

Nominee's Project Proposal

Name of Nominee

Jon M. Van Dyke

The project proposal should include a detailed project budget delineating use of the award funds and a comprehensive outline of the proposed project including the following:

1. A brief description of the problem which is being addressed,
2. A description of the activities to be undertaken by the applicant,
3. An explanation of the impact which the proposed project is expected to have on reducing the scope and/or severity of the problem along with a description of specific outcomes that are anticipated,
4. The time-frame in which the project will be undertaken including the percentage of time that the awardee will devote to project activities,
5. A budget delineating how award funds will be utilized.

(Please type your proposal in 12 point font size)

USING THE LAW OF THE SEA CONVENTION TO PROTECT THE MARINE ENVIRONMENT

This project is designed to bring life to the provisions of the 1982 United Nations Law of the Sea Convention in order to protect the marine environment.

1. A Brief Description of the Problem Being Addressed. The Law of the Sea Convention came into force in November 1994, and the 72 ratifying nations are now slowly implementing the Convention's requirements and building the institution it mandates. The United States signed this Convention in July 1994, but the U.S. Senate has not yet ratified it.

Part XII of the Convention addresses the "Protection and Preservation of the Marine Environment" and contains 46 articles that establish general and specific requirements designed to address the degradation of the oceans. These provisions require nations to protect and preserve the marine environment, establish norms and procedures for each of the various sources of pollution, require nations to prepare environmental impact assessments for developments that may cause substantial pollution, and require particular protection for rare and fragile ecosystems. Part XV of the Convention contains 21 articles that establish an elaborate dispute-resolution procedure designed to channel disputes between environmental protection and navigational freedoms into an orderly mechanism for resolution. The U.S.

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negotiators gave particular attention to these provisions, because the United States was committed both to environmental protection and navigational freedoms. It is important for the United States to be involved in helping to ensure that these provisions function properly, and if the United States government is not a party, then U.S. nongovernmental organizations can still assist in ensuring the success of these provisions.

Other sections of the Convention are designed to protect against overfishing on the high seas, and these provisions have recently been strengthened by the Agreement on Straddling and Highly Migratory Stocks which was concluded in 1995. The provisions governing deep seabed mining in Part XI have also been supplemented by an agreement reached in 1994 that restructures the governance of the International Sea-Bed Authority. The important provisions governing navigational freedoms recognize that some transport is "noninnocent" and that special regimes can be established to protect coastal populations from heavy traffic and from the dangers presented by ships carrying ultrahazardous cargos.

The 1982 Law of the Sea Convention is, in summary, a repository of a wealth of fundamental norms designed to protect the marine environment. During the years between its completion and its coming into force, its provisions have to some extent remained unnoticed and unappreciated, while nations worked on treaties focusing on specific marine problems and on regional treaties. Now, like Rip Van Winkle, the recently-ratified Law of the Sea Convention is awakening to a world that has changed in some important respects. But the Law of the Sea Convention is by no means an outmoded document. It has the potential to serve as a true constitution for the oceans, and its environmental provisions are good ones that deserve to be fully implemented. How nations treat the Convention during the next few years will be crucial to determine whether its promises are fulfilled.

2. A Description of the Activities to Be Undertaken by the Applicant. The applicant will work with nongovernmental organizations, governmental agencies, and international programs to ensure that the marine conservation and environmental protection provisions in the 1982 Law of the Sea Convention are properly understood and properly implemented. Efforts will be undertaken to help all ratifying governments understand and implement their environmental obligations under the Convention. An important element of this activity will be to train persons active in environmental programs about the provisions in the Law of the Sea Convention and how they can be used constructively to protect the marine environment. Among the specific topics that the applicant will address are the following:

**\*\* Promoting Ratification of the Convention**--If the United States Senate has not yet acted to ratify the Law of the Sea Convention when this project begins, then the applicant will give considerable attention to promoting the understanding of and eventual ratification of the Convention in the United States.

**\*\* Movements of Hazardous Wastes**--The applicant will work with nongovernmental organizations such as the Nuclear Control Institute and the Marine Environmental Protection Committee of the International Maritime Organization to ensure that ultrahazardous cargos can be moved through the territorial seas and exclusive economic zones of coastal zones only after notification has been given to the affected nations, permission has been obtained,

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environmental assessments have been prepared, and proper contingency plans for emergencies have been developed.

**\*\* Dispute Resolution Procedures**--The applicant will promote the proper understanding of how these provisions work and how they can be used by governments to protect their coastal environments.

**\*\* Straddling and Migratory Stocks**--The applicant will monitor the implementation of the new 1995 Agreement on high seas fishing, including the application of the precautionary principle and the establishment of new regional and international arrangements.

**\*\* Seabed Mining**--The applicant will monitor the work of the International Sea-Bed Authority and will work to ensure that environmental protection goals are kept at the forefront of its focus.

**\*\* Links Between The Law of the Sea Convention and Other Conventions and Developments**. The applicant will work with nongovernmental organizations that are active in monitoring the implementation of conventions that are linked to the Law of the Sea Convention, such as the Biodiversity Convention, the London Convention (formerly the London Dumping Convention), CITES, the Basel Convention, and so on, in order to ensure that the principles in the Law of the Sea Convention and its links to these other conventions are understood and implemented.

**\*\* Links to Regional Seas Conventions**. The applicant will examine the activities of each regional sea program to determine what it has accomplished to date and how the coming into force of the Law of the Sea Convention can assist in its implementation.

**\*\* Protection of Marine Mammals**. Articles 65 and 120 allow separate regimes to be established to protect marine mammals, and attention will be given to the operations of the International Whaling Commission and the interplay between its activities and fishing regulation undertaken pursuant to the Law of the Sea Convention and the 1995 Straddling and Migratory Stocks Agreement.

**\*\* Establishing Protected Marine Areas**. Article 194(5) requires nations to establish marine sanctuaries to protect rare and fragile ecosystems and the habitats of threatened and endangered species, and the applicant will promote this process by assisting in developing the principles that govern these areas and in identifying areas that should become protected marine areas.

**3. The Impact of the Proposed Project and a Description of Specific Outcomes that Are Anticipated**. The next three years are crucial for the implementation of the Law of the Sea Convention. If successful, the applicant's work will ensure that the environmental provisions are widely understood and properly implemented.

Specific outcomes that can be anticipated include the ratification of the Law of the Sea Convention by the United States and other nations, the creation of a new regime governing the transportation of ultrahazardous wastes, the understanding and use of the Convention's dispute-resolution procedures by the United States and other nations, the proper implementation of the new Straddling and Migratory Stocks Agreement through an understanding of and commitment to the precautionary principle and a creation of new international organizations and arrangements, development of environmental protection

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principles to govern seabed mining, promoting links between the Law of the Sea Convention and other environmental treaties, training environmentalists and indigenous peoples to understand and take advantage of the Convention's environmental principles, promoting the activities of the regional seas programs, increasing the protection provided to marine mammals, and establishing more marine protected areas.

4. The Time Frame for the Project. The applicant will devote half his professional time to this project from August 1996 to July 1999. During the 1996-97 academic year, applicant use fellowship funds to obtain a one-fourth-time teaching load reduction, will focus on ratification of implementation of the Convention and the sea shipment of ultrahazardous wastes, and will work with governments, nongovernmental organizations, and international agencies to address the issues listed above. During the 1997-98 academic year, applicant is scheduled for a university sabbatical (half-year off at full pay), and will use the funds from this fellowship to allow him to take a full-year off and thus to devote the bulk of his time during that year to this project. Considerable travel will take place during that year. During the 1998-99 academic year, applicant will use fellowship funds to obtain a half-time teaching load reduction to bring the projects begun during the two earlier years to completion.

5. Budget.

Applicant's salary (to permit teaching load reductions):	
1996-97	\$ 25,000
1997-98	50,000
1998-99	50,000
Travel	<u>25,000</u>
Total Budget =	\$150,000