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Aliens in the Garden

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ALIENS IN THE GARDEN

Jared A. Goldstein*

ABSTRACT

This Article examines environmental rhetoric and argues that a nationalist conception of nature has long distorted environmental policies. Environmental discourse frequently seeks to explain the natural world by reference to the world of nations, a phenomenon that can be characterized as the “nationalization of nature.” A contemporary example of the nationalization of nature is the rhetoric of “invasive species,” which depicts harmful foreign plants and animals in ways that bear an uncanny resemblance to the demonization of foreigners by opponents of immigration. A typical newspaper article about invasive species, bearing the headline “Eeeeeek! The eels are coming!,” warned about an influx of “Asian swamp eels” and described them as “slimy, beady-eyed immigrants.” The nationalization of nature is a longstanding trope in American environmental discourse, as policies toward native and foreign plants and animals have long served as surrogates for addressing questions of national identity. Conceiving of environmental problems through the lens of nationalism, however, distorts environmental policies by projecting onto nature unrelated anxieties about national security and national identity.

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INTRODUCTION

Many opponents of federal immigration policies believe that America is under invasion. On CNN, Lou Dobbs routinely accuses President Bush of failure to “slow the invasion of illegal aliens,” and Patrick Buchanan has described the immigration of large numbers of persons from Third World countries as “the greatest invasion in history.”¹ Vigilante groups like the Minutemen have sought to take on the duty to secure the borders themselves, asserting that the failure to prevent illegal immigration amounts to a violation of the constitutional duty to protect the country “from invasion by enemies foreign and domestic.”² The invasion of immigrants is seen as threatening the very existence of American civilization. As Congressman and one-time presidential candidate Tom Tancredo said in a television ad, the foreign invaders are “Pushing Drugs. Raping Kids. Destroying Lives.”³

Environmentalists, too, believe that America is being invaded, but to them the country is under invasion by foreign plants and animals. In recent years, a grassroots movement has sought to protect so-called native plants and animals against so-called invasive aliens, species like kudzu, gypsy moths, fire ants, starlings, killer bees, and zebra mussels, which were introduced to the United States from abroad.⁴ Without the predators and other

¹ Lou Dobbs, *Feds' Border Action Not Nearly Enough*, CNN.com, Apr. 14, 2005, <http://www.cnn.com/2005/US/03/31/border.agents/index.html> (last visited Feb. 18, 2008); Patrick J. Buchanan, *STATE OF EMERGENCY: THE THIRD WORLD INVASION AND CONQUEST OF AMERICA 5* (2006).

² The Minuteman Civil Defense Corps, About Us, <http://minutemanhq.com/hq/aboutus.php>.

³ See <http://www.youtube.com/watch?v=JJNHIUrKqR8>.

⁴ For a list of non-governmental organizations dedicated to protecting native species from invasive alien species, see <http://www.invasivespeciesinfo.gov/resources/orgprof.shtml>.

forces that keep them in check in their previous habitats, the populations of some species introduced to North America have grown exponentially, imposing significant costs on agriculture and industry and substantially altering the composition of American ecosystems, pushing many species toward extinction.⁵ Policy discussions about invasive species sound an alarming, science fiction note, warning of foreign dangers that secretly cross the borders and threaten the nation from within. Typical of the genre is *Weeds Gone Wild*, a web site maintained by the National Park System, which has declared: “Legions of alien invaders are silently creeping into the United States and taking over our native plants and animals at an alarming rate.”⁶

This Article examines the rhetoric of “alien invasion” used by opponents of both immigration and invasive species, and argues that a nationalist conception of nature is significantly distorting environmental policies. Invasion rhetoric invokes transgressions of protected spaces by alien forces. While “invasion” may conjure up images of a military invasion by a foreign army, “invasion” describes many other kinds of unwanted and harmful boundary crossings. Diseases are said to *invade* the body.⁷ Linguistic purists claim to defend the language against an *invasion* of foreign words.⁸

⁵ See National Invasive Species Council, Management Plan, *Meeting the Invasive Species Challenge* (2001) [hereinafter “NISC Management Plan”]; U.S. Congress, Office of Technology Assessment, *Harmful Non-Indigenous Species in the United States*, OTA-F-565 (1993) [hereinafter “OTA Report”]; General Accounting Office, *Invasive Species: Clearer Focus and Greater Commitment Needed to Effectively Manage the Problem* (Oct. 2002) [hereinafter “GAO Report”]. The prevailing wisdom on the harms caused by invasive species has been challenged by Mark Sagoff, *Do Non-Native Species Threaten the Natural Environment?*, JOURNAL OF AGRICULTURAL AND ENVIRONMENTAL ETHICS (2005) 18: 215–236, and David Theodoropoulos, *INVASION BIOLOGY: CRITIQUE OF A PSEUDOSCIENCE* (2003).

⁶ National Park Service, Fact Sheet: *Weeds Gone Wild: What the Heck is an Invasive Plant?* available at <http://www.nps.gov/plants/alien/> [hereinafter “Weeds Gone Wild”].

⁷ See Susan Sontag, *ILLNESS AS METAPHOR* 5 (1978).

⁸ The Académie Française, for instance, declared as its mission “to defend the French language against all types of corruption, such as the invasion of foreign words, technical terms, slang and the barbarous expressions which

Invasion is also a familiar legal trope: property may be unlawfully taken by physical invasions, privacy may be invaded by government eavesdropping, and bank accounts may be invaded by those without rights to the funds. Supreme Court citation of foreign law in interpreting the U.S. Constitution has repeatedly been derided as a “foreign invasion.”⁹ Describing these occurrences as invasions expresses the anxieties aroused when protected zones (the national borders, the body, or the Constitution) are perceived to have been breached, contaminated, and corrupted by foreign entities and ideas.¹⁰

Considering the physical and symbolic importance of the nation’s borders, it may not be surprising that both unwanted immigration and the introduction of harmful species provoke anxieties of “foreign invasions,” a crossing of the line protecting America from the rest of the world. But what *is* surprising is how consistently Americans have envisioned the human and non-human invaders. Unwanted immigrants are said to be unable to assimilate into American culture, while unwanted species are said to be unable to assimilate into American ecosystems.¹¹ Unwanted immigrants and invasive species are both described as aggressive

crop up from day to day.” *DICTIONNAIRE DE L’ACADEMIE FRANÇAISE* iv (8th ed. 1932).

⁹ See, e.g., Donald J. Kochan, *No Longer Little Known But Now a Door Ajar: An Overview of the Evolving and Dangerous Role of the Alien Tort Statute in Human Rights and International Law Jurisprudence* 8 *CHAP. L. REV.* 103, 125 (2005) (asserting that Supreme Court precedent allows “inappropriate invasions of supposed international law into U.S. courts”); Donald J. Kochan, *Sovereignty and the American Courts at the Cocktail Party of International Law: The Dangers of Domestic Judicial Invocations of Foreign and International Law* 29 *FORDHAM INT’L L.J.* 507, 542 (2006) (“The invocation of international or foreign law invades the lawmaking authority of the elected branches on many counts.”).

¹⁰ Anthropologist Mary Douglas captured this idea in her thesis that taboos about bodily pollution serve to maintain social order by maintaining boundaries around “cherished classifications.” Mary Douglas, *PURITY AND DANGER: AN ANALYSIS OF THE CONCEPTS OF POLLUTION AND TABOO* 36 (1966) (“[O]ur pollution behaviour is the reaction which condemns any object or idea likely to confuse or contradict cherished classifications.”).

¹¹ See John Higham, *STRANGERS IN THE LAND* 4-5 (2d ed. 1988).

and are said to be characterized by uncontrolled sexuality and high reproductive rates, which threaten to overwhelm native-born American people and native species.¹² Unwanted immigrants are said to deny jobs to the native-born and to displace the natives from their rightful place in America, while unwanted species are said to deprive native species of the resources they need to survive and to displace them from their ecological jobs.¹³ Both unwanted immigrants and unwanted foreign species are said to bring disease and filth, polluting the purity of the national community.¹⁴

Unwanted immigrants and unwanted foreign species are frequently compared to each other. In a particularly memorable instance, talk radio host Rush Limbaugh complained that federal law blocks foreign species “like mollusks and spermatozoa” from entering the country, while “invasive species in the form of illegal

¹² National Invasive Species Council, Management Plan, *Meeting the Invasive Species Challenge* 11 (2001) [hereinafter “NISC Management Plan”]; Weeds Gone Wild, *supra* note 6, at 2; Alaska Committee for Noxious and Invasive Plants Management, *Strategic Plan for Noxious and Invasive Plants Management in Alaska*,” at 8, available at <http://www.cnipm.org>.

¹³ David H. Bennett, *THE PARTY OF FEAR: FROM NATIVIST MOVEMENTS TO THE NEW RIGHT IN AMERICAN HISTORY* 85, 165, 172-175 (2d ed. 1995) (Catholic immigrants were seen as “job stealers” taking jobs “desperately needed by real Americans”); Peter Brimelow, *ALIEN NATION: COMMON SENSE ABOUT AMERICA’S IMMIGRATION DISASTER* 118 (1996) (discussing the “various ways in which [immigration] hurts native-born Americans, such as displacing them from jobs”); Madison Grant, *Closing the Flood-Gates*, in *THE ALIEN IN OUR MIDST* 13, 15, 19 (Madison Grant and Charles Stewart Davison, eds. 1930) (“These immigrants drive out the native; they do not mix with him.”).

¹⁴ Norman S. Dike, *Aliens and Crime*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 81 (describing Mexican immigrants as “[d]iseased, ignorant and belonging to a greatly lower class”); Brimelow, *supra* note 13, at 186-187; Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 164 (“Slavs are immune to certain kinds of dirt, they can stand what would kill a white man . . . [they] violate every sanitary law yet survive.”) (quoting nativist tract); Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 162, 165, 168; Higham, *STRANGERS IN THE LAND*, *supra* note 11, at 161; Dike, *supra*, at 80-85; Brimelow, *supra* note 13, at 7, 182-186.

immigration is fine and dandy.”¹⁵ Limbaugh may be alone in the belief that spermatozoa are a kind of foreign plant or animal, but he is far from the first to compare unwanted immigrants to invasive species. In the nineteenth century, Chinese immigrants were demonized as “swarming hordes.”¹⁶ During the Depression, Mexican workers were compared to “that other importation from Mexico, the boll-weevil, [although] this creeping blight goes further afield and robs more of our own people of the chance to live on a civilized plane.”¹⁷ Comparisons of unwanted immigrants and unwanted species more often go in the other direction, as harmful foreign species are routinely compared to illegal immigrants. A typical newspaper article about invasive species, bearing the headline “Eeeeeek! The eels are coming!,” warns about an influx of “Asian swamp eels”: “These slimy, beady-eyed immigrants are slithering toward the Everglades. Scientists fear they may be to that ecosystem what Godzilla was to Tokyo.”¹⁸

Environmental discourse frequently seeks to explain the natural world by reference to the world of nations, a phenomenon I refer to as the “nationalization of nature.” Part I presents a framework grounded in metaphor theory for understanding comparisons between unwanted immigrants and unwanted species by showing that *nature* and *nation* are often understood through common conceptual metaphors. Part II seeks to show that the nationalization of nature has been a prevalent feature in American thought from colonial times to the present, and policies and attitudes toward native and alien species have long served as surrogates for addressing questions of national identity. Part III discusses how

¹⁵ See Limbaugh called illegal immigrants an “invasive species,” Media Matters For America (April 5, 2005), sound clip available at <http://mediamatters.org/items/200504040001>.

¹⁶ Keith Aoki, “Foreign-Ness” & Asian American Identities: Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes, 4 Asian Pac. Am. L.J. 1, 32-33 (1996).

¹⁷ Major Frederick Russell Burnham, *The Howl for Cheap Mexican Labor*, in THE ALIEN IN OUR MIDST, *supra* note 13, at 45-46.

¹⁸ Jeff Klinkenberg, *Eeeeeek! The eels are coming!*, St. Petersburg TIMES (Feb. 15, 2001).

contemporary discourse on invasive species exemplifies the nationalization of nature. As that Part argues, conceiving the problem of invasive species through the lens of nationalism distorts environmental discourse by projecting onto nature anxieties about national security and national identity.

This Article does not challenge the conclusion that introduced species disrupt ecosystems and lead to ecological harms. Yet the choice of “invasion” rhetoric to describe the phenomenon of invasive species largely determines the policies offered to address it. As John Dewey explained, “The way in which the problem is conceived decides what specific suggestions are entertained and which are dismissed; what data are selected and which rejected; it is the criterion for relevancy and irrelevancy of hypotheses and conceptual structures.”¹⁹ Once unwanted immigration is understood as an invasion, the solutions are obvious: build a fence to repel the invasion and order the military to fight the invaders. Once the introduction of unwanted species is understood as an invasion, the solutions are much the same: enforce strict border controls to keep harmful species out of the country, eradicate any successful invaders, and restore American species to their rightful places.²⁰ Indeed, after September 11th, responsibility for keeping invasive species out of the country was transferred to the Department of Homeland Security, consolidating its authority to repel invasions by both plants and people.²¹

¹⁹ John Dewey, *LOGIC: THE THEORY OF INQUIRY* 108 (1938).

²⁰ As the National Invasive Species Council explains, federal invasive species policies are comprised of three aspects. First, federal law seeks to keep invasive species from crossing the borders. *See* NISC Management Plan, *supra* note 12, at 4 (“The first line of defense is prevention.”). Second, federal policies seek “to prevent the spread of invasives” and “to lessen their impacts through control measures,” such as “eradication” and “population suppression, including through physical restraints and the judicious use of pesticides.” *Id.* at 5-6, 34-36. Third, federal policies seek to restore communities of native species where feasible. *Id.* at 6-7, 40-41; *see also* Executive Order 13,112 (Feb. 3, 1999).

²¹ *See* Homeland Security Act of 2002 § 421(a); Memorandum of Agreement Between the United States Department of Homeland Security (DHS) and the United States Department of Agriculture (USDA), DHS Agreement No.

I. TOWARD A THEORY OF THE NATIONALIZATION OF NATURE

The rhetoric of invasive species is based on a central metaphor: the introduction of harmful foreign species is tantamount to a foreign invasion. Invasive species policies speak the language of immigration. Federal law categorizes all plants and animals as either “natives” or “aliens.”²² “Natives” are plants or animals that were living in what is now the United States when Columbus arrived, and “aliens” are the species that have immigrated since then.²³ Foreign species that can survive in the wild without causing harm are categorized as “naturalized aliens.”²⁴ “Invasive aliens” are the small subset of foreign species that survive in the wild and cause economic or environmental harms.²⁵ But this is only a metaphor. Ecosystems are not nations. They lack established borders, members, or governments.²⁶ And plants and animals have

BTS-03-0001, USDA-APHIS Agreement No. 03-1001-0382-MU (Feb. 28, 2003).

²² Executive Order 13,112 § 1(f) (Feb. 3, 1999).

²³ For various invasive species-related terminology, see United States Dept. of Agriculture, Forest Service, *Pacific Northwest Region Invasive Plant Program Preventing and Managing Invasive Plants, Final Environmental Impact Statement* (April 2005) at 3-1 [hereinafter “Forest Service FEIS”]; OTA Report, *supra* note 5, at 51-53.

²⁴ See, e.g., OTA Report, *supra* note 5, at 3, 53; Forest Service FEIS, *supra* note 23, at 3-1. Some federal agencies treat naturalized aliens like natives, while others, like the National Park Service, have declared “Once an exotic, always an exotic!” *Compare Weeds Gone Wild*, *supra* note 6, with OTA Report, *supra* note 5, at 178 n.20; Forest Service FEIS, *supra* note 23, at 3-5 n.23.

²⁵ Executive Order 13,112 § 1(f) (Feb. 3, 1999). According to the “tens rule” of biological invasions proposed by biologist Mark Williamson, approximately 10% of imported species can survive without human protection, 10% of the species that can survive without human protection establish self-sustaining populations, and 10% of the species that establish self-sustaining populations become invasive. See Mark A. Davis, *Invasion Biology 1958-2004: The Pursuit of Science and Conservation*, in *CONCEPTUAL ECOLOGY AND INVASIONS BIOLOGY: RECIPROCAL APPROACHES TO NATURE* (M. W. Cadotte, S. M. McMahon, T. Fukami, eds. 2005).

²⁶ For instance, unlike modern nation-states, ecosystems do not have clear boundaries and the plants and animals that inhabit them are constantly shifting.

no citizenship. To describe a species as an “invasive alien” involves the application of terms and concepts familiar from the world of nations—natives, aliens, and invasions—to the problem of introduced plants and animals.

Through metaphors, of course, we understand one kind of thing in terms of another.²⁷ Cognitive linguists George Lakoff and Mark Johnson revolutionized the study of metaphors by demonstrating that metaphors are not merely rhetorical flourishes but constitute a fundamental part of conceptual systems that shape our experiences. Cognitive metaphor theory, as elaborated by Lakoff, Johnson, and others, reveals that metaphors unconsciously underlie much of our thinking.²⁸ For instance, we routinely understand knowledge in terms of vision: *I see what you mean; she shed light on the problem; I was left in the dark*. In these examples, notions associated with physical vision (seeing, light, and dark) are used to explain the process of knowing. In the terms used by cognitive linguistics, vision is the “source domain,” comprised of words and ideas associated with vision, and these metaphors work by “mapping” elements from the source domain onto the “target domain,” in this case, knowledge.²⁹

The choice of metaphor used to describe a phenomenon plays a fundamental role in shaping understanding of the phenomenon. As Jack Balkin has stated, “metaphoric models selectively describe a

See Michael Begon, et al., *ECOLOGY: INDIVIDUALS, POPULATIONS AND COMMUNITIES* 691 (3d ed. 1996) (“There may be communities that are separated by clear, sharp boundaries, where groups of species lie adjacent to, but do not intergrade into, each other. If they exist, they are exceedingly rare and exceptional. . . . The safest statement we can make about community boundaries is probably that they do not exist, but that some communities are much more sharply defined than others. The ecologist is better employed looking at the ways in which communities grade into each other, than in searching for sharp cartographical boundaries.”)

²⁷ George Lakoff and Mark Johnson, *METAPHORS WE LIVE BY* 5 (1980).

²⁸ *See, e.g.*, Mark Johnson, *THE BODY IN THE MIND* (1987); Mark Turner, *THE LITERARY MIND: THE ORIGINS OF THOUGHT AND LANGUAGE* (1998).

²⁹ *See* George Lakoff & Mark Turner, *MORE THAN COOL REASON: A FIELD GUIDE TO POETIC METAPHOR* 38-40 (1989).

situation, and in so doing help to suppress alternative conceptions.”³⁰ Because the mapping from a source to a target domain is always selective, it is not only the choice of source and target domains that affects how a phenomenon is understood but the choice of elements mapped from one domain to the other. When we say that “marriage is a marathon,” we are not mapping all of the elements associated with the source domain (marathons) onto the target (marriage). Instead, what the metaphor conveys is that marriage shares certain elements associated with marathons, such as perhaps their duration or difficulty. We do not mean that marriage requires special shoes.

Metaphors like “invasive aliens” help make sense of unfamiliar and complex phenomena in familiar terms. Plants and animals that are introduced to new ecosystems sometimes cause enormous environmental harms, but those harms and the mechanisms for causing them are not obvious to the naked eye. In contrast to landscapes made barren by air or water pollution, a field or forest harmed by introduced species most often teems with life.³¹ What has changed is the composition of the species living there and the use they make of the available resources.³² The complex phenomenon of introduced species is made comprehensible by reference to the domain of nations and conventional understandings of foreign invasions. Once plants and animals are seen as citizens of nation-like ecosystems, it is easy to see introduced species as alien invaders, foreign forces that threaten to encroach and overpower the natives. As I will show in Part III, the metaphor of alien invasion significantly distorts environmental discourse by mapping onto the natural world certain elements associated with national invasions that are unrelated to introduced species, such as the conventional ideas that immigrants are

³⁰ See J.M. Balkin, *CULTURAL SOFTWARE: A THEORY OF IDEOLOGY* 247 (1998).

³¹ See Davis, *Invasion Biology*, *supra* note 25, at 13 (“[S]tudies in natural communities often found that the most diverse environments were the most heavily invaded.”); Philip E. Hulme, *Biological invasions: winning the science battles but losing the conservation war?*, 37 *Oryx* No. 2 178-193 (April 2003).

³² *Id.* at 189.

aggressive, hypersexual, and unassimilable, and threaten the American way of life.

Above all, the metaphor of invasive species is a nationalist metaphor, invoking notions of nationhood and national peoples to explain a biological phenomenon. As this Part argues, the metaphor of invasive species is but one example of a broader phenomenon, which I refer to as the “nationalization of nature,” in which the natural world is understood in nationalist terms. That phenomenon is closely connected to its corollary, which can be called the “naturalization of nations,” in which the metaphoric mapping goes in the opposite direction, and nations are conceived to be *natural*, in many senses of the word. Through these two sets of metaphors, nature is used to explain the ways that nations function, and nations are used to explain the ways of nature. As I will attempt to show, these twin sets of metaphors serve important functions of maintaining the boundaries separating the protected spheres of nature and nation from foreign forces perceived to threaten them.

A. The Naturalization of Nations

The broad concepts of *nation* and *nature* share deep connections. Both words derive from the Latin word, *nasci*, meaning “birth.”³³ In their original uses, the word *nation* referred to a people born of a common ancestry, and *nature* referred to the immutable—or inborn—traits of a plant, animal, or thing. A nation was thus the group into which a person was born, and the character with which he was born was his nature. While the meanings of the two words have evolved and broadened over the centuries, it is commonplace, given their overlapping associations, to describe nations in natural terms and to describe the natural world in national terms.

Many leading political scientists consider the depiction of nations as natural units—what I am calling the “naturalization of

³³ See Walker Connor, *A Nation is a Nation, is a State, is an Ethnic Group, is a . . .*, in NATIONALISM 36, 38 (John Hutchinson and Anthony D. Smith, eds. 1994); Liah Greenfeld, NATIONALISM: FIVE ROADS TO MODERNITY 4-6 (1992).

nations”—a defining feature of nationalist movements. Nationalists uniformly assert that a nation is the fundamental (*i.e.*, natural) unit for organizing human societies.³⁴ Isaiah Berlin claimed that all nationalist ideologies share the belief that “the pattern of life in a society is similar to that of a biological organism.”³⁵ Leading contemporary political scientists like Elie Kedourie and Anthony D. Smith have expanded Berlin’s claim by asserting that nationalist ideologies uniformly assert that nationalist ideologies share the belief that “[h]umanity is *naturally* divided into nations.”³⁶ In this conception, each nation is thought of as a unique species or other biological unit that exists independently of all others.³⁷ As Smith notes, it would be absurd to take literally the claim that nations are “natural,” in the sense of deriving from physical, immutable forces, because, of course, nations are products of culture.³⁸ Instead, in the terms of cognitive linguistics, nationalists map elements from the domain of nature onto the nation. Nature is understood to be unquestionable, inevitable, and static, and the assertion that nations are “natural” conveys the idea that nations share these traits.³⁹

³⁴ See Anthony D. Smith, *NATIONS AND NATIONALISM* 149 (1995); Anthony D. Smith, *THE ANTIQUITY OF NATIONS* 245.

³⁵ Isaiah Berlin, *VICO AND HERDER: TWO STUDIES IN THE HISTORY OF IDEAS* (1976). The Nazi blood-and-soil version of nationalism, for instance, was founded on the belief that the “state is a national organism and not an economic organization.” Adolf Hitler, *MEIN KAMPF* 151 (1943, trans. Ralph Manheim); see also Jonathan Olsen, *NATURE AND NATIONALISM: RIGHT-WING ECOLOGY AND THE POLITICS OF IDENTITY IN CONTEMPORARY GERMANY* 53-80 (1999).

³⁶ Anthony D. Smith, *THEORIES OF NATIONALISM* 20-21 (1983); Anthony D. Smith, *ANTIQUITY OF NATIONS*, *supra* note 34, at 33, 245; Elie Kedourie, *NATIONALISM* 1 (4th ed. 1993); see also Michael Billig, *BANAL NATIONALISM* 37 (1995) (defining “nationalism” as “the ideology by which the world of nations has come to seem the natural world”).

³⁷ Conceptions of the nation-as-species often coincide with biological conceptions of race. See Anthony D. Smith, *NATIONAL IDENTITY: ETHNONATIONALISM IN COMPARATIVE PERSPECTIVE* (1993).

³⁸ Smith, *THEORIES OF NATIONALISM*, *supra* note 36, at 19.

³⁹ Nationalists often portray the national people to have arisen autochthonously, that is, organically, directly from nature. Nationalist

To compare a nation to an organism emphasizes that although a nation is made up of many individuals it functions as a single unit. In the nation-as-organism metaphor, alien elements within the body of state bring disease and must be eradicated. This sort of metaphor is illustrated by one contemporary American anti-immigration book that compares immigration to a “multiplying parasite [which] feeds on us as the host country as it consumes the foundation of our republic.”⁴⁰ Nations are also often compared to ecosystems. In *ALIEN NATION*, another contemporary American anti-immigration book, Peter Brimelow employs the nation-as-ecosystem metaphor: “[T]he culture of a country, exactly like its ecology, turns out to be a living thing, sensitive and even fragile. Neither can easily be intruded upon without consequences.”⁴¹ In this metaphor, unwanted foreigners are invasive plants and animals, which threaten to disrupt the delicate natural balance within the nation.

Nationalists favor imagery comparing the nation to nature because it conveys the nationalist program that the nation must be established or preserved to protect a fundamental order. The claim that nations are natural encompasses the idea that it is the *natural* state of a national group to govern itself. America for the Americans! France for the French! For a nation to be governed by foreigners is not just intolerable but *unnatural*.⁴² The naturalization

movements typically portray nations and national groups as having existed continuously since primordial, mythological time. See Smith, *ANTIQUITY OF NATIONS*, *supra* note 34, at 4. In the last several decades, scholars have largely rejected primordialism as an explanation for the existence of nations in favor of the modernist view that the rise of nations and nationalism is a recent and novel phenomenon associated with the rise of modern industrial societies. *Id.* at 13-15, 46; John Hutchinson & Anthony D. Smith, *Introduction*, in *NATIONALISM*, *supra* note 33, at 5-7; Benedict Anderson, *IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM* 37-46 (revised ed. 1991).

⁴⁰ Frosty Wooldridge, *IMMIGRATION’S UNARMED INVASION: DEADLY CONSEQUENCES* xvi. (2004).

⁴¹ Brimelow, *ALIEN NATION*, *supra* note 13, at 180. Patrick Buchanan likewise describes immigration as a river that has flooded its banks, causing enormous devastation. Patrick Buchanan, *THE DEATH OF THE WEST* 133 (2002).

⁴² See, e.g., Smith, *THEORIES OF NATIONALISM*, *supra* note 36, at 65.

of nations thus invokes nature as an unquestionable authority. As environmental historian William Cronon has explained, to claim that a nation is natural seeks “to take disputed values and make them seem innate, essential, eternal, nonnegotiable.” Thus, when we speak of “the natural way of doing things,” we suggest “that there can be no other way, and that all alternatives, being unnatural, should have no claim on our sympathies.”⁴³

The naturalization of nations serves to police the boundaries between insiders and outsiders. The term “natives” has long been understood to refer to persons who are *naturally* present in a nation. The terms “native” and “natural-born” are interchangeable in American law.⁴⁴ “Aliens,” those who are not a natural part of the

⁴³ William Cronon, *Introduction*, UNCOMMON GROUND: RETHINKING THE HUMAN PLACE IN NATURE 36 (William Cronon ed. 1996). As Roland Barthes stated succinctly, ideology often speaks with “the Voice of Nature.” Billig, BANAL NATIONALISM, *supra* note 35, at 37; *see also* Jane Bennett and William Chaloupka, eds., *Introduction*, IN THE NATURE OF THINGS: LANGUAGE, POLITICS, AND THE ENVIRONMENT ix (1993); Joachim Wolschke-Bulmahn, *Introduction*, NATURE AND IDEOLOGY: NATURAL GARDEN DESIGN IN THE TWENTIETH CENTURY 1-9 (1997). The supposed moral authority of nature is invoked in just this way by opponents of gay rights who assert that heterosexuality is “natural” and homosexuality “unnatural.” To describe an activity or state of affairs as natural carries the connotation that it is right and good, perhaps that it is created by God, while unnatural activities are immoral and worthy of contempt.

⁴⁴ *See Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875) (“[I]t was never doubted that all children born in a country of parents who were its citizens became themselves, upon their birth, citizens also. These were *natives*, or *natural born* citizens, as distinguished from *aliens* or *foreigners*.”) (emphasis added); *see generally* Sarah Helene Duggin & Mary Beth Collins, ‘*Natural Born*’ in the USA: the Striking Unfairness and Dangerous Ambiguity of the Constitution’s Presidential Qualifications Clause and Why We Need to Fix It, 85 B.U. L. REV. 53, 63-76 (2005). The English common law tradition of *jus soli*, under which all persons born within a nation’s boundaries are deemed citizens, is based on the assumption that the native-born will be loyal to the nation, while foreigners, even foreign-born citizens, cannot be expected to share this natural loyalty. Indeed, the fear that foreign-born citizens lack loyalty underlies the Constitution’s requirement that only natural-born citizens may become President. *See* United States Constitution Art. II § 1 cl. 5; *see generally* 2 Joseph Story, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 1479 (Melville M. Bigelow ed., William S. Hein & Co., 5th ed., photo. reprint 1994) (1891); Duggin, *supra*, at 69.

national community, can nonetheless become part of the nation through a process tellingly referred to as *naturalization*. Because nationality is conceived as part of an individual's essential nature, "naturalization" conveys the idea that through acclimation to a nation and formal acceptance by the national community, an outsider can become a "natural" part of it.⁴⁵

The naturalization of nations has important implications for a nation's understanding and treatment of outsiders. The nation-as-organism and nation-as-ecosystem metaphors suggest that it may be *unnatural* for nation to allow the mixing of natives and aliens. Indeed, nationalists have long depicted the threats to the nation posed by the supposedly unnatural mixing of different peoples as disturbances to the nation's ecological balance. Johann Herder, the eighteenth century German nationalist who first coined the word "nationalism," declared: "Nothing seems more obviously opposed to the purpose of government than the unnatural enlargement of states, the wild mixing together of different human species and nations under one sceptre."⁴⁶ The belief that a nation is in some sense a natural entity can support ethnic cleansing because it suggests that alien elements must be purged to protect the beauty and integrity of the nation. If the nation is an ecosystem, unwanted foreigners are pollutants or weeds or pests, which may spread if allowed to enter the national borders and go unchecked, depriving native-born citizens of vital resources and destroying the purity of the national landscape.⁴⁷

In short, conceiving nations in natural terms signals that the presence of aliens and outsiders within a nation is unnatural and threatens the natural balance. It is recurring trope in American anti-immigrant rhetoric that the presence of aliens among us is

⁴⁵ Cf. Anderson, *supra* note 38, at 145.

⁴⁶ Quoted in John Breuilly, *The Sources of Nationalist Ideology*, in Hutchinson and Smith, *NATIONALISM*, *supra* note 33, at 103, 107.

⁴⁷ As Simon Schama explained, European anti-Semites routinely referred to Jews as weeds, whose presence required periodic campaigns of "murderous uprooting." Simon Schama, *LANDSCAPE AND MEMORY* 6 (1995).

dangerously unnatural.⁴⁸ The next section addresses the corollary: when nature is conceived in natural terms, environmental threats are seen as threats to the nation.

B. The Nationalization of Nature

A nation's natural features are frequently invoked for patriotic purposes, from the selection of the bald eagle to symbolize the United States to the declaration that the natural beauty of America shows that God "shed His grace on thee." A nation is not merely a people or a state; it is a place where the eagle flies, the buffaloes roam, and the deer and the antelope play. As Simon Schama has written, "[n]ational identity . . . would lose much of its ferocious enchantment without the mystique of a particular landscape tradition: its topography mapped, elaborated, and enriched as a homeland."⁴⁹ Through the nationalization of nature, natural features within a nation's borders are understood to embody national qualities.⁵⁰

A nation's natural features not only symbolize the nation, they are also seen as shaping the national character. The belief that nature creates nations underlies Frederick Jackson Turner's thesis that the American national character was created by encounters

⁴⁸ See, e.g., Peter L. Reich, *Environmental Metaphor in the Alien Benefits Debate*, 42 UCLA L. REV. 1577 (1995).

⁴⁹ *Id.* at 15; see also Anthony D. Smith, CHOSEN PEOPLES: SACRED SOURCES OF NATIONAL IDENTITY 135-136 (2004) (nationalist ideologies assert that the features of the natural world are an "intrinsic part of 'our' history, and a partner of our joys and travails").

⁵⁰ For instance, in the eighteenth century, the English oak, used for construction of naval ships, came to be seen as the embodiment of English virtues. In 1742, English silviculturalist William Ellis warned that foreign oaks were liable to rot while native English oak like the English people was "tight-pored and tough-grained, inhospitable to pests, phenomenally watertight and long-lived." Schama, *supra* note 47, at 172. In nineteenth century America, the redwoods came to stand for the growing stature of the United States among nations. *Id.* at 185-206. The nationalization of nature is not limited, however, to a few national symbols; all natural elements within the nation's borders are understood to be part of the nation. The rivers and mountains in America are *American* rivers and mountains, and the plants and animals in America are *American* plants and animals.

with the frontier: “In the settlement of America we have to observe how European life entered the continent, and how America modified and developed that life and reacted on Europe.”⁵¹ At the time that Jackson articulated his frontier thesis, American nativists had begun a campaign to counter the perceived spread of foreign influences through a program of “Americanization,” which sought to assimilate new immigrants by educating them in the ways and ideals of American democracy.⁵² Jackson countered, however, that “[t]he frontier is the line of most rapid and effective Americanization.”⁵³ Rather than educational campaigns, Jackson asserted, exposure to the national landscape would transform foreigners into Americans.⁵⁴

As with the naturalization of nations, the nationalization of nature serves political ends. It allies the protection of nature with the protection of the nation and can thereby support strong environmental protections. From their inceptions, the American preservation and environmental movements have made strong appeals to patriotism. Theodore Roosevelt declared that preservation “involves the patriotic duty of insuring the safety and continuance of the nation,” and protection of natural resources was a key part of his “New Nationalism.”⁵⁵ Each of the major

⁵¹ Frederick Jackson Turner, *THE SIGNIFICANCE OF THE FRONTIER IN AMERICAN HISTORY* 3-4 (1976); see also Smith, *CHOSEN PEOPLES*, *supra* note 49, at 136.

⁵² See Higham, *STRANGERS IN THE LAND*, *supra* note 11, at 234-263; Knobel, *AMERICA FOR THE AMERICANS*, *supra* note 2, at 244-258.

⁵³ Jackson, *supra* note 51, at 4.

⁵⁴ The idea that the natural features within the United States are somehow instructive of American values carried over into the creation of the national parks, which, in the words of the first director of the Park System, “are not only show places and vacation lands but also vast schoolrooms of Americanism where people are studying, enjoying, and learning to love more deeply this land in which they live.” Stephen T. Mather, *The Ideals and Policy of the National Park Service Particularly in Relation to Yosemite National Park*, in Ansel Hall, ed., *HANDBOOK OF YOSEMITE NATIONAL PARK* 80, 84 (New York: G. P. Putnam’s Sons, 1921).

⁵⁵ Theodore Roosevelt, *The New Nationalism* (1910).

environmental statutes of the late twentieth century likewise recites its patriotic purposes.⁵⁶

The nationalization of nature serves important functions in defining the boundaries between cherished national spaces and the unprotected lands beyond. It suggests that the forces that threaten the natural environment are national enemies. An extreme example of this belief can be seen in the environmental policies established by the Nazis during the Third Reich. In the Nazi “blood and soil” ideology, the German people were understood to be deeply “rooted” to the German soil and connected to each other through the purity of German blood.⁵⁷ This ideology supported some of the most progressive environmental policies of the time, including protections for forests and wetlands, as well as significant limitations on industrial development.⁵⁸ The natural features within Germany were understood to be part of the German nation because they shaped the national character and were necessary to sustain it.

Environmental protections in Nazi Germany were understood through the same lens of racial purity as other aspects of Nazi policies. German polices sought to protect German flora and fauna and to exclude foreign plants and animals, which were depicted as

⁵⁶ See, e.g., Clean Water Act, 33 U.S.C. § 1251(a); National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331; Clean Air Act, 42 U.S.C. § 7401; Coastal Zone Management Act, 16 U.S.C. §1451(a); Forest and Rangeland Renewable Resources Planning Act, 16 U.S.C. § 1600.

⁵⁷ The handbook of the Hitler Youth declared:

The German people has distinguished itself from earliest times by reason of a special attachment to its territory. Only when racial contamination threatened to suffocate the living and unique forces of the German people could those powers which striving to uproot the German people gain ground. To this end the spiritual values of the soil were the first to be disturbed. The love of homeland was destroyed and made ridiculous. A world citizenship with a “supranational” imprint was presented as the goal worthiest to strive for . . . National Socialism has now reestablished the natural order of things.

THE NAZI PRIMER: OFFICIAL HANDBOOK FOR SCHOOLING THE HITLER YOUTH 101-102 (Harwood L. Childs, trans., 1938).

⁵⁸ See Olsen, NATURE AND NATIONALISM, *supra* note 35, at 75-76.

threats to the purity of German landscapes. For instance, Reinhold Tüxen, head of the Reich Central Office for Vegetation Mapping, demanded a “war of extermination” against the Asian *Impatiens parviflora*, a forest plant seen as an invasive intruder: “As with the fight against Bolshevism, in which our entire occidental culture is at stake, so with the fight against this Mongolian invader, an essential element of this culture, namely, the beauty of our home forest, is at stake.”⁵⁹ In the words of a German landscape architect from the Nazi era, protecting German plants required “cleans[ing] the German landscape of unharmonious foreign substances.”⁶⁰

As Nazi environmental policies demonstrate, the nationalization of nature projects national values onto nature. Where national values emphasize racial purity, the natural world can be seen as embodying racial purity. As the next Part seeks to show, the projection of American values onto nature has followed a different course, as it has seen in nature a mirror of the issues of national identity facing a nation of immigrants.

II. THE LONG HISTORY OF AMERICAN AMBIVALENCE AND ANXIETIES ABOUT NATIVE AND ALIEN SPECIES

The movement to protect native species against invasive aliens is the latest chapter in the American tradition of nationalizing nature, in which ideas about the ways of nature reflect ideas about the ways of the nation. From the time of European colonization to today, foreign people and foreign species have arrived in North

⁵⁹ Joachim Wolschke-Bulmahn, *The ‘Wild Garden’ and the ‘Nature Garden’ – aspects of the garden ideology of William Robinson and Willy Lange*, 12 *JOURNAL OF GARDEN HISTORY* 183–206 (1992). In 1941, German landscape architects sought to forbid the use of foreign plants in German landscapes. Joachim Wolschke-Bulmahn, *The Mania for Native Plants in Nazi Germany*, in *CONCRETE JUNGLE* 65, 67 (1996).

⁶⁰ See Stephen Jay Gould, *An Evolutionary Perspective on Strengths, Fallacies, and Confusions in the Concept of Native Plants*, in *NATURE AND IDEOLOGY: NATURAL GARDEN DESIGN IN THE TWENTIETH CENTURY* 12 (Joachim Wolschke-Bulmahn ed. 1997); see generally Franz-Josef Brüggemeier, Marc Cioc, and Thomas Zeller, eds., *HOW GREEN WERE THE NAZIS? NATURE, ENVIRONMENT, AND NATION IN THE THIRD REICH* (2005).

America. American attitudes and policies toward native and foreign plants and animals have long reflected American attitudes and anxieties about native and foreign peoples and the unique dilemmas of an immigrant nation.

This Part examines three examples of the nationalization in American history to show that European-Americans have long viewed American wildlife through the lens of an immigrant people. Section A examines the colonial era, during which the introduction of European plants and animals and the removal of native species was seen as a fundamental part of the project of settling North America by foreign peoples and the removal or destruction of native peoples. Section B turns to the period of American independence, in which American naturalists and nationalists sought to repudiate European notions of the degeneracy of American wildlife. Led most prominently by Thomas Jefferson, the Americans engaged in a lengthy debate with Europeans about the size and vitality of American animals, a debate that the participants themselves recognized also addressed the stature of the American people and the prospects of the nascent American nation. Section C looks at the birth of the wilderness preservation movement, in which concerns about the impacts of industrialization and foreign influences on the American character helped lead to the first legal protections for American wildlife and wilderness. As these pieces of American history show, over the course of American history, European-Americans moved from wholehearted identification with the “colonial” species they introduced and hostility to native peoples and native wildlife, to ambivalent identification with the native species living here. The contemporary depiction of harmful species as foreign invaders is but the latest example of the nationalization of nature.

A. The Colonial Transformation of American Landscapes Through the Introduction of Foreign Plants and Animals

The introduction of plants and animals into what is now the United States began before Columbus and continues to this day. The native peoples of North America, like peoples everywhere,

introduced useful species into the areas where they lived.⁶¹ The rate of species introductions, however, increased dramatically with the arrival of Europeans, who saw a need to dramatically reshape American landscapes through the introduction of foreign species. Upon stepping off the *Mayflower* in 1620, William Bradford described the land he found as a “hideous and desolate wilderness, full of wild beasts and wild men.”⁶² Wilderness—that is, the existing ecosystems, flora, and fauna of North America that the colonists first encountered—was widely seen as an enemy to be conquered through the forces of civilization, which necessarily included imported plants and animals.⁶³ The colonists understood that survival, safety, and comfort depended upon transforming the American wilderness into farmland dominated by domesticated crops and livestock.⁶⁴

The colonists transformed the wilderness through a process that ecological historian Alfred Crosby has termed “ecological imperialism,” an attempt to refashion American landscapes into a neo-Europe through the replacement of American species with

⁶¹ See Charles L. Redman, HUMAN IMPACT ON ANCIENT ENVIRONMENTS 139-140 (1999); Thomas W. Neumann, *The Role of Prehistoric Peoples in Shaping Ecosystems in the Eastern United States*, in WILDERNESS AND POLITICAL ECOLOGY: ABORIGINAL INFLUENCES AND THE ORIGINAL STATE OF NATURE 141-178 (Salt Lake City 2002) (Charles E. Kay and Randy T. Simmons, eds.); William M. Denevan, *The Pristine Myth: The Landscape of the Americas in 1492*, in THE GREAT NEW WILDERNESS DEBATE (J. Baird Caldecott and Michael P. Nelson, eds., 1998).

⁶² William Bradford, OF PLYMOUTH PLANTATION, 1620-1647, 62-63 (Samuel Eliot Morison ed., New York 1952).

⁶³ William Cronon, CHANGES IN THE LAND: INDIANS, COLONISTS, AND THE ECOLOGY OF NEW ENGLAND 27 (Hill and Wang 1983). The extent to which North America at the time of European contact was a wilderness—in the sense of being largely unaffected by human hands—is a subject of significant historical debate. Although Native Americans are conventionally depicted as having inhabited precolonial America in perfect harmony and balance with nature, this view has been challenged by historians, who contend that human activities significantly altered American landscapes. long before European contact See, e.g., Denevan, *supra* note 61, at 414.

⁶⁴ See Roderick Frazier Nash, WILDERNESS AND THE AMERICAN MIND 23-43 (4th ed. 2001).

species brought from Europe.⁶⁵ The transformation was, of course, highly successful. Today, almost all U.S. crops and domesticated animals were intentionally introduced non-native species.⁶⁶ The primary reason for intentional introductions of foreign plants and animals has always been economic, as European colonists brought over crops and domesticated animals to establish permanent commercial settlements. In addition to crops and livestock, foreign plants like roses, azalea, and magnolia trees were introduced to North America in the seventeenth century out of nostalgia for the old country.⁶⁷ At the same time, the first colonists accidentally introduced species like the common brown rat, which reached American shores in 1544.⁶⁸ Through their actions, the colonists believed they were transforming a “remote, rocky, barren, bushy, wild-woody wilderness” into “a second England for fertilness,” as Edward Johnson asserted in his seventeenth century colonial narrative.⁶⁹

During the colonial period, the introduction of foreign plants and animals not only played a central role in the physical transformation of American ecosystems but also served as a central metaphor for colonialism itself. As historian Jack Kloppenburg has written, “The introduction of plants into America has been much more than a great service; it has been an absolute imperative, a biological *sine qua non* upon which rests the whole complex

⁶⁵ Alfred W. Crosby, *ECOLOGICAL IMPERIALISM: THE BIOLOGICAL EXPANSION OF EUROPE 900-1900* (Cambridge University Press 1986); *see also* John Gatta, *MAKING NATURE SACRED: LITERATURE, RELIGION, AND THE ENVIRONMENT FROM THE PURITANS TO THE PRESENT* 17 (Oxford University Press 2004).

⁶⁶ *See* OTA Report, *supra* note 5, at iii.

⁶⁷ *See* Cronon, *CHANGES IN THE LAND*, *supra* note 63, at 108-126.

⁶⁸ In 1609, just two years after the founding of Jamestown, Virginia, thousands of rats that had escaped from English ships destroyed Jamesown’s stored food, forcing the settlers to look to other means of survival. T.S. Palmer, *The Danger of Introducing Noxious Animals and Birds*, in *Yearbook of the Dept. of Ag.* 1898 at 87, 92 (Government Printing Office 1899); Crosby, *supra* note 65, at 191-192.

⁶⁹ Edward Johnson, *JOHNSON’S WONDER-WORKING PROVIDENCE* 210 (New York 1910 J. Franklin Jameson, ed.).

edifice of American industrial society.”⁷⁰ The successful introduction of domesticated crops and livestock was understood to be tantamount to successful colonization of the New World. As William Cronon has commented, to the colonists the introduction of foreign plants in the New World “betokened the planting of a garden, not the fall from one.”⁷¹ The progress of civilization was marked by the introduction of foreign plant and animal species, that is, by the establishment of agriculture-based settlements dominated by domesticated crops and livestock, while wilderness (that is, self-sustaining ecosystems composed of native species) meant savagery and desolation.⁷²

The European colonists came to believe that their reliance on non-native species established their superiority to Native Americans, since the colonists “improved” the land through the use of introduced plant and animal species, making possible the establishment of permanent settlements.⁷³ The European colonists perceived the Native Americans to be part of wild nature and frequently referred to them as children of the forests.⁷⁴ The removal of Native Americans proceeded apace with the removal of

⁷⁰ Jack R. Kloppenburg, Jr., *FIRST THE SEED: THE POLITICAL ECONOMY OF PLANT BIOTECHNOLOGY, 1492-2000* 50 (1988).

⁷¹ Cronon, *CHANGES IN THE LAND*, *supra* note 63, at 5.

⁷² See Cecelia Tichi, *NEW WORLD, NEW EARTH: ENVIRONMENTAL REFORM IN AMERICAN LITERATURE FROM THE PURITANS THROUGH WHITMAN* (New Haven, Yale University Press 1979);

⁷³ John Winthrop, *Conclusions for the Plantation in New England* (1629), *Old South Leaflets*, vol. 2, no. 50 (Boston 1883). Almost two centuries later, Chief Justice Marshall explained that the Indians had never possessed enforceable rights to land because they did not improve it through the introduction of domesticated crops and livestock. The principle that ownership of land requires improvement through the introduction of crops, livestock, or other evidence of settlement was a central component of the Homestead Act of 1862, 43 U.S.C. §§ 161-284.

⁷⁴ See Hoxie N. Fairchild, *THE NOBLE SAVAGE: A STUDY IN ROMANTIC NATURALISM* 190, 230, 366-390 (N.Y. 1961); see generally, Robert F. Berkhofer, Jr., *THE WHITE MAN’S INDIAN: IMAGES OF THE AMERICAN INDIAN FROM COLUMBUS TO THE PRESENT* (1978); Michael Rogin, *Liberal Society and the Indian Question*, in *RONALD REAGAN: THE MOVIE* 134-168 (1987).

native plant and animal species. The perceived wildness of the Indians provided grounds for their removal and destruction, just as the wildness of nature demanded that it be uprooted to be replaced by settled agriculture.⁷⁵ As George Washington later put it, “the gradual extension of our Settlements will as certainly cause the Savage as the Wolf to retire; both being beasts of prey tho’ they differ in shape.”⁷⁶ Just as the American wilderness could be transformed through settlement, the Indians too could be transformed; as Jefferson and countless other Europeans advised, they should take up farming and become civilized men.⁷⁷ Introduced, non-native species were thus a defining element of civilized life.

If the Native Americans were identified with untamed nature, the colonists identified themselves with the domesticated crops and livestock they introduced. In Edward Johnson’s words, the colonists were God’s “chosen grain,” transplanted into a wild land to “sow this yet untilled Wilderness,” remaking the New World into a New Jerusalem.⁷⁸ Introduced plants and animals thus came

⁷⁵ See Cronon, *CHANGES IN THE LAND*, *supra* note 63, at 56-57.

⁷⁶ Statement of George Washington to James Duane, Sept. 7, 1783, in *DOCUMENTS OF UNITED STATES INDIAN POLICY 2* (Francis Prucha ed., 2d ed. 1990); Ralph Lerner, *THE THINKING REVOLUTIONARY: PRINCIPLE AND PRACTICE IN THE NEW REPUBLIC* 158 (1987); see generally Sandra Zelmer, *Sustaining Geographies of Hope: Cultural Resources on Public Lands*, 73 U. COLO. L. REV. 413, 419-425 (2001).

⁷⁷ See President Thomas Jefferson’s confidential message to Congress concerning relations with the Indians, Record Group 233, Records of the U.S. House of Rep., HR 7A-D (January, 18, 1803); see generally Anthony F.C. Wallace, *JEFFERSON AND THE INDIANS: THE TRAGIC FATE OF THE FIRST AMERICANS* (Cambridge 1999). Of course, the colonists’ belief that Native Americans were wild hunter-and-gatherers was belied by the many Indian communities who engaged in domesticated agriculture.

⁷⁸ Johnson, *JOHNSON’S WONDER-WORKING PROVIDENCE*, *supra* note 69; see Patricia Seed, *CEREMONIES OF POSSESSION IN EUROPE’S CONQUEST OF THE NEW WORLD, 1492-1640* (1995) (Seventeenth Century English colonists “referred to their own activities in occupying the New World as planting the garden”); Tichi, *NEW WORLD, NEW EARTH*, *supra* note 72, at 42; J. Wreford Watson, *The Image of Nature in America*, in *THE AMERICAN ENVIRONMENT: PERCEPTION AND POLICIES* 63-75 (London 1976) (J. Wreford Watson & Timothy O’Riordan, eds).

to symbolize the colonists' aspirations for themselves and the transformation of their new environment.

B. American Independence and the Theory of American Degeneracy

Colonial and early American governmental policies strongly supported the introduction of beneficial foreign plants and animals, just as it supported European immigration. As Thomas Jefferson wrote in 1790, "The greatest service which can be rendered any country is to add a useful plant to its culture."⁷⁹ Beginning around the time of American independence, however, concerns began to be raised that the introduction of foreign species might cause long-term harms. These concerns had a decidedly different focus than today: At that time, French naturalists claimed that foreign species living in America were degenerating due to deficiencies in the American climate. The transatlantic debate that followed provides an especially vivid illustration of the nationalization of nature, that is, the tendency to understand nature in national terms.

The debate over American degeneracy commenced in 1766 when the world's leading naturalist, George Louis Leclerc, Comte de Buffon, published the fifth volume (of a later total of 46 volumes) of his *HISTOIRE NATURELLE*, and asserted that the large mammals of the Americas—deer, elk, moose—were smaller, degenerate forms of European animals.⁸⁰ Buffon asserted that the Americas had no giant animals on the scale of the rhinoceros, hippopotamus, camel, or elephant, and that American ecosystems

⁷⁹ Thomas Jefferson, *THE WRITINGS OF THOMAS JEFFERSON* 702-704 (New York 1984, M.D. Peterson ed.); see also Powell Glass, *Jefferson and Plant Introduction*, 23 *NATIONAL HORTICULTURAL MAGAZINE* 127-131 (1944). President John Quincy Adams likewise instructed consular officials to bring back useful foreign plants: "The United States should facilitate the entry of plants of whatever nature whether useful as a food for man or the domestic animals, or for purposes connected with . . . any of the useful arts." H.L. Hyland, *History of US Plant introduction*, *ENV. REV.* 4, 26-33 (1977).

⁸⁰ See Antonelli Gerbi, *THE DISPUTE OF THE NEW WORLD: THE HISTORY OF A POLEMIC, 1750-1900*, at 3 (1973, translated by Jeremy Moyle); Paul Semonin, *AMERICAN MONSTER: HOW THE NATION'S FIRST PREHISTORIC CREATURE BECAME A SYMBOL OF NATIONAL IDENTITY* 124 (NYU Press 2000).

were dominated by inferior animals, including the largest frogs, reptiles, and insects in the world.⁸¹ Buffon believed that the animals of the New World were descendants of Old World forms that had migrated to the Americas, but an inhospitable climate made successive generations smaller and less lively. Buffon also believed that species introduced intentionally to North America by European colonists were being harmed: “The horses, donkeys, oxen, sheep, goats, pigs, dogs, all these animals, I say, became smaller there.”⁸² Buffon found support for the degeneracy thesis in reports that the Native American man “is feeble and small in his organs of generation; he has neither body hair nor beard, and no ardor for the female of his kind. . . . [H]e lacks vivacity, and is lifeless in his soul.”⁸³

European naturalists expanded on Buffon’s theory.⁸⁴ Among these, the abbé Cornelius de Pauw asserted that in America animals lose their tails, dogs their bark, and camels the functioning of their genitals.⁸⁵ De Pauw warned that degeneracy would affect the European colonists as well, whose future generations would undoubtedly degenerate if they stayed in America.⁸⁶ Guillaume Thomas Francois Raynal, asserted that the process of degeneration explained why America never had and never would produce a man of genius: “Through the whole extent of America there had never appeared a philosopher, an artist, a man of learning, whose name had found a place in the history of science or whose talents have been of any use to others.”⁸⁷

To put it mildly, the theory of degeneracy outraged many of the American Founding Fathers, who defended the size and vitality of

⁸¹ See Gerbi, *THE DISPUTE OF THE NEW WORLD*, *supra* note 80, at 4.

⁸² *Id.* at 5.

⁸³ *Id.* at 6.

⁸⁴ *Id.* at 35-156.

⁸⁵ *Id.* at 56-57.

⁸⁶ See *id.* at 54 (“The whole human race was indubitably weakened and rendered degenerate in the new continent.”)

⁸⁷ Semonin, *AMERICAN MONSTER*, *supra* note 80, at 17.

the plants and animals of North America. In his *Notes on Virginia*, Thomas Jefferson sought to rebut Buffon's theory point by point.⁸⁸ Jefferson compiled statistical tables comparing the weights of the animals of North America to those of Europe, from the largest to the smallest, from the buffalo, moose, and elk, to the rat, weasel, and shrew mouse.⁸⁹ According to Jefferson's tables, American bears were twice as heavy as their European counterparts, and no European animal was comparable to the eighteen hundred pound American bison.⁹⁰ Jefferson also pointed to recently discovered bones of the American mastodon to show that America had produced colossal animals that dwarfed elephants, rhinoceroses, and giraffes.⁹¹ Unwilling to believe that the perfection of nature allowed a species to go extinct, Jefferson was convinced that the mastodon would be found alive somewhere in North America, putting to shame European claims of American inferiority. Indeed, Jefferson later instructed Lewis and Clark to search for living mastodons, in the hopes of establishing once and for all the superior size of American species.⁹²

Just as Jefferson defended American wildlife against the charge of degeneracy, Jefferson sought to repudiate the application of the degeneracy theory to the native and foreign peoples living in North America. Jefferson asserted that the Native American male "is neither more defective in ardor, nor more impotent with his female, than the white reduced to the same diet and exercise."⁹³ Jefferson likewise rejected Raynal's assertion that Europeans living in America had degenerated, asserting that, despite its youth and relatively small population, America had already given the world at least three geniuses, George Washington, Benjamin Franklin, and David Rittenhouse, a total that Jefferson claimed surpassed

⁸⁸ Thomas Jefferson, NOTES ON THE STATE OF VIRGINIA 169-191, from 2 THE WRITINGS OF THOMAS JEFFERSON (1853)

⁸⁹ *Id.* at 172-175.

⁹⁰ *Ibid.*

⁹¹ *Id.* at 42-43.

⁹² See Semonin, AMERICAN MONSTER, *supra* note 80, at 344.

⁹³ Jefferson, NOTES ON VIRGINIA, *supra* note 88, at 82.

England in the same period.⁹⁴ Long after publishing the *Notes*, Jefferson continued his campaign against the theory of degeneracy. As ambassador to France, Jefferson arranged at his own expense to ship to France a large panther skin, the bones and horns of deer, elk, and caribou, an entire moose carcass, mammoth bones, rams' horns, and a mountain goat skin, all in the unfulfilled hopes of impressing the French naturalists.⁹⁵

The theory of degeneracy riled the American revolutionaries in part because it conflicted with their understanding of the nature of the American nation.⁹⁶ A central metaphor of the Revolution was that the climate of America nurtures liberty and creates an

⁹⁴ *Id.* at 96.

⁹⁵ Gerbi, *THE DISPUTE OF THE NEW WORLD*, *supra* note 80; Semonin, *AMERICAN MONSTER*, *supra* note 80. According to a letter from Jefferson, Benjamin Franklin challenged Buffon's theory of degeneracy through a dinner party joke:

The Doctor [Benjamin Franklin] ... had a party to dine with him one day at Passy, of whom one half were Americans, the other half French, and among the last was the Abbe [Raynal]. During the dinner he got on his favorite theory of the degeneracy of animals, and even of man, in America, and urged it with his usual eloquence. The Doctor at length noticed the accidental stature and position of his guest, at table, 'Come,' says he, 'M. l'Abbe. Let us try this question by the fact before us. We are here one half Americans, and one half French, and it happens that the Americans have placed themselves on one side of the table, and our French friends are on the other. Let both parties rise, and we will see on which side nature had degenerated.' It happened that his American guest were Carmichael Harmer, Humpreys, and others of the finest stature and form; while those of the other side were remarkably diminutive, and the Abbe himself particularly, was a mere shrimp. He parried the appeal, however, by a complimentary admission of exceptions, among which the Doctor himself was a conspicuous one.

Daniel J. Boorstin, *THE LOST WORLD OF THOMAS JEFFERSON* 101-102 (1993).

⁹⁶ These notions were consistent with the American founders' natural law beliefs, which envisioned nature and nations to be governed by the same fundamental laws. See Benjamin Fletcher Wright, Jr., *AMERICAN INTERPRETATIONS OF NATURAL LAW* 62-99 (New York 1962).

environment hospitable to oppressed European peoples. One propagandist of the American Revolution thus wrote that “the Grand American Tree of Liberty . . . now flourishes with unrivalled, increasing beauty, and bids fair, in a short time, to afford under its wide-spreading branches a safe and happy retreat for all the sons of Liberty, however numerous and dispersed.”⁹⁷ To the American revolutionaries, foreign people would thrive in America as long as it had a government that fostered a climate of liberty.⁹⁸ Informed by the metaphoric understanding that the American climate nurtures liberty and attracts freedom-loving immigrants, the American revolutionaries could only bristle at European suggestions that America’s physical climate literally was inhospitable to Europeans.

The Federalist Papers express the emphatic nationalist rejection of the theory of degeneracy. In Federalist No. 11, Alexander Hamilton invoked the hated theory as a justification for a strong national government:

The superiority [that Europe] has long maintained has tempted her to plume herself as the Mistress of the World, and to consider the rest of mankind as created for her benefit. Men admired as profound philosophers have, in direct terms, attributed to her inhabitants a physical superiority, and have gravely asserted that all animals, and with them the human species, degenerate in America—that even dogs cease to bark after having breathed awhile in our atmosphere. Facts have too long supported these

⁹⁷ See Marilyn C. Baselar, “ASYLUM FOR MANKIND”: AMERICA 1607-1800 at 135 (1998) (quoting Jonathan Mayhew, *THE SNARE BROKEN* (1766)).

⁹⁸ As historian Marilyn Baselar has written, the American patriots “linked population growth and just government” because the “populations of countries enjoying just government grew by immigration as well as natural increase.” *Id.* at 128. Indeed, on both sides of the Atlantic there was widespread agreement with the sentiment of the Enlightenment philosopher David Hume who wrote that “every wise, just, and mild government, by rendering the condition of its subjects easy and secure, will always abound most in people as well as in commodities and riches.” *Id.* at 127-128 (quoting David Hume, *Political Discourses* (1752)).

arrogant pretensions of the Europeans. It belongs to us to vindicate the honor of the human race, and to teach that assuming brother, moderation.⁹⁹

Hamilton thus asserted that a centralized government was necessary to vindicate universal values, that is, “the honor of the human race,” in the face of European assertions of superiority. In doing so, the American patriots moved readily from claims about the vitality of American nature to claims about the need for a strong nation.

As commentators have long recognized, the debate over the theory of American degeneracy addressed not only questions about the natural world but more importantly issues of national pride and national identity.¹⁰⁰ Defense of the size and stature of American wildlife was tantamount to a defense of the size and stature of the new American nation. American nationalists thus sought to repudiate the inferiority of American nature just at the moment that they were trying to establish a new nation free from European domination. In this way, the transatlantic debate over the size of American animal species projected onto the natural world tensions between Europe and America over the prospects of the nascent American nation.

The debate over the theory of degeneracy illustrates this Article’s thesis: when nature is understood in national terms, attitudes and policies toward native and foreign species reflect attitudes toward native and foreign peoples. As descendants of Europeans, the American revolutionaries identified with the introduced foreign species and sought to show that foreign transplants could thrive in the New World and produce civilization on par with Europe. As leaders of a nationalist movement seeking independence from Europe, they also identified with the native

⁹⁹ Federalist 11 (Hamilton).

¹⁰⁰ See, e.g., Dumas Malone, *Jefferson AND THE RIGHTS OF MAN* 98 (1951); Merrill D. Peterson, *THOMAS JEFFERSON AND THE NEW NATION: A BIOGRAPHY* 258 (Oxford University Press 1973). *JEFFERSON AND NATURE*, a study of Jefferson’s use of the word “nature,” concludes that “insofar as nature symbolized America in its entirety, nature *was* America for Jefferson.” Charles A. Miller, *JEFFERSON AND NATURE: AN INTERPRETATION* 3 (1988); *id.* at 61.

American plants and animals and sought to demonstrate that, just as native species are strong, large, and vital, so too could the new American nation become strong, large, and vital.¹⁰¹

C. The Early Wilderness Preservation Movement and the Nativist Roots of Protections Against Invasive Species

The early American wilderness preservation movement provides another example of the nationalization of nature because, from the start of the movement in the mid-nineteenth century, the preservation of American wilderness was intimately connected to preservation of the national character from forces perceived to be foreign. Preservationists asserted that the American character was going soft because the wild elements in America—wild Indians, wild animals, and wild spaces—had been vanquished by the forces of civilization.¹⁰² Henry David Thoreau wrote: “When I consider that the nobler animals have been exterminated here,—the cougar, panther, lynx, wolverine, wolf, bear, moose, deer, the beaver, the turkey, etc., etc.,—I cannot but feel as if I lived in a tamed, and, as it were, emasculated country.”¹⁰³ John Muir later complained that the remaining pieces of American wilderness were no longer very

¹⁰¹ Surprisingly, the debate over the size and vitality of American species continued with “obstinate vitality” at least until the beginning of the twentieth century, as recounted in Antonelli Gerbi’s marvelous book, *THE DISPUTE OF THE NEW WORLD*, *supra* note 80. As Gerbi shows, long after Jefferson and Buffon had passed from the scene, the debate was taken up by such figures as Hegel, who agreed with the earlier European naturalists that American animals “are in every way smaller, weaker, more cowardly” and that the essential characteristics of Native Americans are “[m]eekness and inertia, humility and groveling submission,” *Id.*, at 428, 432; and Theodore Roosevelt, who in 1897 declared that “Nature here is generally on a larger scale than in the Old World home of our race.” Theodore Roosevelt, *The American Wilderness: Wilderness Hunters and Wilderness Game*, in *THE COMPLETE WORKS OF THEODORE ROOSEVELT* (P.F. Collier, New York 1897).

¹⁰² See Nash, *WILDERNESS AND THE AMERICAN MIND*, *supra* note 64, at 99; Cronon, *The Trouble with Wilderness, or, Getting Back to the Wrong Nature*, in *THE GREAT NEW WILDERNESS DEBATE*, *supra* note 61.

¹⁰³ Henry David Thoreau, VIII *THE JOURNAL OF HENRY D. THOREAU* 220-221 (March 23, 1856) (Bradford Torrey and Francis H. Allen, eds. 1962); see generally, See Nash, *WILDERNESS AND THE AMERICAN MIND*, *supra* note 64; Cronon, *The Trouble with Wilderness*, *supra* note 102.

wild because the bears had been “poisoned, trapped, and shot,” while the Indians “are dead or civilized into useless innocence.”¹⁰⁴

Wilderness needed to be protected, preservationists warned, or American men would become sissies. Just as Thoreau described the extermination of native species as creating an “emasculated country,” Theodore Roosevelt later claimed that the experience of grappling with wilderness promoted a “vigorous manliness for the lack of which in a nation, as in an individual, the possession of no other qualities can possibly atone.”¹⁰⁵ Preservationists believed that the loss of American wilderness was destroying the American character, making the American, in Roosevelt’s words, an “overcivilized man” who suffered “flabbiness” and led a life of “slothful ease.”¹⁰⁶ The absence of wild Indians to fight likewise undermined the manliness of the American character, as is evident in Muir’s assertion that the Indians had been civilized into “useless innocence,” suggesting that “wild” Indians had been useful in helping to shape the national character by giving Americans contact with authentic savagery.

By the end of the nineteenth century, many Americans had come to believe that the source of the American national character was the American natural world, and they feared that the destruction of nature would destroy the American character. They believed that national vitality was being sapped because America had no more wilderness to conquer or Indians to fight. In an odd way, preservationists had come to believe that Buffon and his

¹⁰⁴ John Muir, *Our National Parks* (1901), reprinted in THE GREAT NEW WILDERNESS DEBATE, *supra* note 61, at 57.

¹⁰⁵ See Roosevelt, *The Strenuous Life* (speech April 10, 1899).

¹⁰⁶ *Id.*; see also Aldo Leopold, *Wilderness as a Form of Land Use* (1925), in THE GREAT NEW WILDERNESS DEBATE, *supra* note 61, at 75, 79 (“There is little question that many of the attributes most distinctive of America and the Americans are the impress of the wilderness and the life that accompanied it. If we have any such thing as an American culture (and I think we have), its distinguishing marks are a certain vigorous individualism combined with ability to organize, a certain intellectual curiosity bent to practical ends, a lack of subservience to stiff social forms, and an intolerance of drones, all of which are the distinctive characteristics of successful pioneers.”).

contemporaries were right after all: Europeans living in America *were* degenerating. The source of national degeneracy, however, was not over-acclimation to American nature, as Buffon had supposed, but the loss of American nature itself.¹⁰⁷

It is no coincidence that the preservation movement began at a time of resurgent American nativism and opposition to immigration. Indeed, the preservation movement had a strong nativist component that identified certain groups of immigrants as threats to American wilderness and therefore to the American character. For instance, William Hornaday, a leading early preservationist and director of the Bronx Zoo, wrote what is widely considered the first book advocating the preservation of American wildlife. In it, he blamed Southern European immigrants for the decline of native species.¹⁰⁸ Italians, Hornaday claimed, were naturally inclined to slaughter songbirds.¹⁰⁹ Indeed, Hornaday concluded that it is “absolutely certain that all members of the lower classes of southern Europe are a dangerous menace to our wild life.”¹¹⁰

To protect the American character required protecting American wildlife, and this, in turn, meant that dangerous foreigners had to be kept out. As Hornaday wrote: “Let every state

¹⁰⁷ The Boy Scouts of America arose in response to the belief that grappling with nature was necessary to save the American character. The very first Scouts’ Handbook asserted that industrialization had resulted in “degeneracy,” the cure for which was regular experiences of “Outdoor Life” away from civilization. See Ernest Thompson Seton & Lt. Gen Robert Baden-Powell, *BOY SCOUTS OF AMERICA OFFICIAL HANDBOOK: A HANDBOOK OF WOODCRAFT, SCOUTING, AND LIFE-CRAFT* xi, xii, 1,2 (1910); See Nash, *WILDERNESS AND THE AMERICAN MIND*, *supra* note 64, at 148.

¹⁰⁸ William Temple Hornaday, *OUR VANISHING WILD LIFE* 100-102 (1913). Similar arguments that foreign immigrants threaten America’s natural resources continue to be made in debates over immigration. For instance, in the campaign over California Proposition 187, proponents of eliminating welfare benefits for aliens argued that the presence of large numbers of foreigners causes significant environmental harms. See Reich, *Environmental Metaphor*, *supra* note 48.

¹⁰⁹ Hornaday, *supra* note 108, at 100-102.

¹¹⁰ *Id.* at 100.

and province in America look out sharply for the bird-killing foreigner; for sooner or later, he will surely attack your wild life. The Italians are spreading, spreading, spreading. If you are without them to-day, to-morrow they will be around you. Meet them at the threshold with drastic laws, thoroughly enforced; for no half way measures will answer.”¹¹¹ Many of the early preservationists thus advocated strong immigration control as a means of simultaneously protecting American nature and the American character.¹¹²

The early preservation movement also led to the first legal protections against foreign species. While state codes had long included weed laws—requiring landowners to cut down plants recognized as threats to livestock, crops, or gardens—weeds had not been identified as foreign.¹¹³ Instead, the ordinary definition of “weed” is straightforward and entirely subjective: a weed is any plant that grows where it is not wanted.¹¹⁴ Weeds may be nuisances, they may be pests, and they may be quite harmful, but they are also understood to be an inevitable, even a *natural*, part of

¹¹¹ *Id.* at 101-102.

¹¹² See Stephen Fox, JOHN MUIR AND HIS LEGACY: THE AMERICAN CONSERVATION MOVEMENT 347 (1981).

¹¹³ For discussion of early legal regulations of weeds, see Cronon, CHANGES IN THE LAND, *supra* note 63, at 154-155; John H. Martin and S.C. Salmon, *The Rusts of Wheat, Oats, Barley, Rye*, in UNITED STATES DEPT. OF AG., YEARBOOK OF AGRICULTURE 1953 329, 330-331. Later attempts to eradicate harmful weeds include a law passed by Colorado in 1881 providing a bounty of one and a half cents per pound for digging up “loco weed,” see *Institute for Ed. of Mute and Blind v. Henderson*, 18 Colo. 98, 31 P. 714 (Colo. 1892); *Chicago, T.H. & S. Ry. Co. v. Anderson*, 242 U.S. 283 (1916) (holding that the destruction of “noxious weeds” may be required under the police power of the state); *Lowe v. Radecke*, 204 Mich. 646, 171 N.W. 408 (Mich. 1919) (upholding application of state law “requiring noxious weeds to be cut at certain times of the year”); *Wedemeyer v. Crouch*, 68 Wash. 14, 122 P. 366 (1912) (upholding state law providing for the destruction of noxious weeds upon private lands and public highways).

¹¹⁴ See, e.g., Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136(cc) (“The term ‘weed’ means any plant which grows where not wanted.”)

gardening, landscaping, and agriculture.¹¹⁵ Clear the land to plant a garden, a lawn, or a farm, and weeds are sure to follow. By the end of the nineteenth century, however, pest species began to be identified as foreign. At the World's Columbian Exposition in Chicago in 1893, among the exhibits on the exotic peoples of the world, the U.S. Department of Agriculture presented an exhibit on exotic insects found in the United States.¹¹⁶ Within a few years, the Department of Agriculture identified most of the nation's injurious insects as foreign.¹¹⁷ The worst foreign pests were seen as those like the starling and sparrow that had been intentionally introduced by "acclimatization societies," clubs that sought to make European immigrants feel more at home by introducing familiar animals.¹¹⁸

¹¹⁵ See Chris Bright, LIFE OUT OF BOUNDS: BIOINVASION IN A BORDERLESS WORLD 47 (1998) ("The invasion dynamic seems to be a permanent feature of large-scale agriculture.").

¹¹⁶ See L.O. Howard, *Danger of importing insect pests*, Yearbook of the United States Department of Agriculture 1897 529, 530 (Government Printing Office, Washington, D.C. 1898).

¹¹⁷ *Id.* at 530; see also T.S. Palmer, *The Danger of Introducing Noxious Animals and Birds*, 1898 YEARBOOK OF THE DEPT. OF AG. 87, 107-108 (1899) ("It is only within very recent years that the agriculturists and horticulturists of this country have begun to realize thoroughly the fact that their crop interests are quite as seriously threatened by foreign insect pests as by native ones.").

¹¹⁸ The European starling, now the most numerous bird species in the United States, was first released in the United States in 1890 in Central Park in New York City by Eugene Schiefflin, the founder of the American Acclimatization Society, purportedly as part of a project to bring to America all the bird species mentioned in Shakespeare. See Bright, LIFE OUT OF BOUNDS, *supra* note 115, at 134; Robert Devine, ALIEN INVASION: AMERICA'S BATTLE WITH NON-NATIVE ANIMALS AND PLANTS 12 (1998); see generally Michael A. Osborne, NATURE, THE EXOTIC, AND THE SCIENCE OF FRENCH COLONIALISM (Indian University Press 1994). The Australian acclimatization societies attempted even more ambitious transformations than those undertaken in the United States. In 1857, an Australian legislative committee approved wholesale acclimatization of Australian landscapes, in an effort, in the words of a contemporary newspaper account, "to see the horse-chestnut and the oak add grandeur and variety to our woods, to have the Chinese sugarcane filling the cultivator's purse, to hear the nightingale singing in our moonlight as in that of Devonshire, to behold the salmon leaping in our streams as in those of Connemara or Athol, to have antelopes gladdening our plains as they do those of

Thus, to the preservationists it was not merely foreign immigrants that threatened American wildlife but foreign plants as well.

From the first, the movement to keep out dangerous foreign species was justified by analogy with unwanted immigration. An 1898 Department of Agriculture report, *The Danger of Introducing Noxious Animals and Birds*, sought increased statutory authority to restrict imports of foreign species by asking: "Since it has been found necessary to restrict immigration . . . , is it not also important to prevent the introduction of any species which may cause incalculable harm?"¹¹⁹ The federal government had long supported the introduction of foreign species, but in 1900 the government first began to distinguish between good and bad alien species.¹²⁰ That year, Congress passed the Lacey Act, the first federal law intended to protect America wildlife against dangerous foreign animals, prohibiting the importation of mongooses, fruit bats, English sparrows, and starlings, and any other foreign animals declared dangerous by the Secretary of Agriculture.¹²¹

South Africa, and camels obviating for us as for the Arab the obstacle of the desert." *The Age* (Apr. 2, 1858) (quoted in Bright, *supra* note 115, at 140).

¹¹⁹ Howard, *Danger of importing insect pests*, *supra* note 116, at 529.

¹²⁰ The federal government's most widespread programs supporting species introductions began in the 1870s. In 1871, Congress established the United States Fisheries Commission, and in its first couple decades the Commission commenced large scale introductions of foreign fish into U.S. waters, including the common carp from Europe, which today is the most common freshwater fish in the United States. *See* Bright, LIFE OUT OF BOUNDS, *supra* note 115, at 137-138. The Commission also undertook to export native fish abroad. *Id.* In 1898, the Department of Agriculture established a Section of Seed and Plant Introduction, which sought to introduce the best foreign crops for cultivation in the United States by collecting the seeds of foreign plants and distributing them free to U.S. farmers. *See* Report of the Secretary of Agriculture, YEARBOOK OF THE DEPT. OF AG. 1898 at 36, 595 (Government Printing Office 1899). The USDA also sought to introduce promising foreign grasses and fruits and made extensive use of foreign plants to prevent erosion and aid in soil conservation. The USDA also sought to introduce promising foreign grasses and fruits and made extensive use of foreign plants to prevent erosion and aid in soil conservation. *Id.* at 595.

¹²¹ Act May 25, 1900, Ch. 553, 31 Stat. 187. In the following decades, several additional federal laws, including the Plant Pest Act, the Plant

As the wilderness preservation movement reveals, envisioning nature in national terms often involves hostility to aliens, whether those are immigrant peoples or immigrant plants, which are seen as threatening the natural order. The early preservation movement nationalized American nature by envisioning it as the source of American character, which was perceived to be threatened by foreign people and foreign species.¹²²

III. THE CONTEMPORARY MOVEMENT AGAINST INVASIVE SPECIES AND THE NATIONALIZATION OF NATURE

As Part II has suggested, throughout American history national ambitions and anxieties have been projected onto the natural world. Many American colonists understood the replacement of wilderness with domestic crops to serve a divine plan to replace the savage people of the New World with civilized Christians. The Founding Fathers saw in the size and stature of American animals their own ambitions for the new American nation. The early preservation movement saw in the loss of American wildlife the loss of American national character. As this Part will show,

Quarantine Act, and the Noxious Weed Act, were enacted to protect agriculture and wildlife from weeds and pests.

¹²² At the same time, the naturalization of the nation led opponents of immigration to compare unwanted immigrants to foreign pests. Hornaday thus wrote that the “Italian laborer is a human mongoose.” Hornaday, *supra* note 108, at 101-102. The depiction of nature in national terms went hand in hand with the depiction of the nation in natural terms, and both relied on the fear that foreign intrusion was undermining America. The President of the Immigration Study Commission compared Mexican immigrants to English sparrows, stating that “America’s native birds are largely songsters” but “[t]here was brought in a songless immigrant,” which “multiplied, like the peon, with startling rapidity. . . . In our border cities the old Type American similarly is being displaced with Mexican slum inhabitants.” C.M. Goethe, *Immigration from Mexico*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 122, 128. A later eugenicist wrote that “the admission of the English sparrow, the starling, the gipsy moth, the San Jose scale and other pests to this country are classic illustrations of the danger of admitting immigrants without great care, and there is even more reason for being careful with regard to humans than with regard to plants and animals for the reason that the human is far more important.” Thurman B. Rice, *RACIAL HYGIENE: A PRACTICAL DISCUSSION OF EUGENICS AND RACE CULTURE* (1929).

contemporary perceptions of invasive species are likewise shaped and distorted by anxieties about national life—the transgression of national boundaries through immigration, globalization, and international terrorism. While the projection of national values onto the natural world has a long history, it nonetheless significantly distorts environmental understanding and environmental policies.

A. The Movement to Control Invasive Species

The identification of invasive alien species as a unique biological phenomenon began in 1958 with the publication of Charles Elton's *THE ECOLOGY OF INVASIONS BY ANIMALS AND PLANTS*.¹²³ While foreign weeds and pests had been recognized as harmful for decades, Elton brought together key insights: plant and animal communities have evolved to live in very distinct communities, and human activities that introduce plants and animals from one community into another are obliterating these distinctions.¹²⁴ This process threatens great harm to biodiversity.¹²⁵ A distinct field of biology, usually called invasion biology, has developed in the years since Elton's pioneering work. It publishes several technical journals, holds regular conferences, and has generated a library of scientific and popular books addressing the causes and effects of alien invasions.¹²⁶

¹²³ Charles S. Elton, *THE ECOLOGY OF INVASIONS BY ANIMALS AND PLANTS* (University of Chicago Press 2000). Although the ecological harms posed by the introduction of foreign species were recognized long before Elton, Elton synthesized three existing insights about invasive species: that plant and animal communities have evolved to live in very distinct communities, that human introductions of plants and animals are obliterating these distinctions, and that this process threatens great harm to biodiversity. Daniel Simberloff, *Foreword to id.* at vii-viii.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ See BIOLOGICAL INVASIONS, available at <http://www.springer.com/life+sci/ecology/journal/10530>; AQUATIC INVASIONS, available at <http://www.aquaticinvasions.ru/>. A search of Amazon.com for books addressing biological invasions reveals over 125 books on the subject.

In the years since Elton's book, invasion biologists have demonstrated that significant ecological harms result from the introduction of species into ecosystems where they do not naturally occur.¹²⁷ The populations of introduced species grow exponentially when the new ecosystem lacks the predators, pathogens, and limited available resources that kept them in check in their original ecosystem.¹²⁸ The presence of a large population of introduced species can alter the composition of the ecosystems into which they are introduced and substantially affects the distribution of resources.¹²⁹ This may push native species toward extinction. Invasive species are understood to be the second-leading cause of species extinctions and threatened extinctions.¹³⁰

Recognition of the problems caused by invasive species has spawned a broad grassroots movement. Native plant societies have sprung up in every state to instruct farmers, nurseries, homeowners, gardeners, and public land managers about the alien menace facing the state's native populations.¹³¹ Environmental groups organize family outings to protect native plants by purging the landscapes of alien elements.¹³² Bookstore gardening and nature sections are filled with books on invasive species and

¹²⁷ SBSTTA (2001), *Invasive Alien Species: Status, Impacts and Trends*, UNEP/CBD/SBSTTA/6/INF/11 (Feb 26) 5-6. CBD Secretariat (2001), *Assessment and Management of Alien Species That Threaten Ecosystems, Habitats and Species* (CBD Technical Series No 1, Montreal) 1-2. SBSTTA (2000), *The Global Strategy on Invasive Alien Species*, UNEP/CBD/SBSTTA/6/INF/9, pp 10-13.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ For a list of native plants societies, *see* http://www.michbotclub.org/links/native_plant_society.htm. For a list of exotic pest plant councils, *see* <http://www.naepcc.org/chapters.cfm>.

¹³² *See, e.g.,* Nature Conservancy, *Weeds in the Wild: Weed Management in Natural Areas*, pamphlet (Sept. 2001), available at <http://tncweeds.ucdavis.edu>.

instructions on how to “go native”—that is, to garden using native plants—and to protect against the spread of unwanted aliens.¹³³

State and federal governments have begun to adopt stricter policies to address invasive species. No single federal law or federal agency addresses the problems of invasive species. Instead, the problem is addressed by numerous agencies operating under a patchwork of statutory and regulatory authorities.¹³⁴ Imports of harmful foreign fish and wildlife are prohibited under amendments to the Lacey Act, which is administered primarily by the Departments of Commerce and Interior.¹³⁵ Imports of harmful foreign plants are prohibited under the Plant Protection Act of 2000 (which replaced the Plant Pest Act, the Plant Quarantine Act, and the Noxious Weed Act), which is administered by the Animal and Plant Health Inspection Service (APHIS).¹³⁶ The National Invasive Species Act of 1996, notwithstanding the breadth of its title, addresses only harmful species like zebra mussels introduced through the ballast water of ships.¹³⁷

In 1999, Presidential Clinton issued an executive order that establishes a national policy to address invasive species. The order also created the National Invasive Species Council (NISC), an interagency council headed by the Secretaries of Commerce, Agriculture, and Interior, to oversee and unify the various federal responses to invasive species problems.¹³⁸ As the NISC has

¹³³ See, e.g., Brooklyn Botanic Garden, *Going Native: Biodiversity in Our Own Backyards* (2001); Carolyn Harstad and Jeanette Ming, *Go Native!: Gardening With Native Plants and Wildflowers in the Lower Midwest* (1999).

¹³⁴ These sources include the Lacey Act; the Federal Plant Pest Act; the Non-Indigenous Aquatic Nuisance Prevention and Control Act; the National Invasive Species Act; the National Environmental Policy Act; the Endangered Species Act; Executive Order 13,112, issued by President Clinton, which established the National Invasive Species Council; and various agency regulations.

¹³⁵ 16 U.S.C. § 3372.

¹³⁶ 7 U.S.C. §§ 7701-7772.

¹³⁷ 16 U.S.C. §§ 4701-4704.

¹³⁸ Executive Order 13112 (Feb. 3, 1999).

explained, federal invasive species policies consist of three basic elements: prevention, eradication, and restoration. First, and most prominently, federal law establishes policies to prevent invasive species from crossing the nation's borders: "The first line of defense is prevention."¹³⁹ To keep invasive species out, federal law directs several agencies to publish lists of the alien species identified to be invasive and thus subject to a variety of controls.¹⁴⁰ This approach is often referred to as a "black list" approach.¹⁴¹ Second, federal policies seek to cleanse the landscape of alien species that have already invaded.¹⁴² As the NISC explains, this aspect of federal policy seeks "to prevent the spread of invasives" and "to lessen their impacts through control measures," such as "eradication" and "population suppression, including through physical restraints and the judicious use of pesticides."¹⁴³ Third, federal policies seek to restore communities of native species.¹⁴⁴

Federal invasive species policies are widely regarded as

¹³⁹ NISC Management Plan, *supra* note 12, at 4.

¹⁴⁰ For animal species, this work is conducted by the United States Fish and Wildlife Service under the Lacey Act, which by regulation has listed only a few dozen species that may not be brought into the country without special permission. *See* 50 C.F.R. § 16.11-15. A very similar approach for plant species has been conducted by the Department of Agriculture's Animal and Plant Health Inspection Service or "APHIS," which lists species as plant pests and noxious weeds. *See* 7 C.F.R. § 340.1.

¹⁴¹ *See* OTA Report, *supra* note 5, at 22 ("The dirty list approach prohibits certain unacceptable species and allows unlisted species to be imported. This puts the burden on regulators to determine whether a species is harmful. Commonly cited alternatives to dirty lists are 'clean lists' [which] prohibit[] all species unless they are determined to be acceptable, that is, unless they merit being on the clean list, This puts the burden on the importer to prove a species is not harmful.").

¹⁴² NISC Management Plan, *supra* note 12, at 5, 34-36; *see also* Federal Interagency Committee for the Management of Noxious and Exotic Weeds, A National Early Detection and Rapid Response System for Invasive Plants (Sept. 2003).

¹⁴³ NISC Management Plan, *supra* note 12, at 5-6.

¹⁴⁴ *See* Executive Order 13,112 (Feb. 3, 1999); NISC Management Plan, *supra* note 12, at 6-7, 40-41.

ineffective in preventing the introduction of harmful species and dealing with harmful species that have already been introduced. Many environmental groups advocate stronger controls of invasive species. They seek to replace the policy of blacklisting harmful species with a “white list” approach, in which only aliens that can be shown to be harmless would be allowed entry. As invasion biologist Daniel Simberloff puts it: “the ‘innocent until proven guilty’ philosophy that has guided national and international policy until now . . . is inadequate and should be replaced with a philosophy of ‘guilty until proven innocent.’”¹⁴⁵

B. The Rhetoric of Invasive Species Projects National Anxieties Onto the Natural World

The rhetoric of invasive species projects onto the natural world conventional notions about foreigners and the transgression of national borders. American ideas about native and alien plants and animals reveal a great deal about contemporary attitudes toward both the natural and national worlds. Without intending in any way to deny the reality that invasive species cause substantial economic and environmental harms, I am suggesting that the movement to protect native species responds to broader anxieties about the breakdown of national barriers, anxieties about immigration,

¹⁴⁵ Daniel Simberloff, *Confronting introduced species: a form of xenophobia?*, 5 *BIOLOGICAL INVASIONS* 179, 189 (2003). Conservative and libertarian groups strongly oppose increased protection against invasive species on the ground that it would interfere with property rights. In September 2006, 70 conservative leaders, including former Attorney General Edwin Meese III, Rep. Bob Barr, and the heads of the American Conservative Union, Defenders of Property Rights, and Property Rights Foundation of America, among many others—signed a letter to Congress arguing against increased invasive species regulations, claiming that invasive species regulation “could open the door to virtually endless regulation of human behavior, including that pertaining to private land use, public land access, and how and where Americans travel.” Property rights could be threatened by invasive species regulations: “We have seen how endangered species and wetlands regulations can wreak havoc on Americans’ constitutional right to private property. Invasive species regulations have the potential to be even more damaging to this fundamental right.” See also Peyton Knight, Director of Environmental and Regulatory Affairs for the National Center for Public Policy Research, Op-ed, *Forum: Beware of ‘Invasive Species’ regulations*, Washington Times (Nov. 5, 2006).

globalization, and international terrorism, anxieties that in many ways are unrelated to the harms caused by invasive species. The nationalization of nature distorts environmental understanding and environmental policies.

The projection of national anxieties onto the problem of invasive species is evident in the very first paragraph of Elton's book, which evokes Cold War fears of foreign invasion in describing the invasion of foreign plants and animals: "It is not just nuclear bombs and wars that threaten us, though these rank very high on the list at the moment: there are other sorts of explosions, and this book is about ecological explosions."¹⁴⁶ Contemporary discourse on invasive species is dominated by the trope of "foreign invasion" popularized by Elton. The National Wildlife Refuge Association warns: "Day by day, acre by acre, aliens are quietly spreading throughout America. They arrive by air, in ships, and over highways. . . . They are invasive species."¹⁴⁷ A recent article in the *New York Times* described invasive species as "unwelcome immigrants" that are "hungry and thriving where they don't belong."¹⁴⁸ The Maryland Department of Natural Resources put out a flyer about the Northern Snakehead fish in the style of the FBI "Most Wanted" signs, asking "Have You Seen This Fish?" The flyer instructed residents: "If you come across this fish, PLEASE DO NOT RELEASE. Please KILL this fish by cutting/bleeding."¹⁴⁹

It should not be surprising that invasive species strike a chord with Americans. As depicted in invasive species literature, the narrative of invasive species tells a familiar story. Before the arrival of Columbus, American natives—that is, native plants and

¹⁴⁶ Elton, *THE ECOLOGY OF INVASIONS BY ANIMALS AND PLANTS*, *supra* note 123, at 1; *see, e.g.*, Mark A. Davis et al., *Charles S. Elton and the dissociation of invasion ecology from the rest of ecology*, 7 *DIVERSITY AND DISTRIBUTIONS* 100 (2001).

¹⁴⁷ National Wildlife Refuge Association, *Silent Invasion: A Call to Action* 12 (2002).

¹⁴⁸ Morgan Lyle, *They're Hungry and Thriving Where They Don't Belong*, *New York Times* (Aug. 14, 2005).

¹⁴⁹ *See* <http://www.dnr.state.md.us/fisheries/fishingreport/snakehead.html>.

animals—lived in balance and harmony with surrounding species, as they had for millennia. Native species have ancient connections with American landscapes and are uniquely adapted to local conditions.¹⁵⁰ Into this harmonious Eden, aliens arrived and upset the balance of nature.¹⁵¹ Most of the newly arrived plants and animals were benign, stayed in their own settlements, and caused no harm to the natives. But a few of the newcomers preyed on the natives, took away their land, and displaced them from their long-established homes.¹⁵² These invaders killed and eliminated many natives.¹⁵³ They also brought diseases for which the natives had no

¹⁵⁰ See Environmental Protection Agency, *Landscaping with Native Plants Fact Sheet*; Environmental Protection Agency, *Mid-Atlantic Region Green Landscaping*, available at <http://www.epa.gov/reg3esd1/garden/nats.htm>; Virginia Dept. of Conservation and Recreation, *Native Plants for Conservation, Restoration, and Landscaping*, available at www.dcr.virginia.gov/dnh/invinfo.htm; Virginia Dept. of Conservation and Recreation, *What are invasive alien plant species and why are they a problem?*, available at www.dcr.virginia.gov/dnh/invinfo.htm.

¹⁵¹ See, e.g., Nature Conservancy, pamphlet, *Fighting Back: A Guide to Invasive Species in South Georgia* (“With a natural check and balance system in place, plant and animal species flourish in their native environments. . . . If left to spread unchecked, invasives can disrupt the natural balance of an ecosystem by competing for habitat and food with native flora and fauna.”).

¹⁵² See, e.g., Nature Conservancy, *Stopping the Spread: Recommendations For Combating Florida’s Costly Invasive Species Epidemic* 3 (“Non-native invasive species impact native species and communities by changing habitat, preying on or infecting native species, and out-competing natives for food and space.”); NISC Management Plan, *supra* note 12, at 37 (describing purple loosestrife as “beautiful but aggressive invader” that “takes over wetlands, decreasing habitat for native wildlife”); National Wildlife Refuge Association, *Silent Invasion*, *supra* note 147, at 1 (“Invasive species will take over America’s wildlife refuges—unless we act now.”); Wisconsin Department of Natural Resources website, available at <http://dnr.wi.gov/invasives> (“Did you know that hundreds of plants, and animals are taking over the natural resources of our state by displacing native species and disrupting ecosystems?”).

¹⁵³ See, e.g., OTA Report, *supra* note 5, at 70 (stating that invasive species “become harmful by competing with, preying upon, parasitizing, killing, or transmitting diseases to indigenous species. They may also alter the physical environment, modifying or destroying habitats of indigenous species.”)

resistance.¹⁵⁴ Some of the surviving natives were assimilated by the aliens, while others were forced to live in separate enclaves.¹⁵⁵ The narrative of alien invasion, native displacement, and the establishment of a new national landscape dominated by benign immigrants, has a familiar ring because, of course, it is the conventional history of the United States. The narrative of invasive species thus evokes the foundational American narrative.

Invasive species rhetoric invokes the specter of the demonized foreigner of American nativist movements. As David Bennett has written, what ties together the many nativist movements throughout American history—the Know Nothings of the 1850s, anti-immigrant crusaders of the 1890s, the Americanization movement of the 1920s, and eugenicists in the 1930s, among others—is a “common vision of alien intruders in the promised land—people who could not be assimilated in the national community.”¹⁵⁶ Nativists “fused the enduring image of a promised land to the fearful image of destructive intruders and fashioned for themselves a role as protectors of the American dream.”¹⁵⁷ Invasive species activists share with nativists the belief that the American paradise is threatened with contamination by alien intruders. This is not to say that proponents of invasive species policies are themselves xenophobic nativists.¹⁵⁸ Rather, it is the

¹⁵⁴ See, e.g., Nonindigenous Aquatic Nuisance Prevention and Control Act, 16 U.S.C. 4701(a)(2) (expressing congressional finding that “nonindigenous species . . . may carry diseases or parasites that affect native species”).

¹⁵⁵ See, e.g., Nature Conservancy, pamphlet, *Weeds in the Wild: Weed Management in Natural Areas*, (Sept. 2001), available at <http://tncweeds.ucdavis.edu>. EPA has declared that in the end, if nothing is done, native communities are “converted to a monoculture. This means the community of plants and animals is simplified, with most plant species disappearing, leaving only the non-native plant population intact.” Environmental Protection Agency, *Landscaping with Native Plants Factsheet*, available at <http://www.epa.gov/glnpo/ecopage/landscape/index.html>.

¹⁵⁶ Bennett, THE PARTY OF FEAR, *supra* note 13, at 2.

¹⁵⁷ *Id.*, at 82.

¹⁵⁸ Indeed, in my experience, the environmentalists and scientists who are concerned about invasive species tend to support human immigrants, while

rhetoric of invasive species that does the nativist work. Once harmful plants and animals are seen as “aliens” and their introductions characterized as “invasions,” it is almost inevitable that the remaining pieces of the existing model of foreign invasion would follow: the demonized, aggressive, hypersexual other who threatens to displace native-born Americans and to destroy the American way of life.¹⁵⁹

1. The Traits of Alien Species and Alien Peoples

In order to prevent new introductions of harmful species, federal and state agencies need some means to identify the bad aliens. In addition to maintaining black lists of known invasive species, government agencies have sought to keep out harmful species by employing a profile of invasive species based on perceived invasive characteristics. According to the federal government, the inability to assimilate peacefully into new ecosystems is the defining distinction between invasive and benign alien species.¹⁶⁰ The U.S. Forest Service has added that invasive

opponents of invasive species policies, like those who signed the Meese letter, *see supra* note 145, tend to be anti-immigrant. *See* Simberloff, *Confronting introduced species*, *supra* note 145 (asserting that invasion biologists are not personally xenophobic or racist).

¹⁵⁹ The use of invasion rhetoric has not been without thought, at least among scientists, who have engaged in lengthy debates about the validity of various aspects of invasive species nomenclature. *See* Petr Pyšek et al., *Alien plants in checklists and floras: towards better communication between taxonomists and ecologists*, 53 *TAXON* 131-143 (Feb. 2004); David M. Richardson, *Naturalization and invasion of alien plants: concepts and definitions*, 6 *DIVERSITY AND DISTRIBUTIONS* 93-107 (2000); Gould, *An Evolutionary Perspective*, *supra* note 60; Mark A. Davis and Ken Thompson, *Eight ways to be a colonizer; two ways to be an invader: a proposed nomenclature for invasion ecology*, 81 *BULLETIN OF THE ECOLOGICAL SOCIETY OF AMERICA* 226 (July 2000); C.C. Daehler, *Two Ways to Be an Invader, But One is More Suitable for Ecology*, 82 *BULLETIN OF THE ECOLOGICAL SOCIETY OF AMERICA*; Mark Davis & Ken Thompson, *Invasion Terminology: Should Ecologists Define Their Terms Differently than Others? No, Not if We Want to be of Any Help!* *BULLETIN OF THE ECOLOGICAL SOCIETY OF AMERICA* 206 (July 2001); Marcel Rejmanek et al., *Commentary, Biological Invasions: Politics and the Discontinuity of Ecological Terminology*, *BULLETIN OF THE ECOLOGICAL SOCIETY OF AMERICA* 131 (April 2002).

¹⁶⁰ *See* Executive Order 13,112 § 1(a), (f).

species “compete aggressively for resources,” “grow and reproduce rapidly,” and “tolerate a variety of habitat conditions.”¹⁶¹ The U.S. Geological Survey describes invasive species as “gregarious,” “tolerant of wide range of conditions,” and as having a “high rate of reproduction.”¹⁶² A 1998 *Harper’s* magazine article summarizes these lists of invasive traits and concludes that invasive species “are scrappers, generalists, opportunists. They tend to thrive in human-dominated terrain because in crucial ways they resemble *Homo sapiens*: aggressive, versatile, prolific, and ready to travel.”¹⁶³

The only problem with these lists of invasive species characteristics is that, in the years since the publication of Elton’s book, biologists have generally come to agree that invasive species share *no* common traits.¹⁶⁴ This conclusion confirms the view of biologist Asa Gray, who in 1879 found that he could not determine specific characteristics that make some plants become dominant weeds, concluding that “the reasons for predominance may be

¹⁶¹ United States Forest Service, Pacific Northwest Research Station, website <http://www.fs.fed.us/pnw/invasives/index.shtml> (last visited Feb. 1, 2007).

¹⁶² United States Geological Survey, *Non-Indigenous Species*, available at <http://biology.usgs.gov/s+t/SNT/noframe/ns112.htm>.

¹⁶³ David Quammen, *Planet of Weeds*, Harpers (October 1998). For additional government lists of the traits of invasive species, see, e.g., Environmental Protection Agency, *Mid-Atlantic Region Green Landscaping*, available at www.epa.gov/reg3sd1/garden/what.htm; Virginia Dept. of Conservation and Recreation, *What are invasive alien plant species and why are they a problem?*, available at www.dcr.virginia.gov/dnh/invinfo.htm; Minnesota Department of Natural Resources, *Invasive species frequently asked questions*, available at <http://www.dnr.state.mn.us/invasives/faq.html>.

¹⁶⁴ See Alan Burdick, *The Truth About Invasive Species*, DISCOVER 35, 39 (May 2005) (“The consensus today among invasion scientists is that, given the right opportunity, any native species can become an invader in some environment in the world, and any native ecosystem can be invaded by something.”); Alan Burdick, *OUT OF EDEN: AN ODYSSEY OF ECOLOGICAL INVASION* (2005); Yvonne Baskin, *A PLAGUE OF RATS AND RUBBERVINES: THE GROWING THREAT OF SPECIES INVASIONS* 125-147 (2002); OTA Report, *supra* note 5, at 7 (“Generally, the impact of new species cannot be predicted confidently or quantitatively.”); Davis, *Invasion Biology*, *supra* note 25, at 12.

almost as diverse as the weeds themselves.”¹⁶⁵ Indeed, the scientific consensus is that, under certain conditions, any species can become a successful invader, and any environment can be invaded.¹⁶⁶ The perceived traits of invasive species thus derive from national anxieties, not scientific study.

Where do these perceived traits of invasive species—aggressive, highly reproductive, adaptable, inassimilable, and disease-bearing—come from? The traits of bad foreign plants and animals are suspiciously akin to the perceived traits of unwanted foreign peoples. The inability to assimilate into American culture has always been a primary distinction drawn by nativists between wanted and unwanted immigrants.¹⁶⁷ In 1889, the Supreme Court thus upheld the exclusion of Chinese immigrants on the ground that the Chinese “remained strangers in the land, residing apart by themselves, and adhering to the customs and usages of their own country. It seemed impossible for them to assimilate with our people, or to make any changes in their habits or modes of living.”¹⁶⁸ The charge that certain foreigners could not or would not assimilate into mainstream American life was made against

¹⁶⁵ Asa Gray, *The pertinacity and predominance of weeds*, THE AMERICAN JOURNAL OF SCIENCE AND ARTS, Vol XVIII (1879); see Davis, *Invasion Biology*, *supra* note 25.

¹⁶⁶ Burdick, *The Truth About Invasive Species*, *supra* note 164, at 39; Bright, LIFE OUT OF BOUNDS, *supra* note 115, at 25. The consensus is not universal. Daniel Simberloff, for instance, has asserted that “recent attempts focusing more narrowly on groups of species have been far more successful at using a few relatively easily measured species traits to predict with high accuracy which [non-native species] will become invasive and which will not.” Daniel Simberloff, *Non-Native Species Do Threaten the Natural Environment!*, 18 JOURNAL OF AGRICULTURAL AND ENVIRONMENTAL ETHICS 595, 600 (2005).

¹⁶⁷ Compare NISC Management Plan, *supra* note 12, at 11, with Higham, STRANGERS IN THE LAND, *supra* note 11, at 4-5.

¹⁶⁸ *Chae Chan Ping v. United States* (The Chinese Exclusion Case), 130 U.S. 581, 595 (1889); see also *United States v. Wong Kim Ark*, 169 U.S. 649, 731 (1898). (Fuller, C.J., joined by Harlan, J., dissenting) (asserting that Chinese immigrants are “tenaciously adhering to the customs and usages of their own country, unfamiliar with our institutions, and apparently incapable of assimilating with our people”); see generally Aoki, *supra* note 16, at 32-33.

Irish immigrants in the 1850s,¹⁶⁹ against southern Europeans, eastern Europeans, Italians and Jewish immigrants beginning in the 1880s and 1890s,¹⁷⁰ against French-Canadian and Filipino immigrants in the 1930s,¹⁷¹ and against Latin American and other immigrants today.¹⁷² As immigration restrictionist Peter Brimelow recently asked, “Is it really wise to allow the immigration of people who find it so difficult and painful to assimilate into the American majority?”¹⁷³ Invasive species activists make precisely the same argument: we should not allow foreign plants and animals into the country because they cannot adapt to the American way of life and therefore can only harm it.

Like invasive species, unwanted immigrants have long been said to be characterized by uncontrolled sexuality and high reproductive rates, which threaten native-born Americans.¹⁷⁴ As Keith Aoki has discussed, the demonization of Chinese immigrants as “swarming hordes” was constructed in part upon pseudo-scientific assertions about the nature of Asian people as hypersexual.¹⁷⁵ Nativists have characterized other unwanted immigrants as exhibiting crude sexuality, which leads to high birth rates and threatens to overwhelm, outnumber, and displace the

¹⁶⁹ Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 122.

¹⁷⁰ See Higham, *STRANGERS IN THE LAND*, *supra* note 11, at 66-67, 277-286, 309.

¹⁷¹ See Robert C. Dexter, *The French Canadian Invasion*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 70, 71; V.S. McClatchy, *Oriental Immigration in California*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 188, 195.

¹⁷² Brimelow, *ALIEN NATION*, *supra* note 13, at 7; see also Buchanan, *supra* note 1, at 3, 125. In each era, anti-immigrant activists have claimed that the immigrants of that era were so different from past immigrants, primarily due to alleged racial differences, that they could not possibly assimilate. See Brimelow, *supra* note 13, at 19, 56; Buchanan, *supra* note 1, at 124-126.

¹⁷³ Brimelow, *ALIEN NATION*, *supra* note 13, at 7.

¹⁷⁴ NISC Management Plan, *supra* note 12, at 11; Weeds Gone Wild, *supra* note 6, at 2; Alaska Committee for Noxious and Invasive Plants Management, *Strategic Plan for Noxious and Invasive Plants Management in Alaska*,” at 8, available at <http://www.cnipm.org>.

¹⁷⁵ Aoki, *supra* note 16, at 32-33.

native-born Americans.¹⁷⁶ Nativists have long contended that unwanted immigrants, like invasive species, deny jobs to the native-born and displace the natives from their place in America.¹⁷⁷ Like invasive species, unwanted aliens are often described as “aggressive,” as stealing vital resources from natives, and displacing the native-born Americans from doing their jobs, and eventually eliminating them altogether.¹⁷⁸ Invasive species and unwanted immigrants are both said to bring disease and filth, polluting the purity of the natural and national communities.¹⁷⁹

¹⁷⁶ Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 169 (Jews in the nineteenth century were described as “dirty, bearded, lecherous foreign degenerates”); Madison Grant, *THE PASSING OF THE GREAT RACE: THE RACIAL BASIS OF EUROPEAN HISTORY* 23 (1916) (the “South Italians, breeding freely”); Robert C. Dexter, *The French Canadian Invasion*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 75; Higham, *STRANGERS IN THE LAND*, *supra* note 11, at 149, 272.

¹⁷⁷ Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 85, 165, 172-175 (Catholic immigrants were seen as “job stealers” taking jobs “desperately needed by real Americans”); Brimelow, *supra* note 13, at 118 (discussing the “various ways in which [immigration] hurts native-born Americans, such as displacing them from jobs”); Madison Grant, *Closing the Flood-Gates*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 13, 15, 19 (“These immigrants drive out the native; they do not mix with him.”).

¹⁷⁸ For instance, the National Wildlife Refuge Association describes purple loosestrife as “an attractive plant that advances army-like through wetlands, forming stands that push out native plants needed by fish and wildlife.”). National Wildlife Refuge Association, *Silent Invasion*, *supra* note 147, at 3. For similar imagery, *see*, Weeds Gone Wild, *supra* note 6, at 2; Colorado Weed Management Association website, available at http://www.cwma.org/noxious_weeds.html; Alaska Committee for Noxious and Invasive Plants Management, *Strategic Plan for Noxious and Invasive Plants Management in Alaska*, at 8, available at <http://www.cnipm.org>; Baskin, A PLAGUE OF RATS AND RUBBERVINES, *supra* note 164, at 3,6; Alabama Invasive Plant Council, *Cogongrass In Alabama: The Takeover of Our Lands and What It Means*, available at <http://www.se-eppc.org/alabama/alabamacogon.pdf>; Colorado Weed Management Association website, available at http://www.cwma.org/noxious_weeds.html (alien invaders are “Taking Away Our Natural Resources”); GAO Report, *supra* note 5, at 1.

¹⁷⁹ Norman S. Dike, *Aliens and Crime*, in *THE ALIEN IN OUR MIDST*, *supra* note 13, at 81 (describing Mexican immigrants as “[d]iseased, ignorant and belonging to a greatly lower class”); Brimelow, *supra* note 13, at 186-187;

Just as imagery of invasive species reflects images of unwanted immigrants, the depiction of native species coincides with stereotypes about Native Americans. In contrast to the invasive aliens, which disrupt the natural balance, native species are described as living in balance and harmony with surrounding nature. For instance, EPA publishes a newsletter called *Going Native*, which encourages gardening with native plants, asserting that, like Native peoples, “native plants existed here before European settlement.”¹⁸⁰ Invasive species literature frequently conflates the perceived traits of native peoples and native species. As one seed company specializing in native plant varieties has declared: “Native people and native plants have evolved in partnership together over centuries. The people sustain the plants and the plants sustain the people in one total living ecosystem.”¹⁸¹ Foreign species thus are understood to disrupt the pristine wilderness of pre-Columbian America just as European immigrants destroyed Native ways of life. The protection of native species is offered as a way to redeem the fallen Eden of the New World.

2. Invasive Species Rhetoric Invokes Contemporary Anxieties Over Globalization and Terrorism

Invasive species rhetoric echoes not only longstanding nativist fears of foreign immigration, it also projects onto the natural world contemporary anxieties about globalization and international terrorism. As with immigration, globalization and terrorism arouse

Bennett, *THE PARTY OF FEAR*, *supra* note 13, at 164 (“Slavs are immune to certain kinds of dirt, they can stand what would kill a white man . . . [they] violate every sanitary law yet survive.”) (quoting nativist tract); *id.* at 162, 165, 168; Higham, *STRANGERS IN THE Land*, *supra* note 11, at 161; Dike, *supra*, at 80-85; Brimelow, *supra* note 13, at 7, 182-186.

¹⁸⁰ *Going Native*, available at <http://www.epa.gov/reg3esd1/garden/nats.htm>; see also King County Department of Natural Resources, Brochure, *Going Native: A Guide to Creating Your Own Native Landscape*, available at <ftp://dnr.metrokc.gov/dnr/library/2003/gonative.pdf>. Compare Berkhofer, *THE WHITE MAN’S INDIAN*, *supra* note 74, at 79-80.

¹⁸¹ See Fedco Seeds, *From Generation to Generation: Seed Saving* 10 (2001).

anxieties about the transgression of national borders that are often expressed in terms of “foreign invasions.”

An increase in global trade has undoubtedly led to an increase in the number of foreign species introduced to American ecosystems. As Charles Elton wrote in 1958, “[W]e are living in a period of the world’s history when the mingling of thousands of kinds of organisms from different parts of the world is setting up terrific dislocations in nature.”¹⁸² Federal policy statements likewise put the blame for invasive species on unnatural mingling of the world’s species brought about by increased global trade.¹⁸³ Concerns about invasive species easily slide, however, from the recognition that increased trade causes an increase in species introductions to more generalized concerns about the harm to national cultures associated with the breakdown of national barriers.

The anti-globalization movement expresses the anxiety that globalization results in the replacement of authentic, local cultures with a synthetic, transnational, homogenized culture.¹⁸⁴ The anti-invasive movement invokes these same anxieties. *NATURE OUT OF PLACE: BIOLOGICAL INVASIONS IN A GLOBAL AGE*, an anti-invasive book, describes invasive species in the same terms as cultural problems said to arise from globalization:

Homogeneity. Sameness. Loss of local character. This is increasingly the reality of the modern age, in which all highway exits look alike and the same stores fill the same malls everywhere. . . . But this is

¹⁸² Elton, *THE ECOLOGY OF INVASIONS BY ANIMALS AND PLANTS*, *supra* note 123, at 18.

¹⁸³ *See, e.g.*, OTA Report, *supra* note 5, at 288.

¹⁸⁴ *See, e.g.*, Maude Barlow, *Globalization Harms the World’s Cultures*, in *GLOBALIZATION: OPPOSING VIEWPOINTS* 43 (2006); Mehdi Mozaffari, *GLOBALIZATION AND CIVILIZATIONS* 14 (2002) (discussing “the inevitability of the eternal homogenized present of globalization into an active collective construction”); Diana Crane, *GLOBAL CULTURE: MEDIA, ARTS, POLICY, AND GLOBALIZATION* (2002) (“[C]ultural globalization is no longer conceptualized in terms of the emergence of a homogenized global culture corresponding to Marshall McLuhan’s global village.”).

the dominant trend not just in the economic world. Globalization has ecological as well as social consequences, and the same forces that are eroding the diversity of the world's cultural landscapes are to a significant degree responsible for the ongoing impoverishment of its biological diversity as well.¹⁸⁵

Anti-invasive literature often equates the ascendance of invasive species problems with the loss of local and national cultures. As one invasive species book declared: "The same forces that are rapidly 'McDonaldizing' the world's diverse cultures are also driving us toward an era of homogenized, weedy and uniformly impoverished plant and animal communities."¹⁸⁶

Long before the movement to address invasive species, anxieties about harmful foreign influences have been expressed in botanical terms. People who lack national loyalty are described as "rootless" cosmopolitans, who threaten national values by introducing unnatural foreign customs and beliefs.¹⁸⁷ Invasive species rhetoric employs the same terms, as common invasive species are referred to as "cosmopolitan species," which are said to threaten to destroy locally authentic landscapes.¹⁸⁸ As Isaiah Berlin

¹⁸⁵ Jason Van Driesche and Roy Van Driesche, *NATURE OUT OF PLACE: BIOLOGICAL INVASIONS IN THE GLOBAL AGE 1* (2004).

¹⁸⁶ Baskin, *supra* note 164, at 6; *see also* Bright, *LIFE OUT OF BOUNDS*, *supra* note 115, at 13 ("But too few people have noticed another, perhaps more frightening form of globalization: the movement of exotic plants and animals into virtually every ecosystem on Earth."); Amanda Onion, ABC News, *Is Wildlife Going the Way of McDonald's?* (Nov. 21, 2005).

¹⁸⁷ *See, e.g.*, Nenad Miscevic, *NATIONALISM AND BEYOND: INTRODUCING MORAL DEBATE ABOUT VALUES* 250 (2001) ("The usual invidious metaphor for characterizing the 'cosmopolitan self' is that of rootlessness."); Kwame Anthony Appiah, *COSMOPOLITANISM* xvi (2006); Olsen, *NATURE AND NATIONALISM*, *supra* note 35, at 53-84 (discussing importance of "rootedness" in German nationalism and right-wing ecology).

¹⁸⁸ Baskin, *supra* note 164, at 6 ("What's more, these cosmopolitan replacements homogenize our experience of the world."); Environmental Protection Action, *Concepts and Approaches for the Bioassessment of Non-wadeable Streams and Rivers* at G-3 (2006), *available at*

explained, a primary goal of nationalist movements is to protect the authenticity of local diversity against cosmopolitan forces, which are seen as inauthentic and homogenizing.¹⁸⁹ Invasive species policies pursue the same goal of protecting local and national authenticity against the threats of homogenization caused by globalization. A pamphlet on EPA's website promoting "green landscaping" articulates just this view of authenticity:

[N]ative plants provide that "sense of place." In a world that is fast becoming homogenized, it's nice to experience a place that is unique. By using native plants, especially those that only grow in your area, you help to foster that uniqueness.¹⁹⁰

Protecting native species against alien invaders thus seeks to protect what is uniquely local against an influx of inauthentic and foreign elements, elements that do not belong here, the presence of which is seen as unnatural.¹⁹¹

In another invocation of the anxieties surrounding the breakdown of national barriers, invasive species are also frequently compared to international terrorists. The director of invertebrate

http://www.epa.gov/eerd/rivers/non-wadeable_full_doc.pdf (defining cosmopolitan species as "[s]pecies with worldwide distribution or influence where there is suitable habitat.").

¹⁸⁹ That idea formed the centerpiece to the classic eighteenth-century exposition of nationalism by Johann Herder. See Berlin, VICO AND HERDER, *supra* note 35, at 181; Smith, THEORIES OF NATIONALISM, *supra* note 36, at 17; Olsen, NATURE AND NATIONALISM, *supra* note 35, at 60 (nationalists believe that "the cosmopolitan, without a true sense of home, is doomed to artificiality"); see also David Held & Anthony McGrew, GLOBALIZATION/ANTI-GLOBALIZATION 28-29 (2002) ("[A]dvocates of the primacy of national identity emphasize its enduring qualities and the deep appeal of national cultures compared to the ephemeral and ersatz qualities of the products of the transnational media corporations—hamburgers, coke and pop idols.").

¹⁹⁰ See, e.g., Environmental Protection Agency, *Mid-Atlantic Region Green Landscaping*, available at www.epa.gov/reg3sd1/garden/what.htm.

¹⁹¹ See, e.g., National Wildlife Refuge Association, *Silent Invasion*, *supra* note 147, at 4 ("And with the world's ever increasing international trade and travel, invasive species are gaining more and more opportunities to spread from their original habitats to places where they just don't belong.").

zoology at Carnegie Museum of Natural History declared: “The monster is not Osama here. The monster is the unmonitored flow of invasive taxa, like wood borers, that can do extensive damage.”¹⁹² Federal law now treats invasive species on par with terrorism. Since September 11th, responsibility for keeping invasive species out of the country is under the authority of the Department of Homeland Security, consolidating its authority to repel invasions by both unwanted plants and unwanted people.¹⁹³

C. The Nationalization of Nature Distorts Environmental Policies

In addition to what it reveals about American culture, the nationalization of nature significantly distorts the way that invasive species are understood and the policies offered to address them. By characterizing the spread of introduced species as a foreign invasion, invasive species rhetoric stands in the way of more accurate understanding of species introductions. The projection of notions about demonized foreign immigrants onto foreign species engenders false beliefs about the traits of alien and native species and the harms that invasive species cause.

By placing the focus on the alien species, the trope of foreign invasion obscures the human activities that lead to introduced

¹⁹² Don Hopey, *Carnegie entomologists on guard for unwanted invaders*, Pittsburgh POST-GAZETTE (July 16, 2006) (quoting John Rawlins); Ivy Removal Project, available at www.noivyleague.com (“One ecosystem’s good soldier is another’s terrorist.”). In addition to being depicted as terrorists, invasive species are often considered potential weapons of terrorism. See Col. Robert J. Pratt, *Invasive Threats to the American Homeland* (“An adversary could use invasive species as an asymmetric method of attack to weaken the country by inflicting tremendous economic and psychological damage.”); L.A. Meyerson and J.K. Reaser, *Bioinvasions, bioterrorism, and biosecurity*, FRONTIERS IN ECOLOGY AND THE ENVIRONMENT 1(6):307-314 (2003); Simberloff, *Confronting introduced species: a form of xenophobia?*, supra note 145, at 185 (discussing “the potential link of introduced species to ecoterrorism and bioterrorism”).

¹⁹³ See Homeland Security Act of 2002 § 421(a); Memorandum of Agreement Between the United States Department of Homeland Security (DHS) and the United States Department of Agriculture (USDA), DHS Agreement No. BTS-03-0001, USDA-APHIS Agreement No. 03-1001-0382-MU (Feb. 28, 2003).

species problems. With other environmental problems, such as air and water pollution or wilderness destruction, responsibility is placed squarely on the individuals, institutions, governments, and corporations that cause the harm. Environmental movements have not arisen based on hatred for carbon dioxide, bulldozers, and chainsaws, the physical agents that harm the environment. Invasive species rhetoric, by contrast, demonizes the plants and animals themselves, describing them as aggressive invaders that destroy our landscapes, that do not belong here, and that must be kept out, contained, or destroyed. By focusing on the bad species, invasive species rhetoric lets off the hook the people and institutions that actually are responsible for introducing foreign species and allowing them to spread.

Moreover, the nationalization of nature that dominates invasive species rhetoric engenders opposition to invasive species policies by those who resist anti-immigrant rhetoric. Just as supporters of invasive species regulations rely on fear of immigrants to support their position, opponents rely on sympathy for immigrants to support their views. For instance, Mark Sagoff has argued against invasive species policies by stating that “we are a nation of immigrants,” both human and inhuman.¹⁹⁴ California Speaker of the House Leland Yee opposed a plan to eradicate invasive eucalyptus by invoking pro-immigrant sentiments, “How many of us are ‘invasive exotics’ who have taken root in the San Francisco soil, have thrived and flourished here, and now contribute to the wonderful mix that constitutes present-day San Francisco?”¹⁹⁵ Science writer Michael Pollen likewise sought to counter the native plant movement by advocating a “cosmopolitan garden,” asking, “wouldn’t such a garden be more in keeping with the American experience?”¹⁹⁶ Once species are understood as having national identities, invasive species policies seem inconsistent with

¹⁹⁴ Mark Sagoff, *What’s wrong with exotic species?*, Report from the Institute for Philosophy & Public Policy 19(4): 16–23 (1999).

¹⁹⁵ Marcelo Rodriguez, In S.F., Tree Huggers vs. Sand Huggers, Los Angeles TIMES (June 29, 200).

¹⁹⁶ Michael Pollan, *Against Nativism*, New York Times Magazine (May 15, 1994).

an ideal of a multicultural nation that values immigrants. By employing anti-immigrant rhetoric, the movement to control invasive species invites opposition by supporters of human immigrants.

CONCLUSION

The metaphor of invasive species has great power in American environmental discourse because it invokes a foundational national narrative. When the narrative of American history is used to explain the natural world—an example of the nationalization of nature, the tendency to understand the natural world in national terms—it seems easy to understand the phenomenon of invasive species and the problems they cause because we already know, or think we know, how foreigners behave and the problems they cause. Of course, invasive species are aggressive, hypersexual, and unable to assimilate, and of course they threaten to transform the United States into an unrecognizably foreign landscape or, alternatively, a homogenous suburban shopping mall. That's the way harmful foreigners are believed to behave.

Despite its explanatory power, the metaphor of invasive species distorts our understanding of the problem of harmful introduced species and the policy choices available to address it. State and federal agencies have been instructed to look for foreign species bearing an invasive profile, but in fact invasive species do not share any common characteristics. Moreover, once harmful introduced species are understood to be foreign invaders, appropriate policies seem obvious: keep the invaders out, repel them once they've landed, and restore displaced American species to their rightful places in American landscapes. By all accounts, however, these policies are not working. That may be because the metaphor of foreign invasion forecloses consideration of more effective policies. By focusing on bad plants and animals, invasive species policies fail to address the human actions that allow introductions to occur and thrive. Moreover, despite the emotional appeal of the invasion metaphor, the metaphor engenders opposition to more effective policies by those who identify with and support human immigrants. While the projection of national values onto nature is a longstanding trope in American

environmental history, it distorts environmental discourse and policies.