



alleged here. Moreover, the ICWA child custody provisions do not apply to a placement based upon a divorce proceeding award of custody to one of the child's parents. See Comanche Indian Tribe of Okla. v. Hovis, 53 F.3d 298, 299 (10th Cir. 1995) ("child custody proceeding" under ICWA does not include award of custody to one of the parents in a divorce proceeding).

The facts alleged in the complaint fail to show any basis for federal jurisdiction. Any request to alter the current custody arrangement should likely be directed to the District Court of Wallace County, Kansas, which entered the divorce decree. See Doc. 10-1 at 3 ("The parties further understand that this agreed custody arrangement is subject to the orders of the District Court of Wallace County, Kansas.").

Defendant's Motion to Dismiss (Doc. 9) is GRANTED. The action is dismissed without prejudice for lack of jurisdiction.

IT IS SO ORDERED.

Dated this 17th day of December 2012, at Wichita, Kansas.

s/Monti Belot  
Monti L. Belot  
UNITED STATES DISTRICT JUDGE