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The Dream of Property:
Law and Environment in William T. Vollmann's
Dying Grass and Leslie Marmon Silko's
Almanac of the Dead

Abstract This article describes how the law inflects the narration of environmental conflict in William T. Vollmann's *Dying Grass* (2015) and Leslie Marmon Silko's *Almanac of the Dead* (1991). By focusing on the *legal common sense* of settler colonialism—its emphasis on private property in land and its subjugation of Indigenous peoples to the guardianship of the state—the article explores the ways in which Vollmann's and Silko's novels present counternarratives to the law's story of justified conquest. Combining a law and literature approach with ecocriticism, this article highlights the importance of the legal imagination in defining human-land relations in the United States. It demonstrates how *The Dying Grass* and *Almanac of the Dead* critique this legal imagination while also using it as a model for changing environmental politics through discourse.

Keywords ecocriticism, law and literature, settler colonialism, historical fiction

At a critical moment in Leslie Marmon Silko's *Almanac of the Dead* (1991), a Lakota lawyer-poet named Wilson Weasel Tail reads an indictment on an afternoon cable television program:

Only a bastard government / Occupies stolen land! // Hey, you barbarian invaders! / How much longer? / You think capitalism lasts forever? / *Res ipsa loquitur!* / Cloud on title / Unmerchantable title / Doubtful title . . . Wrongful possession / Unlawful possession! . . . *Worcester [sic] v. Georgia!* / *Ex parte Crow Dog!* / *Winters v. United States!* . . . *Res judicata!* / We are at war. (Silko 1991: 714–15)

Weasel Tail's poem—essentially a condensed oral argument—describes legal defects in the US government's claims to Indigenous land ("Cloud on title") and lists cases from the canon of federal Indian law. As a hybrid work of literature and legal reasoning, this poem-in-a-novel models one way of addressing law's role in shaping the US

environment. More specifically, it prompts us to ask how literature might approach questions such as the legality of conquest, the status of property in land, and the relation of Indigenous peoples to the nation-state.

For novelists like Silko—whose *Almanac* describes the development of an Indigenous-led revolution in the US Southwest—law is more than a historical fact to be worked into the representation of land struggles. It is also a rival discourse whose material influence on environmental relations serves both as an object of critique and as a model for literary treatments of settler colonialism and its environmental order. This essay examines the place of law in two novels about Euro-American–Indigenous environmental conflict: Silko’s *Almanac* and William T. Vollmann’s *Dying Grass* (2015).

The intersection of law and literature has been understudied in ecocriticism. Although some scholars have adapted a “law as literature” approach to analyze the ways in which environmental law relies upon narrative and literary tropes (see Burger 2013; Purdy 2015), there is little work examining the place of law in environmental literary texts. On the other hand, students of Indigenous literature have long recognized the importance of federal Indian law to the Indigenous experience under US settler colonialism, chiefly with respect to land theft (see Cheyfitz 2006; Katanski 2008/2009). Picking up on this recognition, this essay seeks to bridge the gap between ecocriticism and law and literature by studying how law serves as an object of critique and as a discursive foil in *Almanac* and *The Dying Grass*. Reversing the usual critical trend of treating law as literature, I read these novels as law; that is, I treat them as texts engaged in a normative project of ordering human-environmental relations.

This normative project seeks to undermine the settler colonial legal regime, as I show by attending to both novels’ repeated engagement with legal materials of the sort seen in Weasel Tail’s poem. In dealing with the novels’ treatment of this regime, I borrow the term *legal common sense* from legal philosopher Boaventura de Sousa Santos (2020: 470), who uses it to refer to the set of “arguments, counter-arguments and premises of argumentation” that dominate any given legal culture, as well as the relations between speakers and audiences that are structured by this culture. The legal common sense that concerns me here is the prevailing set of beliefs, norms, and regulations that govern relations between humans and the land in the United States. This legal common sense informs not only how the nonhuman environment is imagined and managed by the state but also the nature of

settler-Indigenous relations. As an imposed legal order, this legal common sense adheres to a progressive vision of continental conquest and civilization through property rights. As such, it is a subset of the *settler common sense* defined by Mark Rifkin (2014: xvi) as “the ways the legal and political structures that enable non-native access to Indigenous territories come to be lived as given, as simply the unmarked, generic conditions of possibility for occupancy, association, history, and personhood.” Whereas Rifkin focuses on how this settler common sense provides “the unacknowledged condition of possibility for textual representations” by white authors such as Henry David Thoreau and Nathaniel Hawthorne (16), my analysis compares the explicit acknowledgment of and engagement with legal common sense in the contemporary work of one nonnative and one Indigenous novelist. By highlighting the enduring literary importance of law and conquest for nonnative and Indigenous writers alike, I aim to contribute to what Angela Calcaterra (2018: 8) calls the “new theorization of cross-cultural influence in American literary history,” which treats the European-Indigenous “encounter not as a political or historical backdrop to literary production but as a literary event in itself.” At the same time, Vollmann’s and Silko’s novels offer an intriguing difference in their literary responses to legal common sense: Vollmann, a nonnative, offers an internal critique of the law’s ordering of environmental relations, while Silko, an Indigenous (Laguna Pueblo) writer, proposes a story-born revolution that challenges the law’s claim to exclusive dominion.

In *The Dying Grass*, Vollmann uses techniques of ecohistoricist to launch a literary counterclaim to legal common sense. Telling the story of the 1877 war between the Nez Perce and the United States, he employs ecomimesis—the evocation of the environment outside the text—and historiography to undermine claims of settler title to Indigenous land, even as these very ecohistoricist methods demonstrate the limits of a literary critique of dominant law. In *Almanac*, Silko imagines a counterorder to the settler colonial legal common sense, narrating the early stages of a biocentric Indigenous revolution. This revolution is brought about in large part by the almanac of the novel’s title, a collection of texts from pre-conquest Mexico that predict and enact a new age of human-environmental relations. The novel mirrors the world-shaping ambition of law: discourse itself produces material change. At the same time, *Almanac* builds a spatial, antiteleological model of discursive power that exposes settler law’s reliance on a universal myth of civilizational development.

Both law and literature are, to a large degree, imaginative discourses: they depend upon an array of affects and ideological assumptions that determine their formal structure and stylistic maneuvers. Diagnosing and describing the imaginative content of law and literature, especially from an ethical or political standpoint such as a commitment to improved environmental relations, allows us to study the disciplines' participation in, and possible resistance to, dominant modes of structuring society and nature. Vollmann's *Dying Grass* offers one way of narrating the law's imprint on the environment: revisionist historical fiction that uses an array of voices, archival materials, and natural settings to undermine the legal fantasy of justified property in land. Silko's *Almanac* offers another way, presenting a counternarrative that imagines the replacement of the settler colonial order with a new regime born from words. Despite their distinct approaches, each novel engages in a similar imaginative dialogue with the law, using gaps in the law's commonsense ordering of environmental relations to offer normative claims about how to live on the land. Reading the novels together is, I propose, an exercise in what Joshua David Bellin (2001: 5) terms "inter-cultural literary criticism," which rejects the notion of easily distinguishable settler and Indigenous literary traditions and instead treats texts by nonnative and Indigenous authors as mutually influenced by the history of cross-cultural contact. A similar mingling of traditions—law and literature—is evident in Vollmann's and Silko's novels as they build visions of improved environmental politics on the basis of radically revised environmental histories.

Settler Legal Common Sense and Ecohistoricism in *The Dying Grass*

The Dying Grass is the fifth volume of Vollmann's *Seven Dreams*, a series of novels that examines discrete moments of the Euro-American–Indigenous conflict in North America. The series, subtitled "A Book of North American Landscapes," is a stylistic hybrid, narrating historical events with a mixture of free indirect discourse, direct quotation of historical sources, and authorial metacommentary; each novel includes an apparatus of glossaries, timelines, and lengthy endnotes. *The Dying Grass* explores the background, progression, and aftermath of the Nez Perce War, focusing primarily on the Wallowa Valley–based members of the tribe and members of the US Army who were dispatched to move them to a reservation in present-day Washington State. As with other wars of aggression on the US frontier, the origins of the conflict lay in illegal white settlement in areas that had recently

been recognized by the United States as protected Indigenous territory. The army stepped in to clear land that it viewed as part of an inevitably expanding settler republic.

The novel has several protagonists and dozens of minor characters, including the Nez Perce leaders Chief Joseph and Looking Glass and their wives, General Howard of the US Army, and various soldiers and settlers. Notably, the novel is narrated by a Vollmann-like “William the Blind,” who describes his research in historical archives and his experiences at sites of historical significance. Mixing interior monologue and natural description with long stretches of battlefield narration and poetic rumination, *The Dying Grass* depicts the flight of the Nez Perce across present-day Idaho, Wyoming, and Montana, where they finally surrender near the Canadian border. In its method and themes, the novel exposes the limits of the normative order imposed by Euro-American settlers in North America. In contrast to a Lockean property regime that delegates nonhuman nature to the category of economic resource, Vollmann creates an ecocentric, polyvocal text that enacts reconciliations between land and the humans that dwell on it, as well as between discursive institutions (law and narrative) and their natural settings.

Vollmann’s chief synecdoche for the triumph of settler legal ideology—a triumph which his novel laments and seeks to imaginatively repudiate through a revisionist account of the war—is James Kent’s *Commentaries on American Law*, a summary of US legal doctrine that was first published in 1826. Lieutenant Charles Erskine Wood, who begins the novel as a naïve adherent of his army’s cause before growing into a radical anti-imperialist attorney, carries a copy of the *Commentaries* into battle, and Vollmann’s narrator follows this copy as it travels from the fields of war to the archives of the Oregon Historical Society, where it serves as an important source for *The Dying Grass*. Wood’s political evolution, then, is mirrored by the movement of this legal-ideological touchstone from the front lines to the library to Vollmann’s novel. This movement represents both the ascendance of the US property regime in the American West and its possible repudiation through the archival and imaginative activity of lawyers like Wood and writers like Vollmann’s author-narrator.

In order to get a sense of the settler colonial regime at issue in this essay, I quote from lecture LI of Kent’s *Commentaries* (1866–67, 3: 485–86), titled “Of the Foundation of Title to Land”:

The European nations which respectively established colonies in America, assumed the ultimate dominion to be in themselves, and

claimed the exclusive right to grant a title to the soil, subject only to the Indian right of occupancy. . . . The United States[’s] . . . exclusive right to extinguish the Indian title by purchase or conquest, and to grant the soil, and exercise such a degree of sovereignty as circumstances required, has never been judicially questioned. . . . [Indigenous] title has been obliged to yield to the combined influence which military, intellectual, and moral power gave to the claim of the European emigrants.

Here and in the passages that follow, Kent offers two main reasons for the legality of the Euro-American conquest: the *historical* fact of European military strength, before which Indian title to land “has been obliged to yield” (the law ratifies the results of conquest); and the *natural* facts of European superiority in culture, religion, and land use (the law recognizes the higher social interest). This creates a just-so story of the development of environmental and social relations: there is a right way to live off the land (agricultural development), and this way of life produces superior societies; these superior societies subjugate lesser peoples. History and nature thus prove the justice of US claims to Indigenous territory. This environmental ideology was crucial to the self-definition of the rising US settler state: as Susan Scheckel (1998: 9) writes, “The debates over property, which were at the heart of the [Indian] problem, were simultaneously debates over what is proper to, and thus constitutive of, the nation.”

The Dying Grass depicts the military success of the US dispossession of Indigenous territory while debunking its justifications. This debunking often occurs through an engagement with legal concepts and practices, as characters use the law to narrate their experiences and environmental attitudes. For example, in a phrase that will repeat as a motif throughout the novel, Chief Joseph of the Nez Perce asks in the opening pages: “*What is your law?*” Vollmann’s narrator, William the Blind, speaking in his collective settler voice, responds: “We replied that he’d figure it out! We’d already dragged a previous treaty out of them. . . . Generally speaking, the first treaty with any nation of Indians goes down pretty easy, before we bind them to their promises and get out of ours” (Vollmann 2015: 15). Later, at an abortive peace conference, Smohallie—a major prophet of the Dreamers movement, which advocated obedience to a living earth and rejection of agriculture, mining, and white culture—denies the territorial jurisdiction of the United States. He declares instead his allegiance to Earth (83). During the US Army’s pursuit of the Nez Perce, an army officer named

Mason reflects on proper relations with the natives and recalls one of the general's phrases: "*Only one law can live at a time*, which pronouncement had struck Mason . . . as so true as to stand like certain Bible verses *beyond* truth" (540). Finally, when the Nez Perce are on the run in Lakota territory, the narrator explains that "following the Law of the EARTH, they wreck[ed] a mowing machine" (866).

The quotes above demonstrate the sharp contrast drawn in the novel between the settler army's use of the law and the legal attitudes of the Nez Perce. On the one hand, the settlers espouse a universalizing discourse that seeks to subjugate Indigenous people and the land; on the other, the Nez Perce declare obedience to a set of directives derived from Earth itself. This contrast brings to the fore a crucial aspect of the legal common sense of the nineteenth-century United States. The self-conception of Euro-American settlers vis-à-vis the environment and Indigenous peoples rests on an uneasy compromise between natural law and myth, on the one hand, and positive law and history, on the other. Property in land is taken to be a God-given right and a phenomenon that precedes the social order; law finds its mythical origin in the conversion that separates agricultural society from nature and communal living. At the same time, property in land is an enforceable title held first by the federal government, which inherited it from European nations as the result of an admittedly questionable, but nonreviewable, seizure of Indigenous territory. In this view, conversion requires active measures beyond the labor of individual landholders, and the state can justifiably lead wars and oversee forced migrations to ensure the growth of the property grid. Brenna Bhandar (2018: 26) notes the contrast between "the myth of modernity instantiated in the wide-scale imposition of the English common law of property" and "the actual use and manipulation of a wide range of rationales for the assertion of both colonial sovereignty and individual private ownership." Law makes real a fable about humanity's relation to land by enforcing that relation; law also legitimates conquest by folding it into this fable, which now becomes history. The legal imagination thus acts as a lever by which to convert history into idea and vice versa. This conversion mirrors the law's conversion of nature to property.

The sympathetic portrayal of the Nez Perce's territorial claims and the ironization of legal common sense—"we bind them to their promises and get out of ours" (Vollmann 2015: 15)—show where the novel's sympathies lie. But rather than simply vindicating an

Indigenous critique of settler law, Vollmann engages in an immanent critique of that law's environmental ideology. That is to say, he both frontally confronts the law's developmentalist vision through his depiction of the injustices of the Nez Perce War and, in his manner of narrating them, proposes an alternative way of telling the story of the North American landscape: the orchestration of various voices, sources, and places to imbue nature with the real history of dispossession and possible redemption.

Vollmann's novelistic method is an example of *ecohistoricism*, a term I borrow from Gillen D'Arcy Wood (2008). Most prominently, *The Dying Grass* uses first-person environmental placement to tether its proliferation of narrative voices and to lend verisimilitude to what might otherwise veer into historical pastiche. As Vollmann describes in the prefatory note to the sources listed in the back of the novel, he uses the evocation of specific places to depict historical events and to portray those places' effect on historical personages:

As in other Dreams, I have generally privileged the weather and light conditions I met with at historical sites over the ones described in primary sources. Since this series has much to do with the effects of specific landscapes on our consciousness (hence the series subtitle), when I visit, say, the Camas Meadows battleground, I can best bring the place to life by describing what I see and feel. The Nez Perce attack took place on a moonless night; I happened to encounter a spectacular moon, and recoded matters thus. (1272)

A psychological claim grounds an aesthetic program: environments influence consciousness, so describing natural surroundings is important to understanding character (in this case, real historical personalities). Actually, there is a middle term: describing natural surroundings and their effect on the *narrator's* consciousness is the best way of accessing the experience of historical personages.

Consider a passage near the end of the novel. The Nez Perce are in flight from General Howard, whom they call "Cut Arm," who has driven them from their home in Wallowa Valley. The passage begins in a collective first-person Nez Perce voice and then shifts to the perspective of Vollmann's narrator, William the Blind. The text in this passage, as in most of the novel, is broken up with enjambments and margin shifts that signal changes in perspective and setting, another means by which Vollmann foregrounds the influence of place:

Thinking of home or Cut Arm, we gaze back northwest at the
 snowy mountains
 (the Big Hole Valley so rich and wide and green and wet when I,
 William the Blind, came thirteen decades later to view its
 brown pools, green alfalfa and green grass
 —a beautiful red barn, a wagon wheel,
 crisscross fences and black clouds of cows on the green sea—
 under cultivation this place reminded me of Wallowa Valley) . . .
 White Bird now halting us, removing his Winchester from the case
 his mother once
 beaded for him as he rides off the trail. (666)

The Nez Perce, initially occupying the first person, are “thinking of home,” and William the Blind, taking over the perspective, succeeds in thinking of their home, too, as the Big Hole Valley reminds him of the Wallowa Valley hundreds of miles to the west. But the irony here is that only the distinctively modern features of the landscape prompt this identification. In 1877, when the Nez Perce were fleeing General Howard, the land was not “under cultivation” with barns, fences, and cows; the narrator shares in the Nez Perce’s environmental perceptions but from a changed historical landscape. Natural setting is thus a unifying diegetic element—the white settlers, the Nez Perce, and William the Blind all visit and perceive the same places—but it is also relative: perception and psychological response are contingent upon cultural and historical position. The novel seems thus to move in two directions at once. It makes the case for landscape as a medium of historical access to the reality of the Nez Perce War, even as its complicated depiction of how characters perceive and experience nature signals the constant “recoding” necessary to render historical environments.

In one respect, Vollmann’s extensive use of natural placement (his own and his characters’) is a strategy of *ecomimesis*, a term Timothy Morton (2007) uses to describe the literary evocation of environmental immediacy. In Morton’s account, *ecomimesis* serves as an “authenticating device” to produce a sense of reality beyond the aesthetic (33). For Morton, *ecomimesis* risks becoming an “ideological fantasy” that falsely promises to break down the boundary between text and world (67). It reaches its limit in the fact that this boundary is real but unstable: no degree of environmental rendering can pinpoint, let alone eliminate, the line between culture and nature, or between reader and the environment (77–78).

But what if this limit is taken up in such a way that the boundary problem—the distinction between social construction and irreducible natural reality—itself becomes a literary theme? In *The Environmental Imagination*, Lawrence Buell (1995: 113) argues—*contra* the fear of theorists of postmodernism such as Jean Baudrillard and Fredric Jameson that representation or simulacra would obliterate external reality—that the limits of mimesis actually help to establish the object of representation. For Buell, “the comparative impotence” of efforts to render nature in writing leads us to recognize “the authority of external nonhuman reality as a criterion of accuracy and value.” Kate Rigby (2004: 440) makes a similar point in her critique of Martin Heidegger’s late work: “Only by insisting on the limits of the text, its inevitable falling-short as a mode of response no less than as an attempted meditation, can we affirm that there is, in the end, no substitute for our own embodied involvement with the more-than-human natural world.”

Contrast this insistence on mimetic limits with the universalizing discourse of settler legal common sense. For the purposes of this essay, the salient aspect of Vollmann’s method is its use of subjective environmental experience to investigate and understand history. He uses an ecomimetic emphasis on the writer’s perception of nature to gain access to the experiences of historical actors. Quite differently, Kent (1866–67: 493) looks at the North American environment and sees “the interminable forests, deserts, and hunting-grounds of an uncivilized, erratic, and savage race of men . . . evidently fitted and intended by Providence to be subdued and cultivated, and to become the residence of civilized nations.” For this legal common sense, the historical meaning of the environment is predetermined; one needs neither to authenticate this meaning through evocation of the author’s (and historical actors’) surroundings nor to recognize the “comparative impotence” of this evocation to deliver a philosophy of human-natural relations. But Vollmann’s ecohistorical method disturbs this picture: he uses the “authenticating device” of landscape as a way to bring the Nez Perce War back to life, making his readers experience the war’s real conditions so that they might draw conclusions about its justifications and outcomes. At the same time, his complicated depiction of how nature is perceived and experienced differently by his characters reveals the historical instability of the concept of nature, which is especially relevant given the role that competing environmental worldviews played in the conflict. Finally, Vollmann foregrounds his narrator’s “recoding” of landscape in order to introduce this epistemological instability into the production and reception of literature itself.

These traits account for the “eco” side of Vollmann’s ecohistoricist method. A similar negotiation between mimesis and interpretation is evident in his treatment of historical material. *The Dying Grass* engages in many of the practices associated with the genre of *historiographic metafiction*: an emphasis on the textuality of history, a concern with interpretation and situated knowledge, and the foregrounding of source material. In Linda Hutcheon’s (1988: 125) account, such postmodern fiction “offers a sense of the presence of the past, but a past that can be known only from its texts, its traces—be they literary or historical.” This characterization fits *The Dying Grass* in the sense that the novel’s self-reference (133 pages of chronologies, glossaries, and notes to support the main text) and self-questioning (such as William the Blind’s constant anxiety over his ability to depict historical events or characters as they really were) show its account of the Nez Perce War to be a precariously constructed narrative. On the other hand, and in keeping with my observations on the book’s treatment of nature, *The Dying Grass*’s historical imagination exceeds the narrowly cultural or discursive concerns of the type of postmodernism that Hutcheon describes (119). History is not *only* textual: if visiting a landscape can give us some insight into historical truth, then history also lives in the environment. Vollmann’s metacommentary is interested in doing justice to this history, particularly to the Nez Perce characters that it imagines and the Indigenous cultures that it scrupulously recreates. There is a definite ethical force to this historical revisionism, and, as Buell Wisner (2015) notes in one of the few studies devoted to the *Seven Dreams*, the estrangement effect of Vollmann’s historical method denaturalizes the conventional myth of the heroic European settlement of America.

To understand the critical force of Vollmann’s ecohistoricist method, it is worth returning to the legal common sense of the invading US Army and the historical imagination upon which it rests. In the passage from Kent’s *Commentaries* that I quoted above, the settler claim to Indigenous lands is justified on the basis of history (the fact of conquest) and natural right (agriculturalists trump hunter-gatherers). The most obvious philosophical antecedent of this philosophy is the work of John Locke (2003: 111–12), who in chapter 5 of his *Second Treatise of Government* (1690) describes the process by which the earth and its products, originally held in common by all humanity, are converted into private property: “Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person. . . . Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it

something that is his own, and thereby makes it his property.” The admixture of human labor to nature produces something new: property in land. Locke’s ontology—in which elements of the environment can be removed and converted into subordinate aspects of individual humans (in whose bodies originary property resides)—makes nonhuman nature dependent for its actualization upon forms of human social existence. As noted by Vine Deloria Jr. and David E. Wilkins (2011: 34), nature is significant in Locke mainly as part of the movement toward the social contract, which originates in a departure from the state of nature. Nature, as commons, lies in wait for an advanced society to appropriate it and make it useful; once thus actualized, it exists in discrete, exclusive units. This process is historical. Locke (2003: 121) writes in this chapter that “in the beginning all the world was America,” and, as commentators like Barbara Arneil (1996) and David Armitage (2004) have noted, Locke’s philosophical analysis of property was equally a justification of the European subjugation of North America.

Of course, this violent seizure of territory seems to contradict Locke’s identification of individual labor as the mechanism by which nature is converted. How could European nations or the United States hold property rights in land that they had not yet developed? This question vexed John Marshall, the fourth Chief Justice of the Supreme Court. His “Marshall Trilogy”—*Johnson v. M’Intosh*, 21 U.S. 543 (1823), *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831), and *Worcester v. Georgia*, 31 U.S. 515 (1832)—established the framework for legal relations between the United States and Indigenous nations (*Worcester* is cited in Weasel Tail’s poem in *Almanac*, quoted above). In *Johnson*, Marshall admitted that the “doctrine of discovery” by which European nations asserted their property rights was legally problematic, because discovery was not the same as conversion by labor. Nonetheless, the claim had been ratified by history: “However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned” (591). As Maureen Konkle (2008: 306) observes, *Johnson*’s enshrinement of the doctrine of discovery—which remains the legal basis for the federal government’s assertion of title over Indigenous lands (Wilkins and Lomawaima 2001: 19–20)—capped a long process in which Locke’s “grand narrative of savagery and civilization” won influence over the

earlier colonial legal assumption that Indigenous peoples held full property rights that could only be taken away by fair sale or treaty. Marshall's influential opinion was itself informed more by myth than by historical fact: written in eight days, it ignored the well-known tradition of treating Indigenous peoples as sovereigns and relied upon Marshall's own historically inaccurate biography of George Washington for its key evidence of Euro-American–Indigenous relations (Robertson 2005: 101–2).

There are two parallels I want to draw between the settler legal common sense as described in the Locke-Marshall-Kent tradition and the depictions of Indigenous dispossession in *The Dying Grass*. First, as I've been emphasizing, both produce normative visions of environmental relations based on an imaginative telling of history. Settler legal common sense assumes—despite well-known Indigenous agriculture practices and the long history of European recognition of native property title (Banner 2005)—that peoples like the Nez Perce had failed to “improve” their land, and that Euro-American appropriation, even accompanied by armed invasion, is justified. This environmental vision rests on a universalizing, developmentalist theory of history in which the law ratifies the dominion of a superior race. In *The Dying Grass*, Vollmann imagines a different story in which the experience and use of the environment are culturally and historically variable. Emphasizing the “effects of specific landscapes on our consciousness” and willing to “recode” past events in light of his (or his narrator's) environmental perceptions, Vollmann (2015: 1272) both vaunts place-based knowledge and troubles its stability, constantly reminding the reader that his is simply one version of history (a “Dream”). The resulting philosophy of how to live on the land is, at the very least, a rebuke to legal common sense's unitary conception, a rejection of the idea that “*only one law can live at a time*” (540).

The second parallel involves Vollmann's more explicit practice of legal critique, which is found most prominently in the way William the Blind uses the historical archive to narrate the story of Lieutenant Wood, the owner of Kent's *Commentaries*. William the Blind assiduously catalogs the transformation of Lieutenant Wood from naïve adherent of settler ideology to a radical lawyer and freethinker, although he notes that his account requires some imaginative interpretation: “Wood's development from a would-be Indian killer into an antimilitaristic poet follows the facts, but just when he tilted against the Nez Perce War is unclear” (1272). This depiction of a settler legal subject's ideological transformation stands in sharp contrast to Justice Marshall's

lazy and precedent-ignoring history in the *Johnson* opinion. Both in its method (historically precise but explicit about where its imagination departs from the sources) and in its content (an intercultural encounter between an invading nonnative and the Indigenous peoples he has helped to subjugate), the narrative of Lieutenant Wood can be read as a counterbrief to settler law.

Wood's importance as a dissident settler conscience is seen in his role as documentarian of the Nez Perce War. Among other records of the campaign, he transcribes Chief Joseph's famous surrender speech from memory, making him an authorial stand-in as a nonnative historian. William the Blind follows Wood's life for decades after the war, quoting him on his changed politics: "In my youth, as an Army officer I chased and killed Indians driven to revolt by the oppressions of the vague thing called 'the Government.' Looking deeper, I saw that 'Government' was in fact a corrupt gang which defrauded the Indian and drove him to open revolt" (1187). Wood goes on to defend the anarchist Emma Goldman and the reproductive rights activist Margaret Sanger, and he links his political radicalism to a vague sympathy with Indigenous views of nature. Fifteen years after the war's end, Wood maintains a distant friendship with Chief Joseph, who is now imprisoned in a reservation near Wallowa. Wood twice sends his teenage son to the chief in order to learn how to "live as an Indian," in a sincere if hopeless effort to reverse the outcome of conquest and to find reconciliation with the environment via the mediation of native knowledge (1153, 1188). Repeating a prayer often uttered by Nez Perce characters throughout the novel, Wood seeks release in a dimly imagined Indigenous escape from modernity: "Sometimes when he was alone he whispered: *I am going to fly. I am flying; I am flying up . . .* But this he could not do" (1189).

Wood's reaction against settler ideology and his identification with Indigenous ideas mirror the text's sympathies. But the limits of his ability to imaginatively overcome this ideology are also representative of the limits encountered by Vollmann's ecohistoricist critique of the law. Wood cannot "fly up" out of the history he has helped to create. In the final pages of the main section of *The Dying Grass*, this history, of which legal common sense is a crucial bulwark, also hampers William the Blind's imaginative ambitions. Here, the narrative gaze retreats from narrating action and inhabiting historical perspectives to a meditation on objects. Driving into the town of Joseph, Oregon (named by settlers for Chief Joseph), William the Blind uses the first-person voice to present "horses, box houses, manure smells and

fresh-cut fields less dense but more solid than sky” (1157). His focus then shifts to archival boxes, where materials are presented in random order: election campaign medals, citations of valor, a war bonnet, and newspaper clippings from the war. Wood’s possessions are described: a war diary, his stained copy of Kent, and a fragment of a poem he wrote: “*Here on Joseph’s Peak I learned to worship the sun with my red brethren*” (1158). Finally, William the Blind shows us two Nez Perce skulls, a scrapbook, and this final description of the world created by the conquest:

summer dusk glowing on the yellow brick of the post office in
 Walla Walla
 and it is raining in Joseph
 (my heart is very good)
 and in the cool darkness
 the flags are still out on Main Street. (1158)

I read this ultimate focus on objects and contemporary landscape not as an affirmation of material agency but as a retreat to matter that no longer has the hope of redemption. The project of reconciliation meets its limits: dead Nez Perce lie alongside cultural artifacts from the conquest era (including Wood’s copy of Kent, an emblem of the war’s legal justification), while US flags close the depiction of the physical surroundings.

In keeping with Vollmann’s metafictional centering of his narrator’s mediation between story and source material, we can locate the blockage between dream and reality in his narrator’s inability to access the places that have ostensibly served as a medium by which to “recode” historical experience. Revisiting the path of the Nez Perce exodus in a long closing section that shifts from the events of the war to a review of its legacy, William the Blind is met by a forest fire and sees an Indigenous dwelling bearing the flag of the conqueror lying before a landscape consumed by disaster, blocking the narrator’s view: “A Stars-and-Stripes-adorned tipi before the blurred forest, the smell of smoke, black dead trees, some fallen on the golden grass, the hills ahead grey-green with smoke” (1203). It’s reasonable to assume that this is no strictly natural disaster. In the source notes, Vollmann explains that climate change has affected his literary approach: “Global warming prevented me from ever experiencing the early August night frosts which afflicted Gibbon’s soldiers on their approach to Big Hole; and when I arrived at Bear’s Paw on an early autumn day the place was quite hot. Since the Bear’s Paw episode is associated with cold, I

had to make another trip there in late winter to describe the place as I wished to do" (1272). We find here a revision of his method of "recoding" the landscape to endow it with meaning: human-caused ecological change alters the landscape, making connection with the past more difficult.

Climate change, a direct product of the Euro-American settler worldview and its reliance on private property as a means of interacting with the nonhuman environment, acts as a barrier to the mimetic aspirations of Vollmann's ecohistoricist. His novel reveals the myth at the basis of settler colonial legal common sense: that property is the telos of human-land relations and that conquest merely verifies a natural progression. But this myth has so successfully shaped the land that even the means of disproving it—Vollmann's ecohistoricist—finds its access to natural and historical sources blocked. Thus, Vollmann's strategy of environmental emplacement encounters resistance in the form of the very normative environmental order that it attacks. The price of verisimilitude, which grounds his countermythic project, is to recognize the ongoing dominance of the common sense that opposes it, as the "recoding" project ends with a series of unredeemed objects in a cloud of smoke.

History and Discursive Power in *Almanac of the Dead*

Whereas Vollmann's method of narrating Euro-American–Indigenous environmental conflict questions the imaginative premises of settler legal common sense and encounters a limit in settler law's ongoing dominion, Silko's *Almanac of the Dead* proposes an external critique of settler legal ideology that allows storytelling to usurp the exclusive power of the law to regulate environmental relations. Like *The Dying Grass*, *Almanac* is a sprawling, historically obsessed novel whose study of environmental conflict routes repeatedly through meditations on the law's origins and injustices. But in Silko these meditations do not inspire an alternative style of place-based historical narration; instead, they result in an imagined revolutionary social-natural order built on the material power of Indigenous discourse. Reading the novels together as examples of literature as law, one can see how literary responses to settler law deploy both detailed, archive-based counterarguments—Vollmann's ecohistoricist critique—and frontal challenges to this law's continued jurisdiction, as in Silko's elaboration of an alternative normative order.

Almanac takes place primarily around Tucson, Arizona, though it has major storylines in other areas of the United States and in

Chiapas, Mexico. Its key figures are Lecha and Zeta, twins of mixed Indigenous Yaqui heritage who have inherited the eponymous almanac and who, in their old age, are preparing for an imminent war against European culture in the Americas. Through the course of the novel, Lecha and Zeta maintain varying levels of contact with other rebels, whose struggles are directed against an equally large cast of evildoers. A single third-person narrative voice is present through *Almanac*, lending consistency to what is otherwise a dispersed set of narratives with incidental moments of overlap and integration.

Each of the many narrative strands in *Almanac* deals with oppressive “Destroyers”—the rich, the racist, the powerful—and their antagonists, who are either Indigenous themselves or become allied with Indigenous revolutionaries as the uprising approaches. According to the narrator and many of the characters, the conflict between the two camps began with the arrival of Christopher Columbus and will end only with the expulsion of the Destroyers. A key to the “Five Hundred Year Map” that opens the novel reads: “The Indian Connection: Sixty million Native Americans died between 1500 and 1600. The defiance and resistance to things European continued unabated. The Indian Wars have never ended in the Americas. Native Americans acknowledge no borders; they seek nothing less than the return of all tribal lands” (Silko 1991). The justification of this resistance is the novel’s basic program.

Property law and federal Indian law figure prominently in *Almanac*. One of the very first scenes in the novel involves a delegation of Laguna Pueblo seeking to reclaim sacred stone figures from an anthropology museum. They tell the curators that “the white man’s own laws said [that] . . . not even an innocent buyer got title of ownership to stolen property”; they are told to “contact the Indian Bureau or hire a lawyer” (33). The scene signals the major legal themes in *Almanac*: the use of property law to expropriate Indigenous culture and land, and the failure of Euro-Americans to live by their own legal principles. Lecha and Zeta’s grandmother has “crazed legal theories,” including this argument, which can be taken as the novel’s thesis statement on the law: “There was not, and there never had been, a legal government by Europeans anywhere in the Americas. Not by any definition, not even by the Europeans’ definitions and laws. Because no legal government could be established on stolen land. Because stolen land never had clear title. . . . All the laws of the illicit governments had to be blasted away” (133).

Almanac confronts the nexus of property and conquest to declare an end to the exclusive jurisdiction of US law, whose regulation of

people and land can no longer be enforced. On one level, like *The Dying Grass*, the novel offers an internal critique, showing how the law rests on an untenable contradiction between original theft and continued possession. In a pivotal scene, Weasel Tail, the Lakota lawyer-poet, reads the poetic “indictment” quoted earlier, which cites and critiques a long line of US Indian law jurisprudence (714–15). But another thread in *Almanac* is much more skeptical of legal discourse, and indeed of the commitment to conceptual reasoning and abstract thought generally. Calabazas, a Mexican-Yaqui character, comments at one point: “We don’t believe in boundaries. Borders. Nothing like that. We are here thousands of years before the first whites. We are here before maps or quit claims. We know where we belong on this earth. . . . Imaginary lines. Imaginary minutes and hours. Written law. We recognize none of that” (216). That’s why, Calabazas notes, “spoken words can no longer be trusted. Put everything in writing” (217).

This tension between internal critique (and possible appropriation) versus outright rejection of settler legal discourse is a major theme in Indigenous political theory, most prevalently in the debate over Indigenous sovereignty. For example, Glen Sean Coulthard (2014: 13) offers a Fanonian critique of state recognition with a particular focus on the politics of land, arguing that acceptance of the existing settler order would produce not a reciprocal relation between Indigenous peoples and the state but rather a denial of Indigenous “grounded normativity,” a political and moral ethic based on experiences and practices on the land. Such environmentally informed rejections of settler legal common sense are in tune with *The Dying Grass*’s insistence that there is not “only one law” to govern the use of the land, and with the grandmother in *Almanac*’s claim that “stolen land never had clear title.” What to do with settler law, then: Modify it? Create an alternative? Taiiaki Alfred (2005), among others, is skeptical of legal reform projects and of the effort to establish Indigenous political sovereignty. For Alfred (2005: 33–34), Western ideas like sovereignty are “controlling, universalizing, and assimilating . . . fictions [that] have been imposed in the form of law on weakened but resistant and remembering peoples.” Such a position is close to Calabazas’s declaration that “we don’t believe in boundaries. Borders . . . Written law. We recognize none of that” (Silko 1991: 216). Audra Simpson (2014: 12), meanwhile, notes that the dispossession of Indigenous peoples was never fully realized and that settler and Indigenous sovereignties are now “nested and embedded” within each other. This produces a situation

of mutual precarity in which Indigenous nations can assert rights while refusing the logic of exclusionary settler sovereignty (21–22). Mitigating Alfred’s pessimism regarding the inevitably oppressive tendencies of legal discourse, this more flexible theory of sovereignty—which has much in common with Jean Dennison’s (2012) analysis of the potential and limitations of “entangled sovereignties” in the Osage nation and with Coulthard’s (2014: 45–47) proposal for a cautious strategy of legal reform—offers a both-at-once approach that echoes Calabazas’s seemingly contradictory disbelief in the written law and his injunction to “put everything in writing.”

The revolutionary project of “put[ting] everything in writing” is what most interests me here in the relation between *Almanac* and the law. While familiar critiques of the law are present in the novel—an emphasis on orality over writing, on communal belonging over legal subjectivity, and on moral intuition over conceptual reasoning—the main locus of resistance to the US legal order actually takes a form that shares law’s aspirations. This rival discursive regime, epitomized by the eponymous almanac described below, is, like the law, invested in the power of words to effect material change. It seeks to enforce a vision of the world—defining the meaning of history, the proper relations between humans and the land, and the justifiable grounds for resistance—in written codes that travel through time. And, like the law, it suffers from a tension between its expressive and performative content, its descriptive and prescriptive projects.

But *Almanac*’s ambition is distinct from the universalizing tendencies of settler law—which insists on exclusive land title and a uniform historical progression in human-environmental relations—in two ways. First, the novel’s power rests on the circulation of stories that describe Indigenous peoples’ relationship to and responsibility toward the land and nonhumans. This geographically and culturally specific discourse—an example of Coulthard’s “grounded normativity”—relies primarily on a spatial rather than temporal imagination. As such, it is not threatened by the contradiction between myth and historical fact that allows Vollmann to launch an ecohistorical critique of the doctrine of discovery. Second, *Almanac*’s rival discursive regime draws from a narrative tradition predating the imposition of settler law and imagines the power of its stories extending through and beyond that law’s dominion. It therefore offers an escape from the pitfalls of Western-style sovereignty because it does not seek to compete in the contest of legal orders but to create an altogether different discursive ordering of environmental relations. This flexibility explains the

tension between the novel's internal and external critiques of the law, between its investment in both legal argument (Weasel Tail's poem) and literary attacks on the law ("Written law. We recognize none of that"). In this way, *Almanac* exemplifies the Indigenous "third space of sovereignty" theorized by Kevin Bruyneel (2007), which exists on the boundaries between colonial rule and Indigenous communities and which moves across the cultural, historical, and territorial distinctions that constitute settler law. In this "third space of sovereignty," as in *Almanac*, Indigenous people are governed by the law but are not fully captured by it, experiencing territorial dispossession but retaining ties to the land.

The almanac that Lecha and Zeta have inherited, and which they work to translate and digitize throughout the novel, is a compendium of pre- and postconquest prophecies, stories, poems, and miscellany. It is an analogue to the preconquest Mayan codices, four of which have survived (Adamson 2001: 136–37). Silko narrates how the almanac was brought north from present-day Mexico at the beginning of the reign of Death-Eye Dog, a cyclical period of violence and betrayal that began five hundred years ago. It eventually came into the hands of Lecha and Zeta's grandmother Yoeme, who entrusts them with its preservation: "Nothing must be added that was not already there. Only repairs are allowed, and one might live as long as I have and not find a suitable code" (Silko 1991: 129). The code will interpret the almanac's prophecy of the impending disappearance of the Europeans and reestablishment of Indigenous control of the land.

Crucially, this change will be effected by the power of narrative itself. Instances of stories' power to change events are everywhere in *Almanac*: an Alaskan native woman recites old stories that gather enough energy to bring down oil exploration planes (156), and a former soldier's history radio broadcasts raise an army of veterans (427). In a crucial series of scenes, a Mexican named La Escapía and her fellow Mayan revolutionaries hold a trial for Bartolomeo, a Cuban Marxist and erstwhile ally who has committed "crimes against Native American history; the crimes were the denial and attempted annihilation of tribal histories" (515). With his racist rejection of the existence of native communism and Indigenous people's role in world history, Bartolomeo has blocked the transformative power of Indigenous stories. La Escapía's accusation consists of a long list of Indigenous uprisings since the conquest, a rebuke to Bartolomeo's Eurocentrism, and an invocation of narrative power on the eve of her army's march north (527–30). Bartolomeo denies the jurisdiction of the village court, but

“this was a trial of all Europeans. More than five hundred years of white men in Indian jurisdiction were on trial” (526).

Bartolomeo’s description of the conflict between Indigenous and European stories as a collision between jurisdictions is telling. In denying the jurisdiction of the Euro-American legal order and its environmental imagination, *Almanac*’s revolutionary narratives do not contest the power of sovereign pronouncement altogether, as some of the earlier-cited passages questioning the power of names and concepts might suggest. Instead, they offer a counterorder of narrative normativity that itself can take the form of sovereign jurisdiction—an example of the boundary-living “third space of sovereignty.” Indigenous stories have real force that can be imposed in a judicial process. This dedication to the world-transforming potential of narrative is a constant theme in Silko’s work. In *Ceremony* (1977), the main character Tayo’s progression from traumatized combat veteran to a man in harmony with his Laguna Pueblo community and environment requires the correct coordination of names and stories, which have the power both to unleash destruction (a medicine man tells Tayo that Indigenous people brought the white man to America through the improper use of stories) and to synthesize traditional and modern ways of living. In *The Turquoise Ledge* (2010), a memoir, Silko describes how the Laguna Pueblo used mainstream legal advocacy and oral storytelling to challenge the federal government’s seizure of their land. In her study of the memoir, Katja Sarkowsky (2020: 105) writes that the “self-reflexive storytelling” of Silko and the Laguna Pueblo “draws its own authority from reference to earlier storytelling and to storytelling conventions, but also from its orientation towards an individual and collective future”; “Stories counter American law not exclusively, on the level of the narrative’s *histoire*, but also serve to establish discursive authority” (108).

But if *Almanac*’s revolution is to be hastened by “put[ting] everything in writing,” what is the nature of this discursive authority? Is history predetermined or does it need fomenting? The novel rests uneasily between these options, making as strong a case for the inevitability of reformed relations with the land as it does for the urgency of political action. In Chiapas, “old prophets were adamant; the disappearance [of the white man] would not be caused by military action, necessarily, or by military action alone. The white man would someday disappear all by himself” (Silko 1991: 511). This inevitability, figured primarily through the prophecies of the Mayan codices, is aligned with other codes of historical change, including Indigenous traditions like the Aztec, Navajo, and Hopi conception of the Fifth World, as well as

teleological Marxism. Glossing Karl Marx, La Escapía emphasizes the predetermination of communism: “No matter what you or anyone else did, Marx said, history would catch up with you; it was inevitable, it was relentless” (316). This historical inevitability is often figured by *Almanac*’s revolutionaries as both a social and a natural phenomenon. The coca leaf, Mama Coca, travels north from South America to aid in the expulsion of the Europeans (502–3); increased earthquake and volcano activity is a sign of the Barefoot Hopi’s imminent revolution (618). La Escapía explains during Bartolomeo’s trial that “we simply wait for the earth’s natural forces already set loose. . . . We prepare, and we wait for the tidal wave of history to sweep us along” (518). But if the earth and impersonal historical forces will collude to reestablish Indigenous control of the land, then neither *Almanac*’s rebel characters nor the telling of stories are necessary in the process of change. Heather Houser (2014: 211) notes that this contradiction between the novel’s “geophysical theory of revolution” and the “idea that strong personalities drive history” results “from a tension between the two genres announced by the book’s title: the almanac and the novel” (213). To this I would add the tension between description and prescription: *Almanac* is both waiting for change and demanding it, outlining its natural emergence and providing its justification.

This contradiction between revolutionary inevitability and action recalls the observation I made about US property law above: it purports to both describe the natural progression of human-land relations and violently impose them, with the legal imagination acting as a lever by which to convert history into idea and vice versa. This tension has long been noted by theorists of law. In “A Critique of Violence” (1921), Walter Benjamin makes a distinction between “lawmaking” and “law-preserving” violence (Benjamin 1986). All legal systems have their origin in lawmaking violence, even if this fact is denied by positive law and by progressive institutions eager to present themselves as bulwarks *against* violence. On the other hand, law-preserving violence, such as police activity and capital punishment, is nominally different, in that it does not inaugurate a new legal order but rather applies existing law (283–88). Benjamin argues that this distinction ultimately does not hold; the recourse to violence makes all law an expression of power, and lawmaking and law preserving follow each other in a cycle in which justice—which for Benjamin is possible if elusive—never appears within the law itself (300). Jacques Derrida (1992: 14) expands upon Benjamin’s argument in “Force of Law: The ‘Mystical Foundation of Authority,’” making explicit how, in its reliance on an

originary victory in violence, legal authority rests upon nothing but itself. That is to say, the legality of something like exclusive title in land depends ultimately upon the threat of coercive violence and upon the continually reperformed lawmaking moment when this model of human-land relation displaced Indigenous alternatives. The justice of such a legal settlement can only be decided after the fact within the interpretive institution established in its wake—the Marshall Trilogy and federal Indian law are examples—which Derrida calls “the discourse of its self-legitimation” (36). Because each “restituting act of interpretation” depends upon original lawmaking violence, the distinction between performative (lawmaking) and interpretative (law-preserving) legal acts breaks down (23).

This phenomenon is represented in *The Dying Grass* in the copy of Kent’s *Commentaries*. The originary moment of conquest that established the US rule of law on Nez Perce lands has never really passed; rather, it is maintained by the circulation of legal reasoning paired with force. We find the same structure of interpretation as reperformance in *Almanac*’s contradictory vision of Indigenous environmental relations replacing European political and discursive dominance. A founding act of revolutionary violence will usher in a new order, and “with the return of Indian land [will] come the return of justice, followed by peace” (Silko 1991: 513). Actually, this moment will be a refounding, a revival of relations that were in place before Columbus arrived. Like its opposite, the regime of private property, this new Indigenous order presents itself as the natural state of things, even as it has to be violently imposed and maintained. Like law, narrative crosses the line between its discourse and what its discourse is about, describing a natural state of affairs while trying to enforce it or, in the case of *Almanac*’s codices and stories, to destroy it in an act of revolutionary violence. Thus, we have a contest of irreducible struggles between natural and positive law, interpretation and performance, and description and prescription.

But to return to the points I made earlier about *Almanac*’s difference from the legal ideology it formally resembles and frontally attacks: whereas the contradiction between founding myth and real history discredits the law’s claim to justice and jurisdiction, Silko’s performative storytelling can abide the irresolution between description and performance, between imagined origins and contemporary operation. This is because the novel and its almanac assume a cyclical temporality typical of Indigenous cultures in which the basic structure of human-environmental relations—an ethic of reciprocity maintained

by responsible land use and the correct use of stories and names—remains constant across time. Conquest and liberation, chaos and order replace each other in a pattern maintained not only by storytellers but by Earth itself. Under this paradigm, the problem of the “law-making” moment, of the law’s obscured violent birth, disappears, and there is no need to argue, as Justice Marshall did in *Johnson*, that an unjust principle like the doctrine of discovery must be recognized because “if the principle has been asserted in the first instance, and afterwards sustained . . . [it] cannot be questioned” (591). Silko still deals with settler law, of course, given its central role in Indigenous territorial dispossession. But its claim to exclusive historical legitimacy is denied by making the law epiphenomenal to a larger structure of human-environmental relations that places as much emphasis on space as it does on time: the incipient revolution *Almanac* narrates is characterized by repairing specific sites of environmental harm and returning attention to the specificities of place. As Caren Irr (1999: 225) writes of the novel, “The Columbian metaphysics of one-way discovery breaks down” and, “understood as an endless spatialized temporal one, this sacred native time encompasses Eurocentric linearity and expands beyond it” (233). *Almanac* proposes a collapse of legal and literary imagination into a single force of material-discursive intervention. The novel’s claim that the circulation of narratives can trigger a revolution—and the possible expansion of the category of *narrative* to include social theory (Marx) and jurisprudence (Weasel Tail)—gestures at the prospect of a literature that actually achieves law’s dream of immediate performance and a law that no longer has to hide its embarrassment at its imaginative and mythic qualities.

The suturing of the descriptive-prescriptive divide parallels the reconciliation between people and the land. Both syntheses involve affects of repair, return, and healthful unity; both suggest a necessary relation between right thinking and right action. Both are claims of an expanded jurisdiction: a literature that swallows the law (or vice versa) and a human-land relation that exceeds the exclusive dominion of private property. This dual jurisdictional claim, much more emphatic than *The Dying Grass*’s ecohistoricist method, is *Almanac*’s way of resolving the collision between what it typifies as Indigenous and European environmental worldviews. Rather than a legal regime *or* its outside, and rather than the human society *or* the environment, there will be a new order of natural and just relations among all living things. Such a vision is indeed utopian, or, we might say, mythic.

Ultimately, what I’ve tried to show in my readings of *The Dying Grass* and *Almanac* is how environmental literature might respond to

the ongoing dominance of settler legal common sense by not only thematizing and criticizing the law but by appropriating certain of its methods: its historical imagination of human-environmental relations and its power to shape environmental history through discourse. Such an interdisciplinary practice breaks down distinctions between law and literature and between the canons of settler and Indigenous philosophy and narrative. While Vollmann offers a dissident settler critique of the law and Silko imagines an Indigenous-led revolution, both build counternormative environmental visions that synthesize material from either side of this ostensible divide: the Nez Perce “law of the earth” and Lieutenant Wood’s political radicalism in *The Dying Grass*, Laguna Pueblo stories and Marxist teleology in *Almanac*. These intercultural literary responses to settler law’s environmental order point a path forward for ecocritical meditations on the role of discourse in confronting ecological crises—crises that are, as these novels show, irreducibly linked to our understanding and use of history.

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