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(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 9th day of February, 2005.

For the U.S. Nuclear Regulatory Commission.

Michael E. Mayfield,

*Director, Division of Engineering Technology,
Office of Nuclear Regulatory Research.*

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SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-26759; 812-13103]

The Adams Express Company, et al.; Notice of Application

February 10, 2005.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application under sections 6(c), 17(d) and 23(c) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: The Adams Express Company ("Adams") and Petroleum & Resources Corporation ("Petroleum") request an order to permit applicants to adopt an equity-based employee compensation plan.

APPLICANTS: Adams and Petroleum.

FILING DATES: The application was filed on June 25, 2004 and amended February 9, 2005.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 7, 2005, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be

notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549-0609. Applicants, c/o Lawrence L. Hooper, Jr., Vice President, General Counsel and Secretary, The Adams Express Company, 7 Saint Paul Street, Baltimore, MD 21202.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 551-6813, or Mary Kay Frech, Branch Chief, at (202) 551-6814 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. Adams and Petroleum, which are both Maryland corporations, are registered under the Act as closed-end management investment companies. Each company is internally managed. Each company's stock is listed on the New York Stock Exchange and the Pacific Exchange.

2. Adams has twelve directors and seventeen employees and Petroleum has twelve directors and fourteen employees. The boards of Adams and Petroleum are comprised of the same individuals. There are thirteen employees who serve both Adams and Petroleum.

3. In 1985, the Commission issued an order (the "1985 Order") to permit internally-managed, closed-end investment company members of the Association of Publicly Traded Investment Funds ("APTIF") to offer their employees deferred equity compensation in the form of stock options and stock appreciation rights.¹ Both Adams and Petroleum were members of APTIF, which voluntarily dissolved subsequent to the issuance of the 1985 Order, and are currently members of the Closed-End Division of the Investment Company Institute, into which the operations of APTIF were consolidated. At their respective annual meetings held in March 1986, the stockholders of the applicants approved the Adams Stock Option Plan (the "Old Adams Plan") and the Petroleum Stock Option Plan (the "Old Petroleum Plan," and together with the Old Adams Plan,

the "Old Stock Plans"). The Old Stock Plans were adopted in reliance on the 1985 Order.

4. Because the investment management business is highly competitive, the applicants believe that their successful operation will depend on their ability to attract, motivate and retain their professional staffs with competitive compensation packages similar to those offered by their competitors. Applicants are requesting relief to permit the adoption of The Adams Express Company 2005 Equity Incentive Compensation Plan and Petroleum & Resources Corporation 2005 Equity Incentive Compensation Plan (each, a "Plan" and together, the "Plans"). Each Plan will be administered by a compensation committee (the "Committees") composed of three or more directors who (a) are not "interested persons" of the relevant applicant as defined in section 2(a)(19) of the Act, (b) are "non-employee directors" within the meaning of rule 16b-3 under the Securities Exchange Act of 1934 (the "Exchange Act"), and (c) are "outside directors" as defined under section 162(m) of the Internal Revenue Code of 1986 (the "Code"). [p. 10-11] The Plans would permit the applicants to issue stock options ("Options"), stock appreciation rights,² restricted stock,³ restricted stock units,⁴ deferred stock units,⁵ dividend equivalents⁶ and performance awards⁷ ("Performance Awards") (each referred to individually as an "Award" and, collectively, as "Awards") to key employees and to directors who are not interested persons as defined in section

² A stock appreciation right is a right to receive, upon exercise, the excess of (i) the Fair Market Value (as defined below) of one share of an applicant's stock on the date of exercise over (ii) the stock appreciation right's grant price. Stock appreciation rights issued under the Plans will expire no later than ten years from the date of grant. [p. 20]

³ Restricted stock is stock that is subject to restrictions on transferability, risk of forfeiture, or other restrictions. [p. 21]

⁴ Restricted stock units are rights to receive stock and are subject to certain restrictions and a risk of forfeiture. [p. 21]

⁵ A deferred stock unit is a right to receive stock, cash or a combination thereof at the end of a specified deferral period. [p. 22]

⁶ If and to the extent provided for in the applicable Award agreement, recipients of Options, stock appreciation rights, restricted stock units and deferred stock units will be entitled to receive dividend equivalents equal to the amount or value of any cash or other dividends or distributions payable on an equivalent number of shares of stock. Dividend equivalents will be paid in shares of common stock, cash or a combination thereof. [p. 23]

⁷ Performance Awards, which are payable in cash or stock of the applicants, are conditioned upon satisfaction of performance criteria established by the relevant Committee. [p. 23]

¹ Association of Publicly Traded Investment Funds, Investment Company Act Release No. 14541 (May 28, 1985) (notice) and 14594 (June 21, 1985) (order).

2(a)(19) of the Act ("disinterested directors"). The exercise price of Options must be at least 100% of the Fair Market Value⁸ of a share of an applicant's stock on the date of the grant. Options issued under the Plans will expire no later than 10 years from the date of grant. The Old Stock Plans will be terminated following approval by stockholders of the Plans. Existing awards made under the Old Stock Plans would remain outstanding and would remain subject to the terms and conditions of the Old Stock Plans.

5. Each Plan has been approved by the applicable applicant's board of directors ("Board"), including a majority of the disinterested directors of each applicant. Subject to receipt of the order, each applicant's Board is expected to approve the submission of the respective Plan to stockholders for approval at each applicant's annual meeting.

6. Grants under each Plan may be made only to the applicable applicant's disinterested directors and employees, or to the employees of such applicant's subsidiaries where such employees provide management, administrative or advisory services to the applicant (the "Participants"). Employees who serve both Adams and Petroleum on a combined full-time basis would be eligible to receive Awards under both Plans.

7. Immediately following each annual meeting of stockholders, each disinterested director who is elected a director at, or who was previously elected and continues as a director after, that annual meeting shall receive an award of 750 restricted stock units of Adams and 400 restricted stock units of Petroleum, as applicable. In addition, at the effective date of any disinterested director's initial election to the Board, the disinterested director will be granted 750 restricted stock units of Adams and 400 restricted stock units of Petroleum, as applicable. Disinterested directors will also receive dividend equivalents in respect of such restricted stock units equal to the amount or value of any cash or other dividends or distributions payable on an equivalent number of shares of common stock. The restricted stock units and related

dividend equivalents will vest (and become non-forfeitable) and be paid (in the form of shares of common stock) one year from the date of grant. In addition, disinterested directors may elect each year, not later than December 31 of the year preceding the year as to which the annual grant of restricted stock units is to be applicable, to defer to a fixed date or pursuant to a specified schedule payment of all or any portion of the annual grant of restricted stock units. Under the Plans, disinterested directors may also elect each year, not later than December 31 of the year preceding the year as to which deferral of fees is to be applicable, to defer to a fixed date or pursuant to a specified schedule all or any portion of the cash retainer to be paid for Board service in the following calendar year through the issuance of deferred stock units, valued at the Fair Market Value of the relevant applicant's stock on the date when each payment of such retainer amount would otherwise be made in cash.

8. The total number of shares of each applicant's stock reserved and available for delivery in connection with Awards under the applicable Plan (other than any shares of Adams Stock or Petroleum Stock issued in payment of dividend equivalents) is 4% of the outstanding shares of the applicable applicant as of the effective time of the Plan. As of December 31, 2004, this represents 3,445,411 shares of Adams stock and 879,187 shares of Petroleum stock.

9. In the event that a dividend, capital gain distribution or other distribution, recapitalization, forward or reverse stock split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction affects the common stock of an applicant, then the relevant Committee will, in such manner as it may deem equitable, adjust any or all of (i) the aggregate number of shares subject to the relevant Plan; (ii) the number and kind of shares which may be delivered under the relevant Plan; (iii) the number and kind of shares by which per-person Award limitations are measured; (iv) the number and kind of shares subject to or deliverable in respect of outstanding Awards; and (v) the exercise price or grant price relating to any Award. In addition, after the occurrence of any such corporate transaction, the relevant Committee will also have the authority to make provision for payment of cash or other property in respect of an Award. In the event a capital gains distribution is made to the applicant's stockholders, the exercise price of outstanding Options and the grant price of

outstanding stock appreciation rights issued under the Plan may be reduced to reflect any such distribution made after the date of grant (provided that no such reduction will be made that would reduce the exercise price or grant price below zero).

Applicants' Legal Analysis

Sections 18(d), 23(a) and 23(b) of the Act

1. Section 18(d) of the Act generally prohibits a registered management investment company from issuing rights to purchase the company's shares.⁹ The applicants state that section 18(d) would prohibit the issuance of Options and stock appreciation rights under the Plans.

2. Section 23(a) of the Act generally prohibits a registered closed-end investment company from issuing securities for services. The applicants state that this provision would prohibit the issuance of Awards under the Plans as compensation for employees' services.

3. Section 23(b) of the Act prohibits a registered closed-end investment company from selling common stock at below its current net asset value. The applicants state that, since Adams stock and Petroleum stock have often traded at a discount to their net asset value and Awards under the Plans will be valued at the current market price of the stock, section 23(b) would in most cases prohibit the issuance of the Awards.

4. Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The applicants request an exemption under section 6(c) from section 18(d) and sections 23(a) and (b) of the Act to the extent necessary to implement the Plans.

5. The applicants state that the concerns underlying those sections include (i) the possibility that Options could be granted to persons whose interests might be contrary to the interests of stockholders; (ii) the potential dilutive impact of Awards on stockholders; (iii) the possibility that

⁸ For purposes of the Plans, "Fair Market Value" equals the mean of the high and low sale prices per share of the stock of the applicant as reported on the New York Stock Exchange-Composite Transactions (or such other national securities exchange or automated inter-dealer quotation system on which the stock has been duly listed and approved for quotation and trading) on the date on which the value is to be determined, or if no sale of the stock is reported for such date, the next preceding day for which there is a reported sale. [fn. 4, pp. 15-16]

⁹ Section 18(d) permits a fund to issue only warrants or rights, ratably to a class of stockholders, that have an exercise period of no more than 120 days or in exchange for warrants in connection with a reorganization.

Options might facilitate a change of control; (iv) the introduction of complexity and uncertainty into the investment company's financial structure, thereby making it more difficult to appraise the value of their stock; (v) possible obfuscation of the extent of management compensation; and (vi) encouragement of speculative portfolio investments at the insistence of the Option holders (to increase the possibility of a rise in market price from which they might benefit).

6. The applicants state that, because Awards under each Plan are issuable only to the applicable applicant's directors, officers and other key employees, Awards will not be granted to individuals with interests contrary to those of the applicant's stockholders. The applicants also assert that the Plans would not become a means for insiders to obtain control of Adams or Petroleum because the number of shares of stock issuable under the Plans would be limited to 4% of the outstanding shares of Adams or Petroleum. Moreover, as a condition to the requested order, no individual Participant could be issued more than 35% of the shares reserved for issuance under the Plans. In addition, in no event may the total number of shares of Adams stock or Petroleum stock, with respect to which all types of Awards may be granted to a Participant under the applicable Plan, exceed 300,000 shares of stock within any thirty-six month period during which the applicable Plan is in effect.

7. The applicants further state that each Plan will be submitted to stockholders for their approval. The applicants represent that a concise, "plain English" description of the Plans, including their potential dilutive effect, will be provided in the proxy materials that will be submitted to their respective stockholders. The applicants also state that they will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Exchange Act. The applicants further note that the Plans will be disclosed to investors in accordance with the requirements of Item 18 of Form N-2, and pursuant to the standards and guidelines adopted by the Financial Accounting Standards Board for operating companies. In addition, as a condition to the requested order, Adams and Petroleum will comply with the disclosure requirements for executive compensation plans applicable to operating companies under the Exchange Act. The applicants conclude that the Plans will be adequately disclosed to investors and appropriately reflected in the market value of their stock.

8. The applicants acknowledge that, while Awards granted under the Plans would have a dilutive effect on the stockholders' equity in Adams and Petroleum, as the case may be, that effect would not be significant and would be outweighed by the anticipated benefits of the Plans to Adams, Petroleum and their stockholders. The applicants assert that they need the flexibility to provide equity-based employee compensation in order to be able to compete effectively with investment management companies for talented professionals. The applicants also assert that equity-based compensation would more closely align the interests of Adams and Petroleum directors, officers and employees with those of the applicants' stockholders.

9. In addition, the applicants state that stockholders will be further protected by the conditions to the requested order that assure continuing oversight of the operation of the Plans by the applicable Board. Under these conditions, each applicant's Board will review the relevant Plan at least annually. In addition, the applicable Committee periodically will review the potential impact that the grant, exercise or vesting of Awards could have on an applicant's earnings and net asset value per share, such review to take place prior to any decisions to grant Awards, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The relevant Committee will be authorized to take appropriate steps to ensure that neither the grant nor the exercise or vesting of Awards would have an effect contrary to the interests of the stockholders of the applicant. This authority will include the authority to prevent or limit the grant of additional Awards.

Section 17(d) of the Act

10. Section 17(d) of the Act and rule 17d-1 under the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from participating in a joint enterprise, joint arrangement or profit-sharing plan in which the company is a participant, unless the Commission by order approves the transaction. Rule 17d-1(c) defines a joint enterprise to include any stock option or stock purchase plan. Rule 17d-1(b) provides that, in considering relief pursuant to the rule, the Commission will consider (i) whether the participation of the registered investment company in a joint enterprise is consistent with the Act's policies and purposes and (ii) the extent to which that participation is on

a basis different from or less advantageous than that of other participants.

11. The applicants request an order pursuant to section 17(d) and rule 17d-1 to permit the Plans. The applicants state that the Plans, although benefiting the Participants and Adams and Petroleum in different ways, are in the interests of stockholders of Adams and Petroleum because the Plans will help them attract, motivate and retain talented professionals and help align the interests of employees with those of their stockholders. Thus, the applicants assert that the Plans are consistent with the policies and purposes of the Act and that the applicants' participation in the Plans will be on a basis no less advantageous than that of other participants.

Section 23(c) of the Act

12. Section 23(c) of the Act generally prohibits a registered closed-end investment company from purchasing any securities of which it is the issuer except in the open market, pursuant to tender offers or under other circumstances as the Commission may permit to insure that the purchase is made on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

13. The applicants state that a purchase by Adams or Petroleum of Adams or Petroleum stock from a Participant in connection with an Award, or where shares are withheld by the applicants in payment of the exercise price, might be prohibited by section 23(c) and request an order under section 23(c) to permit these purchases. The applicants state that these purchases will be made on a basis which does not unfairly discriminate against the stockholders of Adams and Petroleum because Adams and Petroleum will purchase their shares from the Participants at their Fair Market Value, as defined in the Plans, on the date of the repurchase, which would not be significantly different from the price at which all other Adams and Petroleum stockholders could sell their shares on the New York Stock Exchange.

Applicants' Conditions

The applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Each Board will maintain a Committee, none of the members of which will be "interested persons" of the applicants as defined in the Act. Each Committee will administer the

relevant Plan and will be composed of three or more directors of the relevant applicant who (i) are not "interested persons" of the relevant applicant, (ii) are "non-employee directors" within the meaning of rule 16b-3 under the Exchange Act and (iii) are "outside directors" as defined under section 162(m) of the Code.

2. A Plan will not be implemented unless it is approved by a majority of the votes cast by stockholders at a meeting called to consider the Plan. Any amendment to a Plan will be subject to the approval of the applicable applicant's stockholders to the extent such approval is required by applicable law or regulation or the applicable Board otherwise determines. Unless terminated or amended, during the fifth year of each Plan (and each fifth year thereafter), the Plan shall be submitted for reapproval to the relevant applicant's stockholders and all Awards made during that year shall be contingent upon stockholder reapproval.

3. Awards are not transferable or assignable, except as the Committees will specifically approve to facilitate estate planning or to a beneficiary upon a Participant's death or by will or the laws of descent and distribution. Awards may also be transferred pursuant to a qualified domestic relations order.

4. The existence and nature of the Awards granted will be disclosed in accordance with standards or guidelines adopted by the Financial Accounting Standards Board for operating companies and the requirements of the Commission under Item 402 of Regulation S-K, Item 8 of Schedule 14A under the Exchange Act and Item 18 of Form N-2.

5. The maximum number of shares of stock available for delivery in connection with Awards under a Plan (other than any shares of Adams Stock or Petroleum Stock, as applicable, issued in payment of Dividend Equivalents) will be 4% of the relevant applicant's stock outstanding on the effective date of the relevant Plan, subject to adjustment for corporate transactions.

6. Each applicant's Board will review the relevant Plan at least annually. In addition, the applicable Committee periodically will review the potential impact that the grant, exercise, or vesting of Awards could have on an applicant's earnings and net asset value per share, such review to take place prior to any decisions to grant Awards, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit

such review, and the relevant Committee will be authorized to take appropriate steps to ensure that neither the grant nor the exercise or vesting of Awards would have an effect contrary to the interests of investors in the applicant. This will include the authority to prevent or limit the grant of additional Awards. All records maintained pursuant to this condition will be subject to examination by the Commission and its staff.

7. The Old Stock Plans will be terminated pursuant to their terms following approval by stockholders of the Plans. No further grants would be made under the Old Stock Plans beyond those already made as of the date hereof. Existing awards made under the Old Stock Plans would remain outstanding and would remain subject to the terms and conditions of the Old Stock Plans.

8. Awards under the Plans are issuable only to directors, officers, employees of the relevant applicant and employees of certain of its subsidiaries. No person will be granted Awards relating to more than 35% of the shares reserved for issuance under the relevant Plan. Subject to the immediately preceding limitation, in any thirty-six month period during which a Plan is in effect, no person may be granted under that Plan more than 300,000 shares of stock in respect of Options, 300,000 shares of stock in respect of stock appreciation rights, 300,000 shares of stock in respect of restricted stock, 300,000 shares of stock in respect of restricted stock units or 300,000 shares of stock in respect of deferred stock units. In addition, in no event may the total number of shares of stock with respect to which all types of Awards may be granted to an eligible person under the applicable Plan exceed 300,000 shares of stock within any thirty-six month period during which the applicable Plan is in effect, which amount may be adjusted to reflect certain corporate transactions or events that affect the applicant's stock. Grants to disinterested directors are limited to those described in paragraph 2 below.

9. In each fiscal year, a disinterested director will be granted 750 restricted stock units of Adams and 400 restricted stock units of Petroleum, as applicable, which amounts may be adjusted to reflect certain corporate transactions. At the effective date of any disinterested director's initial election to the Board of an applicant, such disinterested director will be granted 750 restricted stock units of Adams and 400 restricted stock units of Petroleum, as applicable, which amounts may be adjusted to reflect certain corporate transactions. Disinterested directors will also receive

dividend equivalents in respect of such restricted stock units equal to the amount or value of any cash or other dividends or distributions payable on an equivalent number of shares of common stock. The restricted stock units and related dividend equivalents will vest (and become non-forfeitable) and be paid (in the form of shares of common stock) one year from the date of grant. In addition, disinterested directors may elect each year, not later than December 31 of the year preceding the year as to which the annual grant of restricted stock units is to be applicable, to defer to a fixed date or pursuant to a specified schedule payment of all or any portion of the annual grant of restricted stock units. Any modification of the deferral election may be made only upon satisfaction of any conditions that the relevant Committee may impose. Disinterested directors may also elect each year, not later than December 31 of the year preceding the year as to which deferral of fees is to be applicable, to defer to a fixed date or pursuant to a specified schedule all or any portion of the cash retainer to be paid for Board or other service related to Board activities in the following calendar year through the issuance of deferred stock units, valued at the Fair Market Value of the relevant applicant's stock on the date when each payment of such retainer amount would otherwise be made in cash.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. E5-637 Filed 2-15-05; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51185; File No. SR-Amex-2005-14]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Suspension of Transaction Fees in Connection With the iShares® COMEX Gold Trust

February 10, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 1, 2005, the American Stock Exchange LLC ("Amex" or "Exchange") filed with

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.