

**FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

SANKO STEAMSHIP CO., LTD.,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Argued and Submitted  
November 6, 2001--San Francisco, California

Filed November 29, 2001

Before: Ferdinand F. Fernandez, Pamela Ann Rymer, and  
Kim McLane Wardlaw, Circuit Judges.

Opinion by Judge Wardlaw

No. 99-17538

D.C. No.  
CV-98-01667-MMC

OPINION

States.

**COUNSEL**

Eric Danoff, Emard, Danoff, Port & Tamulski, LLP, San Francisco, California, for the plaintiff-appellant.

Stephen G. Flynn and Warren A. Schneider, United States Department of Justice, Civil Division, San Francisco, California, for the defendant-appellee.

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**OPINION**

WARDLAW, Circuit Judge:

Sanko Steamship Co. appeals the district court's dismissal for lack of jurisdiction in a published order, 2000 A.M.C. 83 (N.D. Cal. 1999), of its claim that the United States of America breached a duty to warn of a shoal in the

Sacramento Deepwater Ship Channel. In determining that the United States was immune under the Flood Control Act, 33 U.S.C. § 702c, the district court relied on the "wholly unrelated" test, as more fully discussed in Central Green Co. v. United States, 177 F.3d 834 (9th Cir. 1999). Since the time that the district court issued its decision, however, the United States Supreme Court reversed Central Green and established a more restrictive test for determining sovereign immunity. Central Green Co. v. United States, 531 U.S. 425 (2001). Because this new test involves determination of facts that have not been fully developed, we reverse and remand for further proceedings in light of the Supreme Court's Central Green decision.

**REVERSED and REMANDED.**

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