



LIGHTS!
CAMERA!
COLLECTIVE
ACTION!

The Writers Guild of America strikes to secure a piece of the pie in the Digital Age

BY DAVID MOBERG

STARTING ON NOV. 5, 2007, America's television and movie writers left their solitary desks for the collective sidewalks of Los Angeles and New York, carrying placards ranging from the prosaic ("Writers Guild of America: On Strike") to the quirky ("They Wrong: We Write").

Actors, like Alec Baldwin, joined the pickets demanding a fair contract from entertainment producers for the Internet era. Or, like Susan Sarandon, they acted without intelligible dialogue in writer-produced "Speechless" Internet videos designed to underscore the importance of writers. Some entertainers provided food: doughnuts courtesy of Jay Leno, free meals at a restaurant near picket lines paid by comedian—and libertarian—Drew Carey.

Fans—like a "Battlestar Galactica" delegation—were also there, joining strikers in body and spirit. Polls from Pepperdine University, Survey USA and *Variety* showed that overwhelming majorities (roughly two-thirds of the general public and the entertainment industry) back the strikers. These same polls showed single-digit support for the industry, reflecting the convincing case Guild writers made: They wanted only a modest share of the bounty from new technologies.

With its celebrity patina, highly literate and occasionally well-paid strikers, high-tech controversies, and mobilization of support via the Internet, the strike by 10,500 members of the Writers Guild of America (both East and West) is unusual—and not only because strikes themselves are rare these days. But for all its distinctiveness, the strike revolves around issues familiar to most American workers: Management's use of new technology to disempower and underpay workers; executives' avoidance of unions through legal finagling; corporations' increasing concentration of power; a "winner-take-all" system of compensation that is grossly unequal; and corporate strategies that try to divide workers on minor issues to win on the bigger ones.

Members of the Teamsters, Service Employees International Union (SEIU) and California Nurses Association, march in solidarity with striking Hollywood writers on the Hollywood Walk of Fame on Nov. 20, 2007. The dispute over future revenue from shows distributed over the Internet and other new media began on Nov. 5.

Ultimately, the Writers Guild struck for two reasons: Will it represent all writers in the film and television entertainment industry? And will those writers be fairly paid for all of their work?

The money writers seek includes residual payments for re-use or sale of material, regardless of the technology for distributing and viewing it—cable and broadcast

were new, untested technologies. Despite promises to do so, the producers never raised the residual rate—about a nickel on a \$20 DVD—thus depriving writers of approximately \$1.5 billion, according to the Writers Guild.

Now, both writers and the film industry face the rapidly expanding influence of the Internet, which has already roiled the music

just promotional. They pay minimal DVD residuals for some downloads, and they often pay nothing for short work written expressly for the Web. The Guild wants the same 2.5 percent of distributors' gross revenues as residuals on new media as it has had on traditional media.

Despite the Internet turmoil, Guild research shows growth in gross revenues in

The companies pay no residuals on Internet programming, minimal DVD residuals for some downloads and often nothing at all for short work written expressly for the Web.

TV, film, DVD, Internet, cell phone, game player, personal digital assistant or whatever next big thing develops.

"The Writers Guild strike is not all that complicated," says Cornell University's Jeff Grabelsky, who has worked with the entertainment unions. "We wrote it. Are we going to make money off it?"

Dude, where's my residual?

The Writers Guild, which organized as a real union in the '30s, has gone through similar conflicts with each change of technology—television, cable TV, videocassettes and DVDs. In 1960, the Guild struck for 151 days to win residual payments for films run on television and to establish a pension fund.

But in 1985, the studios outfoxed the Guild, whose two-week strike collapsed from its own internal divisions, and won much reduced residual payment for videocassettes and cable, arguing that they

and news businesses. Increasingly, Internet users expect to find every kind of content they want for free, raising questions about how the creators of that content get paid. Users also want to provide their own material and to interact more with others on the web, not just watch a spectacle.

The entertainment industry has responded by selling programs through Apple's iTunes, posting TV shows on its own and other websites (with inescapable ads), and producing "Webisodes"—new, usually short material that appears exclusively on the Internet. But the Alliance of Motion Picture and Television Producers (AMPTP), the industry consortium that negotiates with entertainment unions, argues that it's unclear how companies will make money from the Internet. (It seems advertising, perhaps coupled with subscription fees, offers the most promise.)

The companies pay no residuals on Internet programming that they claim is

all business segments of the major entertainment companies, healthy profits and rising share prices.

As a Guild video clip of top executives' comments illustrates, the industry expects "golden opportunities" from the Internet. ABC already makes about \$1.5 billion out of its \$35 billion annual revenue from digital content, according to Robert Iger, president of Walt Disney Company, which owns ABC. Viacom Chairman Sumner Redstone says that his company "will double its revenues this year from digital." And CBS President Leslie Moonves says, "We will get paid for [content] regardless. ...We're gonna get paid no matter where you get it from."

And the writers expect to get paid no matter how the companies decide to distribute their work. "We are agnostic about [what the new business model might be]," says Guild Assistant Executive Director Jeff Hermanson. "It doesn't matter



what it is, if there's a percent of revenue formula for residuals." Such an arrangement would give producers the flexibility they claim to need.

Just before the strike, the Guild dropped its demands to double DVD residuals (now around one-third of a cent for each dollar of revenue), calculating that DVD sales will likely decline as downloading grows.

But when negotiations resumed after Thanksgiving, the industry still took a hard line. The studios offered only \$250 a year for streaming an hour-long television program on the Internet (and nothing for theatrical films or any programming they consider promotional). Yet the *Financial Times* reports that TV networks are likely to make \$120 million through the web streaming of programs for 2007.

With the likelihood that much—if not all—of the film and television industry production will be distributed over the Internet in years to come, the Guild sees establishing writers' claims on new media as central to their future, both as writers and as a union.

"In about five years, everything will be streamed digitally into a computer with no production costs," says striker Collin Friesen, who has written for both film and

television. "The Writers Guild said, 'Really, we're not going to get screwed again. We may be writers and not that smart at business, but we can figure that out.'"

But the issue is not just pay and residuals on the Internet. There's also the question of who will be in the union.

Divided and conquered

Twenty years ago, the Writers Guild of America represented 95 percent of film and TV writers. Now it represents about 55 percent. The industry expanded non-union operations with cable TV, then reality television, talent shows and animation series.

The Guild has organized much of the high-budget cable writers, as well as some writing for animation (like "The Simpsons") and, just last year, most of Comedy Central programming. However, writers for much of cable TV have no contractual protection.

In supposedly improvised reality shows, writers also play a central role. "The host's copy is always written in very traditional ways," Hermanson says. "Jokes are written for the judges on competition shows. Even so-called reality elements are designed ahead of time and edited after the fact by

someone who is a storyteller."

Writers are almost unanimous in wanting to be covered by Guild contracts, Hermanson says, and a survey prepared for the Guild gives an idea of why: 91 percent of the roughly 1,000 writers for reality TV said they received no overtime pay, even though they worked on average 16 overtime hours per week. Contrary to producers' claims, the California Labor Commissioner recently ruled that a reality show writer was entitled to overtime pay. That could make employers liable for nearly \$100 million in unpaid wages.

But corporate opposition and jurisdictional disputes with another entertainment union have stymied organizing of writers in reality and animation shows.

The 100,000-member International Alliance of Theatrical Stage Employees (IATSE) represents entertainment industry technical employees, and has long represented both editors and animators.

On reality TV shows, editors work alongside story producers to develop the stories. Hermanson says the Guild offered to organize the jobs jointly with IATSE, but IATSE expressed no interest. In fact, IATSE undermined a strike by story producers at "America's Next Top Model"

Hollywood's Road of Broken Dreams

Hollywood is notoriously a city of dreams, compelling even if they are mainly manufactured and often broken. In 1998, Linda Burstyn's own Hollywood dreams led her to give up a successful career as an Emmy award-winning television journalist and a communications consultant to politicians like Bill Clinton to become a struggling, ill-paid writer for the film and television industry.

The first struggle was to break into the business. And just as that seemed to be happening in early 2007, the next struggle was her union's strike to protect that dream. As one of 300 Writers Guild of America West strike captains, Burstyn keeps a group of a dozen other writers informed and involved, while providing feedback to the union's leaders.

"The studios and corporations make billions of dollars off of content we create," she said during a break from picketing. "Writers and producers entirely



create these shows, and the studios have never made more money. But they're trying to screw us by rolling back all the gains we've made since the '60s on re-

Burstyn gave up a successful career to become a struggling writer for the film and television industry.

sidual payments [for re-use of programs]. Most important, they're trying to bust the union and eliminate the writers' minimum pay. We have no choice but to strike, and strike as long as it takes."

In the late '90s, a friend suggested that Burstyn try writing a sample television script, so she wrote a pilot for "Seinfeld" and sent it to friends, who then sent it to agents. She recalls: "I got a meeting, then an agent. I said, 'This is what I really want to do with my life,' and I moved out to Los Angeles at the end of 1998. I got married, changed agents, got pregnant, then hired on 'The Education of Max Bickford'

who wanted to join the Guild. After they struck, IATSE intervened and claimed to represent both writers and editors. Since the Guild figured that the company would support IATSE's claim before the National Labor Relations Board, the Guild dropped its recognition petition.

animators for TV and short cartoons, in the film business, most writers for animated features are Guild members but not covered by the contract (and thus get no residuals from hits like *Shrek*).

Now, the Guild is demanding that employers recognize reality shows' story pro-

egy and its decision to strike, which has led studios to lay off some IATSE members.

The squabbling complicates a key Guild strategy to use the strike to strengthen its organizing. "At the heart of this struggle [with the producers] is the question of jurisdiction," Hermanson says, "whether we

'At the heart of this struggle is the question of whether the WGA will have jurisdiction over writing for new media, re-use on new media and other areas of non-union television.'

"The IATSE conflict is more serious than a minor irritant," Hermanson says. "We would have won 'Top Model' if there had been no conflict, and if we had their cooperation, organizing in reality TV would be fairly easy."

The two unions also clash about representing workers in animated films. Nearly a decade ago, the Guild won recognition for Fox Network animation writers, who saw their work as more like writing for television series than for traditional cartoons. While IATSE represents many

ducers as under its jurisdiction. IATSE would still organize editors. And the Guild wants employers to acknowledge contractually that they will be able to represent any animation writers not under other contracts, such as those with IATSE. The Guild also wants the studios to remain neutral during organizing and recognize the union when a majority of workers sign membership cards.

The conflict stemming from jurisdictional disputes has only intensified after IATSE criticized the Guild's bargaining strat-

as the Writers Guild will have jurisdiction over writing for new media, re-use on new media and other areas of non-union television. The industry employers have used every technological innovation and new genre to exclude us, and we're not going to be excluded going forward."

The bigger they are...

The Guild's attempts to organize writers and protect their income streams also clash with the growing concentration of power in the hands of the Big Six media giants: Gen-

with Richard Dreyfuss when I was five months pregnant."

The baby was fine, but the show ended after a year. She wrote a movie for CBS, which paid her but never produced it. Then, during "a few dry years," she did political films for the Clintons and other non-entertainment-related work.

"Breaking into this business is really, really hard," she says. "I worked for 'Nightline,' the cream of the business, at politics at high levels, did freelance writing for *The Atlantic Monthly*, but it's nothing like TV." Burstyn estimates that there are only a few hundred jobs writing for prime-time shows. Then last January she was hired to write a new USA network show called "In Plain Sight," and in May to write for CBS's "NCIS." "It's been great this year until this strike," she says.

For the previous eight years, Burstyn figures that she averaged about \$15,000 a year, writing scripts she was trying to sell six to seven hours a day, every day. (She mainly writes in a quiet room that the Writers Guild provides for its mem-

bers.) She's not unusual: WGA members' median earnings are \$62,000 a year; 43 percent are out of work in any year; and one-fourth of those working earn less than \$38,000 a year. Many rely on the residual checks to tide them through tough times, but Burstyn does not receive any residuals yet. Still she fights for that possibility, against what she sees as shortsighted corporate greed.

The media giants "make money hand over fist, and it's never enough," she says. "But they're killing the goose that laid the golden egg in this situation. We are their golden goose, and they're holding guns to our heads." She says CEO short-term thinking is to blame. "[With their proposals], they're not going to get the same writers. They'll ruin the industry. Why screw with something working so well to squeeze a few more bucks out?"

The crucial battlefield is over payments for work distributed over the Internet. "I look at the big picture of what's right and wrong," she says. "The CEOs of

the Alliance of Motion Picture and Television Producers have proposed no Writers Guild jurisdiction over programs written for Internet distribution. The problem is—and writers often don't realize it—you at home have a little cable box attached to your TV set. Industry experts predict that over the next two to five years, that box will be replaced by an Internet-based box in most homes. Instead of clicking on ABC, you'll click on ABC.com and have a whole list of shows in any order. They are proposing that the Writers Guild has no jurisdiction over any of that.

"That means no more Writers Guild, no more pension, no more healthcare, no more residuals," she continues. "We'll be paid, like everyone, as little as possible. It's a story of America right now. It's not a story the writers have written, but a story we're characters in. We have a chance, though, to write the ending of that story."

But this story isn't for reality TV. It's just plain old reality.

—David Moberg



eral Electric (NBC), Time Warner, Walt Disney (ABC), News Corporation (Fox), CBS and Viacom. Most have diversified holdings in network, cable TV, film, publishing, Internet operations and more. That gives them the financial strength to withstand even effective strikes in one profit center. It also means that they are positioned to profit from any technology and potential business strategy.

Beyond the threat from unauthorized film file-sharing, the Internet poses two possible challenges to their dominance. First, immensely wealthy Silicon Valley companies, like Google, could decide to move beyond making billions by connecting content, advertising and viewers to providing their own content, though this is unlikely in the near future.

Second, the theoretical possibility exists for what Institute for the Future Director Paul Saffo calls "the Cambrian explosion of cyberspace"—a radical transformation of media by diffuse innovation from below—especially if the United States ever makes much higher-speed Internet access widely available. If that occurred, creative writers, actors and directors now fighting the Big Six could have more options to work independently or cooperatively, or their talents could become even more valuable to any media company trying to distinguish itself from amateurs.

Federal deregulation over the past two decades not only encouraged today's media concentration, it also wiped out much of independent film and television production, creating, in the words of longtime independent producer and Guild member Leonard Hill, "a unified monolith that is disabling and crushing labor." Hill argues, "This new management team includes corporate raiders who feel no allegiance to the creative process. At the end of the day, the studios wanted this strike."

Despite their consolidated power, the Big Six own different portfolios of

media enterprises and thus have different stakes in the entertainment future, leading some observers to argue that it is hard for the industry to agree on strategy—except to take as much away from workers as possible.

The concentration of power is matched by a concentration of income. The entertainment industry is a prime example of what economist Robert H. Frank calls the winner-take-all phenomenon. A few select movie stars and directors can negotiate gross participation deals that guarantee them a share of all income from their films, making them tens of millions of dollars for each film. But the winners who capture an outsize portion of the revenue also include media executives, like CBS's Moonves with his \$28.6 million paycheck for 2006, or ousted Viacom CEO Tom Freston, who departed with a \$60 million severance package.

Producers had initially proposed rolling back residual payments, making writers more like straightforward wage workers. Since the birth of the talkies, producers have looked down on writers, and fought both unions and residual payments. Legendary film mogul Lew Wasserman reputedly dismissed residuals with the comment, "I don't pay my plumber every time I flush my toilet." But, as writers note, his toilet didn't generate a flood of money each time he flushed.

The strike must go on

Writers insist that their creativity is the basis of the industry's wealth, and that they deserve to share it. They argue that residuals help even out the feast-or-famine pattern for film and television writers, nearly half of whom are unemployed at any time. They say that a film is a collective creative product, not just the work of one star director or actor, and certainly not of one corporate tycoon. Therefore, everyone should share in the winnings, including the technical workers whose residuals fund health and pension funds.

Not every entertainment industry worker shares equally or has the same economic stake. Within the Writers Guild, TV show runners—the people who manage day-to-day operations—are both writers and producers, torn by divided loyalties and separated from other writers by million-dollar incomes, yet still generally sympathetic to the strike. Even bigger gaps exist within the Screen Actors Guild (SAG). And

From the top: Comedians Kathy Griffin (left) and Sarah Silverman picket in support of the Guild in front of the Universal Studios Lot Nov. 13, 2007 in Universal City, Calif.; Actors / Writers Robert Ben Garant (left) and Thomas Lennon (right) march outside Fox Studios on Nov. 9, 2007 in Century City, Calif.; Former "Friends" co-stars Lisa Kudrow and Matthew Perry at the Universal Studios Lot Nov. 13, 2007.

the Directors Guild is divided between the directors and the assistant directors, as well as the unit production managers, who often identify more with the producers than with the creative talent.

Overall, there are 14 arts and entertainment unions, which are often at odds with each other as well as internally fractious. The AFL-CIO has be-

son says, "we'd have faced an industry with a stockpile of feature films. Now we caught them without a stockpile," and in the middle of a television season, which started in early fall.

The strike proved surprisingly effective, hitting the industry more widely and quickly than expected, since the studios had not yet built up their inventory. Yet if

joined the Guild's picket lines and attended rallies in support. They also held joint informational discussions among actors, writers and directors on production sets. "One of the reasons there is a lot of solidarity," Allen says, "is because the Writers Guild and SAG have worked for more than a year exchanging information and educating our members."

The strike proved surprisingly effective, hitting the industry more widely and quickly than expected, since the studios had not yet built up their inventory.

gun the arduous task of bringing them together in an Industry Coordinating Council, and some unions have discussed mergers. The American Federation of Television and Radio Artists and SAG recently fell just a few votes short in their long-standing efforts to merge, but now are squabbling about bargaining procedures in anticipation of their June 30 contract expiration.

"The good news is, the [arts and entertainment] industry is growing and there are opportunities for union growth both within companies where there's a union presence, in geographic markets where there's a union presence and in new markets with little penetration," Grabelsky says. "The bad news is, it's hard to get all these unions in the same room to talk about it."

With new, more militant leadership elected after a rebellion during contract negotiations three years ago, the Writers Guild worked hard this past year to educate and organize its members. The striking writer Friesen, previously not much involved in the Guild, has become a regular picketer and volunteer.

"They've gone to pretty significant lengths to let members know what's happening, and they've got strike captains [who contact members]," he says. "I'm never in the dark." The Guild also reached out to other entertainment unions, forming a close relationship with SAG in particular (but also winning support from Teamsters, some of whom refused to cross the Guild picket lines).

Many observers thought that the Writers Guild would likely wait to strike, when it might be joined by SAG. Such an effort could have shut down production more quickly. "If we'd waited," Herman-

son says, "we'd have faced an industry with a stockpile of feature films. Now we caught them without a stockpile," and in the middle of a television season, which started in early fall.

But SAG National Executive Director Doug Allen says that an early deal will not necessarily establish a pattern. "If it's a fair deal, we'll be interested in building on it," he says. "If not, we won't be bound by anything someone else does."

He says thousands of SAG members

The hard preparatory work may not have welded a seamless solidarity among entertainment unions, but it certainly has strengthened the writers in their effort to stay on top of developing technology and effectively organize more writers for a bigger share of what they help to create. Even facing a phalanx of powerful, rich, diversified conglomerates, it looks like they have what it takes to win.

They Wrong. We Write. Indeed. ■

It's the 11th hour.

Fortunately
at this critical time
we have help to ensure
that we will choose wisely.
A group of enlightened teachers
known as the Masters of Wisdom
- led by Maitreya, the World Teacher -
are emerging now to guide us
through our global crisis.

They will inspire us to rebuild our world:
to make war a thing of the past,
restore the environment and
guarantee that the basic
needs of all are met.

Recorded message: 888-242-8272 www.TheEmergence.org/itt

Corporate Potluck

Dietitians and their company sponsors make strange buffet fellows

BY JACOB WHEELER

FOR THREE DAYS EARLY this fall, the Pennsylvania Convention Center was home to corporate entities such as PepsiCo, Hershey's, Taco Bell, Crisco and McDonald's. They weren't there to count calories but to rub bellies with members of the American Dietetic Association, who had gathered in Philadelphia for the annual Food & Nutrition Conference & Expo.

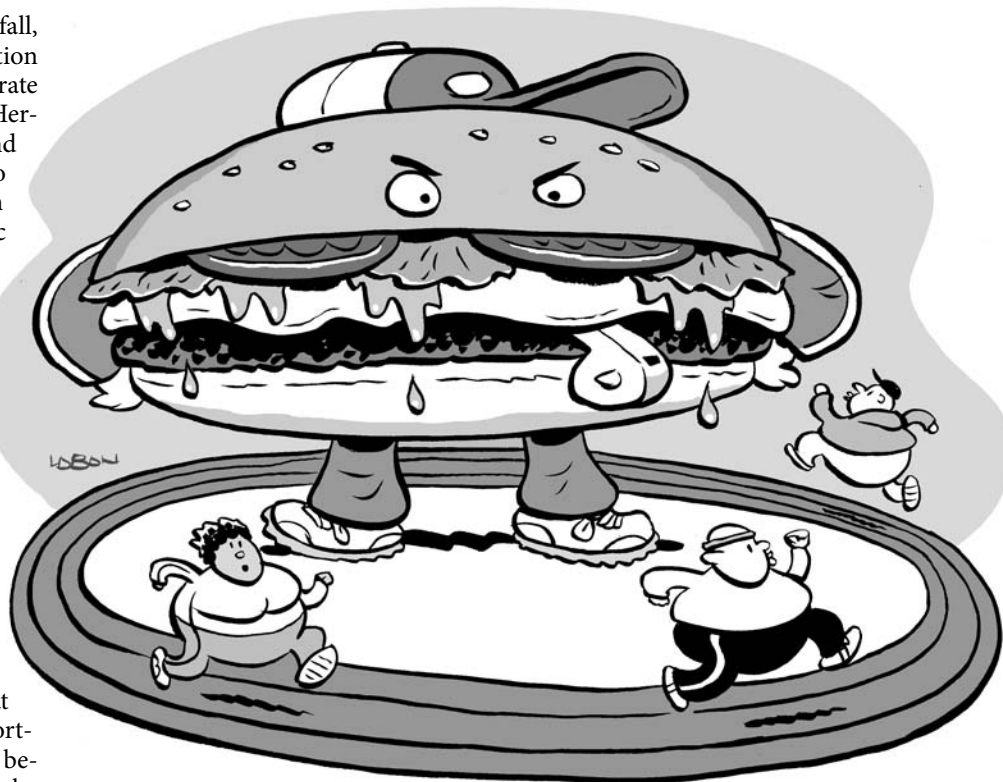
PepsiCo cares about you. The company's "Health and Wellness" website pictures a smiling family in tennis shoes and workout clothes enjoying a brisk walk. All are consuming Pepsi products. Dad is drinking a can of Pepsi. Grandma is toting a bag of Lay's potato chips. Aside from the questionable workout, we're left to wonder: When did Pepsi become an advocate for health?

Marsha Holmberg, a food editor at the *Oregonian* who flew in from Portland, says too many Americans have become culinary illiterates, convinced by television commercials that processed food is nutritious. "Nobody thinks they have the time to cook," Holmberg says. "They think it's complicated. In reality, it takes as much time to make from a mix as it does to make from scratch. It's an illusion that food preparation takes time."

At the convention's bookstore, neat rows of dietitian guidebooks—with covers of colorful fruit and vegetables, alongside the occasional whole grain cereal or wheat stalk—lined the booths. The message was *healthy food*, which professionals agree is the backbone of a sound diet.

Yet not everyone was eating from the same menu.

Registered dietitian Regena Gerth was promoting Taco Bell's new "Fresco Style" line—which substitutes cheese with "fresh Fiesta Salsa." "Patrons will continue to go to fast-food restaurants,"



she says, "so the least we can do is offer healthy options—anything that can be incorporated into a diet." She failed to mention that gut-busting Tex-Mex food filled with meat and beans is still the drive-thru favorite.

At the Unilever stand, the company marketed its Hellmann's mayonnaise, demonstrating how to turn it into a meal in 10 minutes. Nearby, McDonald's fried up public relations (millions served)—trying to recover from the heartburn wrought by *Super Size Me*, the 2004 documentary about the perils of eating at Mickey D's.

Asked if it was ironic that McDonald's was at the Food & Nutrition Conference & Expo, registered dietitian Julia Braun said not at all. "We're not trying to be a health restaurant, but we still want to offer healthy options," she said, admitting

that this was an image campaign.

Frankenfood purveyor Monsanto, was also in attendance, the company's public relations team extolling the virtues of technical engineering on a massive scale. Would it not be safer and more environmentally sound for consumers to rely on local food sources, especially given the E.coli fallout from mass-produced foods such as spinach and beef? (Not to mention the pollution emitted by transporting produce across a continent?)

"The market can't be full of good, affordable foods without technical engineering," said Karen Marshall, Monsanto's senior director of public affairs. "Proponents of small organics overlook that we need big farms, as well. I also wouldn't say that smaller is safer, because large means accountability."