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ALIENS IN THE GARDEN

JARED A. GOLDSTEIN*

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 expressed attitudes toward native and foreign peoples. Although the metaphor of “invasive species” can be helpful in understanding the phenomenon of introduced species, conceiving of environmental problems through the lens of nationalism distorts environmental policies by projecting onto nature unrelated anxieties about national security and national identity.

INTRODUCTION

Many opponents of federal immigration policies believe that America is under invasion. On CNN, Lou Dobbs routinely accused President George W. 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

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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 government's 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 To some, the invasion of immigrants threatens the very existence of American civilization. As former 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 species like kudzu, gypsy moths, fire ants, starlings, killer bees, and zebra mussels, all of which were introduced to the United States from abroad.⁴ Without the predators and other forces that kept them in check in their previous habitats, the populations of these and other 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-like note,

1. Lou Dobbs, *Feds' Border Action Not Nearly Enough*, CNN.COM, July 5, 2005, <http://www.cnn.com/2005/US/03/31/border.agents/index.html>; 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> (last visited Mar. 12, 2009).

3. See Tancredo on Illegal Immigration, <http://www.youtube.com/watch?v=JJNHIUrKqR8> (last visited Apr. 28, 2009).

4. For a list of non-governmental organizations dedicated to protecting native species from invasive alien species, see U.S. Dep't of Agric., Nat'l Invasive Species Info. Ctr., Agencies and Organizations, <http://www.invasivespeciesinfo.gov/resources/orgprof.shtml> (last visited Mar. 12, 2009).

5. See NATIONAL INVASIVE SPECIES COUNCIL, MANAGEMENT PLAN, MEETING THE INVASIVE SPECIES CHALLENGE (2001) [hereinafter NISC MANAGEMENT PLAN]; OFFICE OF TECH. ASSESSMENT, U.S. CONGRESS, OTA-F-565, HARMFUL NON-INDIGENOUS SPECIES IN THE UNITED STATES (1993) [hereinafter OTA REPORT]; U.S. GENERAL ACCOUNTING OFFICE, INVASIVE SPECIES: CLEARER FOCUS AND GREATER COMMITMENT NEEDED TO EFFECTIVELY MANAGE THE PROBLEM (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?*, 18 J. AGRIC. & ENVTL. ETHICS 215, 215-36 (2005) and DAVID I. THEODOROPOULOS, *INVASION BIOLOGY: CRITIQUE OF A PSEUDOSCIENCE* (2003).

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

Curiously, these two perceived invasions—unwanted immigrants and unwanted 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 immigration is fine and dandy."⁷ Limbaugh may be alone in the belief that spermatozoa are some 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."⁸ During the Great 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."⁹ Comparisons of unwanted immigrants and unwanted species more often go in the other direction, as harmful foreign species are routinely compared to illegal immigrants. Both kinds of aliens are believed to displace natives and threaten to transform the American landscape into an unrecognizable foreign land.¹⁰

This Article examines the metaphor of "invasive aliens" and argues that a nationalist conception of nature distorts environmental policies. Environmental discourse frequently seeks to explain the natural world by reference to the world of nations, a phenomenon this Article refers to as the "nationali-

6. Jil M. Swearingin, National Park Service, Fact Sheet: *Weeds Gone Wild*: What the Heck is an Invasive Plant?, <http://www.nps.gov/plants/alien/pubs/index.htm> (follow "Weeds Gone Wild Brochure" hyperlink) [hereinafter *Weeds Gone Wild*] (last visited Mar. 19, 2009).

7. See Media Matters for America, Limbaugh Called Illegal Immigrants an "Invasive Species," <http://mediamatters.org/items/200504040001> (Apr. 4, 2005, 11:08 EST).

8. 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).

9. Frederick Russell Burnham, *The Howl for Cheap Mexican Labor*, in *THE ALIEN IN OUR MIDST*, at 45–46 (Madison Grant & Charles Stewart Davison eds., 1930).

10. See *infra* Part III.B.

zation 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 the issues surrounding native and alien species have long reflected issues of national identity. Part III discusses how contemporary discourse on invasive species exemplifies the nationalization of nature and distorts environmental discourse by projecting onto nature unrelated anxieties about national security and national identity.

To be clear, 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, “[t]he 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.”¹¹ 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.¹² Indeed, after September 11, responsibility for keeping invasive species out of the country was transferred from the Department of Agriculture to the Department of Homeland Security, consolidating its authority to repel invasions by both plants

11. JOHN DEWEY, *LOGIC: THE THEORY OF INQUIRY* 108 (1938).

12. 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 5, at 3 (“The first line of defense is prevention.”). Second, for species that have already invaded, federal policies seek “to prevent their spread” and to “lessen their impacts through control measures,” such as “eradication” and “population suppression,” including “physical restraints” and the “judicious use of pesticides.” *Id.* at 4. Third, federal policies seek to restore communities of native species where feasible. *Id.* at 5–6, 35–36; see also Exec. Order No. 13,112, 64 Fed. Reg. 6183, 6183 (Feb. 3, 1999).

and people.¹³ Yet, by all accounts, state and federal policies to fight the invasion are ineffective. As this Article argues, the choice of metaphor is partly to blame.

I. TOWARD A THEORY OF THE NATIONALIZATION OF NATURE

This Part examines the metaphor of invasive species. Above all, the metaphor of invasive species is a nationalist metaphor, invoking images of a nation under invasion by foreigners to explain the ecological phenomenon associated with introduced species. As this Part argues, the metaphor of invasive species is but one example of a broader phenomenon, which this Article refers 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, the natural world helps explain the ways that nations function, and the world of nations helps explain the ways of nature. 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 Metaphor of Invasive Species*

Invasive species policies speak the language of nationalism. Federal law categorizes all plants and animals as either “natives” or “aliens.”¹⁴ “Natives” are plants or animals that “naturally” live in what is now the United States, and “aliens” are the species that have been introduced by human activity.¹⁵ Foreign species that survive in the wild without causing harm

13. See Homeland Security Act of 2002 § 421(a), 6 U.S.C. § 231 (2006); 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).

14. Exec. Order No. 13,112, 64 Fed. Reg. 6183, 6183 (Feb. 3, 1999).

15. See *id.* at § 1. For various invasive species-related terminology, see U.S. Dept’t of Agric., Forest Service, Pacific Northwest Region Invasive Plant Program: Preventing and Managing Invasive Plants, Final Environmental Impact Statement 3-1 (April 2005) [hereinafter Forest Service FEIS]; OTA REPORT, *supra* note 5, at 51–53.

are categorized as "naturalized" aliens.¹⁶ "Invasive species" are the small subset of foreign species that survive in the wild and cause economic or environmental harms.¹⁷ But this rhetoric is metaphoric. Ecosystems are not nations. They lack established borders, members, or governments.¹⁸ And plants and animals have 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. 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.¹⁹ Cognitive metaphor theory, as elaborated by Lakoff, Johnson, and others, reveals that metaphors unconsciously underlie much of our thinking.²⁰ 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

16. See, e.g., OTA REPORT, *supra* note 5, at 3, 53; Forest Service FEIS, *supra* note 15, 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 and Forest Service FEIS, *supra* note 15, at 3-5 n.23.

17. Exec. Order No. 13,112 § 1(f), 64 Fed. Reg. 6183, 6183 (Feb. 3, 1999). According to the "tens rule" of biological invasions proposed by biologist Mark Williamson, approximately ten percent of imported species can survive without human protection, ten percent of the species that can survive without human protection establish self-sustaining populations, and ten percent of the species that establish self-sustaining populations become invasive. See Mark A. Davis, *Invasion Biology 1958-2005: The Pursuit of Science and Conservation*, in CONCEPTUAL ECOLOGY AND INVASION BIOLOGY: RECIPROCAL APPROACHES TO NATURE 35, 46 (Marc William Cadotte et al. eds., 2006).

18. For instance, unlike modern nation-states, ecosystems do not have clear boundaries and the plants and animals that inhabit them are constantly shifting. 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 usually better employed looking at the ways in which communities grade into each other, than in searching for sharp cartographical boundaries.").

19. GEORGE LAKOFF & MARK JOHNSON, *METAPHORS WE LIVE BY* 5 (1980).

20. See, e.g., MARK JOHNSON, *THE BODY IN THE MIND* (1987); MARK TURNER, *THE LITERARY MIND: THE ORIGINS OF THOUGHT AND LANGUAGE* (1998).

vision (seeing, light, and dark) are used to explain the process of knowing.²¹ 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.²²

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 situation, and in so doing help to suppress alternative conceptions.”²³ 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 also 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 always obvious to the naked eye. For instance, in contrast to landscapes made barren by air or water pollution, a field or forest harmed by introduced species usually teems with life.²⁴ What has changed is the composition of the species living there and the use they make of the available resources.²⁵ The complex ecological phenomenon of introduced species is made comprehensible through the nationalist metaphor of foreign invasion.

21. Indeed, the introduction to this Article relies on just this set of metaphors in asserting that perceiving invasive species problems through the “lens” of nationalism distorts environmental discourse.

22. See GEORGE LAKOFF & MARK TURNER, *MORE THAN COOL REASON: A FIELD GUIDE TO POETIC METAPHOR* 38–40 (1989).

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

24. See Davis, *supra* note 17, at 48 (“[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. 2 178–93 (April 2003).

25. Hulme, *supra* note 24, at 189.

Once all species are understood in nationalist terms to be natives somewhere and aliens everywhere else, it is easy to conceive of the harmful influx of aliens as an invasion. 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.²⁶ Linguistic purists claim to defend the language against an *invasion* of foreign words.²⁷ 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."²⁸ Describing these occurrences as invasions expresses the anxiety that protected zones (the national borders, the body, or the Constitution) have been breached, contaminated, and corrupted by foreign entities and ideas.²⁹

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 invasion," a crossing of the line protecting America from the rest of the world. But what *is* surprising is how similarly Americans have envisioned the human and non-human invaders. Unwanted immigrants are said to be unable to assimilate peacefully into American culture, and unwanted

26. See SUSAN SONTAG, *ILLNESS AS METAPHOR* 5 (1978).

27. 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 crop up from day to day." *DICTIONNAIRE DE L'ACADEMIE FRANÇAISE* iv (8th ed. 1932) (original in French; author's translation).

28. 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, 122 (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.").

29. 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.").

species are said to be unable to assimilate into American ecosystems.³⁰ Unwanted immigrants and invasive species are both described as aggressive and are said to be characterized by uncontrolled sexuality and high reproductive rates, which threaten to overwhelm native-born American people and native species.³¹ 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.³² Both unwanted immigrants and unwanted foreign species are said to bring disease and filth, polluting the purity of the national community.³³ As the next Sections seek to show, the remarkably consistent vision of foreign invaders, whether they are men or plants, is made possible by the interlocking conceptions of nature and nations.

B. *The Naturalization of Nations*

The broad concepts of *nation* and *nature* share deep connections. Both words derive from the Latin word, *nasci*, mean-

30. Compare JOHN HIGHAM, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM* 4–5 (2d ed. 1988) (asserting that unwanted immigrants have long been perceived to be unable or unwilling to assimilate into American culture), with *Weeds Gone Wild*, *supra* note 6 (describing how alien plants harm native flora and fauna).

31. Compare DAVID H. BENNETT, *THE PARTY OF FEAR: FROM NATIVIST MOVEMENTS TO THE NEW RIGHT IN AMERICAN HISTORY* 82, 165 (2d ed. 1995) (explaining that American nativists have characterized unwanted immigrants as exhibiting crude sexuality, which leads to high birth rates and threatens to overwhelm, outnumber, and displace the native-born Americans) with NISC MANAGEMENT PLAN, *supra* note 5, at 11 (“Invasive species typically have high reproductive rates, disperse easily, and can tolerate a wide range of environmental conditions. Often, they lack predators in their new environments. As a result, invasive species may out-compete native species for prey or other resource needs.”).

32. BENNETT, *supra* note 31, at 172–73 (noting that 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 (1995) (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 9, at 13, 15 (“These immigrants drive out the native; they do not mix with him.”).

33. BENNETT *supra* note 31, at 162, 164–65, 168 (“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)); BRIMELOW, *supra* note 32, at 7, 182–87; Norman S. Dike, *Aliens and Crime*, in *THE ALIEN IN OUR MIDST*, *supra* note 9, at 80–85 (describing Mexican immigrants as “[d]iseased, ignorant and belonging to a greatly lower class”).

ing "birth."³⁴ 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 phenomena—what this Article calls the "naturalization of nations"—a defining feature of nationalist movements. Nationalists uniformly assert that a nation is the fundamental (that is, natural) unit for organizing human societies.³⁵ 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."³⁶ Leading contemporary political scientists like Elie Kedourie and Anthony D. Smith have expanded on Berlin's work by explaining that nationalist ideologies uniformly assert the shared belief that "[h]umanity is *naturally* divided into nations."³⁷ In this conception, each nation is thought of as a unique species or other biological unit that exists independently of all others.³⁸ As Smith notes, it

34. See Walker Connor, *A Nation is a Nation, is a State, is an Ethnic Group, is a . . .*, in NATIONALISM, at 36, 38 (John Hutchinson & Anthony D. Smith eds., 1994); LIAH GREENFELD, NATIONALISM: FIVE ROADS TO MODERNITY 4-6 (1992); ANTHONY D. SMITH, NATIONS AND NATIONALISM IN A GLOBAL ERA 149 (1995) [hereinafter SMITH, NATIONS AND NATIONALISM]; ANTHONY D. SMITH, THE ANTIQUITY OF NATIONS 245 (2004) [hereinafter SMITH, THE ANTIQUITY OF NATIONS].

35. See SMITH, NATIONS AND NATIONALISM IN A GLOBAL ERA, *supra* note 34, at 149; SMITH, THE ANTIQUITY OF NATIONS, *supra* note 34, at 245.

36. ISAIAH BERLIN, VICO AND HERDER: TWO STUDIES IN THE HISTORY OF IDEAS 341 (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 (Ralph Manheim trans., 1943); see also JONATHAN OLSEN, NATURE AND NATIONALISM: RIGHT-WING ECOLOGY AND THE POLITICS OF IDENTITY IN CONTEMPORARY GERMANY 53-80 (1999).

37. ANTHONY D. SMITH, THEORIES OF NATIONALISM 20-21 (1983) [hereinafter SMITH, THEORIES OF NATIONALISM] (emphasis added); see also MICHAEL BILLIG, BANAL NATIONALISM 37 (1995) (defining "nationalism" as "the ideology by which the world of nations has come to seem [sic] the natural world"); ELIE KEDOURIE, NATIONALISM 1 (4th ed. 1993); SMITH, ANTIQUITY OF NATIONS, *supra* note 34, at 33, 245.

38. Conceptions of the nation-as-species often coincide with biological conceptions of race. See ANTHONY D. SMITH, NATIONAL IDENTITY 21-22 (1993).

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, deliberate choice, and the quirks of history.³⁹ 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.⁴⁰ 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, [and] nonnegotiable."⁴¹ To speak of "the natural way of doing things" suggests "that there can be no other way, and that all alternatives, being unnatural, should have no claim on our sympathies."⁴²

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 threaten to bring disease and decay. This sort of metaphor is illustrated by a contemporary American anti-immigration book that compares immigration to

39. SMITH, THEORIES OF NATIONALISM, *supra* note 37, at 19.

40. Nationalists often portray national peoples to have arisen autochthonously, that is, organically, directly from nature. Nationalist movements typically portray nations and national groups as having existed continuously since primordial, mythological time. See SMITH, ANTIQUITY OF NATIONS, *supra* note 34, at 4–5. 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; see also BENEDICT ANDERSON, IMAGINED COMMUNITIES: REFLECTIONS ON THE ORIGIN AND SPREAD OF NATIONALISM 37–46 (rev. ed. 1991); John Hutchinson & Anthony D. Smith, *Introduction*, in NATIONALISM, *supra* note 34, at 5–7.

41. William Cronon, *Introduction*, UNCOMMON GROUND: RETHINKING THE HUMAN PLACE IN NATURE 36 (William Cronon ed. 1996).

42. *Id.* As Roland Barthes stated succinctly, ideology often speaks with "the Voice of Nature." BILLIG, *supra* note 37, at 37; see also Jane Bennett & William Chaloupka, *Introduction* to IN THE NATURE OF THINGS: LANGUAGE, POLITICS, AND THE ENVIRONMENT ix (Jane Bennett & William Chaloupka eds.) (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." Cf. William N. Eskridge Jr., *Law and the Construction of the Closet: American Regulation of Same-Sex Intimacy, 1880-1946*, 82 IOWA L. REV. 1007 (1997) (discussing the history of sodomy as a "crime against nature"). 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.

a "multiplying parasite [which] feeds on us as the host country as it consumes the foundation of our republic."⁴³

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."⁴⁴ 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*.⁴⁵

The naturalization of nations thus 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.⁴⁶ "Aliens," those who are not a natural part of the national community, can nonetheless become part of the nation through a process tellingly referred to

43. FROSTY WOOLDRIDGE, IMMIGRATION'S UNARMED INVASION: DEADLY CONSEQUENCES xvi. (2004).

44. BRIMELOW, *supra* note 32, 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).

45. See, e.g., SMITH, THEORIES OF NATIONALISM, *supra* note 37, at 65.

46. See *Minor v. Happersett*, 88 U.S. (21 Wall.) 162, 167 (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, 63-109 (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 U.S. CONST. art. II, § 1, cl. 5; see generally 2 JOSEPH STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 1479 (Melville M. Bigelow ed., 5th ed., photo. reprint 1994) (1891); Duggin & Collins, *supra*, at 69-73.

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.⁴⁷

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 a 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."⁴⁸ The belief that a nation is in some sense a natural entity thus can support ethnic cleansing because it suggests that alien elements must be purged to protect the beauty, purity, and integrity of the nation. If the nation is an ecosystem, unwanted foreigners are 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.⁴⁹

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 a recurring trope in American anti-immigrant rhetoric that the presence of aliens among us is dangerously unnatural.⁵⁰ The next Section addresses the corollary: when nature is conceived in nationalist terms, environmental threats are seen as threats to the nation.

47. Cf. ANDERSON, *supra* note 40, at 145.

48. See John Breuilly, *The Sources of Nationalist Ideology*, in NATIONALISM, *supra* note 34, at 103, 107.

49. 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).

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

C. *The Nationalization of Nature*

The natural features within a nation's borders are often understood to embody national qualities, a phenomenon that can be characterized as the nationalization of nature.⁵¹ 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."⁵²

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 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."⁵³ 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

51. 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 49, at 172. In nineteenth century America, the redwoods came to stand for the growing stature of the United States among nations. *Id.* at 185-201. 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.

52. *Id.* at 15; see also ANTHONY D. SMITH, CHOSEN PEOPLES: SACRED SOURCES OF NATIONAL IDENTITY 135-36 (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").

53. FREDERICK JACKSON TURNER, THE SIGNIFICANCE OF THE FRONTIER IN AMERICAN HISTORY 3 (1976); see also SMITH, *supra* note 52, at 136.

American democracy.⁵⁴ Turner countered, however, that “[t]he frontier is the line of most rapid and effective Americanization.”⁵⁵ Rather than educational campaigns, exposure to the national landscape would transform foreigners into Americans.⁵⁶

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 inception, the American conservation and preservation movements, and their successor, the modern environmental movement, have made strong appeals to patriotism. Theodore Roosevelt declared that conservation “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.”⁵⁷ Each of the major environmental statutes of the late twentieth century likewise recites its patriotic purposes.⁵⁸

Furthermore, 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.⁵⁹ This ideology supported some of the most

54. See HIGHAM, *supra* note 30, at 234–63; DALE T. KNOBEL, *AMERICA FOR THE AMERICANS: THE NATIVIST MOVEMENT IN THE UNITED STATES* 244–58 (1996).

55. TURNER, *supra* note 53, at 3–4.

56. 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 *HANDBOOK OF YOSEMITE NATIONAL PARK* 77, 80 (Ansel Hall ed., 1921).

57. THEODORE ROOSEVELT, *THE NEW NATIONALISM* 22 (1910).

58. See, e.g., Clean Water Act, 33 U.S.C. § 1251(a) (2006); National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331 (2006); Clean Air Act, 42 U.S.C. § 7401 (2006); Coastal Zone Management Act, 16 U.S.C. § 1451(a) (2006); Forest and Rangeland Renewable Resources Planning Act, 16 U.S.C. § 1600 (2006).

59. 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 con-

progressive environmental policies of the time, including protections for forests and wetlands, as well as significant limitations on industrial development.⁶⁰ 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 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."⁶¹ 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."⁶²

As Nazi environmental policies demonstrate, the nationalization of nature projects national values onto nature. When national values emphasize racial purity, the natural world can

tamination threatened to suffocate the living and unique forces of the German people could those powers which were 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 101-02 (Harwood L. Childs trans., 1938).

60. See OLSEN, *supra* note 36, at 75-76.

61. 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); 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 11, 12 (Joachim Wolschke-Bulmahn ed., 1997). 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).

62. See Gould, *supra* note 61, at 12; see generally HOW GREEN WERE THE NAZIS? NATURE, ENVIRONMENT, AND NATION IN THE THIRD REICH (Franz-Josef Brüggemeier, Marc Cioc & Thomas Zeller eds., 2005).

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 history of the American nationalization of nature, in which beliefs about nature reflect beliefs about nations. From the time of European colonization to today, foreign people and foreign species have arrived in North 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 of nature 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. During this period, the Americans, led most prominently by Thomas Jefferson, 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 conservation 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 this Part shows, over the course of American history, the new 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 the present day. The native peoples of North America, like peoples everywhere, introduced useful species into the areas where they lived.⁶³ The rate of species introduction, however, increased dramatically with the arrival of Europeans, who sought 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."⁶⁴ Wilderness—that is, the existing geological features, 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.⁶⁵ The colonists understood that survival, safety, and comfort depended upon transforming the American wilderness into farmland dominated by domesticated crops and livestock.⁶⁶

The colonists transformed the wilderness through a process that ecological historian Alfred Crosby has termed "ecologi-

63. See CHARLES L. REDMAN, HUMAN IMPACT ON ANCIENT ENVIRONMENTS 139–140 (1999); William M. Denevan, *The Pristine Myth: The Landscape of the Americas in 1492*, in THE GREAT NEW WILDERNESS DEBATE 414, 414–34 (J. Baird Caldecott & Michael P. Nelson eds., 1998); 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, 141–78 (Charles E. Kay & Randy T. Simmons eds., 2002).

64. WILLIAM BRADFORD, OF PLYMOUTH PLANTATION, 1620–1647, at 62–63 (Samuel Eliot Morison ed., 1952).

65. See RODERICK FRAZIER NASH, WILDERNESS AND THE AMERICAN MIND 27 (4th ed. 2001). 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 pre-colonial 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 63, at 414–416.

66. See NASH, *supra* note 65, at 22–43.

cal imperialism," an attempt to refashion American landscapes into a neo-Europe through the replacement of American species with species brought from Europe.⁶⁷ 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.⁶⁸ 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.⁶⁹ At the same time, the first colonists accidentally introduced species like the common brown rat, which reached American shores in 1544.⁷⁰ Through their actions, the colonists believed they were transforming a "remote, rocky, barren, bushy, wild-woody wilderness" into "a second England for fertility," as Edward Johnson asserted in his seventeenth century colonial narrative.⁷¹ The transformation was, of course, highly successful. Almost all U.S. crops and domesticated animals were intentionally introduced, non-native species.⁷²

During the colonial period, the introduction of domesticated European 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. The successful introduction of domesticated crops and livestock was understood to be tantamount to successful colonization of the

67. See ALFRED W. CROSBY, *ECOLOGICAL IMPERIALISM: THE BIOLOGICAL EXPANSION OF EUROPE, 900–1900* (1986); see also JOHN GATTA, *MAKING NATURE SACRED: LITERATURE, RELIGION, AND THE ENVIRONMENT FROM THE PURITANS TO THE PRESENT* 17 (2004).

68. See CROSBY, *supra* note 67, at 3–4.

69. See WILLIAM CRONON, *CHANGES IN THE LAND: INDIANS, COLONISTS, AND THE ECOLOGY OF NEW ENGLAND* 108–26 (1983).

70. CROSBY, *supra* note 67, at 191–92. In 1609, just two years after the founding of Jamestown, Virginia, thousands of rats that had escaped from English ships destroyed Jamestown's stored food, forcing the settlers to look to other means of survival. *Id.*; see also T.S. Palmer, *The Danger of Introducing Noxious Animals and Birds*, in *YEARBOOK OF THE UNITED STATES DEPARTMENT OF AGRICULTURE* 1898, at 87, 91 (United States Department of Agriculture ed., 1899), available at http://naldr.nal.usda.gov/NALWeb/Agricola_Link.asp?Accession=IND43621321.

71. EDWARD JOHNSON, *JOHNSON'S WONDER-WORKING PROVIDENCE* 210 (J. Franklin Jameson ed., 1910).

72. 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 edifice of American industrial society." JACK R. KLOPPENBURG, JR., *FIRST THE SEED: THE POLITICAL ECONOMY OF PLANT BIOTECHNOLOGY, 1492–2000*, at 50 (1988); see also OTA REPORT, *supra* note 5, at iii.

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."⁷³ The progress of civilization was marked by the introduction of foreign plant and animal species—that is, the establishment of agricultural settlements dominated by domesticated crops and livestock—while wilderness—that is, self-sustaining ecosystems composed of native species—meant savagery and desolation.⁷⁴

The European colonists came to believe that their introduction of domesticated species demonstrated their superiority to Native Americans, who let "a whole Continent . . . lie waste without any improvement," while the colonists introduced plant and animal species, making possible the establishment of permanent settlements.⁷⁵ The European colonists perceived the Native Americans to be part of wild nature and frequently referred to them as children of the forests.⁷⁶ The removal of Native Americans proceeded apace with the removal of native plant and animal species. The perceived wildness of the Native Americans provided grounds for their removal and destruction, just as the wildness of nature demanded that it be uprooted and be replaced by settled agriculture.⁷⁷ 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."⁷⁸ Just as the Ameri-

73. CRONON, *supra* note 69, at 5.

74. See CECILIA TICH, *NEW WORLD, NEW EARTH: ENVIRONMENTAL REFORM IN AMERICAN LITERATURE FROM THE PURITANS THROUGH WHITMAN* viii (1979).

75. John Winthrop, *Winthrop's Conclusions for the Plantation in New England* (1629), in 2 *OLD SOUTH LEAFLETS*, Leaflet No. 50 at 5 (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 (2006).

76. See HOXIE N. FAIRCHILD, *THE NOBLE SAVAGE: A STUDY IN ROMANTIC NATURALISM* 190, 230, 366–85 (1961); see generally, ROBERT F. BERKHOFFER, 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* 134–68 (1987).

77. See CRONON, *supra* note 69, at 56–57.

78. Letter from George Washington to James Duane (Sept. 7, 1783), in *DOCUMENTS OF UNITED STATES INDIAN POLICY* 2 (Francis P. Prucha ed., 2d ed. 1990); RALPH LERNER, *THE THINKING REVOLUTIONARY: PRINCIPLE AND PRACTICE IN THE NEW REPUBLIC* 158 (1987); see generally Sandra Zelmer, *Sustaining Geog-*

can wilderness could be transformed through settlement, the Native Americans too could be transformed; as Jefferson and countless other Europeans advised, they should take up farming and become civilized men.⁷⁹ The introduction of non-native species thus defined the introduction of civilization in colonial America.

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.⁸⁰ Introduced plants and animals thus came 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 policy strongly supported the introduction of beneficial foreign plants and animals. As Thomas Jefferson wrote in 1790, "The greatest service which can be rendered any country is to add a useful plant to its culture."⁸¹ Beginning around the time of American

raphies of Hope: Cultural Resources on Public Lands, 73 U. COLO. L. REV. 413, 419–25 (2001).

79. See Confidential message from President Thomas Jefferson 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 (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.

80. JOHNSON, *supra* note 71, at 51; see PATRICIA SEED, CEREMONIES OF POSSESSION IN EUROPE'S CONQUEST OF THE NEW WORLD, 1492–1640, at 27 (1995) (noting that seventeenth century English colonists "referred to their own activities in occupying the New World as planting the garden"); TICHI, *supra* note 74, at 42; J. WREFORD WATSON, *The Image of Nature in America*, in THE AMERICAN ENVIRONMENT: PERCEPTION AND POLICIES 63–75 (J. Wreford Watson & Timothy O'Riordan eds., 1976).

81. Thomas Jefferson, *A Memorandum (Services to My Country)* (1800), in THOMAS JEFFERSON 702–04 (Merrill D. Peterson ed., 1984); see also Powell Glass, *Jefferson and Plant Introduction*, 23 NATIONAL HORTICULTURAL MAGAZINE 127–31 (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." Mark Sagoff, *Do*

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. Rather than worrying that foreign species were destroying America, leading intellectuals of the eighteenth century worried that America was destroying foreign species. Specifically, 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 forty-six volumes) of his *Histoire Naturelle*, and asserted that the large mammals of the Americas—deer, elk, moose—were smaller, degenerate forms of European animals.⁸² Buffon asserted that the Americas had no giant animals on the scale of the rhinoceros, hippopotamus, camel, or elephant, and that American ecosystems were dominated by inferior animals, including the largest frogs, reptiles, and insects in the world.⁸³ 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."⁸⁴ 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."⁸⁵

Non-Native Species Threaten the Natural Environment?, 18 J. AGRIC. & ENVTL. ETHICS 215.

82. See ANTONELLI GERBI, *THE DISPUTE OF THE NEW WORLD: THE HISTORY OF A POLEMIC, 1750–1900*, at 3 (Jeremy Moyle, trans., Univ. of Pittsburgh Press 1973) (1955); PAUL SEMONIN, *AMERICAN MONSTER: HOW THE NATION'S FIRST PREHISTORIC CREATURE BECAME A SYMBOL OF NATIONAL IDENTITY* 124 (2000).

83. See GERBI, *supra* note 82, at 4, 6–7.

84. *Id.* at 5.

85. *Id.* at 6.

European naturalists expanded on Buffon's theory.⁸⁶ 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.⁸⁷ De Pauw warned that degeneracy would affect the European colonists as well, whose future generations would undoubtedly degenerate if they stayed in America.⁸⁸ 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."⁸⁹

The theory of degeneracy outraged many of the American Founding Fathers, who defended the size and vitality of the plants and animals of North America. In his *Notes on the State of Virginia*, Thomas Jefferson sought to rebut Buffon's theory point by point.⁹⁰ Jefferson compiled statistical tables comparing the weights of the North American animals to European animals, from the largest to the smallest: from the buffalo, moose, and elk, to the rat, weasel, and shrew mouse.⁹¹ According to Jefferson, American bears were twice as heavy as their European counterparts, and no European animal was comparable to the eighteen hundred pound American bison.⁹² 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.⁹³ 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 masto-

86. *Id.* at 35–156.

87. *Id.* at 56–57.

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

89. SEMONIN, *supra* note 82, at 171.

90. THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA 66–97 (8th ed. 1801), reprint available at http://books.google.com/books?id=mVEVAAAAAYAAJ&printsec=frontcover&dq=jefferson+notes+on+state+of+virginia&ei=08nuSbztNYfOM5_hlLoN#PPP1,M1, at 169–91.

91. *Id.* at 71–74.

92. *Id.*

93. *Id.* at 61–62.

dons, in the hopes of establishing once and for all the superior size of American species.⁹⁴

Just as Jefferson defended American wildlife against the charge of degeneracy, Jefferson also 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."⁹⁵ Jefferson likewise rejected Raynal's assertion that Europeans living in America had degenerated, contending 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 England in the same period.⁹⁶ 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.⁹⁷

The theory of degeneracy riled the American revolutionaries in part because it conflicted with their understanding of the

94. See SEMONIN, *supra* note 82, at 344.

95. JEFFERSON, *supra* note 90, at 89.

96. *Id.* at 98-99.

97. See GERBI, *supra* note 82, at 263-66; SEMONIN, *supra* note 82. 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* 101-02 (1993).

nature of the American nation.⁹⁸ A central metaphor of the Revolution was that the climate of America nurtures liberty and creates an 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."⁹⁹ To the American revolutionaries, foreign people would thrive in America as long as it had a government that fostered a climate of liberty.¹⁰⁰ 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 Founders' emphatic nationalist rejection of the theory of degeneracy. In Federalist No. 11, Alexander Hamilton invoked the hated degeneracy 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 arrogant pretensions of the Europeans. It belongs to us to vindicate the

98. 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 F. WRIGHT JR., *AMERICAN INTERPRETATIONS OF NATURAL LAW: A STUDY IN THE HISTORY OF POLITICAL THOUGHT* 62–99 (1962).

99. MARILYN C. BASELAR, "ASYLUM FOR MANKIND": AMERICA 1607–1800, at 135 (1998) (quoting JONATHAN MAYHEW, *THE SNARE BROKEN* (1766)).

100. As historian Marilyn Baselar wrote, 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 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 127–28 (quoting DAVID HUME, *OF THE POPULOUSNESS OF ANTIENT NATIONS* (1752), reprinted in *AN ESSAY ON THE PRINCIPLE OF POPULATION* 3 (Phillip Appleman ed. 1976)).

honor of the human race, and to teach that assuming brother, moderation.¹⁰¹

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.¹⁰² 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 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.¹⁰³

101. THE FEDERALIST NO. 11, at 90–91 (Alexander Hamilton) (Clinton Rossiter ed. 1961).

102. See, e.g., DUMAS MALONE, 2 JEFFERSON AND THE RIGHTS OF MAN 98 (1951); MERRILL D. PETERSON, THOMAS JEFFERSON AND THE NEW NATION: A BIOGRAPHY 258 (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).

103. 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

C. *The Early Conservation Movement and the Nativist
Roots of Protections Against Invasive Species*

The American conservation movement provides another example of the nationalization of nature because from the start of the movement in the mid-nineteenth century, the conservation of American natural resources 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.¹⁰⁴ 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."¹⁰⁵ John Muir later complained that the remaining pieces of American wilderness were no longer very wild because the bears had been "poisoned, trapped, and shot," while the Indians "are dead or civilized into useless innocence."¹⁰⁶

Wilderness needed to be protected, conservationists 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

NEW WORLD, *supra* note 82. 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 WORKS OF THEODORE ROOSEVELT: THE WILDERNESS HUNTER* 13 (1897).

104. See NASH, *supra* note 65, at 99; WILLIAM CRONON, *UNCOMMON GROUND: TOWARD REINVENTING NATURE* (1995), *reprinted in* THE GREAT NEW WILDERNESS DEBATE (retitled "The Trouble with Wilderness, or, Getting Back to the Wrong Nature"), *supra* note 63, at 482–83.

105. HENRY DAVID THOREAU, VIII: *THE JOURNAL OF HENRY D. THOREAU* 220–221 (Mar. 23, 1856) (Bradford Torrey and Francis H. Allen, eds., 1962); see *generally* NASH, *supra* note 65; CRONON, *supra* note 104.

106. JOHN MUIR, *OUR NATIONAL PARKS* (1901), *reprinted in* THE GREAT NEW WILDERNESS DEBATE (retitled "The American Forests"), *supra* note 63, at 57.

atone.”¹⁰⁷ Conservationists 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.”¹⁰⁸ Americans needed wilderness to conquer and wild Indians to fight, but as John Muir suggested, the Indians had been civilized into “useless innocence,” implying 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, conservationists had come to believe that Buffon and his 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.¹⁰⁹

It is no coincidence that the conservation movement began at a time of resurgent American nativism and opposition to immigration. Indeed, the conservation 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 conservationist and director of the Bronx Zoo, wrote

107. ROOSEVELT, *Preface*, *supra* note 103, at ii.

108. *Id.*; see also ALDO LEOPOLD, *THE JOURNAL OF LAND AND PUBLIC UTILITY ECONOMICS* (1925), *reprinted in THE GREAT NEW WILDERNESS DEBATE* (retitled “Wilderness as a Form of Land Use”), *supra* note 63, 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.”).

109. 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 “[d]egeneracy,” the cure for which was regular experiences of “Outdoor Life” away from civilization. See ERNEST THOMPSON SETON, *BOY SCOUTS OF AMERICA: A HANDBOOK OF WOODCRAFT, SCOUTING, AND LIFE-CRAFT*, at xi–xii, 1–2 (9th ed., Doubleday, Page & Co. 1910); see also NASH, *supra* note 65, at 148.

what is widely considered the first book advocating the preservation of American wildlife. In his book, Hornaday blamed Southern European immigrants for the decline of native species.¹¹⁰ Italians, Hornaday claimed, were naturally inclined to slaughter songbirds.¹¹¹ 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."¹¹²

Protection of 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 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.¹¹³

Many of the early conservationists thus advocated strong immigration control as a means of simultaneously protecting American nature and the American character.¹¹⁴

The early conservation 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.¹¹⁵ Then, as now, the every-

110. WILLIAM T. HORNADAY, *OUR VANISHING WILD LIFE* 100–02 (1913). Similar arguments that foreign immigrants threaten America's natural resources continue to be made in debates over immigration. For instance, proponents of strong restrictions on immigration have argued that the presence of large numbers of foreigners causes significant environmental harms. See Reich, *supra* note 50, at 1580–82 (discussing environmental arguments made by the Federation of American Immigration Reform).

111. HORNADAY, *supra* note 110, at 100–02.

112. *Id.* at 100.

113. *Id.* at 101–02.

114. See STEPHEN FOX, JOHN MUIR AND HIS LEGACY: THE AMERICAN CONSERVATION MOVEMENT 347 (1981).

115. For discussion of early legal regulations of weeds, see CRONON, *supra* note 69, at 154–55; John H. Martin & S.C. Salmon, *The Rusts of Wheat, Oats, Barley, Rye*, in *THE YEARBOOK OF AGRICULTURE* 1953, at 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." *Institute for Educ. of Mute & Blind v. Henderson*, 31 P. 714, 714 (Colo. 1892); see also *Chicago, Terre Haute & Southeastern Ry. Co. v. Anderson*, 242 U.S. 283, 285 (1916) (holding that the destruction of "noxious weeds" may be required under the police power of the state); *Lowe v. Radecke*, 171 N.W. 408, 409 (Mich. 1919) (discussing

day meaning of "weed" was straightforward and entirely subjective: a weed is any plant that grows where it is not wanted.¹¹⁶ 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 gardening, landscaping, and agriculture.¹¹⁷ 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.¹¹⁸ Within a few years, the Department of Agriculture identified most of the nation's injurious insects as foreign.¹¹⁹ Thus, to the preservationists it was

state law "requiring noxious weeds to be cut" at certain times of the year); *Wedemeyer v. Crouch*, 122 P. 366, 368 (Wash. 1912) (upholding state law providing for the destruction of noxious weeds upon private lands and public highways).

116. See, e.g., Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136(cc) (2006) ("The term 'weed' means any plant which grows where not wanted.").

117. 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.").

118. See L. O. Howard, *Danger of Importing Insect Pests*, in *YEARBOOK OF THE UNITED STATES DEPARTMENT OF AGRICULTURE* 1897 529, 530 (1898).

119. *Id.* at 530; see also *id.* at 529 ("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."). 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. 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, *supra* note 117, 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* (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 South Africa, and camels obviating for us as for the Arab the obstacle of the desert.

not merely foreign immigrants that threatened American wildlife, but foreign insects as well.

From its beginning, the movement to keep out dangerous foreign species was justified by analogy with unwanted immigration. In 1891, Congress created the Bureau of Immigration and gave it broad authority to determine which immigrants should be accepted and which should be excluded.¹²⁰ A few years later, the Department of Agriculture sought the same authority to determine which foreign species should be allowed into the country. As the Department explained, "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?"¹²¹ The federal government had long supported the introduction of foreign species.¹²² In 1900, Congress agreed to the Department of Agriculture's request and enacted the Lacey Act, the first federal law intended to protect American wildlife against dangerous foreign animals.¹²³ The Act prohibited the importation of mongooses, fruit bats, English sparrows, and starlings, and any other foreign animals declared dangerous by the Secretary of Agriculture.¹²⁴

The conservation 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.¹²⁵ As the movement reveals, envisioning nature in na-

BRIGHT, *supra* note 117, at 140 (quoting THE AGE, Apr. 2, 1858).

120. Immigration Act of 1891, ch. 551, 26 Stat. 1084.

121. Palmer, *supra* note 70, at 87, 107-08.

122. 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, *supra* note 117, at 137-38. The Commission also undertook to export native fish abroad. *Id.* at 138-39. 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 James Wilson, *Report of the Secretary of Agriculture*, in YEARBOOK OF THE UNITED STATES DEPARTMENT OF AGRICULTURE 1898, at 9, 35-36 (1899). The USDA also sought to introduce promising foreign grasses and fruits. *Id.* at 595.

123. Lacey Act, ch. 553, 31 Stat. 187 (1900). In the following decades, several additional federal laws, including the Plant Pest Act, the Plant Quarantine Act, and the Noxious Weed Act, were enacted to protect agriculture and wildlife from weeds and pests.

124. *Id.*

125. At the same time, the naturalization of the nation led opponents of immigration to compare unwanted immigrants to foreign pests. Hornaday thus wrote

tional terms often involves hostility to aliens, whether those are immigrant peoples or immigrant plants, because they are seen as threatening the natural order.

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 believed that the replacement of wilderness with domestic crops was part of 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 nineteenth century conservation movement saw in the loss of American wildlife the loss of American national character. As this Part will show, 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.

that the "Italian laborer is a human mongoose." HORNADAY, *supra* note 110, at 101. 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 9, at 140. A later eugenicist wrote that

[T]he 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* 306-07 (1929).

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*.¹²⁶ 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 very distinct communities, and human activities that introduce plants and animals from one community into another obliterate these distinctions.¹²⁷ This process threatens great harm to biodiversity.¹²⁸ 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.¹²⁹

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.¹³⁰ The populations of introduced species can grow exponentially when the new ecosystem lacks the predators, pathogens, and limited available resources that kept them in check in their original ecosystem.¹³¹ The presence of a large

126. 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 ELTON, supra* at vii–viii.

127. *Id.*

128. *Id.*

129. 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.

130. See Sixth Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, Mar. 12–16, 2001, *Assessment and Management of Alien Species That Threaten Ecosystems, Habitats and Species*, 1–2, CBD Technical Series No. 1; U.N. Env't Programme, Subsidiary Body on Scientific, Technical, and Technological Advice, *Invasive Alien Species: Status, Impacts and Trends of Alien Species that Threaten Ecosystems, Habitats and Species*, 5–6, U.N. Doc. UNEP/CBD/SBSTTA/6/INF/11 (Feb. 26, 2001) [hereinafter *Status, Impacts and Trends*]; U.N. Env't Programme, Subsidiary Body on Scientific, Technical, and Technological Advice, *Invasive Alien Species: Global Strategy on Invasive Alien Species*, 10–13, U.N. Doc. UNEP/CBD/SBSTTA/6/INF/9 (Jan. 16, 2000).

131. See *Status, Impact and Trends, supra* note 130, at 7.

population of introduced species can alter the composition of the ecosystems into which they are introduced and may substantially affect the distribution of resources.¹³² This may push native species toward extinction. Invasive species are understood to be the second-leading cause of species extinctions and threatened extinctions.¹³³

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.¹³⁴ Environmental groups organize family outings to protect native plants by purging the landscapes of alien elements.¹³⁵ Bookstore gardening and nature sections are filled with books on invasive species and instructions on how to "go native"—that is, to garden using native plants—and to protect against the spread of unwanted aliens.¹³⁶

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.¹³⁷

132. *Id.* at 14.

133. *Id.* at 5.

134. For a list of native plants societies, see http://www.michbotclub.org/links/native_plant_society.htm (last visited Feb. 28, 2009). For a list of exotic pest plant councils, see <http://www.naepc.org/chapters.cfm> (last visited Feb. 28, 2009).

135. See, e.g., Earth Day Invasive Species Removal, available at <http://www.mycountyparks.com/County/Polk/Park/Polk-County-Education-Programs/Events/192/Earth-Day-Invasive-Species-Removal.aspx> ("Grab the family or your co-workers and come help remove invasive species from a local park.").

136. 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).

137. 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. 16 U.S.C. § 3372 (2006). 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). 7 U.S.C. §§ 7701–7772. 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, and is administered by the Department of Commerce. 16 U.S.C. §§ 4701–4704.

In 1999, President Clinton issued an executive order that established a national policy to combat invasive species. The order also created the National Invasive Species Council ("NISC"), an interagency council headed by the Secretaries of Commerce, Agriculture, and the Interior, to oversee and unify the various federal responses to invasive species problems.¹³⁸ As the NISC has 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.¹³⁹ To keep invasive species out, federal law directs the administering 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

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

139. NISC MANAGEMENT PLAN, *supra* note 5, at 4 ("The first line of defense is prevention.").

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 (2008). 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. See 7 C.F.R. § 340.1 (2008).

141. See OTA REPORT, *supra* note 5, at 22–23 ("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, [sic] This puts the burden on the importer to prove a species is not harmful.").

142. NISC MANAGEMENT PLAN, *supra* note 5, at 5, 35–36; see also FEDERAL INTERAGENCY COMMITTEE FOR THE MANAGEMENT OF NOXIOUS AND EXOTIC WEEDS, A NATIONAL EARLY DETECTION AND RAPID RESPONSE SYSTEM FOR INVASIVE PLANTS IN THE UNITED STATES 3, 7, 11 (2003).

143. NISC MANAGEMENT PLAN, *supra* note 5, at 4.

144. See Exec. Order No. 13,112, 64 Fed. Reg. 25 (Feb. 8, 1999); NISC MANAGEMENT PLAN, *supra* note 5, at 5, 40–41.

Each of the elements of federal invasive species policies is widely regarded as ineffective.¹⁴⁵ Federal law prohibits entry of foreign species only upon proof that they will cause harm, yet it is often impossible to identify the species that will cause harm.¹⁴⁶ Many environmental advocates seek to replace the policy of blacklisting harmful species with a “white list” approach, in which only species 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.’”¹⁴⁷ The fight over whether federal law

145. See, e.g., GAO REPORT, *supra* note 5, at 4; U.S. GEN. ACCOUNTING OFFICE, REPORT TO CONGRESSIONAL REQUESTERS, INVASIVE SPECIES: OBSTACLES HINDER FEDERAL RAPID RESPONSE TO GROWING THREAT, GAO-01-724, at 12–20 (2001) [hereinafter GAO, INVASIVE SPECIES]; Robert Brown, *Exotic Pets Invade United States Ecosystems: Legislative Failure and a Proposed Solution*, 81 IND. L.J. 713, 718 (2006) (“Congress has not effectively dealt with the problem of the importation and ownership of exotic animals.”); John L. Dentler, *Noah’s Farce: The Regulation and Control of Exotic Fish and Wildlife*, 17 U. PUGET SOUND L. REV. 191, 210 (1993); Laura T. Gorjanc, *Combating Harmful Invasive Species Under the Lacey Act: Removing the Dormant Commerce Clause Barrier to State and Federal Cooperation*, 16 FORDHAM ENVTL. L. REV. 111, 120–21 (2004); Marc L. Miller, *NIS, WTO, SPS, WIR: Does the WTO Substantially Limit the Ability of Countries to Regulate Harmful Nonindigenous Species?*, 17 EMORY INT’L L. REV. 1059, 1065–66 (2003); Jessica L. Kusek, Comment, *Fishing for a Solution: How to Prevent the Introduction of Invasive Species Such as the Snakehead Fish*, 15 PENN ST. ENVTL. L. REV. 331, 345 n.133 (2007) (“However, these federal regulations are notoriously weak. These regulations adopt a dirty list approach, that is, the regulations only prohibit those species that are designated by the Department of the Interior from entry into the United States. This centralized dirty list approach has proven to be ineffective.”).

146. See, e.g., Steven A. Wade, *Stemming the Tide: A Plea for New Exotic Species Legislation*, 10 J. LAND USE & ENVTL. L. 343, 348 (1994–1995) (“[T]he black list approach is inherently reactive because FWS cannot determine if an introduced species is harmful until the species has already established itself.”).

147. 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 grounds that it would interfere with property rights. In September 2006, seventy 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 endless regulation of human behavior, including that pertaining to private land use, public land access, and how and where Americans travel.” Peyton Knight, Letters, Forum, *Beware of ‘Invasive Species’ Regulations*, WASH. TIMES, Nov. 5, 2006, at B.05. Property rights could be threatened by invasive species regulations: “We have seen how endangered species and wetlands regulations can wreak havoc on

should establish a presumption in favor of allowing or prohibiting imports of foreign species largely misses the point because it only addresses intentional introductions of foreign species, while many, if not most, harmful species are introduced accidentally.¹⁴⁸

Federal policies to control invasive species after they have been introduced have similarly proven ineffective. According to the National Invasive Species Council, invasive plants are spreading at the rate of 3 million acres per year.¹⁴⁹ It is much easier and more feasible to control and eradicate invasive species before they become widespread, but invasive species often go unnoticed for years before they cause significant agricultural or ecological damage.¹⁵⁰ No national system for early detection of successful invasions has been established.¹⁵¹ Effective eradication of invasive species, once they are established, is often impossible.¹⁵² Moreover, the development of effective policies to control established invasive species must grapple with the massive scale of the problem, which includes at least 4500 invasive species.¹⁵³

*B. The Rhetoric of Invasive Species Distorts
Environmental Policies by Projecting Unrelated
National Anxieties onto the Natural World*

The ineffectiveness of federal invasive species policies may be due in part to the metaphor of invasive aliens. The rhetoric of invasive species projects onto the natural world stereotypical notions about foreigners and the transgression of national borders. The movement to protect native species responds to broader anxieties about the breakdown of national barriers, anxieties about immigration, globalization, and international terrorism. These anxieties are in many ways unrelated to the harms caused by invasive species. In so doing, the nationaliza-

Americans' constitutional right to private property. Invasive species regulations have the potential to be even more damaging to this fundamental right." *Id.*

148. See Jennifer L Molnar et al., *Assessing the Global Threat of Invasive Species to Marine Biodiversity*, 6 FRONTIERS IN ECOLOGY AND THE ENV'T 485, 485–492 (2008).

149. See NISC MANAGEMENT PLAN, *supra* note 5, at 11.

150. See *id.* at 5.

151. See GAO, INVASIVE SPECIES, *supra* note 145, at 6, 12–26; NISC MANAGEMENT PLAN, *supra* note 5, at 5.

152. See NISC MANAGEMENT PLAN, *supra* note 5, at 37.

153. See OTA REPORT, *supra* note 5.

tion 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 Charles 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."¹⁵⁴ The trope of "foreign invasion" popularized by Elton dominates contemporary discourse on invasive species. 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."¹⁵⁵ A recent article in the *New York Times* described invasive species as "unwelcome immigrants" that are "hungry and thriving where they don't belong."¹⁵⁶ 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."¹⁵⁷

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 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.¹⁵⁸ Into this harmonious

154. ELTON, *supra* note 126, at 1. See, e.g., Mark A. Davis et al., *Charles S. Elton and the Dissociation of Invasion Ecology From the Rest of Ecology*, in 7 DIVERSITY AND DISTRIBUTIONS 97, 100 (2001).

155. NAT'L WILDLIFE REFUGE ASS'N, SILENT INVASION: A CALL TO ACTION 12 (2002), available at <http://www.refugenet.org/new-pdf-files/Silent%20Invasion%20pdf.pdf>.

156. Morgan Lyle, *They're Hungry and Thriving Where They Don't Belong*, N.Y. TIMES, Aug. 14, 2005, at 14 LI.1.

157. Maryland Department of Natural Resources, <http://www.dnr.state.md.us/fisheries/fishingreport/snakehead.html> (last visited Mar. 3, 2009).

158. See U.S. EPA, Landscaping with Native Plants, <http://www.epa.gov/glnpo/greenacres/nativeplants/factsht.html#top> (last visited Mar. 29, 2009); U.S. EPA, Mid-Atlantic Region Green Landscaping, <http://www.epa.gov/reg3esd1/garden/index.htm> (last visited Mar. 29, 2009); Va. Dep't of Conservation and Recreation, Invasive Alien Plant Species of Virginia: What are Invasive Alien

Eden, aliens arrived and upset the balance of nature.¹⁵⁹ 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.¹⁶⁰ These invaders killed and eliminated many natives.¹⁶¹ They also brought diseases for which the natives had no resistance.¹⁶² Some of the surviving natives were assimilated by the aliens, while others were forced to live in separate enclaves.¹⁶³ This narrative of colonization, native displacement, and the establishment of a new national landscape dominated by immigrants and their naturalized descendants, 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 Ben-

Plant Species and Why are They a Problem?, http://www.dcr.virginia.gov/natural_heritage/invspinfo.shtml (last visited Mar. 29, 2009).

159. See THE NATURE CONSERVANCY, FIGHTING BACK: A GUIDE TO INVASIVE SPECIES IN SOUTH GEORGIA, 2003, *available at* <http://tncinvasives.ucdavis.edu/products/outreach/southgeorgia.pdf> ("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.").

160. See, e.g., THE NATURE CONSERVANCY, STOPPING THE SPREAD: RECOMMENDATIONS FOR COMBATING FLORIDA'S COSTLY INVASIVE SPECIES EPIDEMIC 3 (2003), *available at* <http://tncinvasives.ucdavis.edu/products/outreach/stophthespread.pdf> ("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 5, at 37 (describing purple loosestrife as "beautiful but aggressive invader" that "takes over wetlands, decreasing habitat for native wildlife"); NAT'L WILDLIFE REFUGE ASS'N, SILENT INVASION, *supra* note 155, at 1 ("Invasive Species Will Take Over America's Wildlife Refuges—Unless We Act Now.").

161. 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.").

162. See, e.g., Aquatic Nuisance Prevention and Control Act, 16 U.S.C. § 4701(a)(2) (2008) (expressing congressional finding that "nonindigenous species . . . may carry diseases or parasites that affect native species").

163. See, e.g., THE NATURE CONSERVANCY, WEEDS IN THE WILD: WEED MANAGEMENT IN NATURAL AREAS (Sept. 2001), *available at* <http://tncinvasives.ucdavis.edu/products/outreach/pamphww.pdf>. 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." EPA, Landscaping with Native Plants Fact Sheet, 2008, <http://www.epa.gov/glnpo/greenacres/nativeplants/factsht.html#top>.

nett has written, 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, all share a “common vision of alien intruders in the promised land, people who could not be assimilated in the national community.”¹⁶⁴ 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.”¹⁶⁵ The alien intruders of nativist mythology share common traits. They are aggressive, hypersexual, and unable to assimilate.¹⁶⁶ As with American nativist movements, the invasive species movement imagines 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.¹⁶⁷ Rather, it is the 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, fecund intruder who threatens to displace native-born Americans and to destroy the American way of life.¹⁶⁸

164. BENNETT, *supra* note 31, at 2.

165. *Id.* at 82.

166. *See infra* notes 184–89 and associated text.

167. Indeed, the environmentalists and scientists who are concerned about invasive species tend to support human immigrants, while opponents of invasive species policies, like those who signed the Meese letter, *see supra* note 149, tend to be anti-immigrant. *See* Simberloff, *supra* note 147, at 182 (asserting that invasion biologists are not personally xenophobic or racist).

168. 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* Curtis C. Daehler, *Two Ways to Be an Invader, But One is More Suitable for Ecology*, 82 BULL. OF THE ECOLOGICAL SOC'Y OF AM. 101, 101–02 (Jan. 2001); Mark A. Davis & Ken Thompson, *Eight Ways to Be a Colonizer; Two Ways to Be an Invader: A Proposed Nomenclature Scheme for Invasion Ecology*, 81 BULL. OF THE ECOLOGICAL SOC'Y OF AM. 226, 226–29 (July 2000); Mark A. Davis & Ken Thompson, *Invasion Terminology: Should Ecologists Define Their Terms Differently than Others? No, Not if We Want to Be of Any Help!*, 82 BULL. OF THE ECOLOGICAL SOC'Y OF AM. 206, 206 (July 2001); Gould, *supra* note 62; Petr Pyšek et al., *Alien Plants in Checklists and Floras: Towards Better Communication Between Taxonomists and Ecologists*, 53 TAXON 131, 131–143 (Feb. 2004); David M. Richardson et al., *Naturalization and Invasion of Alien Plants: Concepts and Definitions*, 6 DIVERSITY AND DISTRIBUTIONS 93, 93–107 (2000); Marcel Rejmánek et al., *Commentary, Biological Invasions: Politics and the Discontinuity of Ecological Terminology*, BULL. OF THE ECOLOGICAL SOC'Y OF AM. 131, 131–32 (Apr. 2002).

1. The Rhetoric of Invasive Species Distorts Environmental Policies by Projecting the Supposed Traits of Alien Peoples onto Alien Species

The central goal of federal invasive species policies is to prevent new introductions of harmful species into the United States.¹⁶⁹ To succeed, agency officials need some means to identify the bad aliens; state and federal agencies maintain black lists of known invasive species. In addition, government agencies have sought to keep out harmful species by developing 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.¹⁷⁰ The U.S. Forest Service has added that invasive species “compete aggressively for resources,” “grow and reproduce rapidly,” and “tolerate a variety of habitat conditions.”¹⁷¹ The U.S. Geological Survey describes invasive species as “gregarious,” “tolerant of wide range of conditions,” and as having a “high rate of reproduction.”¹⁷² 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.”¹⁷³

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 spe-

169. See, e.g., NISC MANAGEMENT PLAN, *supra* note 5, at 4 (“The first line of defense is prevention.”).

170. See Exec. Order No. 13,112, 64 Fed. Reg. 25, §1(a), (f) (Feb. 8, 1999).

171. U.S. Forest Service, Pacific Northwest Research Station, Invasive Species, <http://www.fs.fed.us/pnw/invasives/index.shtml> (last visited Mar. 29, 2009).

172. U.S. Geological Survey, Non-Indigenous Species, <http://www.nwrc.usgs.gov/sandt/Nonindig.pdf>.

173. David Quammen, *Planet of Weeds: Tallying the Losses of Earth’s Animals and Plants*, HARPER’S MAG., Oct. 1998, at 67. For additional government lists of the traits of invasive species, see, e.g., EPA, Mid-Atlantic Region Green Landscaping, <http://www.epa.gov/reg3esd1/garden/index.htm>; Va. Dep’t of Conservation and Recreation, What Are Invasive Alien Plant Species and Why Are They a Problem?, http://www.dcr.virginia.gov/natural_heritage/invspinfo.shtml (last visited Mar. 29, 2009); Minn. Dep’t of Natural Resources, Invasive Species Frequently Asked Questions, 2009, <http://www.dnr.state.mn.us/invasives/faq.html>.

cies share *no* common traits.¹⁷⁴ 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 almost as diverse as the weeds themselves.”¹⁷⁵ Traits like aggressiveness and high reproductive rates are not biological characteristics but instead describe what characteristics species exhibit when they succeed in a new environment. Similarly, if we were to look for common characteristics of murderers, it would certainly be true to say that they all kill people, but it would hardly help in predicting who would become one. Indeed, the scientific consensus is that, under certain conditions, *any* species can become a successful invader, and *any* environment can be invaded.¹⁷⁶ The perceived traits of invasive species thus do not derive from 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.¹⁷⁷ In 1889, the Supreme Court 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

174. See YVONNE BASKIN, A PLAGUE OF RATS AND RUBBERVINES: THE GROWING THREAT OF SPECIES INVASIONS 125–47 (2002); ALAN BURDICK, OUT OF EDEN: AN ODYSSEY OF ECOLOGICAL INVASION (2005); Davis, *supra* note 17, at 12; OTA REPORT, *supra* note 5, at 7 (“Generally, the impact of new species cannot be predicted confidently or quantitatively.”); Alan Burdick, *The Truth About Invasive Species: How to Stop Worrying and Learn to Love Ecological Intruders*, DISCOVER, May 2005, at 39 (“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.”).

175. Asa Gray, *The Pertinacity and Predominance of Weeds*, 18 AM. J. SCI. & ARTS 161, 162 (1879). See Davis, *supra* note 17, at 53.

176. BRIGHT, *supra* note 117, at 25; Burdick, *The Truth About Invasive Species*, *supra* note 176, at 39. 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 J. AGRIC. & ENVTL. ETHICS 595, 600 (2005).

177. Compare NISC MANAGEMENT PLAN, *supra* note 5, at 11, with HIGHAM, *supra* note 30, at 4–5.

for them to assimilate with our people, or to make any changes in their habits or modes of living.”¹⁷⁸ The charge that certain foreigners could not or would not assimilate into mainstream American life was made against Irish immigrants in the 1850s,¹⁷⁹ southern European, eastern European, Italian, and Jewish immigrants beginning in the 1880s and 1890s,¹⁸⁰ French-Canadian and Filipino immigrants in the 1930s,¹⁸¹ and Latin American and other immigrants today.¹⁸² 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?”¹⁸³ 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 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.¹⁸⁴ As Keith Aoki has discussed, the demonization of Chinese immigrants as “swarming hordes” was constructed in part upon “pseudo-scientific assertions about Asian fertility, fecundity and innate tolerance for pain.”¹⁸⁵ Nativists have characterized other unwanted immigrants as exhibiting crude sexuality, which leads to high birth rates. This, in turn, threatens to overwhelm, outnumber, and displace the native-born Ameri-

178. See *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., 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”) (quoting *Fong Yue Ting v. United States*, 149 U.S. 698, 717 (1893)); see generally Aoki, *supra* note 8, at 32–33.

179. See BENNETT, *supra* note 31, at 122.

180. See HIGHAM, *supra* note 30, at 64–67, 277–286, 309.

181. See Robert C. Dexter, *The French Canadian Invasion*, in *THE ALIEN IN OUR MIDST*, *supra* note 9, at 70, 71; V.S. McClatchy, *Oriental Immigration in California*, in *THE ALIEN IN OUR MIDST*, *supra* note 9, at 188, 195.

182. See BRIMELOW, *supra* note 32, at 7–8; 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 32, at 18–19, 56–57; BUCHANAN, *supra* note 1, at 124–26.

183. BRIMELOW, *supra* note 32, at 7.

184. *Id.*

185. See Aoki, *supra* note 8, at 32–33 (quoting *DICTIONARY OF ASIAN AMERICAN HISTORY* 100–101 (Hyung-chan Kim ed., 1986)).

cans.¹⁸⁶ 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.¹⁸⁷ Like invasive species, unwanted aliens are often described as “aggressive,” as stealing vital resources from natives and eventually eliminating them altogether.¹⁸⁸ Invasive species and unwanted immigrants are both said to bring disease and filth, polluting the purity of the natural and national communities.¹⁸⁹

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 published a newsletter called *Going Native*, which encourages gardening with native plants, asserting that, like Native peoples, “native plants ex-

186. See BENNETT, *supra* note 31, 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”); HIGHAM, *supra* note 30, at 149, 272; Dexter, *supra* note 181, at 75.

187. See BENNETT, *supra* note 31, at 85, 165, 172–173 (Catholic immigrants were seen as “‘job stealers’” taking jobs “‘desperately needed by real Americans.’”) (citation omitted); BRIMELOW, *supra* note 32, at 118 (discussing the “various ways in which [immigration] hurts native-born Americans, such as displacing them from jobs”); Grant, *supra* note 32, at 15, 19 (“These immigrants drive out the native; they do not mix with him.”).

188. 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.” NAT’L WILDLIFE REFUGE ASS’N, *supra* note 155, at 5. For similar imagery, see GAO REPORT, *supra* note 5, at 1; BASKIN, *supra* note 174, at 3, 6; Bureau of Land Management, *Non-Native Invasive Plant (Weed) Management Program*, available at http://www.blm.gov/co/st/en/BLM_Programs/botany/weedhome.html (“[T]oday, weeds are considered more than just plants out of place in wildland situations, they are non native, invasive species that can displace native plants and take over an entire area”); Alabama Invasive Plant Council, *Cogongrass In Alabama: The Takeover of Our Lands and What It Means* 1, <http://www.seeppe.org/alabama/alabamacogon.pdf>; MICHELE HERBERT, ALASKA COMMITTEE FOR NOXIOUS AND INVASIVE PLANTS MANAGEMENT, *STRATEGIC PLAN FOR NOXIOUS AND INVASIVE PLANTS MANAGEMENT IN ALASKA* 8 (Dec. 2001), available at <http://www.uaf.edu/ces/cnipm/docs/strategic.pdf>; Weeds Gone Wild, *supra* note 6, at 2.

189. See BENNETT, *supra* note 31, 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 EDWARD A. ROSS, *THE OLD WORLD IN THE NEW* 291; BRIMELOW, *supra* note 32, at 7–8, 182–87; HIGHAM, *supra* note 30, at 161; Dike, *supra* note 33, at 80–85 (describing Mexican immigrants as “[d]iseased, ignorant and belonging to a greatly lower class”).

isted here before European settlement.”¹⁹⁰ 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.”¹⁹¹ 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 offers a way to redeem the fallen Eden of the New World.

2. Invasive Species Rhetoric Distorts Environmental Policies by Invoking Contemporary Anxieties over Globalization and Terrorism

In addition to echoing longstanding nativist fears of foreign immigration, invasive species rhetoric also projects onto the natural world contemporary anxieties about globalization and international terrorism. As with immigration, globalization and terrorism arouse anxieties about the transgression of national borders that are often expressed in terms of “foreign invasions.”

An increase in global trade 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.”¹⁹² Federal policy statements likewise put the blame for invasive species on unnatural mingling of the world’s species brought about increased global trade.¹⁹³ Concerns about invasive species easily slide, however, from the recognition that increased trade causes an increase in

190. See *Going Native*, available at <http://www.epa.gov/ecopage/springfieldtwp/Sheet1.pdf>; see also KING COUNTY DEPARTMENT OF NATURAL RESOURCES, *GOING NATIVE: A GUIDE TO CREATING YOUR OWN NATIVE LANDSCAPE*, available at <ftp://dnr.metrokc.gov/dnr/library/2003/gonative.pdf> (brochure). Compare BERKHOFER, *supra* note 76, at 79–80 (discussing European conceptions of Native Americans).

191. See ELI ROGOSA KAUFMAN, *FROM GENERATION TO GENERATION: AN ACTIVITY GUIDEBOOK IN THE LIVING TRADITION OF SEED SAVING* 10 (2001), available at <http://www.fedcoseeds.com/forms/seedschool.pdf>.

192. ELTON, *supra* note 126, at 18.

193. See, e.g., OTA REPORT, *supra* note 5, at 288.

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.¹⁹⁴ 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 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.¹⁹⁵

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."¹⁹⁶

Long before the movement to address invasive species, anxieties about harmful foreign influences were expressed in

194. See, e.g., 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."); Maude Barlow, *Globalization Harms the World's Cultures*, in *GLOBALIZATION: OPPOSING VIEWPOINTS* 42, 43-48 (Louis I. Gerdes ed., 2006); Robert W. Cox, *Civilizations and the Twenty-First Century*, in *GLOBALIZATION AND CIVILIZATIONS* 14 (Mehdi Mozaffari ed., 2002) (discussing "the inevitability of the eternal homogenized present of globalization into an active collective construction").

195. JASON VAN DRIESCHE & ROY VAN DRIESCHE, *NATURE OUT OF PLACE: BIOLOGICAL INVASIONS IN THE GLOBAL AGE* 1 (paperback ed., 2004).

196. BASKIN, *supra* note 174, at 6-7; see also Linda Starke, *Foreword to BRIGHT*, *supra* note 117, 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, *Is Wildlife Going the Way of McDonald's?*, ABC NEWS, Nov. 21, 2005, <http://abcnews.go.com/Technology/story?id=1322154>.

botanical terms. People who lacked national loyalty were described as “rootless” cosmopolitans who threatened national values by introducing unnatural foreign customs and beliefs.¹⁹⁷ 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.¹⁹⁸ As Isaiah Berlin 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.¹⁹⁹ 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.²⁰⁰

Protecting native species against alien invaders thus seeks to protect what is uniquely local against an influx of inauthentic

197. See, e.g., KWAME ANTHONY APPIAH, *COSMOPOLITANISM: ETHICS IN A WORLD OF STRANGERS* xvi (Henry Louis Gates Jr. series ed., 2006); NENAD MIŠČEVIĆ, *NATIONALISM AND BEYOND: INTRODUCING MORAL DEBATE ABOUT VALUES* 250 (2001) (“The usual invidious metaphor for characterizing the ‘cosmopolitan self’ is that of rootlessness.”); OLSEN, *supra* note 36, at 53–84 (discussing importance of “rootedness” in German nationalism and right-wing ecology).

198. See BASKIN, *supra* note 174, at 6 (“What’s more, these cosmopolitan replacements homogenize our experience of the world.”); EPA, *CONCEPTS AND APPROACHES FOR THE BIOASSESSMENT OF NON-WADEABLE STREAMS AND RIVERS G-3* (2006), available at 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”).

199. That idea formed the centerpiece to the classic eighteenth-century exposition of nationalism by Johann Herder. See BERLIN, *supra* note 36, at 181; OLSEN, *supra* note 36, at 60 (nationalists believe that “the cosmopolitan, without a true sense of home, is doomed to artificiality”); SMITH, *THEORIES OF NATIONALISM*, *supra* note 37, at 17; 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.”).

200. See, e.g., EPA, *Mid-Atlantic Region Green Landscaping*, <http://www.epa.gov/reg3esd1/garden/plants.htm> (last visited Mar. 13, 2009).

and foreign elements, elements that do not belong here, the presence of which is seen as unnatural.²⁰¹

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 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."²⁰² Indeed, federal law now puts invasive species in the same league as terrorists. Since September 11, 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.²⁰³

3. The Rhetoric of Invasive Species Engenders Opposition to Effective Environmental Policies by Supporters of Immigrants

The nationalization of nature that dominates invasive species rhetoric engenders opposition to invasive species policies by those who resist anti-immigrant rhetoric. Opponents of invasive species policies rely on sympathy for immigrants to sup-

201. See, e.g., NAT'L WILDLIFE REFUGE ASS'N, *supra* note 155, at 5 ("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.").

202. Don Hopey, *Carnegie Entomologists on Guard for Unwanted Invaders*, PITTSBURGH POST-GAZETTE, July 16, 2006, at A1 (quoting John Rawlins); Healing Our Waters Great Lakes Coalition, *Threat Level: Code Red, Severe Risk of Terrorist Attack*, available at <http://www.healthylakes.org/policy/national-aquatic-invasive-species-act/2008/03/19/threat-level-code-red-severe-risk-of-terrorist-attack> ("The terrorists in question are, of course, aquatic invasive species."). In addition to being depicted as terrorists, invasive species are often considered potential weapons of terrorism. See Laura A. Meyerson & Jamie K. Reaser, *Bioinvasions, Bioterrorism, and Biosecurity*, 1 FRONTIERS IN ECOLOGY AND THE ENV'T 307, 307-314 (2003); COL. ROBERT J. PRATT, INVASIVE THREATS TO THE AMERICAN HOMELAND, at 48, available at <http://www.carlisle.army.mil/usawc/parameters/04spring/pratt.pdf> ("An adversary could use invasive species as an asymmetric method of attack to weaken the country by inflicting tremendous economic and psychological damage."); Simberloff, *supra* note 147, at 185 (discussing "the potential link of introduced species to ecoterrorism and bioterrorism").

203. See Homeland Security Act of 2002 § 421(a), 6 U.S.C. § 231 (2006); 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, Art. 1 (Feb. 28, 2003).

port their positions. For instance, Mark Sagoff has argued against invasive species policies by stating that, "we are a nation of immigrants," both human and inhuman.²⁰⁴ 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?"²⁰⁵ 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?"²⁰⁶ Once species are understood as having national identities, invasive species policies seem inconsistent with 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 is just the way harmful foreigners are.

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

204. MARK SAGOFF, WHAT'S WRONG WITH EXOTIC SPECIES?, 19 REPORT FROM THE INST. FOR PHILOSOPHY & PUBLIC POLICY 16, 16–23 (1999).

205. *Plan to Save Native Plants Too Toxic for Some*, SAN JOSE MERCURY NEWS, Nov. 18, 2002.

206. See Michael Pollan, *Against Nativism*, N.Y. TIMES MAGAZINE, May 15, 1994.

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 have 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 harmful species to be introduced and to thrive. Moreover, despite the emotional appeal of the invasion metaphor, it 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.