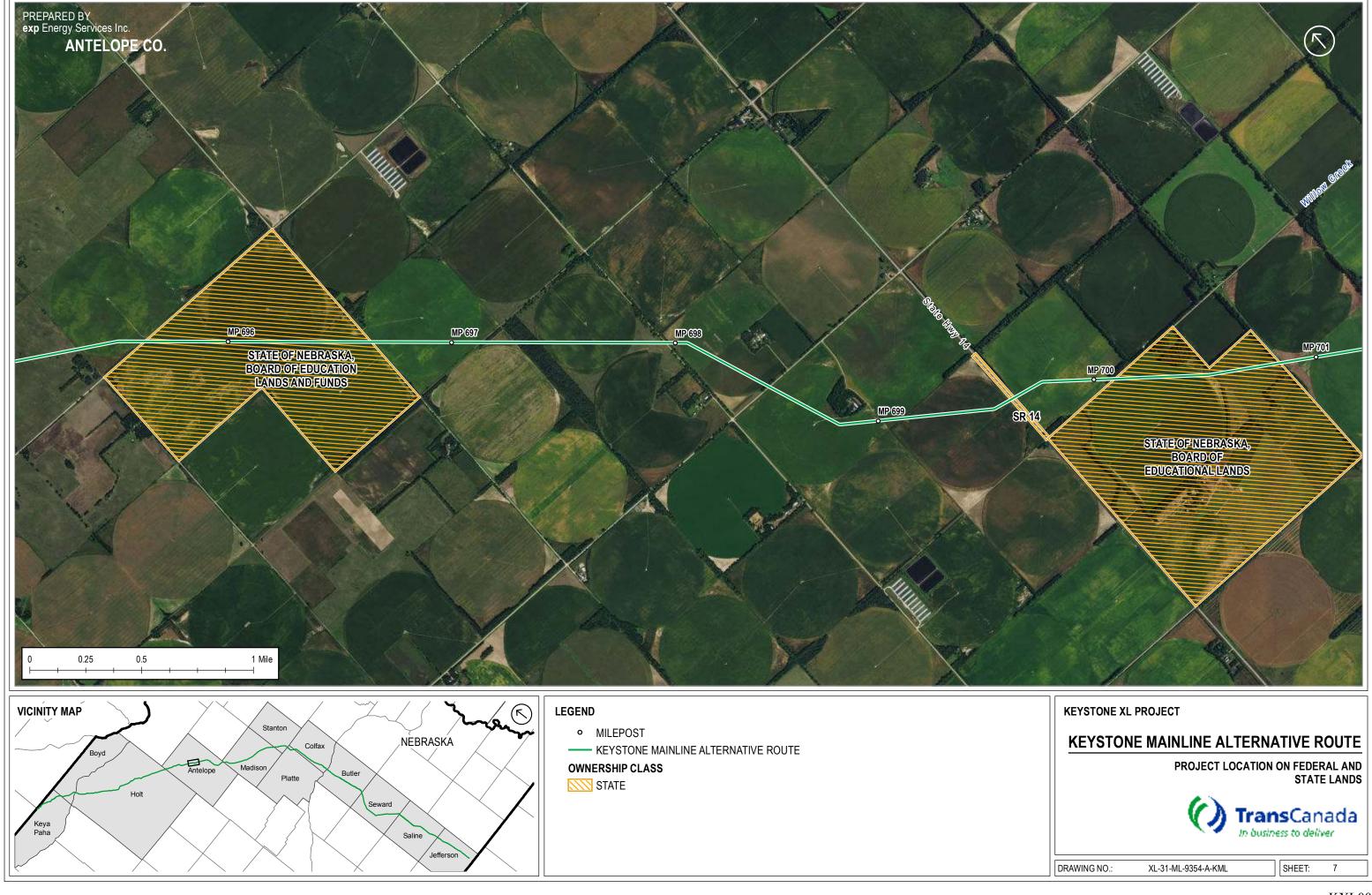




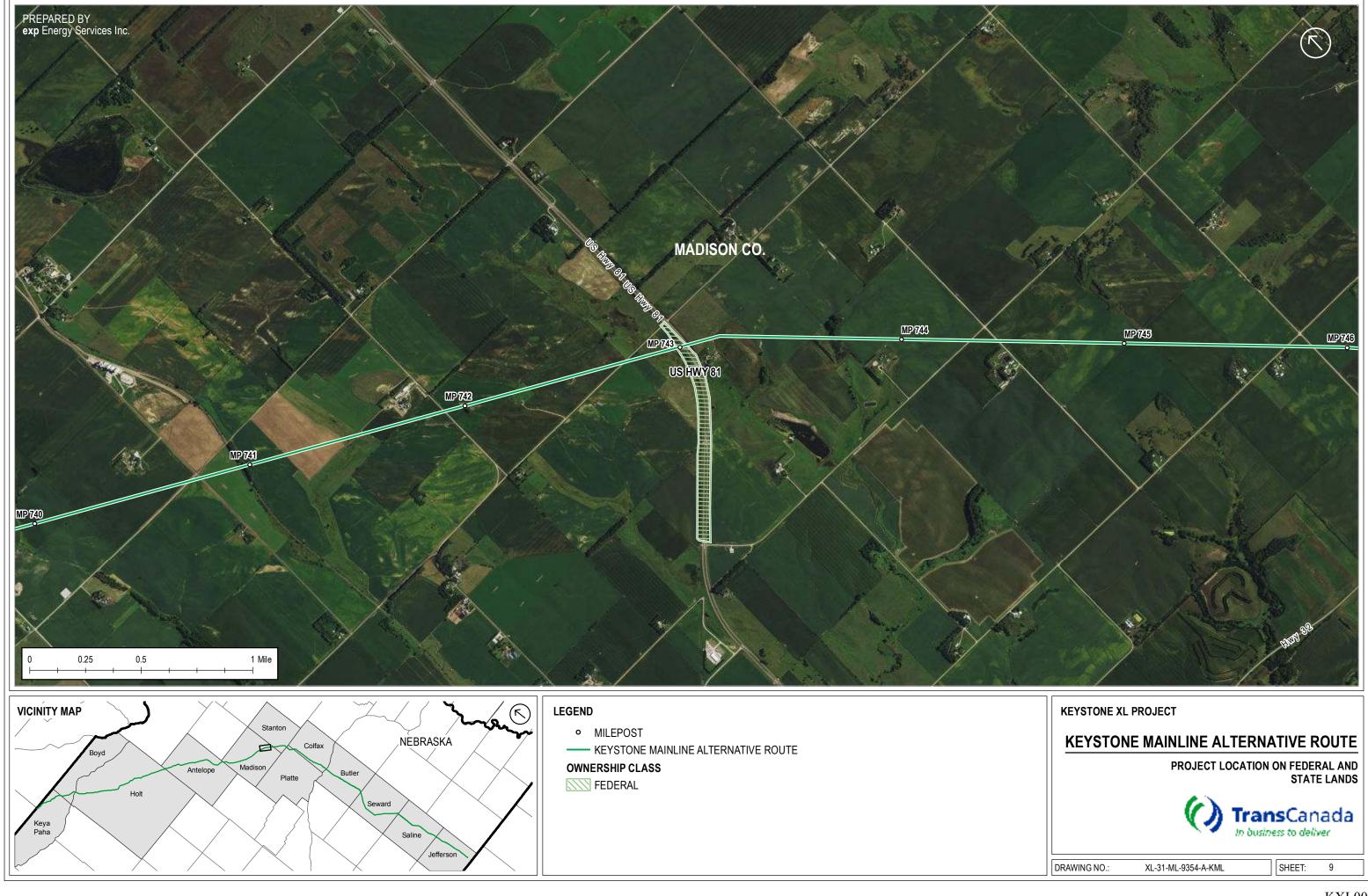


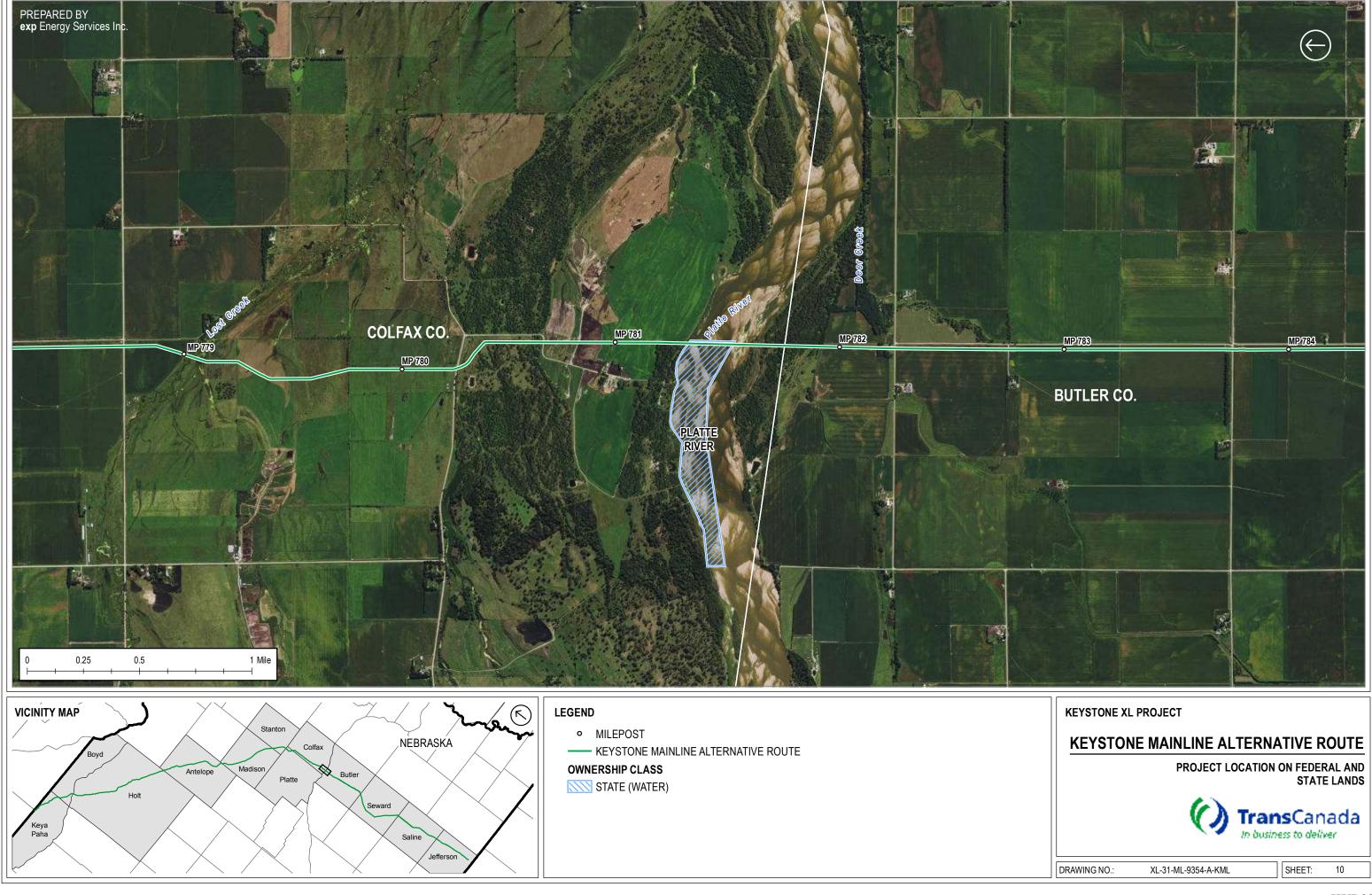


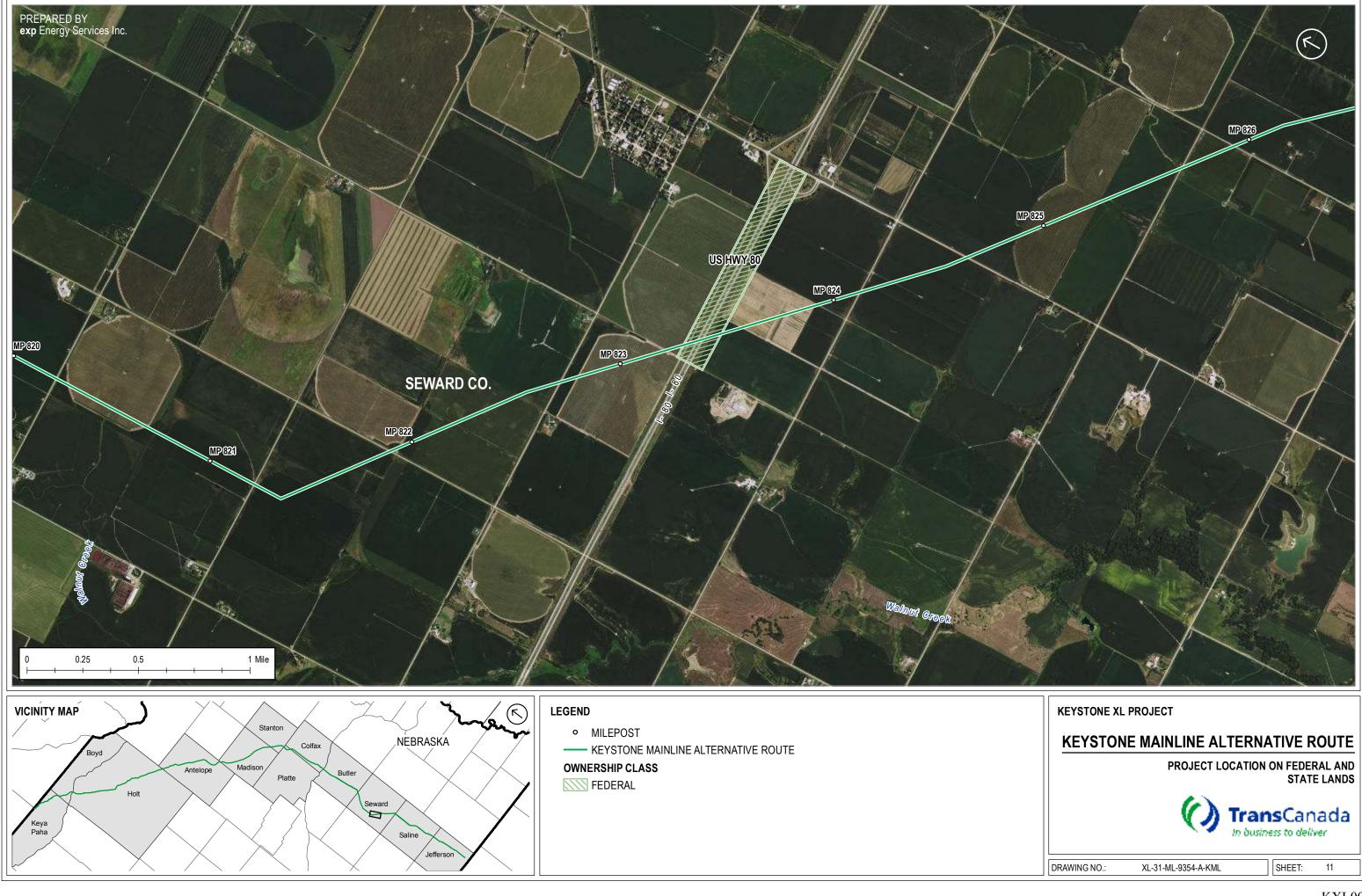


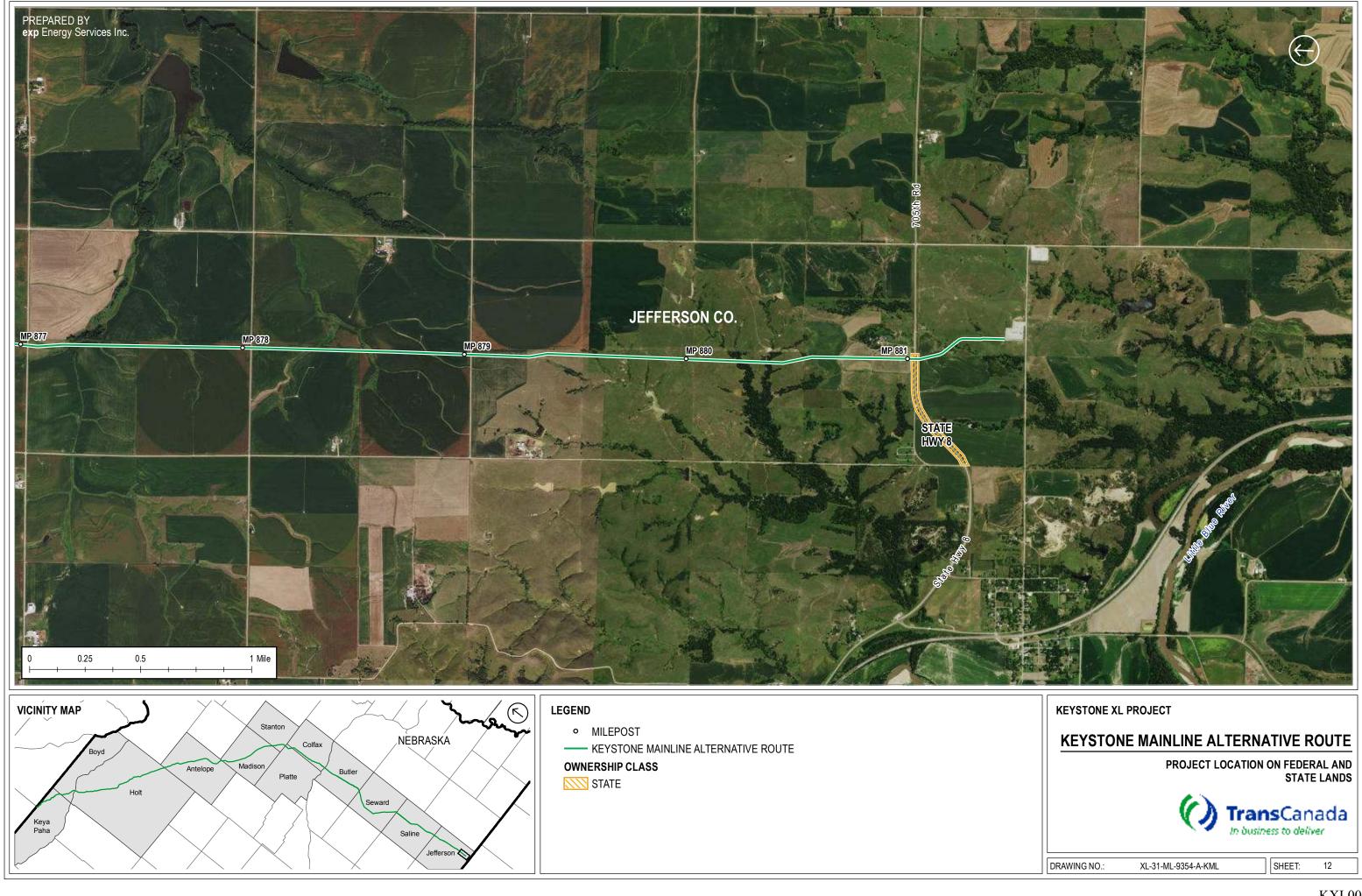


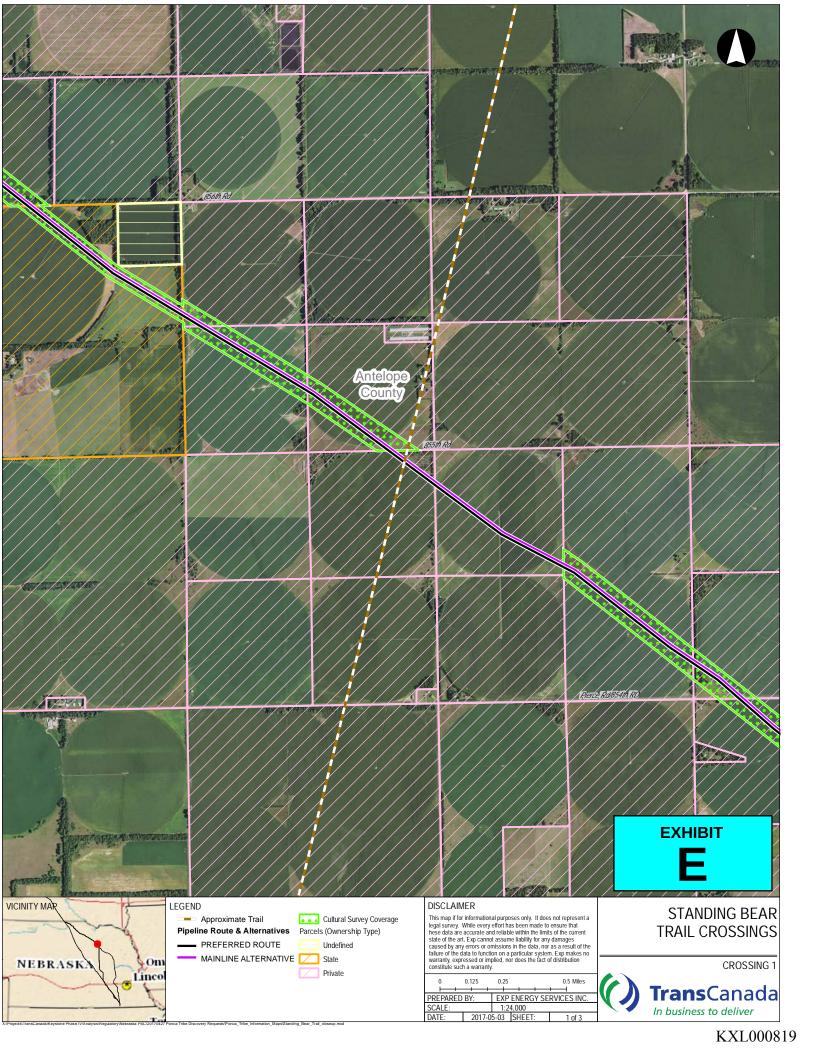


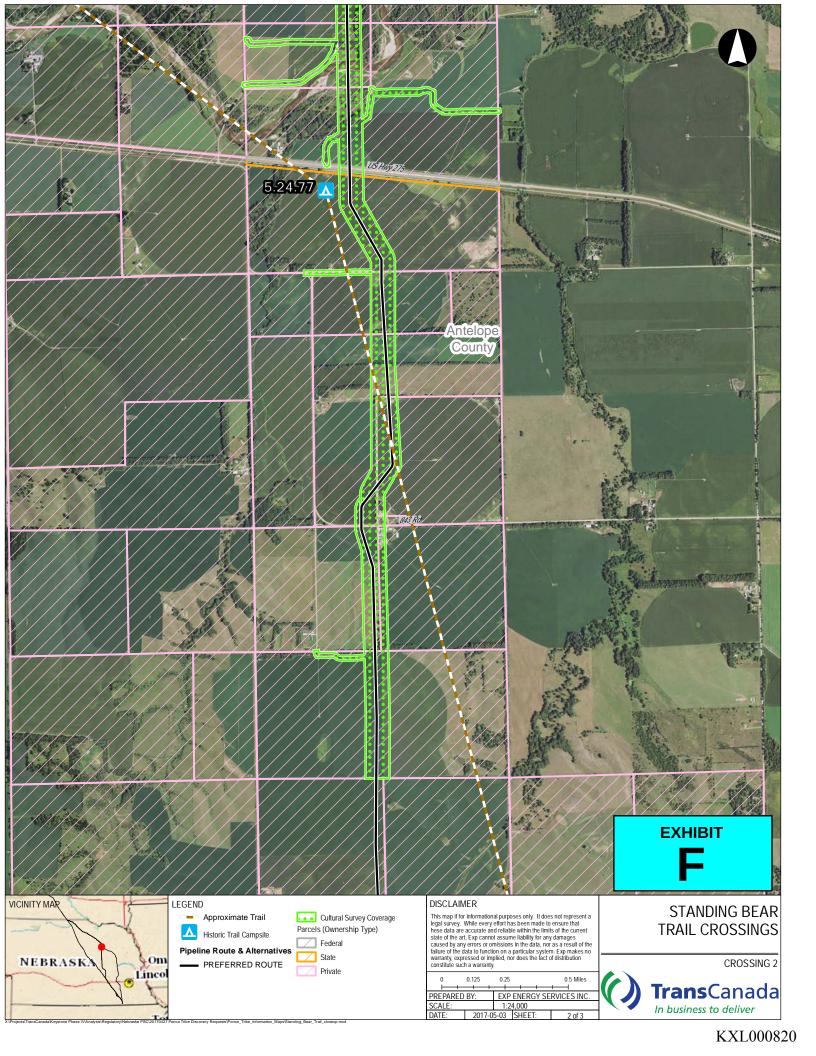


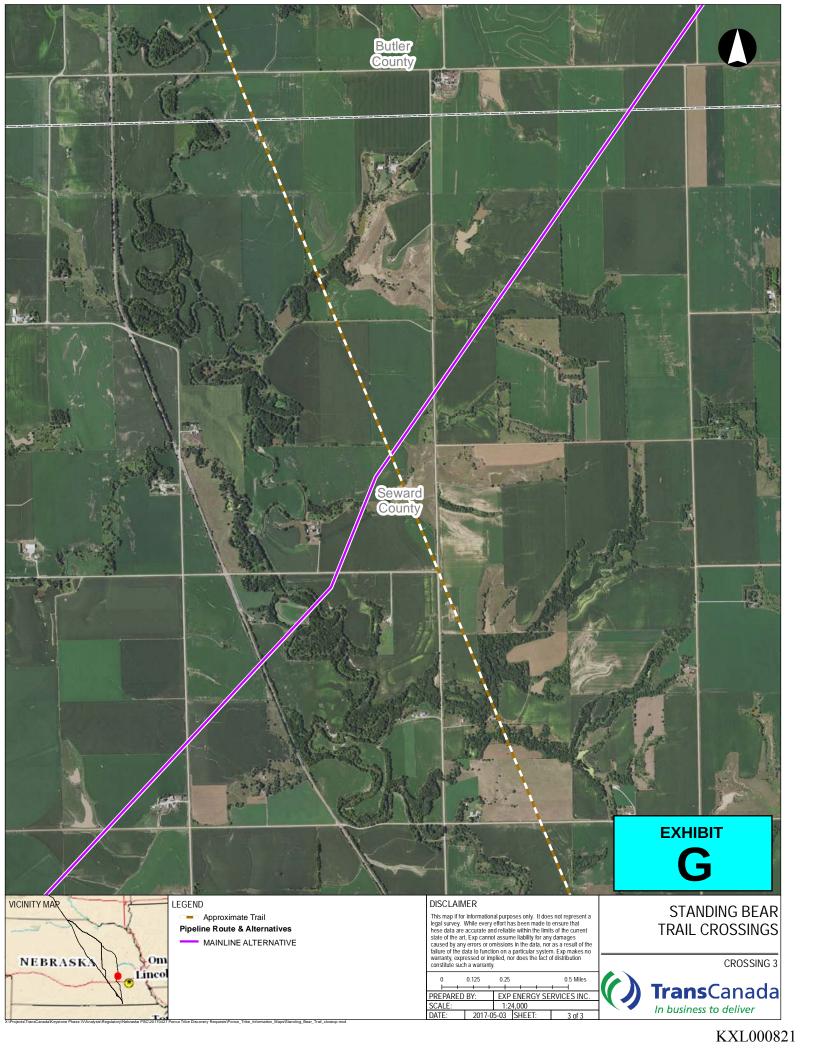












CONSTRUCTION MITIGATION AND RECLAMATION PLAN

installing geotextile material or construction mats in problem areas.

"Stop work" authority will be designated to the chief inspector but will be implemented when recommended by the Environmental Inspector.

2.19 Cultural Resources

Keystone intends to avoid cultural resources to the extent practicable by rerouting the pipeline corridor and related appurtenances, avoiding construction activities on properties listed in or eligible for listing in the National Register of Historic Places (NRHP), as well as boring or using HDD through culturally sterile soils.

The Contractor shall implement the measures outlined in any unanticipated discovery plan or any Programmatic Agreement that is adopted to minimize disturbance to cultural sites and shall take immediate action as outlined in the Programmatic Agreement if any unanticipated cultural discovery is encountered during construction.

The preferred treatment of any historical property or culturally significant site is avoidance. Where required, Keystone will monitor the construction spread using a cultural resource monitor working under the direction of a professional who meets the standards of the *Secretary of the Interior's Historic Preservation Professional Qualification Standards* (48 FR 44716, September 29, 1983).

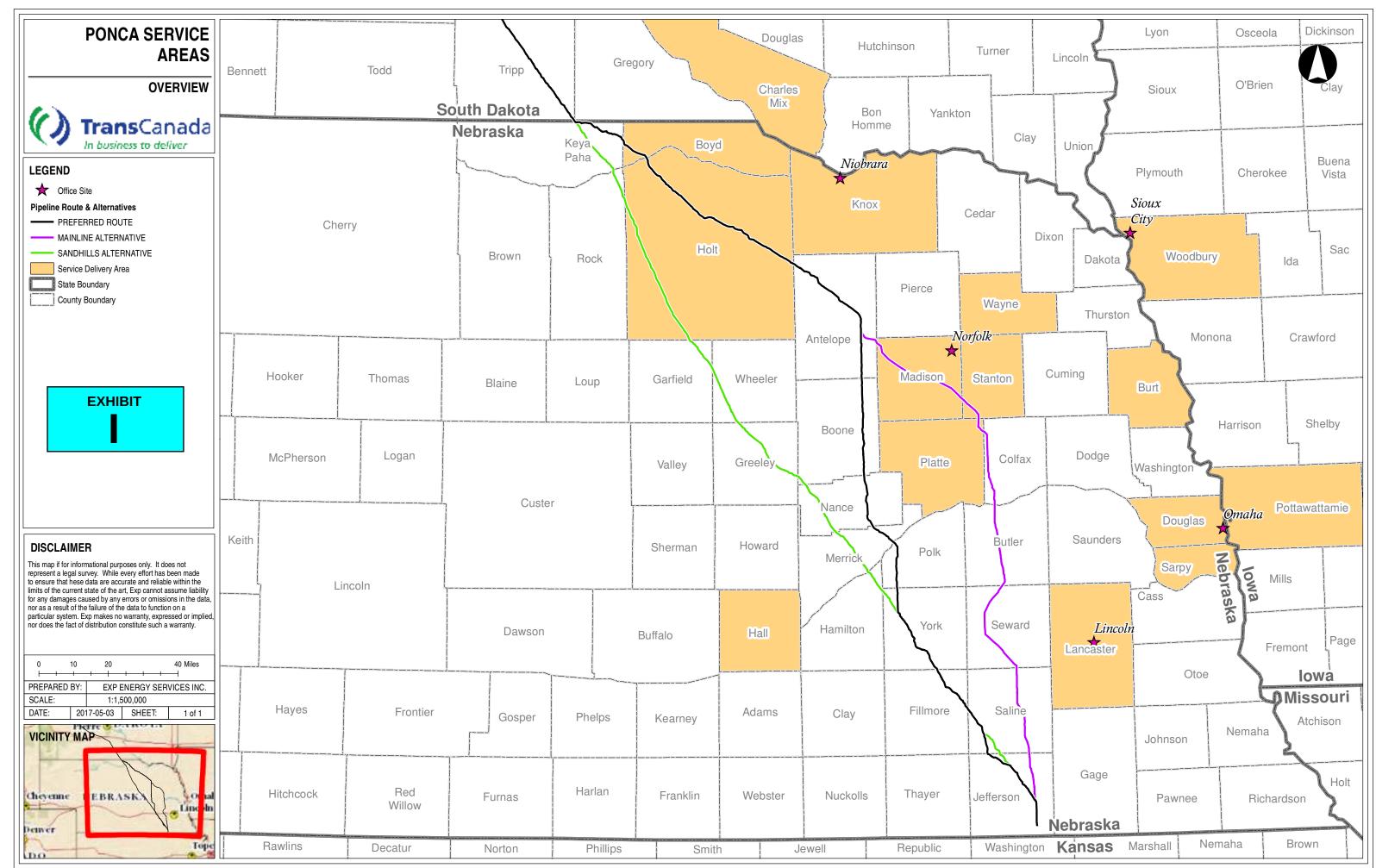
Prior to commencing construction, Keystone also will provide an appropriate level of training to all construction personnel so that the requirements of any unanticipated discovery plan or Programmatic Agreement are understood and unanticipated discoveries quickly identified.

In the event an unanticipated cultural discovery is made, the Contractor will immediately halt all construction activities within a 100-foot radius, including traffic; notify the Keystone Environmental Inspector; and implement interim measures to protect the discovery from looting or vandalism. The appropriate federal, state, local, or tribal authorities will be notified of discovery within 48 hours of the initial find. Construction will not proceed within the 100-foot radius of discovery site until all mitigation measures defined in the Programmatic Agreement are concluded and Keystone receives approval from the appropriate agencies that construction may resume. No work or activity within the 100-foot buffer area may take place until approvals are communicated at the spread level by the lead Environmental Inspector.

3.0 SPILL PREVENTION AND CONTAINMENT

Spill prevention and containment applies to the use and management of hazardous materials on the construction right-of-way and all ancillary areas during construction. This includes the refueling or servicing of all equipment with diesel fuel, gasoline, lubricating oils, grease, and hydraulic and other fluids during normal upland applications and special applications within 100 feet of perennial streams or wetlands.





BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

)	
IN THE MATTER OF THE APPLICATION OF TRANSCANADA KEYSTONE))	Application No. OP-0003
PIPELINE, L.P. FOR ROUTE APPROVAL OF THE KEYSTONE XL PIPELINE PROJECT PURSUANT TO THE MAJOR OIL PIPELINE SITING ACT.)))	LIST OF EXHIBITS FOR TESTIMONY OF SHANNON WRIGHT
)	

The Ponca Tribe of Nebraska ("Tribe"), formal intervenor in the above-captioned matter, provides the Commission with this list of exhibits to accompany the written testimony of Shannon Wright filed contemporaneously herewith:

Ex. #	Description	Pages
A	Map of Cultural Resource Surveys Along Preferred Route	47
В	Map of Cultural Resource Surveys Along Mainline Alternative Route	21
C	Map of Locations of Federal and State Lands Along Preferred Route	24
D	Map of Locations of Federal and State Lands Along Mainline Alternative Route	12
E	Map of First Crossing of Ponca Removal Trail by Routes	1
F	Map of Second Crossing of Ponca Removal Trail by Preferred Route	1
G	Map of Second Crossing of Ponca Removal Trail by Mainline Alternative Route	1
Н	TransCanada Construction Mitigation and Reclamation Plan Excerpt	1
I	Map of Proposed Routes through Ponca Service Areas	1

Dated: June 7, 2017

Brad S. Jolly, #23720

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ATTORNEY FOR PONCA TRIBE OF NEBRASKA

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

)	
IN THE MATTER OF THE APPLICATION)	
OF TRANSCANADA KEYSTONE)	Application No. OP-0003
PIPELINE, L.P. FOR ROUTE APPROVAL)	
OF THE KEYSTONE XL PIPELINE)	DIRECT TESTIMONY OF
PROJECT PURSUANT TO THE MAJOR)	SHANNON WRIGHT
OIL PIPELINE SITING ACT.)	
)	

- 1. What is your name?
- A: Shannon Wright.
- 2. Are you a member of the Ponca Tribe of Nebraska?
- A: Yes.
- 3. What is your occupation?
- A: I am the Tribal Historic Preservation Officer for the Ponca Tribe of Nebraska.
- 4. How long have you been employed there?
- A: $1\frac{1}{2}$ years.
- 5. What are your job responsibilities?
- A: NAGPRA consultations, Section 106 consultations, TCNS research, and Cultural Presentations.
- 6. Have you or others at the Tribe monitored construction sites for cultural resources?
- A: Yes.
- 7. In monitoring construction sites for cultural resources, have you or the Tribe encountered unanticipated discoveries during construction? If so, describe those unanticipated discoveries.

A: I have monitored various construction sites. I have also had to go out to construction sites where unanticipated discoveries have happened (the uncovering of human remains) and have helped in the mitigation of those issues.

8. Have you or the Tribe had to handle mitigation or relocating construction due to unanticipated discoveries while monitoring construction? If so, describe the handling of mitigation or relocation.

A: Yes. When this happens we work with the parties to mitigate any further damage of the sites and work to stop any further discoveries and help the project continue.

9. Are you familiar with the TransCanada Keystone XL Pipeline project?

A: Yes.

10. Are you familiar with the proposed Preferred Route and proposed Mainline Alternative Route of the Keystone XL Pipeline project?

A: Yes.

11. Have you reviewed any documents in preparation for this hearing?

A: Yes.

12. Specifically what documents have you reviewed?

A: The Department of State's EIS and TransCanada's Application.

13. Does TransCanada's Application discuss the Keystone XL Pipeline's impact on historic and cultural resources?

A: No, I did not find anything in the application that discussed that.

14. Have you reviewed the written witness testimony TransCanada filed with its Application?

A: Yes.

15. Does any of the witness testimony discuss the Keystone XL Pipeline's impact on historic and cultural resources?

A: No, it does not.

16. Is the Ponca Tribe of Nebraska a federally recognized Indian Tribe?

A: Yes.

17. Does the proposed Preferred Route of the Keystone XL Pipeline run through the Ponca
Tribe of Nebraska's aboriginal territory?

A: Yes, it does.

18. Does the Tribe have cultural and historical interests in land located in the area of the Preferred Route?

A: Yes, we do.

19. Does the proposed Mainline Alternative Route of the Keystone XL Pipeline run through the Ponca Tribe of Nebraska's aboriginal territory?

A: Yes, it does.

20. Does the Tribe have cultural and historical interests in land located in the area of the Mainline Alternative Route?

A: Yes, we do.

21. In your review of the environmental impact statements conducted by the Department of State and the Nebraska Department of Environmental Quality, did either of them provide for who was responsible for conducting cultural surveys? If so, who did they say was responsible for conducting cultural surveys?

A: Yes. It states that Keystone is required to complete cultural resource surveys on all areas that would be potentially impacted by the proposed project.

22. According to the DOS EIS, has TransCanada completed cultural surveys of all lands impacted by the Keystone XL Pipeline?

A: No, they have not.

23. I'd like to show you a set of maps that was provided by TransCanada (Exhibit A). Have you reviewed these maps?

A: Yes.

24. What do these maps depict?

A: These maps show the areas of cultural surveys done by TransCanada along the Preferred Route.

25. Do the maps show that TransCanada has completed cultural surveys along the entire Preferred Route?

A: No. They show many places where TransCanada has not completed cultural surveys along the Preferred Route.

26. In your opinion, has TransCanada failed to complete cultural surveys along a significant portion of the Preferred Route?

A: Yes, they have failed.

27. I'd like to show you a set of maps that was provided by TransCanada (Exhibit B). Have you reviewed these maps?

A: Yes.

28. What do these maps depict?

A: These maps show the cultural survey progress on the Mainline Alternative Route.

29. Do the maps show that TransCanada has completed cultural surveys along the entire Mainline Alternative Route?

A: No. They show many places where TransCanada has not completed cultural surveys along the Mainline Alternative Route.

30. In your opinion, has TransCanada failed to complete cultural surveys along a significant portion of the Mainline Alternative Route?

A: Yes.

31. Are you familiar with the National Historic Preservation Act of 1966 ("NHPA"), in particular Section 106 (now 54 U.S.C. § 306108)?

A: Yes.

32. Describe the requirements of Section 106.

A: Section 106 states, "The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking."

The Section essentially states that prior to the approval of the expenditure of any federal funds or issuance any license, a federal agency must take into account the effect of the project on anything that is included in or eligible for inclusion in the National Register of Historic Places. The first step in the Section 106 process is to identify any historic properties that may be affected by the undertaking. This includes reviewing existing information on historic properties within the area of potential effects, consultation with the SHPO/THPO, seeking information from knowledgeable parties, gathering information from any Indian tribe that might attach religious and cultural

significance to historic properties in the area of potential effects, and conducting field surveys. Once sites are identified and evaluated for significance, the affect the project will have on the sites is determined.

33. Are you familiar with the requirements of 54 U.S.C. § 302706 of the NHPA?

A: Yes.

34. Describe the requirements.

A: Section 302706 states, "In carrying out its responsibilities under section 306108 of this title, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to property" of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization.

Section 302706 requires agency officials to consult with any Indian tribe that attaches religious and cultural significance to properties that may be affected by project. This requirement applies regardless of the location of the property. The Section also states that property of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

35. Does the NHPA require Traditional Cultural Property Surveys?

A: Yes, in 36 C.F.R. § 800.4 (a) and (b). 36 CFR § 800.4(c)(1) also requires federal agencies to acknowledge the special expertise of Indian tribes in assessing the eligibility of historic properties that may be of religious and cultural significance to them. The Advisory Council on Historic Preservation states that "unless an archaeologist has been specifically authorized or permitted by an Indian tribe or Native Hawaiian organization to speak on its behalf, or has been determined by that entity to be qualified to conduct such surveys, it should not be assumed that the archaeologist possesses the appropriate expertise to determine what properties are or are not of religious and

cultural significance to an Indian tribe or Native Hawaiian organization. The appropriate individual to make such a determination is the representative designated by the tribe or Native Hawaiian organization for this purpose." This is typically referred to as a Traditional Cultural Property Survey.

36. Are you familiar with Nebraska Revised Statutes § 82-507?

A: Yes.

37. Describe that section.

A: It makes it a crime for a person to knowingly and willfully appropriate, excavate, injure, or destroy any archaeological resource on public land without written permission from the State Archaeology Office.

38. I'd like to show you a set of maps that was provided by TransCanada (Exhibit C). Have you reviewed these maps?

A: Yes.

39. What do these maps depict?

A: These maps show where the Preferred Route will cross State and Federal lands.

40. Do these maps indicate that the Preferred Route would cross federal and state lands?

A: Yes.

41. I'd like to show you another set of maps that was provided by TransCanada (Exhibit

D). Have you reviewed these maps?

A: Yes.

42. What do these maps depict?

A: They show where the Mainline Alternative Route would cross State and Federal lands.

43. Do these maps indicate that the Mainline Alternative Route would cross federal and state lands?

A: Yes.

44. To your knowledge, has the Ponca Tribe of Nebraska been allowed to conduct a Traditional Cultural Property Survey of the federal or state lands the Preferred Route and Mainline Alternative Route would cross?

A: No.

45. Do you feel that not including Traditional Cultural Property Surveys for those federal and state lands would satisfy the requirements of the NHPA?

A: No, I do not.

46. If the Section 106 requirements are not satisfied, has TransCanada complied with all applicable laws?

A: No, they have not.

47. Are there different considerations for conducting tribal Traditional Cultural Property surveys versus surveys conducted by archaeologists?

A: Yes.

48. What are the different considerations?

A: These surveys are best done by a tribal member with traditional knowledge of the area and the tribe's involvement in that area. You are not just looking at the land. You are looking at how the tribe would have used the land. A tribal member generally has the cultural context of the tribe to view the land and its importance or significance. An archaeologist lacks that context. This is expressed in the Advisory Council on Historic Preservation stating that an archaeologist is not considered to have the appropriate expertise to determine what properties are or are not of religious and cultural significance to a tribe.

49. Has the Tribe conducted surveys of cultural resources along the Preferred Route of the Keystone XL Pipeline?

A: The Tribe has looked at and gathered information at a farm owned by the Alpress family and the property just southeast of that farm. Although the Tribe has finished gathering information, the surveys are not yet complete.

50. Has the Tribe been able to conduct surveys along the entire Preferred Route?

A: No.

51. If the Tribe was able to complete surveys of the entire Preferred Route, do you believe you would find additional cultural resources?

A: Yes.

52. Has the Tribe been able to conduct surveys along the entire Mainline Alternative Route?

A: No.

53. If the Tribe was able to complete surveys of the entire Mainline Alternative Route, do you believe you would find additional cultural resources?

A: Yes.

54. Are you familiar with the trail followed by the members of the Ponca Tribe led by Chief Standing Bear to and from Oklahoma in 1877 during their forced removal from their home and subsequent return, sometimes referred to as the "Ponca Trail of Tears" or "Chief Standing Bear Trail"?

A: Yes.

55. Can you provide a brief history of the events surrounding the Tribe's original walk along the Ponca Removal Trail?

A: The Tribe was forced south from Niobrara on May 17th of 1877 and traveled south to the Quapaw reservation. There were nine Tribal members who died along the way, including Standing Bear's daughter. These Tribal members are buried along the Trail. And they were met with bad weather and terrible conditions throughout the journey.

56. What is the significance of the Ponca Removal Trail to the Tribe?

A: That the Tribe was removed from almost perfect farmlands and their homelands and placed on lands that were far from good for growing crops and an environment that was even worse for the health of the Tribal members.

57. Does the Tribe conduct events or have legal holidays related to the Ponca Removal Trail? If so, describe them.

A: Yes. There are celebrations for White Buffalo Girl who is buried in Neiligh as well as the Chief Standing Bear Breakfast held in the State capitol every year. And the Ponca Tribe just held its first Ponca Remembrance Walk to commemorate the 140th year anniversary of the Tribe's removal.

58. You mentioned the Ponca Remembrance Walk; does the Tribe and its members conduct a remembrance walk every year?

A: This year was the first year and there are plans to do it again.

59. Is the Ponca Removal Trail significant to the State of Nebraska other than the Tribe and how?

A: Yes. There are many non-tribal members who supported the Tribe along the walk and the Nebraska Trails Foundation gifted the tribe a 19 mile stretch of the trailhead.

60. Does the State of Nebraska conduct or participate in events or any kind of celebration onr recognition surrounding the Trail and Chief Standing Bear? If so, describe them.

A: Yes, the Chief Standing Bear Breakfast is an exciting event that the Nebraska Commission

of Indian Affairs hosts.

61. Has there been any action to designate the entire Ponca Removal Trail as a National

Historic Trail?

A: Yes.

62. What are those actions?

A: There are currently actions being taken to designate a virtual trail on the National Historical

Register. Also, in 2015, Congressman Jeff Fortenberry from Nebraska introduced legislation to

study the designation of the Trail as Chief Standing Bear National Historic Trail. The legislation

passed the House that year and a similar bill passed the House the year before. It seems to keep

getting stuck in the Senate.

63. In your opinion, is the Ponca Removal Trail eligible for inclusion in the National

Register of Historic Places?

A: Yes.

64. Is the location of the Ponca Removal Trail known with precision or is it more of an

approximation?

A: There are very good records of the Trail's location.

65. In your opinion, is the Ponca Removal Trail's location known enough to conduct

cultural surveys of the Trail and have a sufficient idea of its location to protect it and prevent

damage to or destruction of it?

A: Yes.

66. Are there existing designated cultural or historic sites along the Ponca Removal Trail?

If so, describe them.

A: Yes. The gravesites of White Buffalo Girl and Praireflower as well as the Ponca Tribe of Nebraska Historical Marker at the Milford rest area on I-80. There is a historical marker outside of Niobrara State Park on Highway 12.

67. So, there are two sets of human remains already identified along the Ponca Removal Trail?

A: Yes.

68. And you testified that nine people died while traveling along the Ponca Removal Trail, correct?

A: Yes.

69. Have you reviewed the proposed Preferred Route of the Keystone XL Pipeline project with specific regard to the portions of the project which will cross or run near the Ponca Removal Trail?

A: Yes.

70. Will the Preferred Route cross the Ponca Removal Trail?

A: Yes.

71. Will the Preferred Route run along or near the Ponca Removal Trail?

A: Yes.

72. Have you reviewed the proposed Mainline Alternative Route of the Keystone XL Pipeline project with specific regard to the portions of the project which will cross or run near the Ponca Removal Trail?

A: Yes.

73. Will the Mainline Alternative Route cross the Ponca Removal Trail?

A: Yes.

74. Will the Mainline Alternative Route run along or near the Ponca Removal Trail? A: Yes. 75. I'd like to show you a map that was provided by TransCanada (Exhibit E). Have you reviewed this map? A: Yes. **76.** What does the map depict? It shows where the Preferred Route and the Mainline Alternative Route would cross the A: Ponca Removal Trail in Antelope County. 77. Would you say this map accurately depicts the location of the Ponca Removal Trail? A: Yes. **78.** Does the map indicate where TransCanada has conducted cultural surveys? A: Yes. **79.** Based on this map, has TransCanada conducted a survey of where the Preferred Route would cross the Ponca Removal Trail at this location in Antelope County? No. A: 80. I'd like to show you a map that was provided by TransCanada (Exhibit F). Have you reviewed this map? A: Yes. 81. What does the map depict? It shows where the Preferred Route would cross the Ponca Removal Trail at a second location A: in Antelope County. 82. Would you say this map accurately depicts the location of the Ponca Removal Trail?

Yes.

A:

A:	Yes.
84.	Based on this map, has TransCanada conducted a survey of where the Preferred Route
woul	d cross the Ponca Removal Trail at this location in Antelope County?
A:	Yes.
85.	Does the map show any other historic or cultural sites?
A:	Yes.
86.	What is that site depicted on the map?
A:	A Ponca encampment.
87.	Is this particular site specifically referenced or documented in historical documents?
A:	Yes.
88.	Would the pipeline be close to that historic trail campsite?
A:	Yes.
89.	In your opinion, would construction of the Keystone XL Pipeline along the Preferred
Rout	te threaten that historic trail campsite? If so, describe how it could threaten the site.
A:	Yes. It could be destroyed.
90.	In your opinion, could construction of the Keystone XL Pipeline along the Preferred
Rout	te damage or destroy that historic trail campsite? If so, describe how.
A:	Yes. Peeling off the topsoil could remove any cultural remains that might still be there.
91.	Do you believe that if the pipeline leaked near that historic trail site, it could damage
or de	estroy that historic site? If so, describe how.
Δ.	Ves the clean up process would remove either all or some of the site

Does the map show where TransCanada has conducted cultural surveys?

83.

- 92. In your opinion, would construction of the Keystone XL Pipeline along the Preferred Route damage or destroy parts of the Ponca Removal Trail where it is crossed by the Pipeline?
- A: Yes, it would. By peeling back the topsoil there can be significant loss of sacred sites.
- 93. Please describe how parts of the Ponca Removal Trail would be damaged or destroyed by construction of the Keystone XL Pipeline along the Preferred Route.
- A: There may be sacred sites along the Trail that if damaged will be lost forever.
- 94. In your opinion, would the Ponca Tribe of Nebraska's cultural and historic resources be irreparably harmed by the construction and presence of the Keystone XL Pipeline along the Preferred Route?
- A: Yes.
- 95. Please describe how those cultural and historic resources would be irreparably harmed.
- A: There is a chance they would be destroyed and lost forever.
- 96. I'd like to show you a map that was provided by TransCanada (Exhibit G). Have you reviewed this map?
- A: Yes.
- 97. What does the map depict?
- A: It shows where the Mainline Alternative route would cross the Ponca Removal Trail a second time in Seward County.
- 98. Would you say this map accurately depicts the location of the Ponca Removal Trail?
- A: Yes.
- 99. Does the map indicate that TransCanada has conducted cultural surveys where the Mainline Alternative Route would cross the Ponca Removal Trail?

A: No. Based on the map, they have not done any cultural surveys along the route in the area covered by this map.

100. So, based on this map, TransCanada has not conducted a survey of where the Mainline Alternative Route would cross the Ponca Removal Trail at this location in Seward County?

A: No.

101. In your opinion, would construction of the Keystone XL Pipeline along the Mainline Alternative Route damage or destroy parts of the Ponca Removal Trail where it is crossed by the Pipeline?

A: Yes.

102. Please describe how parts of the Ponca Removal Trail would be damaged or destroyed by construction of the Keystone XL Pipeline along the Mainline Alternative Route.

A: Removal of the topsoil and the trenching can and will destroy sites along the path.

103. In your opinion, would the Ponca Tribe of Nebraska's cultural and historic resources be irreparably harmed by the construction and presence of the Keystone XL Pipeline along the Mainline Alternative Route?

A: Yes.

104. Please describe how those cultural and historic resources would be irreparably harmed.

A: They would be destroyed and no longer exist.

105. In your opinion, would construction of the Keystone XL Pipeline along either the Preferred Route or the Mainline Alternative Route affect the Ponca Tribe of Nebraska's access to cultural and historic resources along the route?

A: Yes.

106. Please describe how access to such resources would be hindered by construction of the Keystone XL Pipeline along either the Preferred Route or the Mainline Alternative Route.

A: They would be erased from the landscape. Access would not just be hindered, it would not exist anymore. Once the site is gone from constructing the pipeline, there is no site remaining to access.

107. In your opinion, would the presence of the Keystone XL Pipeline along either the Preferred Route or the Mainline Alternative Route, once completed, pose any ongoing problems with regard to cultural or historic resources?

A: Yes.

108. Please describe how it would pose ongoing problems.

A: There is always a chance for a leak in a pipeline and the damage caused by repairs and clean up can and may destroy Ponca sites. There also could be a question about whether the Tribe and its members will allowed to access the sites.

109. In your opinion, is there a significant chance that there will be unanticipated discoveries along the Ponca Removal Trail during construction of the Keystone XL Pipeline either along the Preferred Route or the Mainline Alternative Route?

A: Yes, there is that chance.

110. You testified that the Tribe has started some cultural surveys along the Preferred Route and Mainline Alternative Route; did the Tribe find any cultural resources in the places surveyed along the Preferred Route?

A: Yes.

111. Describe the cultural resources found along the Preferred Route.

A: We have found two earth lodge villages along the route. These were found when the Tribe visited the farm owned by the Alpress family and the property just southeast of that farm. They are entire former villages. The site on the Alpress farm is about a half an acre in size and the site on the land southeast of the Alpress farm is about 2 to 3 acres in size. I believ that they are former Ponca villages.

112. In your opinion, are either of the earth lodge village sites eligible for inclusion in the National Register of Historic Places?

A: At this time, I cannot say with 100% certainty, but I believe the larger village likely is an eligible historic property.

113. Has the Tribe found any cultural resources along the Mainline Alternative Route?

A: Yes.

114. Describe the cultural resources found along the Mainline Alternative Route.

A: They are the same village sites found along the Preferred Route.

115. In your opinion, would construction of the Keystone XL Pipeline along either the Preferred Route or the Mainline Alternative Route threaten these earth lodge villages?

A: Yes.

116. Describe how it could threaten the earth lodge villages.

A: They could be destroyed by construction.

117. In your opinion, could construction of the Keystone XL Pipeline along the Preferred Route or the Mainline Alternative Route damage or destroy these earth lodge villages?

A: Yes.

118. Describe how it could damage or destroy these earth lodge villages.

A: They would be destroyed by removal of the topsoil and the trenching.

119. In the event the pipeline leaked near cultural resources along either the Preferred Route or the Mainline Alternative Route, could it damage or destroy these cultural resources?

A: Yes, it could. They might have to remove all of the soil and if that happens, the cultural resources would be entirely gone forever. I don't think there is really a way to do mitigation in those circumstances.

120. Would you say, in your opinion, that the construction and presence of the Keystone XL Pipeline would deplete beneficial uses of historic and cultural resources along the pipeline, including the Ponca Removal Trail? If so, how.

A: Yes. If it leaks and has to be repaired, then there is the possibility of damage to the Trail or sites that would damage the Trail and hinder its use. If the soil becomes contaminated and they have to remove it, the sites would be entirely gone. I don't think there is really a way to do mitigation if there is a leak.

121. Besides the Ponca Removal Trail, in your opinion, is there a significant chance that there will be unanticipated discoveries during construction of the Keystone XL Pipeline either along the Preferred Route or the Mainline Alternative Route?

A: Yes. Just by visiting two farms, the Tribe found two earth lodge villages. The chances of finding more sites along either route is definitely there.

122. In your professional capacity, has TransCanada Keystone XL Pipeline, LP contacted you or the Culture Department with regard to construction of the Keystone XL Pipeline?

A: Not me, but they had contacted the former Culture Director.

123. To the extent of your knowledge, was the Keystone XL Pipeline's impact on cultural and historic resources of the Tribe discussed during these meetings?

A: No.

124. To the extent of your knowledge, did TransCanada propose or otherwise agree to any mitigating measures in order to reduce the pipeline's impact on the Tribe's cultural and historic resources?

A: No.

125. I am showing you an excerpt from TransCanada's Application which is Section 2.19 of the Construction Mitigation and Reclamation Plan (Exhibit H). What does that section state about TransCanada avoiding cultural and historic resources?

A: It says they intend to avoid cultural resources by rerouting the pipeline corridor, avoiding construction activities on historic properties, or by boring or using HDD through culturally sterile soils.

126. In your opinion, is it possible for the Keystone XL Pipeline to be constructed along the Preferred Route or the Mainline Alternative Route while avoiding construction activities on the Ponca Removal Trail?

A: No, not with these proposed routes.

127. In your opinion, could TransCanada use boring techniques to construct the Keystone XL Pipeline under the Ponca Removal Trail without disturbing the Trail?

A: Yes, there is that possibility.

128. In your opinion, if TransCanada used boring techniques to construct the Keystone XL Pipeline under the Ponca Removal Trail, would it avoid disturbing other cultural resources along the Trail?

A: No.

129. In the event the pipeline leaked under the Ponca Removal Trail, would it damage or destroy that historic site?

A: Yes, that can happen. If the soil were to become contaminated with tar sands, oil, cleaning agents, or other contaminants and they remove the soil, the sites would be entirely gone. I don't believe there is really any way to do mitigation to protect cultural or historic sites if there is a leak.

130. In your opinion, is the only way the Keystone XL Pipeline can avoid the Ponca Removal Trail to reroute the pipeline as TransCanada mentioned in Section 2.19 of the Construction Mitigation and Reclamation Plan?

A: Yes.

131. What is a programmatic agreement?

A: A programmatic agreement, or PA, is a document that spells out the terms of a formal, legally binding agreement between state and/or federal agencies, Indian tribes and others that establishes a process for consultation, review, and compliance with one or more federal laws, usually federal laws concerning historic preservation.

132. Is there a Programmatic Agreement for the Keystone XL Pipeline?

A: Yes. The Department of State, TransCanda, several other federal agencies, and some Indian tribes have entered into a PA for the pipeline.

133. Are you familiar with the Programmatic Agreement covering the construction of the Keystone XL Pipeline?

A: Yes.

134. Is the Ponca Tribe of Nebraska a party to that Programmatic Agreement?

A: To the best of my knowledge, the Tribe attended meetings about the PA and was involved with it, but did not become a party to it at this point.

135. To your knowledge, was the Ponca Tribe of Nebraska ever asked to be a party to that Programmatic Agreement?

A: Yes.

136. To the best of your knowledge, does the Ponca Tribe of Nebraska and the Culture

Department have concerns with the adequacy of the Programmatic Agreement?

A: Yes.

137. What are the Tribe's and the Culture Department's concerns with the Programmatic

Agreement?

A: Surveys were apparently not done along the entire route so the PA is immediately deficient

since it does not consider handling the specific existing sites that have not been surveyed, like the

Ponca Removal Trail.

138. I'd like to show you a map that was provided by TransCanada (Exhibit I). Have you

reviewed this map?

A: Yes.

139. What does the map depict?

A: It shows each of the proposed routes in relation to the Ponca Tribe's Service Areas.

140. What are the "Service Areas" of the Tribe?

A: When Congress restored the United States' relationship with the Tribe, it prohibited the Tribe

from re-establishing a formal reservation. Instead, it designated fifteen counties where the Tribe and

its members are deemed to be residing on or near a reservation.

141. Does the map show that the Preferred Route would cross through the Ponca Tribe of

Nebraska's Service Areas?

A: Yes.

142. Which Service Areas would the Preferred Route cross?

A: Boyd and Holt Counties.

143. Does the map show that the Mainline Alternative Route would cross through the Ponca
Tribe of Nebraska's Service Areas?

A: Yes.

144. Which Service Areas would the Mainline Alternative Route cross?

A: Boyd, Holt, Madison, Stanton and Platte Counties.

145. Does the map show that the Sandhills Alternative Route would cross through the Ponca
Tribe of Nebraska's Service Areas?

A: Yes.

146. Which Service Areas would the Sandhills Alternative Route cross?

A: Holt County.

147. To your knowledge, has the governing body of the Ponca Tribe of Nebraska ever consented to construction of the proposed Keystone XL Pipeline through the Tribe's Service Areas?

A: No.

148. In your opinion, with respect to cultural and historic resources, would construction and operation of the Keystone XL Pipeline along the Preferred Route serve the public interest of Nebraska and Nebraskans?

A: No, it would not.

149. In your opinion, with respect to cultural and historic resources, would construction and operation of the Keystone XL Pipeline along the Mainline Alternative Route serve the public interest of Nebraska and Nebraskans?

A: No, it would not.

150. Is there anything else you would like to say to the Nebraska Public Service Commission?

A: I would hope that they would look long and hard at these routes and realize that none of them will be able to avoid historic sites and that many of these sites would be destroyed and lost forever.

Shannon Wright

COUNTY OF KNOX)
STATE OF NEBRASKA)

Subscribed and sworn to before me this _______ day of June, 2017.

GENERAL NOTARY - State of Nebraska
CHRISTINE J. MINARIK
My Comm. Exp. Jan. 10, 2018

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

)	
IN THE MATTER OF THE APPLICATION)	
OF TRANSCANADA KEYSTONE)	Application No. OP-0003
PIPELINE, L.P. FOR ROUTE APPROVAL)	
OF THE KEYSTONE XL PIPELINE)	WITNESS LIST OF
PROJECT PURSUANT TO THE MAJOR)	PONCA TRIBE OF NEBRASKA
OIL PIPELINE SITING ACT.)	
)	

The Ponca Tribe of Nebraska ("Tribe"), formal intervenor in the above-captioned matter, in accordance with the Order Entering Case Management Plan dated April 5, 2017 as modified by the Order Granting Motion for Extension of Time of the Nebraska Public Service Commission, provides the Commission with this list of witnesses for the Tribe:

Witness Title/Organization		Address	
Wright, Shannon	Tribal Historic Preservation Officer	2523 Woodbine Street	
	Ponca Tribe of Nebraska	P.O. Box 288	
		Niobrara NE 68760	

Dated: June 7, 2017

Brad S. Jolly, #23720

BRAD S. JOLLY & ASSOCIATES

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Telephone: (720) 685-7105 Facsimile: (206) 339-7209 Email: bsj@bsjlawfirm.com

ATTORNEY FOR PONCA TRIBE OF NEBRASKA