

The United States Treaty with Apaches (Treaty of Santa Fe), 1852, and Its Relevance to Western Apache History and Territory

John R. Welch

December 2, 2017

The only executed treaty between the United States (U.S.) and Apache Indians with aboriginal territories in what is now Arizona was signed in Santa Fe, New Mexico Territory, on 1 July 1852, ratified by the U.S. Senate on 23 March 1853 (10 Stat., 979), and proclaimed by President Franklin Pierce on 25 March 1853.¹ Because the especially powerful Apache Chief Mangas Coloradas (also Mangus Colorado) “X’d” the treaty in a gathering on 11 July 1852, at Acoma Pueblo, the agreement is occasionally referred to as the Treaty of Acoma or the Acoma Treaty.² There is no clear evidence that Western Apache leaders or representatives negotiated, signed, or acted in compliance with the treaty. On the other hand, nor is there clear evidence to the contrary, and the U.S. seems to have applied the treaty to Western Apaches. In particular, U.S. actions in relation to people and land that became associated with the San Carlos division of the White Mountain Reservation indicate that the U.S. held Western Apaches accountable for treaty prescriptions.

More research is required to pursue the strong possibilities that the Treaty of Santa Fe:

- Exemplifies treaties that, though largely ignored in the twentieth century, had important influences in the nineteenth century that reverberate with consequences today.
- Reflects the naivety of both the U.S. and the Apaches. There is real tragedy embedded in the history of a treaty apparently negotiated in good faith that could have, but did not, provide the basis for continuing communications, and even collaborations.

One authoritative encyclopedia entry concerning the agreement states that the treaty “was negotiated on July 1, 1852 by E.V. Sumner and John Greiner with seven Apache chiefs. The Indians agreed to remain at peace, to release captives, to permit the establishment of forts and trading posts, and to recognize tribal boundaries.”³ Another summary of the agreement states that it “set forth a negotiated justice system, stipulated that attacks in the territory of Mexico were to cease, forbade the taking of captives, and required the surrender of all captives previously taken.” The summary further states that, pursuant to the treaty, the U.S. established “Military posts, agencies, trading houses, and territorial boundaries.”⁴

¹ Kappler, Charles J., Compiler and Editor (1904). *Indian Affairs: Laws and Treaties*, Vol. II (Treaties). Washington DC: Government Printing Office, pages 598-599. <http://digital.library.okstate.edu/kappler/vol2/treaties/apa0598.htm>

² Kiser, William S. (2012). *Dragoons in Apacheland: Conquest and Resistance in Southern New Mexico, 1846-1861*. University of Oklahoma Press, Norman, page 138. Kiser (2012, pages 134-140) aptly discusses the treaty negotiations and provisions in the context of the wrangling for power between military and civilian officials in New Mexico Territory. Similar themes dominate discussion in Sundberg, Lawrence D. (2013). *Red Shirt: The Life and Times of Henry Lafayette Dodge*. Sunstone Press, Santa Fe, chapter 30, no pagination.

³ Heard, Joseph N. (1997). *Handbook of the American West: Four Centuries of Indian–White Relationships, Volume IV: The far West*. Scarecrow Press, Lanham, Md., page 272.

⁴ Fixico, Donald L., editor (2008). *Treaties with American Indians: An encyclopedia of rights, conflicts, and sovereignty*. Santa Barbara, Ca: ABC-CLIO, page 337.

The Treaty of Santa Fe has received considerably less attention from lawyers, scholars, and tribal advocates than many other agreements between the United States (U.S.) and Native Nations, and Jeffrey P. Shepherd refers to the agreement as the “Lost Treaty.”⁵ A more precise and useful descriptor of the treaty might be ‘of limited long-term consequence,’ but important historical and political questions persist concerning the scope and intent of the agreement. The balance of this brief analysis reviews the treaty provisions, summarizes some of the treaty negotiation processes and the people involved therein, and provides an initial list of legal and administrative proceedings in which the treaty has been referenced or otherwise deployed. The ultimate goal is to increase understanding of the applicability of the treaty to the protection and advancement of Western Apache interests in land, water, and related resources situated beyond the boundaries of existing reservations (that is, the San Carlos Apache, Tonto Apache, White Mountain Apache, and Yavapai-Apache reservations).⁶

In the later 1950s BIA attempted to systematically identify its treaty responsibilities to tribes, including the San Carlos and White Mountain Apache Tribes. It remains unclear why the Treaty of Santa Fe was not considered, though veteran Indian lawyer Robert C. Brauchli told Welch that the U.S. “Department of Justice will or already has interpreted the Treaty to be an agreement to keep the peace which was fulfilled and did not guarantee land title to the Western Apaches.” Brauchli further contends that the U.S. would be likely “to argue that the creation by executive order of White Mountain Apache Reservation superseded the Treaty and extinguished aboriginal title outside reservation boundaries.” On the other hand, the Indian Claims Commission and the Court of Federal Claims in 22D recognized aboriginal land title beyond the boundaries of the maximum extents of designated reservations.

PROVISIONS

Interpretations of treaty meanings and impacts must be grounded in original texts. The treaty’s preamble states: “Articles of a treaty made and entered into at Santa Fe, New Mexico, on the first day of July in the year of our Lord one thousand eight hundred and fifty-two, by and between Col. E. V. Sumner, U. S. A., commanding the 9th Department and in charge of the executive office of New Mexico, and John Greiner, Indian agent in and for the Territory of New Mexico, and acting superintendent of Indian affairs of said Territory, representing the United States, and Cuentas Azules, Blancito, Negrito, Capitan Simon, Captain Vuelta, and Mangus Colorado, chiefs, acting on the part of the Apache Nation of Indians, situated and living within the limits of the United States”

The following is a summary of the treaty’s eleven articles with most key phrases quoted verbatim:

1. "Said nation or tribe of Indians" acknowledge U. S. government jurisdiction
2. Apaches agree to cease hostilities and remain peaceful.
3. Apaches bound themselves forever "to treat honestly and humanely all citizens of the United States" and all persons and powers at peace with the United States.
4. Apaches agree to refer aggression against themselves to the U. S. government.

⁵ <https://archaeology.elpasotexas.gov/events/2015/11/14/lost-apache-treaty-of-1852-lecture>

⁶ Basso, Keith H. (1983). Western Apache. In Alfonso Ortiz (Ed.), *Southwest* (pp. 462–488) (Handbook of North American Indians, vol. 10, William C. Sturtevant, general editor). Washington, DC: Smithsonian Institution.

5. Apaches agree "for all future time to desist and refrain from making any 'incursions within the Territory of Mexico' of a hostile or predatory character," from capturing any Mexicans, rustling Mexican animals, stealing Mexican property, and surrender "all captives now in their possession."
6. Anyone subject to United States law who murdered, robs or otherwise maltreats any Apache "shall be arrested and tried."
7. People of the United States "shall have free and safe passage through the territory of aforesaid Indians."
8. Government intentions to establish military posts and agencies and to authorize trading houses.
9. Apaches agree that the government "shall at its earliest convenience designate, settle, and adjust their territorial boundaries, and pass and execute in their territory such laws as may be deemed conducive to the prosperity and happiness of said Indians."
10. Government agrees to "grant to said Indians such donations, presents, and implements . . . as said government may deem meet and proper."
11. Treaty subject to modifications and amendments by the United States government.

NEGOTIATION CONTEXT, PROCESS, AND SIGNATORIES

Details are scarce concerning why and how Apaches entered into treaty deliberations with U.S. officials, though it is clear that Apaches under the broad influence of the great leader, Mangas Coloradas, shared interests with U.S. representatives in establishing peaceful terms for continuing engagements. The most important statement of the period concerning the treaty proceedings comes from one of the U.S. signatories. In his July 21, 1852 report to the U.S. Commissioner of Indian Affairs, the acting superintendent of Indian affairs for New Mexico Territory, John Greiner, wrote, in part:

"During the present month peace has been effected with the Apaches, and we are now at peace with all the Indians in the Territory. For the last four months there has scarcely been a complaint of an Indian depredation....

"For some time past these Indians have been desirous of making peace—and their good conduct showed their sincerity. Rumors were sent through their Country to hold a general Council of the whole tribe at any point they might agree upon. But the vast extent of Country through which they range rendered this scheme impracticable.

"A number of the Chiefs of the Mescaleros or White Mountain [i.e., Sierra Blanca, New Mexico] Apaches came to Santa Fe, and were provided for—the treaty was fully & fairly explained to them—and after some objection to keeping peace with Old Mexico, as required, they at last agreed to do so and after receiving some presents they returned to their homes highly satisfied with their visit to Santa Fe.

"The Gila Apaches could not be induced to come here but proposed to meet the Officers of the Government at the Pueblo of Acoma. Col. Sumner, Judge Baird and myself met them at the time and place appointed (11th July), and Mangas Colorado, a magnificent looking Indian came in as the representative of the Apache nation. He is undoubtedly the master spirit of his tribe.

"When the Article in the treaty was read to him that his people were not to cross over into Old Mexico—and they were to remain at peace with the Sonorans also—He said

‘are we to stand by with our arms folded while our women and children are being murdered in cold blood as they were the other day in Sonora?’ That people invited my people to a Feast—they manifested every show of kindness towards us—we were lulled into security by this hypocrisy. At the close of the Feast a barrel of Aguardiente was brought on the ground. My people drank and got drunk—and then—the Sonorans beat out the brains of fifteen of them with clubs. Are we to be the victims of such treachery? Are we not to have the privilege of protecting ourselves?’”

“Mangas... was given to understand that his people were under the protection of the Government ... that they had the right to protect themselves—but that they were not to go over into Old Mexico to commit depredations and that they were to keep peace with that people the same as with the United States.

“After the treaty was signed Col Sumner kindly distributed a number of Sheep among all the Indians present, and the next day all parties left for their homes with the best of feelings towards each other.

“The people of the Pueblo of Acoma... are a very kind and good people and live on the best of terms with the Apaches and Navajoes.”⁷

Henry Lafayette Dodge, a non-Native participant in some of the treaty proceedings, accompanied Greiner to Acoma in early June, 1852, for initial discussions with Mangas and other leaders. Dodge’s biography describes additional details of what happened at Acoma on July 11, including the \$20 gift Greiner used to coax Mangas to the treaty table and the 42 sheep consumed by the Chiricahuas in the ensuing feast.⁸ Chiricahua-Acoma relations seem to have been akin to the general détente and commensalism that often characterized White Mountain Apache relations with Zunis and Tonto Apache and Yavapai relations with Hopis.⁹

An element of historical context essential to understanding the Treaty of Santa Fe is that it was negotiated during what might be called the ‘honeymoon phase’ of U.S.-Apache relations. Weary and wary from more than two centuries of often violent encounters with Spanish and Mexican soldiers, militia, and citizens, Apaches initially welcomed U.S. civil and military authorities.¹⁰ With this in mind, the treaty emerges as an outgrowth of the 1848 Treaty of Guadalupe-Hidalgo, the agreement by which the U.S. acquired from Mexico all land north of Gila River, including most Mescalero, Chiricahua, and Western Apache territory. Article Eleven of that 1848 treaty made the U.S. responsible for protecting Mexican territory and citizens against incursions by Indians residing in the U.S.¹¹ There is no doubt regarding the U.S. application of that treaty to Western Apaches.

⁷ 31 July 1852 Report by Sup’t Indian Affairs John Greiner to CIA S. Sea (excerpts) NARA Microfilm Publication 234, Roll 346.

⁸ Sundberg, Lawrence D. (2015). *Red Shirt: The Life and Times of Henry Lafayette Dodge*. Sunstone Press, Santa Fe, chapter 30

⁹ For details regarding often-peaceful Apache-Zuni relations, see Basso (1983), cited above, and Welch, J.R., Editor (2016). *Dispatches from the Fort Apache Scout: White Mountain and Cibecue Apache History Through 1881*, By Lori Davisson, with Edgar Perry and the Original Staff of the White Mountain Apache Cultural Center. University of Arizona Press, Tucson. Regarding Hopi trading relations with Yavapai and Tonto Apaches, see _____.

¹⁰ Welch, J.R., Editor (2016). *Dispatches from the Fort Apache Scout: White Mountain and Cibecue Apache History Through 1881*, By Lori Davisson, with Edgar Perry and the Original Staff of the White Mountain Apache Cultural Center. University of Arizona Press, Tucson.

¹¹ <http://extwprlegs1.fao.org/docs/pdf/bi-51880.pdf>

The Treaty of Santa Fe must be further situated as a prelude to another U.S.-Mexico agreement with treaty status, the 1853 Gadsden Purchase Treaty. That agreement included provisions for U.S. acquisition of 29,640 square miles south of the Gila River and west of Rio Grande for \$10 million. It established the current Mexican boundary and placed additional Apache, Pima, and Tohono O'odham territory under U.S. control. Only southernmost Chiricahua Apache lands remained in Mexico after the purchase agreement was ratified by the U.S. Senate on June 30, 1854. Article 2 of the Gadsden Purchase Treaty revokes Article 11 of the 1848 Treaty of Guadalupe-Hidalgo, relieving the U.S. from duties to control Indian raiding into Mexico and to liberate Mexican captives.¹² On the other hand, the purchase agreement ostensibly leaves unchanged Article 4 of the Santa Fe Treaty, which prohibits Apache raids into Mexico and Apache retention of Mexican captives. The overall pattern, one familiar to all historians of U.S. Indian Policy, is of discounting concerns arising from impositions on Indians and, simultaneously, minimizing specific U.S. responsibilities for the maintenance of Indian relations, especially fiduciary duties.

It is useful to note that neither Grenier nor other U.S. officials could have known for sure with whom they were treating. Apaches, in traditional times and to some extent today, are among humanity's foremost anarchists.¹³ The notoriously mercurial character of traditional Apache political organization, and of allegiances among the local groups and bands that are the fundamental constituents of Apache society, challenged diplomacy and other aspects of intergovernmental relations. Edwin Sweeney, the foremost scholar of Chiricahua Apache history, states, "the Apache's loose political structure, with authority vested in ... extended family and group leaders instead of prominent band chiefs, went counter to what Americans arrogantly believed the Apaches' political organization should be. This confusion inevitably led American military men to arrive at solutions based on broad generalizations or incorrect assumptions. To them an Apache was an Apache, a simplistic notion that would lead time and again to further violence."¹⁴ Dobyns (1998, 350) concurs in this view, observing that "no single Apache tribe existed for more than a century prior to 1853, nor is there a single Apache tribe today."¹⁵

Temporal and situational contingencies of Apache political organization come to the fore in almost any effort to untangle the identities, affinities, and allegiances of Apache identified in documents dating before about 1930.¹⁶ Table 1 lists Apache signatories and some name-linked facts garnered from non-systematic archival research. Greiner and others mention that some of the signatories represented Mescalero groups, but the only signatories with bona fide identities are leaders of the Chihenne band of Chiricahua Apaches.

¹² http://avalon.law.yale.edu/19th_century/mx1853.asp

¹³ Welch, J.R. (2017). Cycles of Resistance, *SAA Archaeological Record* 17(1):17-21

¹⁴ Sweeney, Edwin R. (1998). *Mangas Coloradas, Chief of the Chiricahua Apaches*. Norman: University of Oklahoma Press, pages 262, 320.

¹⁵ Dobyns, Henry F. (1998). Apache Rights to Gila River Irrigation Water. *The Kiva* 63, 4, xxx-ccc.

¹⁶ Davisson, Lori (1979). New Light on the Cibecue Fight: Untangling Apache Identities. *Journal of Arizona History* 20, 423-444.

Name on Treaty	AKA	Documentary References to Identity
Cuentas Azules	“Blue Beads”	
Blancito	“Little White”	
Negrito	“Little Black”	Part of a Chihenne faction favoring peace with the U.S. ¹⁷
Capitan Simon		
Capitan Vuelta	“Captain Turned”	See profile portrait, in watercolor, included in the “El Sabio Sembrador” newsletter reproduced in <i>El Paso in 1854</i> . ¹⁸
Mangas Coloradas	“Red Sleeves”	The Treaty of Santa Fe is the only agreement with the U.S. the Chihenne band chief, Mangas Coloradas, "X"d during his life. At Santa Fe and Acoma, Mangas represented five other Chihenne leaders who did not serve as signatories: Ponce, Itán, Sergento (Sargento or “Sergeant”), Doscientos (“Two Hundred”), and José Nuevo. ¹⁹

EFFECTS AND IMPLICATIONS

Federal Government presence in and around New Mexico Territory in the early 1850s was sparse, and capacity to implement or enforce the Treaty of Santa Fe or other elements of federal law was extremely limited. Military posts in 1852 existed at El Paso, Texas, Camp Yuma, California, and Santa Fe. A contingent of about 80 soldiers occupied Fort Webster, the former Spanish Presidio established to safeguard the Santa Rita mines near present-day Silver City.²⁰ The Pima-Maricopa Confederation's army furnished the only effective protection for the Southern National Wagon Road between El Paso and Camp Yuma.²¹ Only in 1856, and only after initial lobbying by mining interests in Washington did the U.S. establish Fort Buchanan south of Tucson and Camp Grant, north of Tucson, at the mouth of Aravaipa Creek on the San Pedro River.²² The future Arizona remained part of New Mexico Territory until, on February 24, 1863, Congress passed the Arizona Territorial Bill (12 Stat. 664).

Greiner recognized the enforcement issues, realized he could not rely exclusively on Colonel Sumner and his troops to monitor the treaty, and took affirmative steps within his authority as territorial superintendent toward realizing treaty aims. His report states,

It will be extremely difficult to keep these Indians at peace with the people of Old Mexico....

I have directed Mr Charles Overman, Special Indian Agent appointed by Gov. Calhoun, to repair to Fort Webster near the Copper Mines and to see that no further depredations should be committed by either party.”

¹⁷ Sweeney (1998). *Mangas Coloradas*, 269, 328, 570.

¹⁸ Strickland, Rex W., and Frederick A. Percy (1969). *El Paso in 1854*. Texas Western University Press, El Paso.

¹⁹ In April of 1853, New Mexico Territorial Governor William C. Lane presented medals to Jose Nuevo and Cuchillo Negro (“Black Knife”) to recognize their authority and left another medal at Fort Webster for presentation to Ponce. Sweeney (1998). *Mangas Coloradas*, 254, 260, 272, 274.

²⁰ Frazer, Robert W. (1965). *Forts of the West*. University of Oklahoma Press, Norman, pages 106-107.

²¹ DeJong, David H. (2006). “Advantageous to the Indians?” The Overland Mail Routes and the Establishment of the Pima Indian Reservation, 1852-1860. *Journal of the West* 45, 3, 17-33.

²² Thrapp, Dan L. (1967). *The Conquest of Apacheria*. University of Oklahoma Press, Norman.

I shall be compelled to go to the Copper Mines to Fort Webster to meet some of the principal chiefs of the Apaches who were afraid to come in to Acoma—as it is of great importance to show these Indians they are not to be neglected by our Government. I presume if the Treaty is ratified by the Senate that they will be placed on the same footing as the Navajoes & Eutahs.²³

For a period of about two years after the treaty signing, peace characterized Apache-American relations in New Mexico Territory. One observer notes, “the state of comparative peace to which they [the Apaches] have been brought... is well understood to be a very uncertain and precarious arrangement and one liable at any moment to be abruptly terminated.”²⁴ Such a termination came soon enough. Sweeney chronicles Apache raids shortly after the treaty signing and suggests a tacit understanding among the treaty parties that Apache raids could continue until the other terms of the treaty matured and food sources other than raiding emerged.²⁵

Regardless of whether Western Apache leaders participated directly in the treaty negotiating and signing, the U.S. held Western Apaches accountable for treaty provisions. U.S. army forces campaigned from Bedonkohe Band lands (probably around the Mogollon Mountains) to the San Carlos-Gila River confluence, confirming U.S. views that the 1852 treaty applied to all Apaches and that their depredations violated that treaty. The troops recovered about 350 sheep and 31 horses and mules recently taken from the Rio Grande.²⁶ In a punitive expedition the following year, U.S. troops found extensive irrigated cornfields along the San Carlos River.²⁷

LOST & FOUND

There are at least two plausible and non-exclusive explanations why the agreement seems to have attracted little legal, political, or scholarly attention subsequent to the 1850s. First, the treaty contains few specifics. No territorial boundaries or landmarks are designated and, except for the “free and safe passage” guarantee, few specific rights or duties are enumerated. The treaty’s provision are, in a word, imprecise. Second, and probably also due to vagueness, the treaty proved difficult to enact or enforce. Both sides represented in the treaty negotiations ultimately disregarded most of the treaty’s 11 articles.

It is at least possible that one or more of the signatories represented Western Apache interests. In any case, U.S. officials seem to have construed the treaty to apply to all southern Apaches, including Western Apaches. Royce’s (1899) authoritative compendium of Indian land cessions depicts the territory affected by the 1852 treaty to include Western Apache lands, including the San Carlos and White Mountain reservations and all lands judicially established as Western Apache aboriginal territory by the Indian Claims Commission, or ICC.²⁸ Also within the area Royce depicted

²³ 31 July 1852 Report by Sup’t Indian Affairs John Greiner to CIA S. Sea. NARA Microfilm Publication 234, Roll 346.

²⁴ Captain John Pope, quoted in Kiser (2012), cited above, page 138.

²⁵ Sweeney (1998). *Mangas*, pages 259-260, 264-265.

²⁶ Sweeney, *Mangas*, page 326.

²⁷ Dobyns, Henry F. (1998). Apache Rights to Gila River Irrigation Water. *The Kiva* 63, 353 (citing Du Bois 1949:23).

²⁸ Royce Charles C. (1899). *Indian land cessions in the United States* (Arizona and New Mexico map No. 1, pp. 922-923) (Eighteenth annual report of the Bureau of American Ethnology). Washington, DC: Smithsonian Institution. Retrieved from <https://lccn.loc.gov/13023487>. U.S. Indian Claims Commission (1965). Findings of Fact in Docket 22-E (15 Ind. Cl.

as 1852 treaty lands are ICC-recognized aboriginal territories of the Chiricahua Apache, Yavapai, Pima-Maricopa, Tohono O'odham.²⁹

Writing of the Treaty of Santa Fe prior to Indian Claims Commission proceedings, Department of Interior Solicitor Margold stated,

The treaty did not bind the Apache Nation to cede any lands to the United States nor did it bind the United States to recognize any specific area as the territory of said nation or its constituent tribes. Article 9, however, did obligate the United States to establish and adjust their boundaries. This agreement was a part of the consideration offered for the peace and friendship of the Indians. The same article recites the Indians' reliance upon the "justice and liberality" of the Government of the United States in carrying out its obligations.

Probably one of the principal reasons why no designated area was recognized as the territory of the Apaches in the treaty of July 1, 1852, was the fact that these Indians were banded together in nomadic tribes with no set abode. They roamed the territory between the lands of the Comanche on the east, the Colorado River on the west, and the lands of the Ute, Navajo and Paiute Indians on the north, and they were accustomed to cross and recross the present boundary between the United States and Mexico. In fixing a place of residence for these Indians, arbitrary regions had, as a practical matter, to be established, conforming as far as possible with the general Apache domain but based on no exact claims by the Indians. Some of the Apache tribes were placed on the Kiowa and Comanche Reservation in Oklahoma, while others, such as the Mescalero and the San Carlos and the Fort Apache were given reservations by Executive order in New Mexico and Arizona.

The setting aside of a reservation for the Mescalero Apache Indians by the Executive order of May 29, 1873, as enlarged and clarified by two subsequent orders of February 2, 1874, and October 20, 1875, is to be regarded as a recognition by the United States of rights acquired by long use and occupancy of the area and as confirmation of such rights so far as the lands set aside were concerned. Such action was contemplated and authorized by article 9 of the treaty of July 1, 1852. The power of the President to establish Indian reservations by Executive order in all respects similar to those established by treaty provision or act of Congress is recognized in many cases.... The order's effect was to endow the Mescalero Apache Indians with vested rights in the reserved lands of which they could not be deprived without their consent or the payment of just compensation therefor.... The fact that their reservation was established by Executive order, instead of by treaty or act of Congress, is not important in this connection....

Comm., March 3, 1965), Records Group 279, Entry 11UD. Washington, DC: National Archives. U.S. Indian Claims Commission (1969). Findings of Fact in Docket 22-D (21 Ind. Cl. Comm., June 27, 1969), Records Group 279, Entry 11UD. Washington, DC: National Archives.

²⁹ Map of Indian land areas judicially established, prepared by the Indian Claims Commission in 1978, www.wes.army.mil/el/ccspt/natamap/usa_pg.html

[I]n the treaty of July 1, 1852, in which the Government agreed "at its earliest convenience" to "designate, settle, and adjust their territorial boundaries".... it can be said that a moral obligation rested upon the United States not to diminish the area set aside under the foregoing conditions without the Indians' consent.³⁰

Margold is guilty, of course, of imposing values-laden notions regarding nomadism and nationhood on Apache political organization. These judgements are as convenient to Margold's arguments for his client as they unsubstantiated by facts. The Opinion does clarify the U.S. government presumptuous application of the treaty's specific prescriptions and prohibitions to all Apaches. Perhaps needless to say, U.S. obligations to demonstrate "justice and liberality" in discharging duties to "pass and execute... such laws as may be deemed conducive to the prosperity and happiness of said Indians" went mostly unattended.

Some References to Treaty of Santa Fe in Administrative and Legal Proceedings (via Lexis search)

Citation	Document Context, Implications, Notes
United States v. Monte, 3 N.M. 173	1884 Decision in re. an Apache accused of the murder of a non-Indian, that the U.S. district court had exclusive jurisdiction.
United States v. Santa Fe P. R. Co., 314 U.S. 339	1941 Decision that the Walapai relinquished rights to lands outside the reservation because they specifically requested that the reservation property be set aside for them
Mescalero Apache Tribe v. Jones, 411 U.S. 145	1973 Decision that, absent federal law to the contrary, Indians whose businesses go beyond their reservation's boundaries are subject to state income tax laws applicable to all citizens of the state
Ft. Sill Apache Tribe v. United States, 201 Ct. Cl. 630	1973 Decision that Indian Claims Commission's jurisdiction is over claims by the tribes, bands, and groups of Indians which have group rights, not over claims on behalf of individual Indians.
Mescalero Apache Tribe v. Burgett Floral Co., 503 F.2d 336	1974 Decision that the district court should not have dismissed, for lack of federal question jurisdiction, a tribe's trespass action against companies for destroying trees on tribal land because the action clearly fell within the statutory jurisdictional requirements.
United States v. Ft. Sill Apache Tribe, 209 Ct. Cl. 433	1976 Decision merits close review and is available here . A highlight: "The United States encouraged development by laws, <i>e. g.</i> , Act of March 3, 1871, 16 Stat. 573, and May 10, 1872, 17 Stat. 91. It also conducted military campaigns against the Chiricahua Apaches, and tried to confine them to statutory reservations distant from the tract here involved. The Commission says it assumed responsibility for the intrusions and exploitation, dealing unfairly and dishonorably in violation of Sec. 2, Cl. 5."
Chino v. Chino, 90 N.M. 203	1977 Decision in re. a mother's forcible entry action involving property located on an Indian reservation, that the district court erred by removing her son from the property because state court jurisdiction over the action infringed upon the tribe's governmental powers.

³⁰ Margold, Nathan R. (1940). Mescalero Reservation--Exclusion Claim by the United States of Certain Lands by Executive Order. Memorandum to the Commissioner of Indian Affairs, June 28, 1940. http://thorpe.ou.edu/sol_opinions/p951-975.html

Mescalero Apache Tribe v. O'Cheskey, 625 F.2d 967	1980 Decision in re. tax on non-Indian contractors building a resort on reservation land, that the was legal because it was levied on the contractor, not the tribe.
Merrion v. Jicarilla Apache Tribe, 617 F.2d 537	1980 Decision that tribes have inherent powers to levy the oil and gas severance taxes and such levies do not violate the Commerce Clause; Congress did not preempt tribal taxation.
N.M. v. Mescalero Apache Tribe, 462 U.S. 324	1983 Decision that states cannot apply their hunting and fishing laws on tribal trust lands because doing so undermines tribal authority and Congress's intentions to encourage tribal self-government.
Jicarilla Apache Tribe v. Supron Energy Corp., 728 F.2d 1555	1984 Decision that royalties on a natural gas lease located on reservation land are to be determined by regulations and the parties' lease, not by "dual accounting" methods.
United States v. Superior Court, 144 Ariz. 265	1985 Decision that Arizona courts have jurisdiction to adjudicate Indian claims to stream waters and may do so in a comprehensive, general proceeding in which the United States, as trustee of such claims, was joined as a party defendant.
137 Cong Rec S 14573	1991 SAN CARLOS WATER RIGHTS CLAIMS SETTLEMENT ACT, Vol. 137, No. 143, Senate
102 P.L. 575	1992 RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT
State ex rel. Martinez v. Lewis, 116 N.M. 194	1993 Decision in re. determining an Indian tribe's water rights, that the applicable priority date for water rights is the date the U.S. promised to create a reservation.

Some References to Treaty of Santa Fe in Secondary and Scholarly Literature (via Lexis search)

Citation	Document Context, Implications, Notes
Joseph D. Matal (1997) 14 Alaska Law Review 283	Examines
Carl H. Johnson (1998) 83 Minnesota Law Review 523	Examines implications of the Endangered Species Secretarial Order for tribal sovereignty
(2006) 41 New England Law Review 67	Examines the National Historic Preservation Act: San Carlos Apache Tribe v. United States and impediments to preserving Native American culture
Nathan Speed (2007) 87 Boston University Law Review 467	Examines the interstate commerce clause through lens of Indian commerce clause
(2008) 117 Yale Law Journal 680	Examines
John W. Ragsdale, Jr. (2010) 35 American Indian Law Review 39	Examines
Wenona T. Singel (2012) 49 San Diego Law Review 567	Examines human rights accountability
William M. Haney (2015) 40 American Indian Law Review 1	Examines tribal rights to regulate airspace

Interpretations, Directions for Further Research (numbered to facilitate discussions)

1. The treaty signed at Santa Fe is the only treaty with Chiricahua Apaches (and possibly Western Apaches) adopted by the U.S.
2. Annual reports of the Commissioner of Indian Affairs for 1872 and 1873 refer to efforts by Mexican authorities to negotiate treaties with southern Apaches.
3. One potentially fruitful line of inquiry concerns an assessment of the legal status and enforceability of a treaty that, while fully executed and repeatedly cited by courts, seems seldom to have affected or effected few actions by signatories.