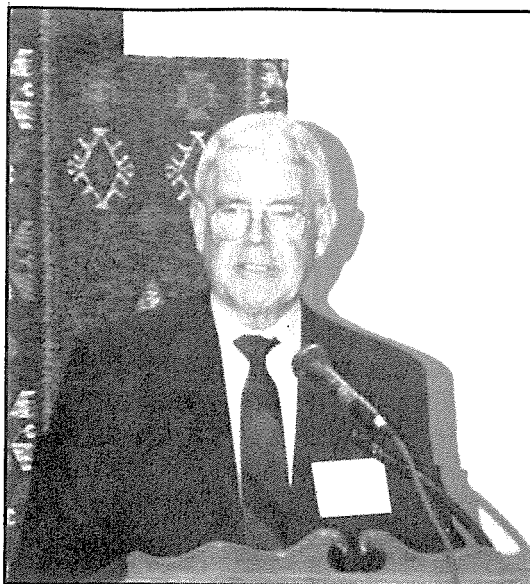


Luncheon  
Address  
by  
Joe Skeen

*Joe Skeen's political service began in 1960 when he was elected to the New Mexico State Senate and served for ten years. He successfully ran for the U.S. House of Representatives in 1980 and has been re-elected seven times. In the 104<sup>th</sup> Congress, Joe is chairman of the Agriculture Appropriations Subcommittee. He also serves on the National Security Appropriations Subcommittee and the Interior Appropriations Subcommittee. He is the six-time recipient of the Golden Bulldog award for his efforts to cut federal spending, eliminate waste and reduce the deficit. Joe graduated from Texas A&M University with a B.S. in agricultural engineering. He has worked as a soil and water engineer for the Zuni and Rarhan Navajo Indians and operated a flying service in Ruidoso. The Skeen family runs a sheep ranching operation near Picacho.*



## Luncheon Address

Thank you and welcome ladies and gentlemen to a conference that seeks to recognize and address one the most important issues to southwesterners—particularly New Mexicans—water.

Water is why Las Cruces, Albuquerque, Roswell and Carlsbad are located where they are and why each of these communities has attained the growth and success they currently enjoy. It is also the reason that these cities will continue to grow and be successful—or the reason they may stagnate and fail.

Agriculture was the driving force for our region's ability to grow and continues to be a vital component of the region's appeal and success. However, we are gradually experiencing a reduction in the amount of land employed for agricultural uses and the use of water associated with that land. While farming has become an increasingly exact science that better uses its limited resources, it also is faced with an increasing demand to convert that water to municipal and industrial uses.

I know it will surprise some of you for me to say this, but there is even a small portion of the public who believe water should be left instream for so-called environmental use. To a degree, we must all agree to recognize that fact and seek to address it as well. However, I would argue strongly that our priority should remain first and foremost to agriculture, municipal and industrial uses with a certain

degree of recognition toward the previously mentioned environmental consideration.

To understand why water is so important to us, you must first look at New Mexico's Constitution which recognizes agriculture as the primary beneficial use. The recognition of agriculture as the primary user is simply because agriculture was the primary factor in New Mexico's economic and historical foundation.

While New Mexico's economy has changed dramatically, agriculture is still a huge part of the economy to the tune of more than \$1.5 billion in sales per year. When you add the economic multiplier, that figure grows considerably larger.

However, water use in New Mexico must take into serious consideration the demand for municipal and industrial use in order for us to grow and prosper as a state. Everyone here is aware of the court cases, both on the Rio Grande and the Pecos, which have swallowed a tremendous amount of the time and the resources in New Mexico. Litigation also has been costly for Texas, irrigators, cities, the federal government and the courts. All these entities are involved in the ownership, allocation and distribution of water.

Accordingly, water has been an area of concern throughout my tenure in Congress and remains so today. All of us recognize that we must address the equitable distribution of water and we must do so without creating a war between the stakeholders. Neither Texas nor New Mexico can claim sole proprietorship of the water resources our states share. Neither can the federal government be allowed to claim ownership of a resource, and

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arbitrarily redistribute it to nonhistorical uses, without the willing compliance of the stakeholders.

Simply put, water determines all of our joint futures and we must immediately begin to plan for that future in a cooperative and productive manner that protects our joint interests. Otherwise—and let me stress this—we will have no legitimate complaint when the feds intervene. How could we complain if we continue to shoot each other in the foot for fear of legitimate compromise. There is an old saying that all of your know—“DIVIDE AND CONQUER!”

Folks, we are being rapidly divided and the day that division is complete is the day that agricultural and municipal consumers lose.

To obtain continued success and viability we must find a way to convert surface water to municipal and industrial uses without taking water rights from agricultural users. The subsurface supply is limited and by properly using surface water for agricultural, municipal and industrial uses, we save and recharge the subsurface estate, therefore helping to guarantee our region’s continued success.

Whether we like it or not, agricultural and municipal uses, Texas and New Mexico, Las Cruces and El Paso, are all joined at the hip and we had better learn to sink or swim together—or face an uncertain future.

In closing, I would like to reiterate my message. Water resources are the key to our successful future. That future includes agriculture, municipal, industrial, and even instream uses, but not at the expense of the greater human need. We must all work together in a forward-looking manner to ensure of our children’s future. We must do so from the smallest common denominator to the largest, IN THAT ORDER, to be successful.

However, let me clarify the preceding comment with a cautionary statement. To date, and particularly in the last few years, the federal government’s approach has been one of “father knows best” and that the children—the states, municipalities, water managers and counties—should quietly acquiesce to the Old Man’s directives.

While we all appreciate the Old Man, the vast majority of southwesterners prefer to initiate and participate, on at least an equal basis, in any and all actions which affect their future.

In fact, if you are not from this part of the country, then you might be inclined to call us hardheaded, opinionated, independent and down-right ornery, not to mention a few other choice words, which I cannot use in mixed company! Well, I guess you could say I’m guilty of those attributes

and most of the people I know would proudly plead so as well.

However, that does not mean we should not assert our right and our responsibility to determine our own futures. To do that, we must recognize that the federal government does have a role in determining the path we take to address our water concerns. Not as the domineering Old Man I mentioned earlier, but as a friendly uncle that assists us in the decision making process by providing advice and support in the least intrusive manner possible. After all, it is our collective futures we are attempting to decide—not Uncle Sam’s.

Each of you have the answers to the problems we face. Share them with each other, work as a team and find the solutions to our joint concerns before your participation is no longer allowed and national solutions to regional problems are enforced.

Water is our future, don’t let strangers decide your fate for you. We owe that to ourselves! Thank you.

**Folks, we are being rapidly divided and the day that division is complete is the day that agricultural and municipal consumers lose.**

*Joe Skeen*

Luncheon  
Address  
by  
Walter Bradley

*Walter D. Bradley was born in Clovis. Upon leaving Eastern New Mexico University, he accepted a job with Texas Instruments in Dallas. He made a career change by going to National Chemsearch, a chemical company in Dallas. In 1976, Walter returned to Clovis where he started a real estate business. In January 1995, Walter was sworn in as New Mexico's 26<sup>th</sup> Lieutenant Governor. As President of the Senate, he presides over the legislative body in which he served as State Senator from Curry County from 1989 to 1992. Walter serves on the New Mexico Space Commission Board and the New Mexico Border Authority. He also serves as Honorary Chairman of the New Mexico Resources Advisory Council. Walter was named the 1998 Progressive Farmer Magazine Man of the Year.*



## Luncheon Address

Governor Johnson and I have established a rapport and a relationship that are really unique. I do not know of any other governor and lieutenant governor who share the type of relationship that we do. He has given me a total vote of confidence and lets me work in all areas of government, and he has actually given me a lot of authority. I used a little bit of that this week and prayed for rain, and just look outside.

The truth is that about four years ago Governor Johnson and I were out on the campaign trail and we were talking about issues. One of the issues that has always been big in this part of the state is water. I am from the eastern part of the state and water is an extremely important issue. We became educated on the topic—I had to learn a whole new language—and we got elected.

How many government people do we have here today? You guys speak funny. Recently I read a report indicating some data were gathered by an ocular-vehicular reconnaissance. Have you heard of that before? I asked what that was and they responded that they drove by in a pickup truck and looked at it. Another term I love is organic-liptic analysis—it came through on an environmental impact statement. Does anyone know what that is? It means we sniffed it and licked it. They cannot speak pure English in the government arena.

We get into a lot of issues and we have learned to ask a lot of questions. Government sometimes

does some really silly things. In fact, a lot of times I think they do some really silly things. Does anyone here have to deal with OSHA? If you are in business you deal with OSHA. They have a new regulation—and the reason I am going to use it as an example is that I used to use a lot of state examples, and occasionally I still do, but our employees got a little upset so I am taking it to a higher level. OSHA has a new regulation out and as you know, it is a law. Congressman Skeen is here today so maybe he can go back to Washington, D.C. and do something about this. A new law was enacted a year ago and it deals with utility linemen. OSHA needed to fill page 4,001 of their regulations book so they put in this new regulation. It states that if you work on utility lines, you must wear cotton underwear. How many of you have ever had an electrical shock of any kind? Did it bypass your underwear? So why must we have a law that says we have to wear cotton underwear? It does not make any sense to me.

So government does some strange things, and that is my lead-in to what I want to talk about today. We are here to talk about water and about what governs water. I want to suggest to you that, indeed, water is more precious than gold. That equates to a very simple three-word statement, "water is power." There is a power play going on in this country and it is going on in this state like I have never seen before.

About two-and-a-half years ago, Governor Johnson appointed me as the point person for federal issues. As I got involved, water became one of our prominent issues. I am going to give you a scenario of how this issue fans out everywhere. I have never seen as many assaults on private property rights as I have seen in the last two years. Water is a private property right. Governments are fighting each other

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over these rights. Personally, I do not think that is the proper tactic to take but it has happened. I have witnessed some unbelievable takings and other actions—actions that have even circumvented our elected officials. Actions being taken by agency agenda, and maybe an executive order or two thrown in there to help. Congressman Skeen, Senator Domenici, their staffs and I have worked on some of these issues. Some of these issues were run around Congress—they were never even brought to the Congress!

Let me tell you about just a few of these actions. Actions like my federal government filing a lawsuit in the state of New Mexico for water rights in the Lower Rio Grande. If they want to buy a water right, buy it. But why are they filing a lawsuit? Why are my federal and state governments fighting each other? In the Carlsbad Irrigation District, we find that in an agreement where the State of New Mexico has always leased water from the Carlsbad Irrigation District to fulfill a Supreme Court decision for the state of Texas, now we find a paragraph in that lease that says the state is going to acknowledge a water right to the federal government. We do not want to have anything to do with such an acknowledgment. Why would we want to acknowledge that if we do not have it on record that the water right has been adjudicated? We should not have to do that.

The Bureau of Land Management has come in and added a paragraph that indicates they were going to make a claim on water above the land they were controlling, that is, that they could control the water in a stream on private land that might be adjacent to the land they were commissioned. That attempt was kicked out and the paragraph revised by our congressional people.

We received a letter saying that we are going to have to release water on the Pecos River. We do not have any water to release. But the State of New Mexico gets an order to release water down the Pecos and a threat that if we do not, the federal government is going to come in and take over the dam and release water. So I authorized a letter saying we are not disputing at this time the taking over of the dam, but if you release one ounce of New Mexico water without a permit you are going to be violating state law. Why am I having to do this? What happened to communication? What is going on here?

Citizens in New Mexico tell me about their concerns over Border XXI. My own state agencies do not even know about it. We called the appropriate federal agency and were told the project has been going on for seven years. I asked what the project does. They said it is going to define how we are

going to develop subdivisions in a sixty-mile radius of our border. Well, maybe they ought to include us if they are going to dictate policy in our own state. They said this was just a coordinating effort. I asked for more information about the effort so they sent me a briefing paper and I read it and it sounded quite good. Then they sent me an executive summary and I read that and it sounded quite good. I said, "My gosh, what is wrong with this?" I called our congressional people and they had read the same two documents I had and they said it looked very benign. Then I read the full documents. The documents did not match up with the briefing paper and the executive summary!

The documents contained two key paragraphs dealing with water. The first paragraph states that water law in the border states is antiquated

**Why are my federal  
and state govern-  
ments fighting each  
other?**

*Walter Bradley*

and outdated. The second paragraph states that we, meaning the authors of that document, will write new water law for the border states. Now where did a government agency get the authority to write law for the state of New Mexico, or any other state for that matter? The agency people responsible for Border XXI visited me in my office because we had taken the position not to participate in Border XXI. They wanted to find out why I objected to the effort. I read those two paragraphs to them and there was dead silence. First they looked like the Keystone Cops because everyone was trying to pull their books up to see what I was reading. Honestly, I do not think they knew what they had in their document, but it was there. In their response, they said it did not apply to the United States border states, only to Mexico. I asked who gave them the authority to write international law. End of story. But not really, because it is still a live document floating around here. Our opposition to Border XXI is simple: not one elected official—city, county or state—is included on the governing boards of that body. Yet, that document states that they will set policy and they will write law for this state. I received a letter from Secretary Browner saying they did not understand why we did not want to participate in Border XXI. Well I have said it time and time again and I will say it again—it's because we are not an equal partner. If decisions are going to be made in the state of New Mexico, we must be an equal partner in writing the programs and making the decisions. That is what is at issue.

We have communication problems. We have agency-driven agenda items that frankly we do not

know what they are, and yet we are being dictated to. I want you to understand something. I am an elected lieutenant governor of the *state* of New Mexico. My job is to protect the Constitution of the State of New Mexico, state rights and state sovereignty. As long as I am around, I am going to get a little hostile about some of these issues. No one, even my own federal government, can come in and start stepping all over New Mexico's constitution and the rights of the citizens of New Mexico. We have already been to court on this water issue. The court said that the water belongs to the people. That was the decision. It has already been done. It does not belong to the government; it belongs to the people. I am not an attorney, I am just an old cowboy from the eastern side of the state, but I can read. Let me give you some suggestions about what we are going to do, what we have done, and what needs to be done.

First, four years ago the State of New Mexico

asked for and was granted money to computerize the Office of the State Engineer. There is one big problem, when Steve Reynolds died, his computer brain went with him. Information

**Then I did something  
really dangerous;  
I read some law.**  
*Walter Bradley*

was not always properly documented and therefore it has been difficult to enter data into a computer database. We are working on that database and I believe we have Phase I in place. Approximately three million entries in hard copy need to go into the database.

Because of the adjudications going on in the Rio Grande, and particularly in the Lower Rio Grande, we have had funds appropriated to conduct an inventory and hydrological survey of the area. The truth of the matter is, if all the paper that everyone says they have giving them a water right was brought into a bank in Santa Fe and they tried to cash them in, there would not be enough water in the ocean to satisfy those claims. We must get an accurate inventory and match what we have with who has a legitimate water claim.

I want to tell you something that I have learned. As the point person designated by the Governor on these issues, I have found that even our own state agencies have not been communicating with each other. For example, about three years ago I received a phone call from a citizen wanting to know the State's position on declaring the Camino Real an historic trail. The United States Parks Service was having a public hearing regarding that designation. So I called the state's Department of Energy and

Minerals, from where the parks are managed, and they did not know anything about it. They did not know the United States government was having a public hearing to declare the Camino Real an historic trail. Then I called the United States Parks Department and asked why our own parks' people did not know such a designation was being considered. They said information had been sent to the Department of Game and Fish. I asked why they did not send the information to the Parks Division. They said they assumed it would get shared. A whole lot of assuming has been going on around here. I can cite hundreds of examples where one agency gets information and has not shared it with another agency.

So as a point person, I have instigated a new program, something that probably should have been done many years ago in New Mexico. The minute any agency in New Mexico receives an environmental impact statement request or an environmental assessment request, they are to come to me with that request. I then make sure that every agency that should know about the request gets a copy. We can then get accurate data going into the process.

Then I did something really dangerous; I read some law. There is a little thing called the National Environmental Protection Act (NEPA) and I read it one day. Do you know that when you read these things you get a wealth of information? I found out that a state, by request, can be a partner in any environmental impact statement. All you have to do is request it, yet we have never done it. It turns out that New Mexico is the first state in the union to ever exercise that option. I jumped up and said we wanted to be a partner on the issue regarding the grazing fee with the Bureau of Land Management. By the way, counties also can be joint participating partners under NEPA, simply by request. Thus we have 13 counties that opted to participate in this last one. We found out, as an example, that in the past when the federal government prepared the economic impacts section of an environmental impact statement, they used a Maryland model for our economic impacts because New Mexico did not have a model. I called New Mexico State University and got a hold of Dr. John Fowler and he developed a New Mexico model for economic impacts. What difference did that make? Instead of a \$50,000 economic impact that the Maryland model showed we had, about a \$500,000 economic impact would be felt according to Dr. Fowler's New Mexico model. Accurate scientific data must be used and when you become an equal partner, you can insist that happen. I have instructed, with the Governor's permission, that the Interstate Stream Commission and Office of the

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State Engineer participate as equal partners with the Corps of Engineers on the environmental impact statement of the Upper Rio Grande. We are having another meeting on the issue next week or the week after in my office.

Let me just talk about a couple of other things. I have talked with staff at every one of our Congressional offices. I asked to meet with them in Santa Fe and they graciously accepted. We are going to open a totally new line of communication on all of these issues because I have learned in talking with our elected congressmen and senators that they did not know about these issues. They did not know these things were happening unless someone tells them because the agencies do not run over and tell them and they are not run through Congress. Congressman Skeen helped us on Border XXI by inserting some language. In Congress, we have the Chairman of the Budget Committee from New Mexico as well

**Water is power and  
there is a power play  
going on.**  
*Walter Bradley*

as the Chairman of the Appropriations Committee. There is a little stroke there. When we started working with Border XXI, we also pulled in a couple of other

states, Texas and California. They are affected just like we are, agree with our position on Border XXI, and are supporting us.

There are ways to get things done. We want to be reasonable. We want to work things out. We want lines of communication. That is all I have ever asked for and that is all we are going to insist that we get. What else can we do? Each and every one of you must be able to read and if you cannot read you need to go back to school. Learn how to read because you have to read these documents. You cannot accept briefing documents and you cannot accept summaries as representative of what is in the document. You must read the documents themselves because a lot is hidden in those documents. Then you have to ask questions. If you do not know what organic-lyptic analysis is, ask. There are no stupid questions. So read and ask questions. Memorandums of understanding are great tools. They work on all environmental impact statements—develop them together and you know exactly where everyone stands.

Are any of the things I just mentioned easy to accomplish? No, they are not because it is brand new. We are the first state that has ever done it. I have addressed the Western States Governors' Coalition and they are on board and watching. Right now, Oregon and Washington are starting to emulate what we are doing. The reason I am saying this to

you today is because times are changing. Water is power and there is a power play going on. But the water belongs to the people. There are many pitfalls, ground to be broken and various avenues to take. It is a lot easier to roll over and let someone tickle your belly than it is to stand up and read what is right. We are giving everyone in New Mexico a wake-up call. We are taking positions that have never been taken before. We are staying within the legal realm of what must be done. We are calling on our Congressional people to assist us, not to necessarily fix the problem, but to work with us on the problem. We are appealing to all federal agencies all the way to Washington and that is sometimes difficult to do. We have a good rapport with our federal agencies here in the region, but they get their marching orders from Washington and sometimes the bureaucrats in Washington do not understand what we are trying to do. We must open those lines of communication and be reasonable with what we are trying to do.

I have to tell you, if you have not figured it out yet, that I am a private property advocate. I certainly believe that private property rights is one of the pillars of this great country of ours. Property ownership is one of the most precious items that you can have in the free world. With that, I want to tell you that I am enjoying what I am doing and I am having fun. Thank you for your attention and thank you for allowing me to address you today.